

An  
Bord  
Pleanála

## Board Order ABP-309156-21

### Planning and Development Acts, 2000 to 2021

#### Planning Authority: Kerry County Council

**Application** for permission under section 37E of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an Environmental Impact Assessment Report and Natura Impact Statement, lodged with An Bord Pleanála on the 14<sup>th</sup> day of January, 2021 by Shronowen Wind Farm Limited care of Malachy Walsh and Partners, Reen Point, Blennerville, Tralee, County Kerry, as amended by the further information received by An Bord Pleanála on the 14<sup>th</sup> day of October, 2021 and on the 11<sup>th</sup> day of May, 2022.

#### **Proposed Development:** Works to include the following:

- 12 number wind turbines (maximum turbine tip height of 150 metres) with associated foundations and crane hard stand areas.
- 1 number permanent meteorological mast (90 metres height) and associated foundation and hardstand area.
- New and upgraded internal site service roads (4.43 kilometres of existing tracks to be upgraded and 6.85 kilometres of new internal access tracks to be constructed)
- Underground 33 kV electric cabling systems between turbines within the wind farm site and wind farm substation.
- 6 number peat deposition areas located across the windfarm site.
- 2 number site entrances, one permanent and one temporary.

P.C.

- 225 metre underground cable connection from the 110kV wind farm substation to the existing 110 kV transmission line due east of the wind farm site.
- One number proposed 110 kV substation including: an outdoor electrical yard, two single storey buildings (one for the system operator and one for the wind farm operator) containing associated facilities (control, switchgear and metering rooms, welfare facilities, workshop and office). Security fencing and all associated works.
- New junction off the L6021 at the north-east of the site to facilitate construction and access.
- New junction off the L1009 on the west side of the site to facilitate construction and access.
- Two number temporary construction site compounds (95 metres x 50 metres and 55 metres x 25 metres in size)
- Associated surface water management systems.
- Tree felling of 3.15 hectares of conifer trees to facilitate site development.
- Temporary works on sections of the public road network along the turbine delivery route (including hedge or tree cutting, relocation of power lines/poles, lampposts, signage and local road widening).
- A 10-year planning permission and 30-year operational life from the date of commissioning of the entire wind farm.

All within the townlands of Ballyline West, Coolkeragh, Dromalivaun and Tullamore, County Kerry.

## **Decision**

**Grant permission under section 37G of the Planning and Development Act 2000, as amended, 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.**

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**Determine under section 37H(2)(c) the sum to be paid by the applicant in respect of costs associated with the application as set out in the Schedule of Costs below.**

## **Reasons and Considerations**

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

- (a) national policy including the Climate Action Plan 2021, with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases,
- (b) National Peatlands Strategy 2015-2025,
- (c) Regional Spatial and Economic Strategy for the Southern Region 2020,
- (d) Wind Energy Guidelines-Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2006, and the Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019,
- (e) the relevant policies of the planning authority which supports increasing energy supplies derived from renewable sources as set out in the current Kerry County Development Plan,
- (f) the Draft Ministerial Direction (dated 12<sup>th</sup> day of August 2022) in relation to the Kerry Development Plan 2022-2028 and the provisions of section 31 (6)(b) of the Planning and Development Act as amended,
- (g) the character of the landscape in the area and the absence of any ecological designation on or in the immediate environs of the wind farm site,
- (h) the characteristics of the site and of the general vicinity,
- (i) the pattern of existing and permitted development in the area, including other wind farms,

- (j) the distance to dwellings or other sensitive receptors from the proposed development,
- (k) the Environmental Impact Assessment Report,
- (l) the Natura Impact Statement,
- (m) the submissions made in connection with the application and the responses to further information, and
- (n) the report of the Inspector.

### **Appropriate Assessment: Stage 1:**

The Board considered 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 noted that the proposed development is not directly connected with or necessary for the management of a European Site.

In completing the screening for appropriate assessment, the Board accepted and adopted the screening assessment and conclusion reached in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165), the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161) are the only European Sites for which there is a possibility of significant effects and which, must therefore be subject to appropriate assessment.

## **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 the European Sites in view of the sites' conservation objectives namely the Lower River Shannon Special Area of Conservation (Site Code: 002165), the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161). The Board concluded that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and to allow them reach complete, precise and definitive conclusions for 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 proposal,
- iii. the conservation objectives for the European Sites and
- iv. the views contained in the submissions.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the integrity of 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 and there is no reasonable doubt remaining as to the absence of such effects.

### **Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application, including the further information,
- (c) the submissions received during the course of the application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, 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 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.

### **Reasoned Conclusions on the Significant Effects:**

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

- **Population and Human Health:** Noise, vibration and shadow flicker during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report and the Construction and Environment Management Plan.
- **Biodiversity:** Habitat loss associated with construction will impact on habitats of generally low ecological value with no rare or protected species recorded. Potential impacts to habitats and faunal species, aquatic fauna and

invertebrates, avian species and bats would be mitigated by the implementation of the measures during the construction and/or operational phases set out in the Environmental Impact Assessment Report

- **Landscape and Visual:** Localised visual impacts will occur primarily from the proximity to the site and from local properties. The impact of the development coupled with existing and permitted windfarms in the vicinity, will have a cumulative impact on the landscape and the visual amenities of the area. Impacts will not be avoided, mitigated, or otherwise addressed by means of condition. The impact is balanced by the nature of the cutover bog landscape, which has been significantly impacted by existing activities (agriculture, forestry and peat extraction) and which has the capacity to absorb the proposed development without detracting significantly from the character of the landscape and the visual amenities of the area.
- **Hydrology and Hydrogeology:** Impacts to the water environment would be mitigated by the implementation of the measures set out in the Environmental Impact Assessment Report, the Construction and Environment Management Plan and the Surface Water Management Plan. The proposed surface water management system would be integrated with the existing bog drainage system, with additional treatment and attenuation provided.
- **Lands and Soil:** The risk of peat stability erosion during construction and operation phases has been mitigated by the design of the proposed development which places turbines and infrastructure in areas of low residual risk of peat stability and by the implementation of the measures set out in the Environmental Impact Assessment Report, the Construction and Environment Management Plan and the Peat and Spoil Management Plan.
- **Climate:** Impacts on climate are assessed as positive associated with the generation of renewable energy and taking into account the cutover nature of the bog, the limited footprint of the proposed development within the overall site, and the existing landowner and turbary rights on the bog which would currently preclude options for rewetting.

- **Cultural Heritage:** The potential impacts on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features/deposits that may be identified.
- **Material Assets (Roads & Traffic)** will be mitigated during construction by the measures set out in the Environmental Impact Assessment Report and a Traffic Management Plan. The main impacts will occur during the construction stage which will be short-term and temporary. Impacts during the operational stage would be negligible.

The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, 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. In doing so, the Board adopted the report and conclusions of the Inspector.

Having considered the totality of the Environmental Impact Assessment Report, associated documentation submitted with the application and the report of the Inspector, the Board concluded that any likely significant effects on the environment would be mitigated by the mitigation measures proposed by the applicant.

**Proper planning and sustainable development:**

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, and regional planning and would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would not pose a risk to water quality 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 proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and the further plans and particulars received by the Board on the 14<sup>th</sup> day of October, 2021, and on the 11<sup>th</sup> day of May, 2022 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 proposed development shall be carried out and completed in accordance with agreed particulars.

**Reason:** In the interests of clarity.

2. Turbine numbers T1 and T2 and associated infrastructure including road infrastructure and Temporary Compound number 2 shall be omitted from the development. A revised layout plan incorporating these changes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site. A copy of the revised layout plan shall be placed on the file and maintained as part of the public record.

**Reason:** To ensure that the identified hen harrier roost site is protected and preserved.

3. The mitigation measures and monitoring commitments identified in the Environmental Impacts Assessment Report and other plans and particulars submitted with the application shall be implemented in full.

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

4. The mitigation measures contained in the Natura Impact Statement submitted with the application and the further information received by the Board on the 11<sup>th</sup>, day of May 2022 shall be implemented in full.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of European Sites.

5. The period during which the proposed development hereby permitted may be constructed shall be 10 years from the date of this Order.

**Reason:** In the interests of clarity.

6. 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 the operation of the wind farm in the light of the circumstances then prevailing.

7. The following design requirements shall be complied with:

The wind turbine shall have a tip height of 150 metres, a hub height of 82 metres, a rotor diameter of 136 metres and a blade length of 68 metres (as detailed on Drawing Number 19876-MWP-00-00-DR-C-5420-P01 received by An Bord Pleanála on the 14<sup>th</sup> day of October, 2021).

**Reason:** In the Interests of clarity and proper planning and development.

8. The developer shall ensure that all peat related, and spoil mitigation measures set out in the Peat and Spoil Management Plan are implemented in full and monitored throughout the lifecycle of the construction works and throughout the operational phase.

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

9. The final Construction Environment Management Plan (CEMP), environmental monitoring plan and culvert/water crossing designs shall be submitted to, and agreed in writing with, the planning authority following consultation with Inland Fisheries Ireland and shall include provision for post construction monitoring. The CEMP shall be placed on the file and maintained as part of the public record.

**Reason:** To protect water quality.

10. Decommissioning and construction works shall be limited to between 0800 and 1800 hours Monday to Saturday and shall not be permitted on Sundays or public holidays.

**Reason:** To protect the amenities of nearby residential properties.

11. The operation of the proposed development, by itself or in combination with 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)  $L_{90,10mins}$  above background noise levels, or 45 dB(A)  $L_{90,10mins}$ , at standardised 10 metre height above ground level wind speed of 6m/s or greater.

- ii. 40 dB(A)  $L_{90,10 \text{ mins}}$  at all other standardised 10 metre height above ground level wind speeds.
- (b) 43 dB(A)  $L_{90,10 \text{ mins}}$ , 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 Recommendation 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 the commissioning of the wind farm.

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

- 13. The developer shall comply with the with the following shadow flicker requirements:
  - (a) Cumulative shadow flicker arising from the proposed development shall not exceed 30 minutes in any day or 30 hours in any year at any dwelling.
  - (b) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at dwellings.
  - (c) Prior to commencement of development, a wind farm shadow flicker monitoring programme shall be prepared by a consultant with experience of similar monitoring work, in accordance with details to be submitted to, and agreed in writing with, the planning authority. Details of the monitoring programme shall include the proposed monitoring equipment methodology to be used, and the reporting schedule.

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

14. The developer shall comply with the following design requirements:
- (a) The wind turbines, including masts and blades, and the wind monitoring masts shall be finished externally in a light-grey colour.
  - (b) Cables within the proposed development site shall be placed 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 affixed to any structure on the site without a prior grant of permission.

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

15. Details of the materials, colours and textures of all the external finishes of the proposed substation building and enclosing fence shall be submitted to and agreed in writing with the planning authority, prior to commencement of the development.

**Reason:** In the interests of the visual amenities of the area.

16. The developer shall retain the services of a suitably qualified and experienced bird specialist with respect to Hen Harrier to undertake the following:
- (a) A Land Management Plan in the area of the identified roost location and encompassing the lands identified in Appendix 2 of the applicant's submission received by An Bord Pleanála on the 11<sup>th</sup> day of May 2022.
  - (b) Operational phase monitoring of the roost between October to March for Year 1 to Year 5 following construction.
  - (c) Pre-construction and during construction roost survey monitoring for the wind farm development (as amended by condition number 2 of this Order).

Details of the Land Management Plan and the surveys to be undertaken and associated reporting requirements shall be agreed in writing with the National Parks and Wildlife Service prior to commencement of the development. Copies of the Land Management Plan and the results of the reports shall be submitted (annually on an agreed date) to the planning authority and the National Parks and Wildlife Service.

**Reason:** To ensure the appropriate monitoring and protection of the Hen Harrier roost site.

17. The developer shall retain the services of a suitable qualified and experienced bird specialist to undertake appropriate pre-construction and post-construction bird monitoring surveys of the site. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with the National Parks and Wildlife Service, and agreed in writing with, the planning authority prior to commencement of development. The surveys shall be completed annually for a period of five years following commissioning of the wind farm and copies of the report submitted annually to the planning authority and to the National Parks and Wildlife Service.

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

18. Prior to commencement of development, details of a post-construction monitoring and reporting programme for bats shall be submitted to and agreed in writing with the planning authority. Monitoring shall be undertaken by a suitably qualified and experienced bat specialist and identify any measures required to mitigate any identified effects. The surveys shall be completed annually for a period of three years following commissioning of the wind farm

and copies of the report submitted to the planning authority and the National Parks and Wildlife Service.

**Reason:** To ensure the appropriate monitoring of the use of the site by bat species.

19. A bird and bat corpse survey, carried out by a competent ecological surveyor shall be conducted annually under the operational turbines. The survey shall be carried out according to up-to-date best practice concerning timing and using trained search dogs. The result shall be forwarded annually to the planning authority and the National Parks and Wildlife Service.

**Reason:** In order to monitor bird and bat mortality associated with the operational wind farm.

20. 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 the protection of telecommunications signals and of residential amenity.

21. Details of aeronautical requirements shall be submitted to, and agreed in writing with the planning authority prior to commencement of the development. Prior to the 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 the wind monitoring masts.

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

22. (a) Prior to commencement of the development, a traffic management plan for the construction phase shall be submitted to, and agreed in writing with, the planning authority. The traffic plan shall incorporate the following:

- i. Details of the road network/haulage routes and the vehicle types to be used to transport materials to and from the site and a schedule of control measures for exceptionally wide and heavy delivery loads.
- ii. A condition survey of the roads and bridges along the haul routes shall be carried out at the developer's expense by a suitably qualified person both before and after the construction of the proposed development. This survey shall include a schedule of required works to enable the haul routes to cater for construction related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the relevant planning authorities and Transport Infrastructure Ireland prior to commencement of development.
- iii. Detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority.
- iv. Detailed arrangements for the protection of bridges to be crossed.
- v. Detailed arrangements for temporary traffic arrangements/control on roads and protocols to keep residents informed of upcoming traffic related matters, temporary lane/road closures and delivery of turbines.



- vi. A phasing programme indicating the timescale within which it is intended to use each public route to facilitate construction of the proposed development. In the event that the proposed development is being developed concurrently with any other windfarm in the area, the developer shall consult with and arrange suitable traffic phasing arrangements with the planning authority,
- vii. Within three months of the cessation of the use of each public road and haul route to transport material to and from the site, a road survey and scheme of works detailing works to repair any damage to these routes shall be submitted to and agreed in writing with the planning authority.

(b) All works arising from the aforementioned arrangements shall be completed at the developer's expense within 12 months of the cessation of each road's use as a haul route for the proposed development.

**Reason:** To protect the public road network, the amenity of local residents and to clarify the extent of the permission in the interest of traffic safety and orderly development.

- 23. The developer shall comply with the requirements of Irish Water with regard to the protection of drinking water sources and infrastructure in proximity to the development, and in respect of any potential diversions and connections to the public network.

**Reason:** In the interest of public health.

- 24. On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the turbines and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation. These reinstatement works shall be completed to

27. 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 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.

the written satisfaction of the planning authority within three months of decommissioning or cessation of operation.

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

25. Prior to commencement of the development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other such security as may be acceptable to the relevant 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 relevant planning authority to apply such security or part thereof to the satisfactory reinstatement of the public roads. The form and amount of the security shall be as agreed between the relevant planning authority and the developer or, in default of agreement shall be referred to An Bord Pleanála.

**Reason:** To ensure the satisfactory reinstatement of the delivery routes.

26. Prior to commencement of the development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other such 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 of the site. 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.

**Reason:** To ensure the satisfactory reinstatement of the site.

## Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be recouped from the applicant is €4,515.

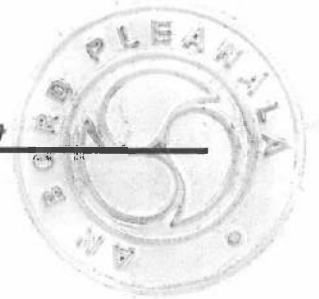
A breakdown of the Board's costs is set out in the attached Appendix 1.

*Patricia Calleary*

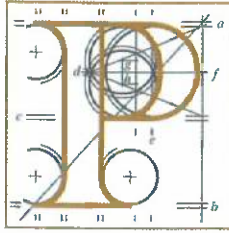
**Patricia Calleary**

**Member of An Bord Pleanála**

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



Dated this *27* day of *September* 2022



An  
Bord  
Pleanála

**Board Order –  
Appendix 1  
ABP-309156-21**

**Strategic Infrastructure Development**

**Cost of determining the Application**

**File Number:** ABP-309156-21

**Proposed Development:** Development of 12 wind turbines, substation, grid connection and ancillary site works within the townlands of Ballyline West, Coolkeragh, Dromalivaun and Tullamore, Co. Kerry.

**Costs incurred by An Bord Pleanála in determining the application.**

	<b>An Bord Pleanála's Costs</b>	<b>€</b>
(1)	Cost (calculated based on Inspector's time) Inspector 1 (pre-application) - €5,635 Inspector 2 (application) - €103,880	€109,515
(2)	Total chargeable costs	€109,515
(3)	Application Fee - €100,000 Pre-application Consultation Fee - €4,500	€104,500
(4)	Observer fees paid	€500
(5)	Net amount due to be recouped from the applicant	€4,515

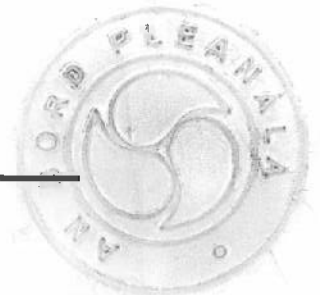
*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



**Dated this 27<sup>th</sup> day of September 2022**