

An
Bord
Pleanála

Board Order ABP-310171-21

Planning and Development Acts, 2000 to 2021

Planning Authority: Tipperary 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 7th day of May, 2021 by Ecopower Developments Limited of Zetec House, Purcellsinch IDA Business Park, Dublin Road, Kilkenny.

Proposed Development: Amendments to the authorised but not constructed twenty-two turbine Upperchurch Windfarm (previously authorised under An Bord Pleanála reference number PL 22.243040 Tipperary County Council planning register reference number 13/510003). It is proposed to:

- (a) Increase the size of the authorised wind turbines from up to 126.6 metres maximum blade tip height to wind turbines up to 152 metres maximum blade tip height by increasing the wind turbine hub heights to within a range of between 89 metres and 94 metres in height and increasing the wind turbine rotor diameters to within a range of between 112 metres and 117 metres in diameter.

- (b) Amend the height and design of the two previously authorised meteorological masts from tubular tower masts up to 80 metres in height to lattice tower masts up to 93.5 metres in height.

All other elements of the authorised windfarm will remain unchanged.

All at Graniera, Shevry, Knockcurraghbola Commons, Knockmaroe, Grousehall, Cummer, Foilnaman, Gleninchaveigh, Coumnageeha, Coumbeg, Knocknamena Commons, Glenbeg and Seskin Townlands, County Tipperary.

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.

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) the nature, scale and extent of the proposed development,
- (b) the decisions made in respect of an appropriate assessment,
- (c) the national target to have up to 80% of electricity generated from renewable sources by 2030,

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- (d) national and local policy support for developing renewable energy, in particular:
- the National Planning Framework Project Ireland 2040,
 - the Climate Action Plan, 2021,
 - the Regional Spatial & Economic Strategy for the Southern Regional, 2020,
 - The Wind Energy Guidelines 2006 published by the Department of the Environment, Heritage and Local Government,
 - the provisions, as set out in the current Tipperary County Development Plan, including those regarding renewable energy development set out within the Tipperary Renewable Energy Strategy, 2016 and the appended Tipperary Wind Energy Strategy, 2016,
- (e) the parent permission and the established principle of a windfarm at this site,
- (f) the purpose of the proposed development, which is to optimise renewable energy output and the available grid capacity for the project,
- (g) the pattern of development in the area (including the separation distance to dwellings) and the pattern of permitted development in the area,
- (h) the submissions on file, including that from the planning authority,
- (i) the documentation submitted with the application, including the Appropriate Assessment Report (Screening and Natura Impact Statement) and the Environmental Impact Assessment Report,
- (j) 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, and
- (k) the report of the Inspector.



Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European Sites in respect of which the proposed development has the potential to have a significant effect are the Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165), the Lower River Suir Special Area of Conservation (Site Code: 002137), the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the Clare Glen Special Area of Conservation (Site Code: 000930).

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and other associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development on the aforementioned European Sites 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 appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the overall development and the proposed development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the current proposal, and
- (c) 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'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, 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.

Environmental Impact Assessment:

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

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

The Board agreed with the summary of the results of consultations and information gathered in the course of the environmental impact assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant, and the submissions made in the course of the application, as set out in the Inspector's report. The Board was satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation which are incorporated into the Board's decision.

Reasoned Conclusion of the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board was satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below.

The main significant effects, both positive and negative, are:

- Positive impacts on **population and human health** through positive changes on local health and the local economy from increased landowner and community benefit payments and commercial rates payments. There will also be associated benefits in terms of improved physical, mental and social health and wellbeing, direct benefits to local projects, programmes and infrastructure and strengthening of the economy.
- When the proposed development is assessed in the context of the extant permission on site, there will be a neutral change in terms of turbine noise, shadow flicker, health and tourism and amenity.
- Construction phase impacts on Population and Human Health for the Whole UWF Project will be mitigated through a range of Project Design Environmental Measures and Best Practice Measures. Additional mitigation measures are proposed for shadow flicker occurrence.

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- Potential adverse impacts on **Biodiversity** during the operational phase on certain bird and bat species from increased risk of collision with rotating blades. The significance of impact on bats is not considered to increase from the permitted development due to the relatively infrequent use of the site by the bat species most at risk (Leisler bat), its abundance nationally and the availability of suitable habitat in the surrounding landscape.
- There will be no change in impact significance in terms of collision risk for hen harrier, kestrel, buzzard and golden plover. Usage of the site for hen harrier continues to be sporadic and habitat suitability continues to be sub-optimal. There is low flight activity for kestrel and documented avoidance behaviour of wind turbines by this species and for buzzard, kestrel, hen harrier and golden plover. There will be no change in terms of collision risk for passerines as these species of bird generally fly at low heights. It is proposed to reduce the rotational speed of turbine blades when idling to mitigate against any collision risk.
- There will be no changes in terms of construction and operational stage displacement/disturbance or habitat loss to bats and birds beyond that already authorised for the Upperchurch Windfarm due to construction or operational activity, habitat loss, habitat usage or availability of prey.
- Potential impacts on **Air** from the proposed larger turbines and met masts, i.e., noise impacts, shadow flicker and climate action.
- The proposed larger turbines would not increase the noise levels of the windfarm beyond that already permitted due to serrated edges on blades which will generate lower noise emissions. The proposed larger turbines will be controlled to ensure that operational noise levels at the nearest dwellings will remain within acceptable levels.

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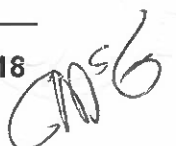
- Additional mitigation measures for shadow flicker control modules proposed to ensure that shadow flicker remains within acceptable levels. Turbines can be shut down to eliminate shadow flicker if a complaint arises.
- Positive significant impacts on **Climate** from the larger turbines due to the production of renewable wind energy and a reduction in the use of fossil fuels.
- Potential impacts on **Landscape character and visual amenity** from the proposed 20% increase in the scale of the permitted turbines. Proposed larger turbines will not appear over-scaled relative to the underlying landform and the principle of 22 number wind turbines on site has already been established. Dimensional difference does not necessarily result in a proportional increase in visual impact or noticeably increased effect on the overall character of the landscape compared to the permitted turbines.

The Board was satisfied that the reasoned conclusion was 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 referred to above, including proposed monitoring, as appropriate, 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, would be acceptable. In doing so, the Board adopted the report and conclusions set out in the Inspector's report.

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 energy policy, the National Planning Framework and the current Tipperary County Development Plan and would:



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- (a) make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, and
- (b) have an acceptable impact on the environment and on the amenities of the area.

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, as amended by the further information received by the Board on the 26th day of November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the proposed development shall be carried out and completed in accordance with the terms and conditions of the permission granted under An Bord Pleanála reference number PL 22.243040, and all subsequent permissions on site, as well as any agreements entered into thereunder.

Reason: In the interest of clarity.

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

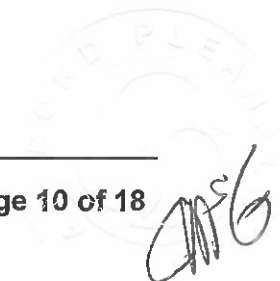
Reason: Having regard to the nature of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

4. This permission is for a period of 30 years from the date of commissioning of the wind farm. The wind turbines and related ancillary structures and temporary roadway shall then be removed and the site appropriately reinstated prior to the end of this period, unless planning permission shall have been granted for their retention for a further specified period. Details of the reinstatement plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To enable the impact of the proposed development to be reassessed, having regard to the changes in technology and design during this period.

5. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report and the Natura Impact Statement accompanying the application, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

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

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6. The developer shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the National Parks and Wildlife Service and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file for the public record.


Reason: To protect the environment and the natural heritage of the area.

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 0700am and 1100pm:

- i. The greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 45 dB(A) $L_{90,10min}$, at standardised 10 metres height above ground level wind speeds of 7m/s or greater.
- ii. 40 dB(A) $L_{90,10min}$ at all other standardised 10 metres height above ground level wind speeds.

(b) 43 dB(A) $L_{90,10min}$ at all other times.



Prior to the 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 the commissioning of the wind farm.

Reason: In the interest of residential amenity.

8. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise such interference. 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 the commissioning of the turbines and following consultation with the relevant authorities.

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

9. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Subsequently the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions and the highest point of the telecoms pole and turbines (to the top of the blade spin).

Reason: In the interest of air traffic safety.

- 10 (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) A report shall be prepared by a suitably 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.

Reason: In the interest of residential amenity.

11. Prior to the commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
- (i) A Transport Management Plan, including details of the road network/haulage routes indicated in the Environmental Impact Assessment Report, including the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads.
 - (ii) A condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm 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 planning authority prior to the 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 temporary traffic arrangements/controls on roads.
 - (v) A programme indicating the timescale within which it is intended to use each public route to facilitate construction of the proposed development.

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 and to clarify the extent of the permission in the interest of traffic safety and orderly development.

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12. Prior to the commencement of development, a detailed Construction Management Plan for the construction stage 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 Construction 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 period,
- (c) details of a pre-construction survey to identify/confirm the absence of any Hen Harrier nests within the subject site, and including a work cessation protocol including appropriate buffer in the vicinity of any identified nest, until the nest has been vacated at the end of the breeding season,
- (d) a Japanese Knotweed Management Plan,
- (e) an emergency response plan, and
- (f) proposals in relation to public information and communication.

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

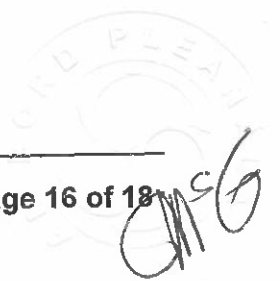
Reason: In the interest of environmental protection and orderly development.

13. 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 masts and the turbines concerned shall be removed and all decommissioned structures shall be removed within three months of decommissioning.

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

14. Prior to the 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 roads. 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 a satisfactory standard of development.



15. 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.

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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 reimbursed to the applicant is **€66,170**.

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



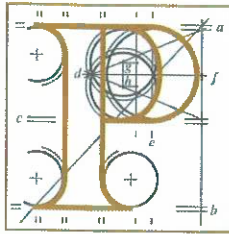
Chris McGarry

Member of An Bord Pleanála

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



Dated this 12th day of May 2022



An
Bord
Pleanála

Board Order – Appendix 1 ABP-310171-21

Strategic Infrastructure Development


Cost of determining the Application

File Number: ABP-310171-21

Proposed Development: Amendments to previously authorised Upperchurch Windfarm to increase the size of wind turbines and amend the height and design of two meteorological masts in various townlands, County Tipperary.

Costs incurred by An Bord Pleanála in determining the application.

	An Bord Pleanála's Costs	€
(1)	Cost (calculated based on Inspector's time) Inspector 1 (pre-application) - €3,920 Inspector 2 (application) - €31,360	€35,280
(2)	Total chargeable costs	€35,280
(3)	Application Fee - €100,000 Pre-application Consultation Fee - €1,000	€101,000
(4)	Observer fees paid	€450
(5)	Net amount due to be reimbursed to the applicant	€66,170


Chris McGarry

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

Dated this 12th day of May 2022