

An  
Bord  
Pleanála

Board Order  
ABP-311327-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 21/51263**

**Appeal** by Shannagh Wind Farm Limited care of Jennings O'Donovan and Partners Limited of Finisklin Business Park, Sligo against the decision made on the 12<sup>th</sup> day of August, 2021 by Donegal County Council to refuse a permission for the proposed development.

**Proposed Development:** 40 year permission for an additional one number wind turbine, to the existing three number turbine windfarm consisting of the following: (1) the construction of one wind turbine with a hub height of up to 84 metres and an overall height of up to 125 metres to blade tip, (2) the construction of one number crane hardstand area located beside the turbine, (3) the construction of one number 20 kv substation building with associated electrical plant and equipment, (4) the construction of internal wind farm underground cabling, (5) the construction of new site access track, (6) the installation of a drainage system for the proposed hard stand and access track areas, (7) underground grid connection of approximately 910 metres in length, predominantly along the existing wind farm access road network and (8) all associated site development and ancillary works at Shannagh and Coguish, Kilcar, 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 national policy relating to the development of sustainable energy resources,
- (b) the provisions of the "Wind Energy Development Guidelines" for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the over-arching policies of the planning authority as set out in the Donegal County Development Plan, as varied,
- (d) the scale and nature of the proposed development,
- (e) the presence of existing turbines in the immediate vicinity,

- (f) the general character of the site and topography of the surrounding area,
- (g) the separation distance of the proposed turbines from inhabited dwellings,
- (h) the range of measures set out in the documentation received including the Environmental Report,
- (i) the submissions made in connection with the application and the appeal, and
- (j) the report of the Planning Inspector,

it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the National and County policies in respect of wind energy, would not result in unacceptable impacts on the landscape character or visual amenity of the general area, would not seriously injure the amenities of the area or of property in the vicinity of the site nor would it involve the removal of Upland Blanket Bog, an Annex I habitat or significantly increase flood risk in the area, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 7<sup>th</sup> day of September 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 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. Prior to commencement of development, a Construction and Environmental Management Plan including the environmental, construction and ecological mitigation measures set out in the Environmental Report accompanying the application and other particulars submitted with the application shall be submitted to, and agreed in writing with, the planning authority.

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

3. The period during which the 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 development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.



4. This permission is for a period of 40 years from the date of commissioning of the wind turbine. The wind turbine and related ancillary structures, including the substation, and access roadway shall 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 commencement of development.

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

5. (a) Prior to 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 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/authorities 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/authorities.
  - (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 development.
- (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 and to clarify the extent of the permission in the interest of traffic safety and orderly development.

6. The operation of the proposed development, by itself or in combination with any other permitted wind energy development, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:
- (a) Between the hours of 0700 and 2300:
    - (i) the greater of 5 dB(A)  $L_{90,10\text{min}}$  above background noise levels, or 45 dB(A)  $L_{90,10\text{min}}$ , at a standardised 10 metres height above ground level at wind speeds of 4m/s or greater, and

(ii) 40 dB(A)  $L_{90,10\text{min}}$  at all other standardised 10 metres height above ground level wind speeds.

(b) 43 dB(A)  $L_{90,10\text{min}}$  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 additional wind turbine.

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

7. (a) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.
- (b) 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 the commissioning of the proposed additional wind turbine, this report shall be submitted to, and agreed in writing with, the planning authority.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,
  - (d) details of on-site car parking facilities for site workers during the course of construction,
  - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
  - (f) measures to obviate queuing of construction traffic on the adjoining road network,
  - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
  - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,

- (i) provision of construction hours, including deliveries of materials to the site,
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater, and
- (l) off-site disposal of construction/demolition waste.

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

**Reason:** In the interests of amenities and safety.

9. The developer shall comply with the following design requirements:
- (a) The wind turbine including mast and blades shall be finished externally in a light grey matt colour.
  - (b) Cables within the proposed development site shall be placed underground.
  - (c) The wind turbine shall be geared to ensure that the blades rotate in the same direction as the existing turbines on-site.
  - (d) No advertising material shall be placed on or otherwise affixed to any structure on the site without a prior grant of planning permission.

- (e) The transformer associated with the turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.

**Reason:** In the interests of visual amenity and for clarification purposes.

10. The developer shall review usage by birds of the wind farm site and document bird casualties through an annual monitoring programme, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed in consultation with the Department of Arts, Heritage and the Gaeltacht, 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 fauna of the area.

11. Prior to the commencement of development, the developer shall agree a protocol for assessing any impact on radio or television or other telecommunications reception in the area. In the event of interference occurring, the developer shall remedy such interference according to a methodology to be agreed in writing with the planning authority, following consultation with other relevant authorities and prior to commissioning the turbines.

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

12. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently, the developer shall inform the planning authority and the Irish Aviation Authority of the coordinates of the as constructed position of the turbine and the highest point of the turbine to the top of the blade spin.

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

13. On full or partial decommissioning of the turbine or if the turbine ceases operation for a period of more than one year, it shall be removed and all decommissioned structures shall be removed. These reinstatement works shall be completed to the written satisfaction of the planning authority within three months of decommissioning or cessation of operations.

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

14. 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.

15. 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 satisfactory reinstatement of the site.



16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of road safety and the proper planning and sustainable development of the area.

17. 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.

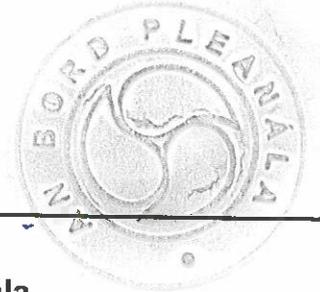
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



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**Stephen Bohan**

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



Dated this *26<sup>th</sup>* day of *January* 2022.