

An  
Bord  
Pleanála

**Board Order**  
**ABP-314887-22**

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P22/254**

**Appeal** by Patrick Keogh and Patrick Gorey care of Iona House, Gortatogher, Parteen, County Clare and by 100 Metres Tall Group care of Michael J. Duffy of 1 Clós Na hEaglaise, Kilfenora, County Clare against the decision made on the 23<sup>rd</sup> day of September, 2022 by Clare County Council to grant subject to conditions a permission to Seamus Madden care of Brendan McGrath of Riverstown Cottage, Corofin, County Clare in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Permission Retention for a revised site boundary and revised position of a single 800kW wind turbine, 73 metres to hub height as granted under P10/453 and P15/812, all at Gortatogher, Parteen, County Clare, as revised by the further public notice received by the planning authority on the 2<sup>nd</sup> day of September, 2022.

## **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.**

## **Reasons and Considerations**

Having regard to the nature and scale of the development proposed to be retained, comprising the modest relocation of the permitted wind turbine, and to the absence of significant visual and environmental effects associated with its relocation, it is considered that the development proposed to be retained, subject to compliance with the conditions set out below, would not seriously injure the visual amenity, residential amenity or landscape character of the area, would not create an unacceptable risk of environmental pollution and would not have an adverse impact on the ecology of the area. The development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 5<sup>th</sup> day of August 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 development shall be retained and completed in accordance with the agreed particulars.

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

2. This permission shall be for a period of 20 years from the date of commissioning of the wind farm.

**Reason:** To enable the planning authority to review its operation in the light of the circumstances then prevailing.

3. (a) Shadow flicker arising from the development shall not exceed 30 hours per year or 30 minutes per day at dwellings or other sensitive receptors. The wind turbine control measures set out in section 3.1.2 of the 'Shadow Flicker Assessment Report' received on the 5<sup>th</sup> day of August, 2022, shall only be used in any instances of exceedances of these limits.
- (b) Within three months of the date of this Order, the developer shall submit to the planning authority for written agreement, details of the instrumentation and monitoring programme in relation to shadow flicker. The details shall include the nature and extent of monitoring for a period of one year following the commissioning of the development.
- (c) The monitoring report shall be submitted to the planning authority within one month of completion of the programme. The developer shall comply with any mitigation measures deemed necessary by the planning authority, including the switching off of the turbine for specified time periods, as a result of monitoring.

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

4. During operation, noise levels when measured externally at nearby sensitive locations, shall not exceed:
- (a) Between the hours of 0700 and 2300:
    - (i) 45dB(A)  $L_{90, 10 \text{ min}}$  or an increase in 5dB(A)  $L_{90, 10 \text{ min}}$  above background noise levels at a standardised 10 metres height above ground level at wind speeds of four m/s or greater, and
    - (ii) 40dB(A)  $L_{90, 10 \text{ min}}$  at a standardised 10 metres height above ground level at all other wind speeds.
  - (b) 43dB(A)  $L_{90, 10 \text{ min}}$  at all other times.
  - (c) Within three months of the date of this Order, the developer shall submit to, and agree in writing with, the planning authority, a noise compliance monitoring programme. It shall include the location of noise monitoring locations at sensitive receptors to the north, south and north-east of the development, arrangements for noise measurement (to the satisfaction of the planning authority) and mitigation measures including the de-rating of the wind turbine. Noise monitoring shall commence with the commissioning of the development. The results of noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within one year of commissioning of the wind turbine.

**Reason:** In the interest of the amenity of noise sensitive receptors.

5. (1) Facilities shall be installed to minimise interference with communications, radio, television, aviation radar or other telecommunications reception in the area. Details of the facilities to be installed, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning and following consultation with the relevant authorities.
- (2) The performance of facilities installed to prevent interference described above shall be subject to monitoring at the expense of the developer, to the satisfaction of the planning authority, during the period of one year from date of the commencement of the proposed development. The nature and extent of the monitoring programme shall be otherwise agreed with the planning authority.

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

6. Within three months of the date of this Order and prior to the commissioning of the development, details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority having consulted with the relevant authorities. These shall include:
- (a) The aeronautical obstacle warning lighting for the wind turbine, and
- (b) The 'as constructed' positions of the turbines and the highest point of the turbines (to the top of the blade spin).

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

7. All surface water run-off from the development shall be collected and disposed of within the site, to the satisfaction of the planning authority.

**Reason:** To ensure a satisfactory standard of development.

8. 'As constructed' drawings shall be submitted to the planning authority in advance of commencement. These drawings shall accurately map the location drainage infrastructure and underground cables.

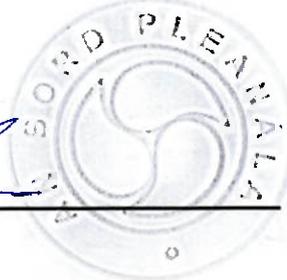
**Reason:** In the interest of clarity.

9. Within three months of this Order, the developer shall submit to the planning authority for written agreement an outline Decommissioning and Restoration Plan. The Plan shall be reviewed every 10 years and implemented in accordance with the arrangements set out in the Plan at the expiry of the permission granted.

**Reason:** In the interests of orderly development, visual amenity and the environment.

10. 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 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.

**Stephen Bohan**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 12<sup>th</sup> day of October 2023.