



An
Bord
Pleanála

Board Order
ABP-315865-23

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 22/646.

Appeal by SSE Renewables Generation Ireland Limited care of Galetch Energy Services of Clondargan, Stradone, County Cavan, against the decision made on the 26th day of January, 2023 by Limerick City and County Council to refuse a permission for the proposed development.

Proposed Development: The continued operation of the existing Knockastanna Wind Farm as permitted under Limerick County Council Planning Register References 01/1385 (An Bord Pleanála Reference PL13.130938), 07/758 (An Bord Pleanála Reference PL13.224401), and 08/7007; for a further period of 15 years following the expiry of its current planning permission. The existing windfarm comprises (i) four number wind turbines and associated turbine foundations and crane hardstandings; (ii) one number site entrance and two kilometres of site access tracks; (iii) one number electrical control building with a gross floor area of 66 square metres, electrical equipment enclosure and wastewater treatment system; (iv) underground electrical and communications cabling; and (v) all drainage, signage, and all ancillary site infrastructure. The proposed development does not comprise any modifications to the existing windfarm and there will be no

increase in the number or dimensions of the permitted wind turbines, at Curraghafoil , County Limerick.

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

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) national and local policy support for developing renewable energy, in particular:-
 - (i) the National Planning Framework, 2018.
 - (ii) the Climate Action Plan, 2023.
 - (iii) the Regional Spatial & Economic Strategy for the Southern Region, 2020.
 - (iv) the relevant provisions supporting wind energy development of the Limerick City and County Development Plan 2022-2028 including Objectives CAF 028 and CAF 036,
- (d) the pattern of development in the area (including the separation distance to dwellings),
- (e) the EU Habitats Directive (92/43/EEC),
- (f) the European Union (Birds and Natural Habitats) Regulations 2011-15,
- (g) the Wind Energy Development, Guidelines for Planning Authorities, 2006,
- (h) the Draft Revised Wind Energy Development, Guidelines for Planning Authorities, 2019,

- (i) the submissions on file including that from the planning authority,
- (j) the documentation submitted with the application, including the Natura Impact Statement and the Environmental Impact Assessment Report,
- (k) the report of the Planning Inspector, and
- (l) 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 considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the current development plan for the area and would not seriously injure the visual amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape character of the area, would not be detrimental to the natural heritage or cultural heritage of the area, and would otherwise be in accordance with the proper planning and sustainable development of the area.

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 Slieve Felim to Silvermines Mountains Special Protection Area (Site code: 004165); Lower River Shannon Special Area Conservation (Site code: 002165); River Shannon and River Fergus Estuaries Special Protection Area (Site code: 004077); Slieve Aughty Mountains Special Protection Area (Site code: 004168); Slieve Bloom Mountains Special Protection Area (Site code: 004160); Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site code: 004161); Mullaghanish to Musheramore Mountains Special Protection Area

(Site code: 004162); and Slieve Beagh Special Protection Area (Site code: 004167).

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement, and other associated documentation submitted with the application and appeal, 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 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 Planning 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 is 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 cumulative impacts on climate from the continued operation of the wind farm and other wind farms in the area due to the production of renewable wind energy and a reduction in the use of fossil fuels.
- Positive impacts on population and human health for local residents and the community, and the local economy benefiting from increased employment and from the community benefit fund and rates payments.
- Potential for adverse effects on Biodiversity from collision and displacement impacts on bats and birds from the operating turbines; however, the collision risk for bats is low due to the location of the turbines away from woodland edges. Furthermore, the wind farm has been operational for a number of years, and collision and displacement risks do not appear to have resulted in local population level effects of any species. The applicant proposes to carry out systemic searching for corpses of birds or bats on site under any permission for the continued operation of the wind farm.
- Potential for adverse effects on Biodiversity during the decommissioning phase from suspended solid pollution of watercourses, damage to adjoining habitat and disturbance. The proposed development would only change the timing of these risks and mitigation measures would be included as part of a planning stage decommissioning plan, e.g. the most intrusive decommissioning works will be timed to occur outside the coldest winter months and main breeding season.
- Potential for adverse effects on land, soils, water and air during the remounting of Turbine T05 and the decommissioning phase from soil

and water contamination from machinery and sedimentation of local watercourses. These impacts will be mitigated through current industry standard good practice during construction-like activities and the measures outlined in a Decommissioning Management Plan, which will include a Surface Water Management Plan. Regular maintenance of on-site drainage systems will reduce the likelihood of increased delivery of sediment to natural watercourses.

Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. 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:

The Board 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, the Regional Spatial and Economic Strategy for the Southern Region and the relevant provisions of the Limerick City and County Development Plan 2022-2028 and would:

- (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 development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 25th day of November 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 carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. This permission shall be for the period to the 31st day of July 2038. The turbine structures and all related ancillary development shall be removed before the expiration of this permission unless planning permission for a further period has been granted.

Reason: To enable the planning authority to review the operation of the development having regard to the circumstances then prevailing.

3. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement and Natura Impact Statement accompanying the application to the planning authority and other particulars submitted with the application and the appeal to the Board 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 development.

4. 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 as a matter of public record.

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

5. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate surveys of this site for hen harrier. Details of the surveys to be undertaken shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To monitor the impact of the development on the local bird population.

6. 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 Housing, Local Government and Heritage, 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.



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 0700 and 2300:

- (i) the greater of 5 dB(A) L90,10min above background noise levels, or 45 dB(A) L90,10min, at standardised 10 metres height above ground level wind speeds of 7m/s or greater.
- (ii) 40 dB(A) L90,10min at all other standardised 10 metres height above ground level wind speeds

(b) 43 dB(A) L90,10min 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 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 commissioning of the turbines and following consultation with the relevant authorities.

Reason: In the interests 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 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 highest point of the telecoms pole and turbines (to the top of the blade spin).

Reason: In the interest of air traffic safety.

10. 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.

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 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 during maintenance operation and decommissioning, 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 maintenance works and decommissioning of the 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.



12. Prior to the commencement of development, community gain proposals shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

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 satisfactory reinstatement of the site upon cessation of the project.

14. 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.



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 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.


Stewart Logan

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

Dated this 20 day of February 2024.