



An
Bord
Pleanála

Board Order ABP-316305-23

Planning and Development Acts 2000 to 2022

Planning Authority: Laois County Council

Planning Register Reference Number: 22/507

Appeal by Peter Sweetman, Kieran Brophy and others of Spink, Abbeyleix, County Laois against the decision made on the 22nd day of March, 2023 by Laois County Council to grant subject to conditions a permission to Pinewood Wind Limited care of Gaeltech Energy Services of Clondargan, Stradone, County Cavan in accordance with plans and particulars lodged with the application.

Proposed Development: Amendments to the wind farm development permitted under An Bord Pleanála reference number PL 11.248518 (Laois County Council planning register reference number 16/260) to provide: (i) an increase in the rotor diameter of the wind turbines from 103 metres to 117 metres; (ii) a reduction in the hub height of the wind turbines from 85 metres to 78 metres, thus retaining the permitted overall tip height of the wind turbines of 136.5 metres; (iii) the re-siting of wind turbines T8, T9, and T10 and their associated foundations and crane hardstandings by three metres, 5.5 metres and 10 metres respectively; and (iv) all associated site development, drainage, access and reinstatement works, all on lands at Graiguenahown, Knockardagur, Boleybawn and Ironmills (Kilrush), County Laois, as revised by the further public notices received by the planning authority on the 31st day of January, 2023.

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:

- (a) the policies set out in the Laois County Development Plan 2021-2027, specifically Action Area 4 – Energy,
- (b) RED III (European Renewable Energy Directive (EU/2023/2413)),
- (c) the European Wind Power Action Plan,
- (d) the REPowerEU Plan 2022 and Directive EU 2018/2001, as amended 18.05.2022,
- (e) the European Green Deal 2020,
- (f) the National Planning Framework 2018-2040,
- (g) the National Development Plan 2021-2030,
- (h) the Climate Action and Low Carbon Development (Amendment) Act 2021,
- (i) the Climate Action Plan 2024,
- (j) the Energy Security in Ireland to 2030, Energy Security Package, November 2023,
- (k) the National Energy Security Framework, April 2022,
- (l) the Policy Statement on Security of Electricity Supply, November 2021,
- (m) the long-term strategy on Greenhouse Gas Emissions Reductions (April 2023),
- (n) the National Climate and Energy Plan 2021-2030,
- (o) the National Biodiversity Action Plan,
- (p) the National Landscape Strategy for Ireland 2015-2025,
- (q) the Regional Spatial Economic Strategy for the Southern Region 2020-32,

- (r) the documentation submitted with the planning application, including the Environmental Impact Assessment Report (EIAR), Appropriate Assessment Screening and the Natura Impact Statement (NIS),
- (s) the submissions made in connection with the planning application,
- (t) the mitigation measures proposed for the construction of the site,
- (u) the mitigation measures and monitoring proposed for the operation of the site,
- (v) the pattern of development in the area,
- (w) the planning history associated with the site (specifically planning register reference number 16/260 and An Bord Pleanála reference number PL 11.248518),
- (x) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (y) the report and recommendation of the Inspector, and
- (z) 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 absence of likely significant effects of the proposed development on European Sites.

the Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, National, and Regional renewable energy policies and with the provisions of the Laois County Development Plan 2021-2027 wherein it states, at 'Action Area 4 – Energy', that it is a local county target to 'support the development of wind energy that has been permitted to date within the county by 2030'. It is also considered that the proposed amendments would be consistent with the obligations of the Climate Action Plan 2024, would not seriously injure the visual amenities of the area or have an unacceptable impact on the character of the landscape, would not have a significant adverse impact on ecology and would be acceptable in terms of traffic safety. The Board further considered that the amendments, which were relatively minor in nature and extent, would result in a significant increase in electricity generated above that under the development granted permission under planning register reference number 16/260 (An Bord Pleanála reference number PL 11.248518) and would

make a positive contribution to Ireland's renewable energy and security of energy supply requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an Appropriate Assessment screening exercise 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 any European Site and considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Board agreed with the screening exercise carried out by the Inspector.

The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of connections to and distance between the application site and the European Sites, including the Ballyprior Grassland Special Area of Conservation (Site Code: 002256) and the Lisbigney Bog Special Area of Conservation (Site Code: 000869), they could be screened out from further consideration and that the proposed development, individually or in combination with other plans or projects, would not be likely to have significant effects on these European Sites or on any other European Site in view of the sites' Conservation Objectives and that a Stage 2 Appropriate Assessment is, therefore, not required in relation to these European Sites. The Board considered that an Appropriate Assessment of the implications of the proposed development for the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) required further investigation.

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 River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233).

The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment as well as the report of the Inspector. In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for these 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 would not adversely affect the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) or the River Nore Special Protection Area (Site Code: 004233) or any other European Site in view of the sites' Conservation Objectives.

Likely Effects on the Environment/Environmental Impact Assessment:

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

- (a) the scale and location of the proposed amendments within a previously permitted wind farm development site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- (c) the Screening for Appropriate Assessment and the Natura Impact Statement (NIS) and associated documentation submitted in support of the planning application,
- (d) the planning authority reports, and the submissions received from the observers and prescribed bodies, and
- (e) 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, residual 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.

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:

- During construction, there will be temporary negative **Population and Human Health** effects relating to noise, traffic and dust. This will be mitigated by the implementation of the final Construction Environmental Management Plan (CEMP).
- Negative impacts on **Biodiversity** and **Water** arising from the construction phase activities, including felling of conifer plantation in particular are likely to occur if left unmitigated. There could be an increase in suspended solid pollution entering nearby watercourses and affecting aquatic ecology. This could occur during periods of heavy rainfall and negative impacts could be significant if not mitigated. Mitigation measures in relation to protecting biodiversity and aquatic life are detailed in the preliminary Construction Environmental Management Plan and Surface Water Management Plan to ensure that no pollutants are allowed to enter downstream watercourses ensuring no deterioration in water quality.
- Negative **Shadow Flicker** effects based on 'worst case' values, could potentially impact 28 number of the 37 number dwellings assessed in the Environmental Impact Assessment Report. Mitigation Measures proposed in the Environmental Impact Assessment Report include technical solutions. In the event of an impact on a dwelling, when shadow flicker is predicted to occur if the sun is shining, the wind turbines will be temporarily shut down remotely. With the implementation of mitigation measures, the proposed development will be below the limits set out in the WEDG, 2006 guidelines and the conditions attached to the permitted development under planning register reference number 16/260 (An Bord Pleanála reference number PL 11.248518).

- In the absence of mitigation measures, three number dwellings of the 37 number dwellings assessed are predicted to exceed the **Noise** limits prescribed by An Bord Pleanála in the above-mentioned permitted development. Following implementation of technological mitigation measures to curtail the operation of certain turbines at specific wind speeds, it is assessed that no noise sensitive receptor (dwelling) will experience noise levels in excess of maximum limits.
- The proposed development would have a significant positive impact on **Climate** as it would result in the generation of additional renewable energy with consequent positive impacts for the reduction of CO2 and climate benefits.

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, 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.

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 plans and particulars received by the planning authority on the 17th 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All conditions attached to An Bord Pleanála reference number PL 11.248518 shall be complied with in full, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interest of clarity.

3. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR) shall be implemented.

Reason: To protect the environment.

4. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

5. The developer shall extend the area of land to be archaeologically monitored to include the land-take associated with the proposed development and shall comply with condition number 9 of PL11.248518.

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.

6. Detailed measures outlined in the Ecological Impact Assessment (Vol. 1, Annex 3, Environmental Impact Assessment Report) in relation to the protection of bats, including a bat buffer zone setback, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the protection of the natural heritage within the site.

7. The following design requirements shall be complied with:
- (a) The wind turbine dimensions shall be in accordance with the detail as set out in drawing number PNW_PAS_GA_001 (Turbine Comparison Drawing) and drawing number PNW_PAS_GA_002 (Typical Turbine Elevation Drawing) as submitted with the planning application. Specifically, the overall tip height shall be 136.5 metres and the rotor diameter shall be 117 metres.
 - (b) Cables within the site shall be laid underground.
 - (c) No advertising material shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission.

Reason: In the interest of clarity and visual amenity.



Tom Rabbette

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

Dated this 16th day of Sept. 2024.