

An  
Bord  
Pleanála

## Board Order ABP-317227-23

---

### Planning and Development Acts 2000 to 2022

**Planning Authority: Clare County Council**

**Planning Register Reference Number: 23/148**

**Appeal** by RWE Renewables Ireland Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork against the decision made on the 3<sup>rd</sup> day of May, 2023 by Clare County Council to refuse permission.

**Proposed Development:** Construction of a wind farm in the townlands of Fahy Beg, Fahy More North, Ballymoloney, Ballyknavin (Ed O'Briensbridge), Ballyquin More, Woodpark and Leitrim, County Clare together with the development of an underground grid connection cable to the national grid. The underground grid connection is located primarily within the public road within the townlands of Leitrim, Fahy More South, Ballybrack, Aharinaghmore, Tooreen (Ed Cloghera) Aharinaghbeg, Knockdonagh, Roo East, Blackwater, Rosmadda West, Parkroe, Lackyle (Ed Ballyglass) and Castlebank, County Clare. Temporary accommodation works to facilitate the delivery of wind turbine components to the site will be required in the townland of Ardataggle, County Clare. The development will consist of the construction of eight number wind turbines with a blade tip height range from 169 metres to 176.5 metres, a hub height range from 102.5 metres to 110 metres and a rotor diameter range from 131 metres to 138 metres; erection of one number permanent meteorological mast to a height of 100 metres above ground level; construction of one number onsite 38kV electrical substation to ESB Networks (ESBN) specifications and associated compound, including welfare facilities,

electrical infrastructure, parking, wastewater holding tank, rainwater harvesting tank, security fencing and all associated infrastructure, services and site works, including landscaping in the townland of Woodpark; installation of medium voltage electrical and communication cabling underground between the proposed turbines and the proposed on-site substation and associated ancillary works; construction of turbine foundations and crane pad hardstanding area; construction of new site tracks and associated drainage infrastructure; upgrading of existing tracks and associated drainage infrastructure where necessary; access to the proposed wind farm site will be from the R466 Local Road and will consist of the use of an existing quarry entrance in the townland of Leitrim which will be upgraded, as well as the creation of one number new permanent site entrance on the Fahymore Local Road in the townland of Ballyquin More, and the use of one number existing field entrance which will be upgraded in the townland of Ballymoloney. The site entrances shall be used for both construction and operation of the proposed wind farm; all associated drainage and sediment control; installation of new watercourse and drain crossings; re-use and upgrading of existing internal watercourse and drain crossings; two number temporary construction site compounds and associated ancillary infrastructure, including parking; tree felling to facilitate construction and operation of the proposed development; installation of medium voltage (38kV) electrical cabling and communication cabling underground along the public road within the townlands of Leitrim, Fahy More South, Ballybrack, Aharinaghmore, Tooreen (Ed Cloghera), Aharinaghbeg, Knockdonagh, Roo East, Blackwater, Rosmadda West, Parkroe, Lackyle (Ed Ballyglass) and Castlebank between the proposed on-site substation within the townland of Woodpark and the existing Ardnacrusha substation within the townland of Castlebank, and associated ancillary works. The proposed grid connection cable works will include four number watercourse crossings by horizontal directional drilling within the public road corridor in the townlands of Parkroe, Blackwater, Knockdonagh, Aharinaghbeg, Tooreen (Ed Cloghera), Fahy More South and Leitrim and the installation of 14 number pre-cast joint bays and communication chambers; temporary works at two number sections of the R466 in the townland of Ardtaggle to facilitate the delivery of turbine components associated with the turbine delivery route. The application is seeking a ten-year planning permission and 35-year operational life from the date of commissioning of the wind farm.

P.C

## **Decision**

**GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to:

**European legislation**, including of particular relevance:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC, as amended by 2009/147/EC, (Birds Directives) which set the requirements for the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy.

**National planning, related policy and guidance, including:**

- National policy, including the Climate Action Plan 2023, with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases.
- Project Ireland 2040 – the National Planning Framework.
- The provisions of the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2006, and the Draft Wind Energy Guidelines published by the Department of Housing, Local Government and Heritage in December 2019.

**Regional and local level policy, including the:**

- Regional Spatial Economic Strategy for the Southern Region 2020.
- Relevant policies of the planning authority, as set out in the Clare County Development Plan 2022-2028.

**And to the following matters:**

- the nature, scale and design of the proposed development, as set out in the planning application, and the pattern of development in the vicinity,
- the planning history of the site and surrounding area,
- the documentation submitted with the planning application, including the Natura Impact Statement and the Environmental Impact Assessment Report,
- the submissions on file, including those from all parties and the planning authority,
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment, and
- 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.

### **Appropriate Assessment: Stage 1:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165), the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), the Danes Hole, Poulnalecka Special Area of Conservation (Site Code: 000030) and the Curraghchase Woods Special Area of Conservation (Site Code: 000174) are the European Sites for which there is the potential for significant effects.

### **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 Lower River Shannon Special Area of Conservation (Site Code: 002165), the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), the Danes Hole, Poulnalecka Special Area of Conservation (Site Code: 000030) and the Curraghchase Woods Special Area of Conservation (Site Code: 000174) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- i. The site-specific Conservation Objectives for these sites.
- ii. The current conservation status, threats and pressures of the qualifying interest features.
- iii. The likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects.

- iv. The mitigation measures which are included as part of the current proposal.
- v. The views of the prescribed bodies in this regard.

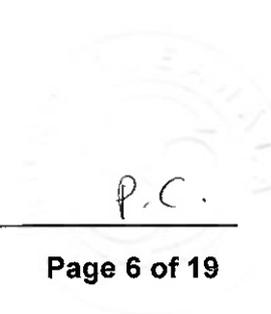
In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives.

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 and there is no reasonable scientific doubt as to the absence of such effects. This conclusion is based on a complete assessment of all aspects of the proposed development, and there is no reasonable doubt as to the absence of adverse effects.

**Environmental Impact Assessment:**

In compliance with section 172 of the Planning and Development Act 2000, as amended, the Board completed an environmental impact assessment of the proposed development, taking into account:

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



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 was up to date at the time of the taking of its decision and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU and Article 94 of the Planning and Development Regulations 2001, as amended. 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.

**Reasoned Conclusion on the Significant Effects on the Environment:**

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:

- Potential adverse effects on **landscape and visual** impact arising from the proposed development include changes in landscape character and visual experience due to the introduction of turbines, especially from sensitive receptors or designated scenic routes, as substantiated by the photomontages submitted with the Environmental Impact Assessment Report. These impacts are mitigated by maintaining a minimum setback distance in excess of 700 metres from residential properties (save one property owner with consent), woodland retention, extension, re-establishment, and hedgerow planting as detailed in the Biodiversity Enhancement and Management Plan, which are anticipated to significantly mitigate direct and cumulative visual impacts.

- Positive impacts on **population and human health** on the local economy from increased expenditure and jobs during the construction period and community benefit payments. Potential adverse effects would arise from shadow flicker, including the possibility of exceeding Wind Energy Development Guidelines (2006) limits at certain receptors, with theoretical models suggesting up to 16 receptors could, without mitigation, theoretically experience shadow flicker beyond the annual and daily recommended maximums. These impacts are mitigated by proposals for the installation of shadow flicker control modules equipped with light sensors and software to actively monitor conditions and halt turbine operation during periods likely to produce shadow flicker, ensuring compliance with guidelines and minimising actual shadow flicker occurrences to acceptable limits.
- The proposed wind farm is projected to have a significant positive impact on **air quality and climate** by supporting Ireland's renewable energy and greenhouse gas reduction goals.
- Potential adverse effects on **biodiversity** arising from the proposed development include significant habitat transformation over approximately 21 hectares, changing wooded areas to open spaces which may lead to considerable biodiversity loss, conflicting with local conservation goals. These impacts are mitigated by the commitment to habitat reinstatement with native species and minimised habitat disruption during site clearance, alongside the appointment of a Project Ecologist to oversee ecological considerations, and the implementation of specific mitigation measures for habitats and species.

- Potential adverse effects on **hydrology and water** quality arising from the proposed development include increased surface run-off, suspended solids, cement-based product contamination, and potential hydrocarbon release, especially during the construction phase, with moderate to significant impacts prior to mitigation. These impacts are mitigated by implementing a Surface Water Management Plan and a Construction Environmental Management Plan, which include measures including controlled refuelling, proper machinery operation, and construction methods that maintain existing hydrological patterns, alongside continuous monitoring to ensure compliance and effectiveness of these strategies.
- Potential adverse effects on **land, soil, and geology** arising from the proposed development include soil erosion and sedimentation due to tree felling and earthworks during construction, which could significantly impact local aquifers and soil stability. These impacts are mitigated by employing silt protection controls, run-off management during construction, robust containment strategies for potential oil leaks during operation, and reinstating silt controls during decommissioning. Furthermore, the proposal that the phased construction will be overseen by geotechnical experts, along with strategies for soil stability and preventing soil and groundwater contamination, are designed to effectively reduce risks to acceptable engineering levels and to maintain environmental standards.



- Potential adverse effects on **hydrology and water** quality arising from the proposed development include increased surface run-off, suspended solids, cement-based product contamination, and potential hydrocarbon release, especially during the construction phase, with moderate to significant impacts prior to mitigation. These impacts are mitigated by implementing a Surface Water Management Plan and a Construction Environmental Management Plan, which include measures including controlled refuelling, proper machinery operation, and construction methods that maintain existing hydrological patterns, alongside continuous monitoring to ensure compliance and effectiveness of these strategies.
- Potential adverse effects on **noise** arising from the proposed development include the possibility of significant noise impacts from construction activities and heavy traffic movements, which may disturb residential amenities in the vicinity due to noise and disturbance. These impacts are mitigated by the comprehensive noise control measures outlined in the Environmental Impact Assessment Report, which include restricting construction traffic to standard working hours, maintaining plant equipment to minimize noise, using effective exhaust silencers, and employing temporary barriers to reduce noise during specific activities. Additional measures such as advance community notification and collaboration with local authorities further aim to minimize noise impact.
- Potential adverse effects from **traffic and transportation** arising from the proposed development include a significant but temporary increase in traffic volume, specifically Heavy Goods Vehicle (HGV) movements, which will directly affect the flow and safety on regional roads such as the R494, R463, and R466. These impacts are mitigated by the implementation of a comprehensive Traffic Management Plan, appointment of a dedicated traffic coordinator, community consultations, and establishing clear signage and emergency protocols, which are projected to effectively control and reduce traffic impacts during the construction phase.

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, as set out in the Environmental Impact Assessment Report, 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.

**Proper Planning and Sustainable Development:**

It is considered that the proposed development would be in accordance with European, national, regional and local planning policy, would make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, would be acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area. The proposed development would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety, would not be prejudicial to public health and 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, 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. The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.

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

3. This permission shall be for a period of 30 years from the date of the commissioning of the wind turbines. The wind turbines and related ancillary structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted for their continuance for a further period.

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

4. The following design requirements shall be complied with:
- (a) The wind turbines shall be designed with a hub height ranging from 102.5 to 110 metres, a rotor diameter from 131 to 138 metres, and blades that result in an overall tip height from 169 to 176.5 metres.
  - (b) The wind turbines, including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
  - (c) Cables within the site shall be laid underground.
  - (d) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
  - (e) 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.

5. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and associated documentation are implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the following conditions. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a schedule of these mitigation measures and monitoring commitments, and details of a time schedule for implementation of the mitigation measures and associated monitoring.

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

6. The developer shall retain the services of a suitably qualified and experienced Ecologist (to perform the role of Ecological Clerk of Works) to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity.

**Reason:** To protect the ecology and wildlife in the area.

P.C.

7. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate annual bird surveys of the site. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for five years with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Arts, Heritage and the Gaeltacht.

**Reason:** To ensure appropriate monitoring of the impact of the proposed development on the avifauna of the area.

8. The construction of the proposed development shall be managed in accordance with a final Construction and Environment Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall provide details of intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

9. 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<sub>90,10min</sub> above background noise levels, or 45 dB(A) L<sub>90,10min</sub>, at standardised 10-metre height above ground level wind speeds of 7m/s or greater, and

(ii) 40 dB(A) L<sub>90,10min</sub> at all other standardised 10-metre height above ground level wind speeds.

(b) 43 dB(A) L<sub>90,10min</sub> at all other times.

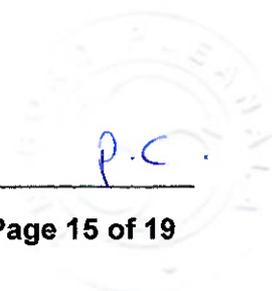
Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a noise compliance monitoring programme for the proposed development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be 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.

10. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. 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 interest of protecting telecommunications signals and of residential amenity.

11. (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) The proposed development shall be fitted with appropriate equipment and software to control shadow flicker in accordance with the above requirement. Details of these control measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.



- (c) 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. The developer shall outline proposed measures to address any recorded non-compliances, controlling turbine rotation if necessary. A similar report may be requested at reasonable intervals thereafter by the planning authority.

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

12. (a) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority details of an obstacle warning light scheme which can be visible to night vision equipment.
- (b) Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Prior to commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the as-constructed tip heights and co-ordinates of the turbines and wind monitoring masts.

**Reason:** In the interest of aviation safety.

13. The delivery of large-scale turbine components for the construction of the windfarm shall be managed in accordance with a finalised Traffic 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 the road network to be used by construction traffic, including oversized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan shall also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

**Reason:** In the interest of public safety and residential amenity.

14. On full or partial decommissioning of the turbines, or if the turbines cease operation for a period of more than one year, and unless a grant of permission has otherwise issued, the mast and the turbine(s) concerned shall be removed and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, within three months of decommissioning.

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

15. 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 operations (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 planning 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.



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 interest of traffic safety and the proper planning and sustainable development of the area.

17. 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:** In the interest of orderly development and visual amenity and to ensure the satisfactory reinstatement of the site.

18. 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 the Board 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 this permission.

*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



Dated this *6* day of *MARCH* 2024.