

An
Bord
Pleanála

Board Order ABP-318816-24

Planning and Development Acts, 2000 to 2022

Planning Authority: Offaly County Council

Application for permission under section 37E of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an Environmental Impact Assessment Report and Natura Impact Statement, lodged with An Bord Pleanála on the 8th day of January, 2024 by Cush Wind Limited care of Galetch Energy Services of Clondargan, Stradone, County Cavan.

Proposed Development: A ten-year permission in relation to development as follows: -

- (i) Eight number wind turbines with hub height of 114 metres, a rotor diameter of 172 metres and an overall tip height of 200 metres;
- (ii) All associated turbine foundations and crane hardstanding areas;
- (iii) A wind farm control building with a gross floor area of 131 square metres;
- (iv) Underground electrical and communications cabling;
- (v) Construction of internal wind farm access tracks and the upgrade of existing agricultural and forestry tracks;
- (vi) Upgrade works to two number existing site entrances from the N62 National Secondary Road to provide access for the construction phase;
- (vii) Upgrade works to 2 no. existing site entrances from the L30033 and L300321 local roads to provide access during the operation phase;

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- (viii) One number guy-wired meteorological mast with an overall height of 30 metres;
- (ix) Two number temporary construction compounds;
- (x) Ancillary forestry felling to facilitate the construction and operation of wind farm infrastructure;
- (xi) Temporary works to public roads along the turbine component haul route, including a vehicle turning area at the junction of the N52 and N62 national secondary roads;
- (xii) All associated and ancillary site development, excavation, construction, landscaping, spoil deposition and reinstatement works, including the provision of site drainage infrastructure and environmental mitigation measures; and
- (xiii) A 35-year operational life from the date of commissioning of the entire proposed development,

All within the townlands of Cush, Galros West, Boolinarig Big, Eglish, and Ballindown, County Offaly.

Decision

GRANT permission under section 37G of the Planning and Development Act 2000, as amended, 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.

DETERMINE under section 37H(2)(c) the sum to be paid by the applicant in respect of costs associated with the application as set out in the Schedule of Costs below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) National policy including the Climate Action Plan 2024, with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases;
- (b) The Eastern and Midlands Regional Spatial and Economic Strategy, 2019 - 2031;
- (c) 'Wind Energy 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;
- (d) The relevant policies of the planning authority, as set out in the Offaly County Development Plan 2021 - 2027;
- (e) The character of the landscape in the area and the absence of any ecological designation on or in the immediate environs of the wind farm site;
- (f) The characteristics of the site and the general vicinity;
- (g) The pattern of existing and permitted development in the area, including other wind farms;
- (h) The distance to dwellings or other sensitive receptors from the proposed development;
- (i) the Environmental Impact Assessment Report;
- (j) The Natura Impact Statement; and;
- (k) The submissions made in connection with the application.

Appropriate Assessment: Stage 1:

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the following are the European Sites for which there is a likelihood of significant effects:

- Ridge Road, SW of Rapemills Special Area of Conservation (Site Code: 000919);
- River Shannon Callows Special Area of Conservation (Site Code: 000216);
- Lough Derg, South-East Shore, Special Area of Conservation (Site Code: 002241);
- River Little Brosna Callows Special Protection Area (Site Code: 004086);
- Middle Shannon Callows Special Protection Area (Site Code: 004096);
- All Saints Bog Special Protection Area (Site Code: 004103);
- Slieve Bloom Mountains Special Protection Area (Site Code: 004160);
- Dovegrove Callows Special Protection Area (Site Code: 004137);
- Lough Derg (Shannon) Special Protection Area (Site Code: 004058);
- River Suck Callows Special Protection Area (Site Code: 004097).

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, 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 for the European Sites for which there is a potential to have a significant effect have been identified, 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:

- (i) the likely direct and indirect impacts arising from the proposed development, both individually and in combination with other plans or projects;
- (ii) the mitigation measures which are included as part of the current proposal; and
- (iii) 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, either by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of these sites' conservation objectives.

Environmental Impact Assessment

The Board considered that the Environmental Impact Assessment Report (EIAR), supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, as set out in the Inspector's report, of the information contained in the EIAR and associated documentation submitted by the applicant and submissions made during the course of the application.

Reasoned Conclusion on the Significant Effects:

The Board considered, and agreed with, the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and human health:** Short term direct and indirect negative effects arising from the construction phase on residential amenity and use of the public road, and longer term, the potential for noise, shadow flicker, landscape and visual effects, in particular for residents in proximity to the wind farm site and with open views of it. These effects will be mitigated by the distance of the dwellings from the construction site, implementation of standard good construction practices, management of construction traffic, distance of turbines from residential dwellings, intervening vegetation, and controlled operation of wind turbines in accordance with defined parameters. However, local landscape and visual impacts will remain. Short term positive effects will arise for the local economy during construction and longer-term positive effects for the local community with the community benefit fund;
- **Biodiversity:** Long term loss of broadleaved woodland, treelines and hedgerows arising from the footprint of the development, the potential for increased loading and pollution of waterbodies during construction and operation, with the risk of adverse effects on downstream water quality dependent habitats and species, the potential for significant direct and indirect effects on mobile species during construction and the risk of collision by bird and bat species during operation. Furthermore, it is considered that these impacts will be mitigated by the application of best practice construction methodologies, as set out in the project documentation, the application of proposed site-specific and species-specific mitigation measures;
- **Land, soil, water, air and climate:** The potential for direct and indirect effects on water quality, particularly during construction, alterations to surface water flow paths, changes to hydro morphology, increased risk of flooding, and localised effects on air quality (noise and dust). In the longer term there will be an increase in the noise environment of the site with the operation of the wind turbines, and positive effects on climate and air quality. These impacts will be

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mitigated by the design of the proposed development, distance from sensitive receptors, the use of standard good construction practices and operational controls, which have demonstrated to be effective in preventing adverse effects;

- **Archaeology, cultural heritage, landscape, and material assets:** Potential direct impacts on unknown features of archaeology, substantial changes to the landscape character of the development site and substantial visual effects in the immediate area of the site, increased road traffic in the vicinity of the site, and interruption to telecommunications/utilities. These impacts will be mitigated by archaeological geophysical survey and archaeological monitoring of groundworks, re-vegetation of the site, the landscape context for the development, the management of traffic in line with the proposed Construction and Environmental Management Plan (CEMP) and layout of the development to avoid telecommunications and other infrastructure, preconstruction survey work and liaison with utility/telecom providers. However, local landscape and visual effects will remain.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy of the Southern Region 2020 and the provisions of the Offaly County Development Plan 2021 – 2027. The proposed development is acceptable in terms of its likely effects on the environment and that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021. It is further considered that the proposed development would:

- make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future;
- not have an adverse impact on the landscape;

- not seriously injure the residential or visual amenities of the area;
- not adversely affect the natural heritage of the area;
- not adversely impact the road network in the area; and
- be acceptable in terms of traffic safety and convenience.

The proposed development 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 planning 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 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.

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3. The 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 adhered to:
- (a) The wind turbines shall be designed to a hub height of 114 metres, a rotor diameter of 172 metres and an overall tip height of 200 metres, in accordance with the turbine option assessed in the Environmental Impact Assessment Report and the Natura Impact Statement together with the other application documentation;
 - (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) No advertising material shall be placed on, or otherwise affixed to, any structure on the site without a prior grant of planning permission.

Reason: In the interests of clarity and visual amenity.

5. The mitigation measures contained in the submitted Natura Impact Statement, shall be implemented.

Reason: To protect the integrity of European Sites.

6. The mitigation measures contained in the submitted Environmental Impact Assessment Report, shall be implemented.

Reason: To protect the environment.

7. (a) 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 in conjunction with the timelines therein, except as may otherwise be required in order to comply with the following conditions.
- (b) 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 these. This programme shall include hydrographic monitoring of the site after rainfall events commencing preconstruction and concluding year three of the operational phase of the development. The results of the monitoring and reports arising shall be made available to the planning authority, Inland Fisheries Ireland and the National Parks and Wildlife Service.
- (c) Prior to commencement of development, a revised Biodiversity and Enhancement Management Plan shall be submitted to the planning authority for written agreement, to include management of spoil storage areas and replacement hedgerows and treelines, for wildlife over the life of the wind farm and an integrated approach to all biodiversity enhancement measures proposed in the application documents.

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

8. The construction of the proposed development shall be managed in accordance with a final Construction and Environmental Management Plan (CEMP), to include a final Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

The CEMP shall include but not be limited to operational controls for dust, noise and vibration, waste management, protection of soils and groundwaters and surface waters, protection of flora and fauna, site housekeeping, emergency response planning, site environmental policy, waste management, project roles and responsibilities.

The CEMP shall include the location of all archaeological or cultural heritage constraints, as identified in the Environmental Impact Assessment Report. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority arrangements for phasing of construction works, following consultation with the National Parks and Wildlife Service.

Reason: In the interests of environmental protection and residential amenity.

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9. (a) The delivery of large-scale turbine components for the construction of the wind farm shall be managed in accordance with a finalised Traffic Management Plan. 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 and other structures to be traversed, as may be required. The plan shall also contain details of how the developer intends to engage with relevant parties and notify the local community in advance of the delivery of oversized loads.
- (b) Any proposed works to the national road network to facilitate turbine delivery shall comply with the requirements of Transport Infrastructure Ireland.

Reason: In the interests of public safety and residential amenity.

10. 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, immediately prior to commencing work to check for the presence of protected species in the vicinity.

Reason: To protect biodiversity.

11. Prior to the commencement of development, details of a post construction monitoring and reporting programme for bats, as indicated in the Bat Report, shall be submitted to, and agreed in writing with, the planning authority. The monitoring shall be undertaken by a suitably qualified and experienced bat specialist to identify any measures required to mitigate any identified effects. The survey shall be completed annually for a period of three years following the commissioning of the wind farm and copies of the report shall be submitted to the planning authority.

Reason: To ensure the appropriate monitoring of the use of the site by bat species.

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12. The operation of the proposed development, by itself or in combination with 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 5dB(A) L90, 10min above background noise levels or 45dB(A) L90, 10min at standardized 10-meter height above ground level at wind speeds of 5m/s or greater.
 - (ii) 40 dB(A) L90, 10min at all other standardised 10-metre height above ground level wind speed.
- (b) 43 dB(A) L90, 10min, at all other times.

Prior to the commissioning of the windfarm, the developer shall submit to and agree in writing with the planning authority a Noise Compliance Monitoring Programme (NCMP). The NCMP shall include a detailed methodology for all sound measurements, including frequency of monitoring (initially six months, with confirmatory monitoring in the third year post commissioning) and recording of results, which shall be made publicly available. The NCMP shall also include any mitigation measures such as the de-rating of particular turbines if required and shall be fully implemented during the operation of the windfarm.

Reason: in the interest of residential amenity.

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13. (a) Appropriate software shall be employed on each of the turbines to ensure that there will be no shadow flicker at any existing nearby dwelling. Turbine shutdown shall be undertaken by the wind energy developer or operator in order to eliminate the potential for shadow flicker.
- (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 wind farm, this report shall be prepared, 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 by the planning authority at reasonable intervals thereafter.

Reason: In the interest of residential amenity.

14. In the event that the proposed development causes interference with telecommunication signals, effective measures shall be introduced to minimise interference with telecommunication 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 the commissioning of the turbines and following consultation with relevant authorities.

Reason: In the interests of protecting telecommunication signals and residential amenity.

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15. (a) Prior to commencement of development, the developer shall submit for 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 mast.

Reason: In the interest of aviation safety.

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16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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17. 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 turbines and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation. These re-instatement works shall be completed to the written satisfaction of the planning authority within three months of decommissioning or cessation of operation.

Reason: To ensure a satisfactory re-instatement of the site upon cessation of the project.

18. 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 local 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: To ensure the satisfactory completion of the development.

19. 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.

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Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is **€75,349**.

A breakdown of the Board's costs is set out in the attached Appendix 1.

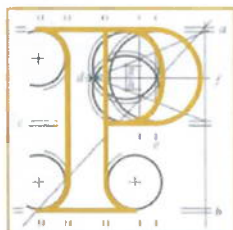


Peter Mullan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 4th day of November, 2024.



An
Bord
Pleanála

Board Order –
Appendix 1

ABP-318816-24

Strategic Infrastructure Development

Costs of determining the Application

Case Number: ABP-318816-24

Proposed Development:

10 year planning permission for wind energy development consisting of 8 no. wind turbines and all associated works located at Cush, Galros West, Boolinarig Big, Eglis, and Ballindown, Co. Offaly.

Board Costs		
(1)	Cost (calculated based on Inspector's time) Inspector 1 (pre-application consultation) €4,063 Inspector 2 (application) €21,988	€26,051
(2)	Costs invoiced to Board	N/A
	Total chargeable costs	€26,051
Board Fees		
(3)	Application Fee - €100,000 Pre-application Consultation Fee- €1,000	€101,000
(4)	Observer fees paid	€400
	Total	€101,400
	Net amount due to be refunded to applicant	€75,349

Peter Mullan

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



Dated this 6th day of November, 2024