

An
Coimisiún
Pleanála

Commission Order ABP-318943-24

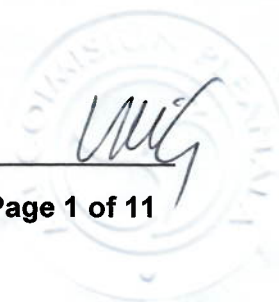
Planning and Development Acts, as amended

Planning Authority: Clare 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 Coimisiún Pleanála on the 26th day of January, 2024 by Ballycar Green Energy Limited care of MWP, Reen Point, Blennerville, Tralee, County Kerry as amended by the further information received by An Coimisiún Pleanála on 20th day of September 2024.

Proposed development: The proposed development comprises of the following:

- (i) 12 number wind turbines (blade tip height up to 158 metres). Eleven of the turbines will have a hub height of 90 metres and a blade length of 68 metres and one
- (ii) turbine (T10) will have a hub height of 82 metres and a blade length of 68 metres;
- (iii) 12 number wind turbine foundations and hardstand areas;
- (iv) one number permanent meteorological mast (90 metres height) and foundation and associated hardstand areas;
- (v) one number electrical substation (110kV) including associated ancillary buildings, security fencing and all associated works;



- (vi) two number developed site entrances, one temporary entrance to facilitate construction traffic and one permanent entrance;
- (vii) new and upgraded internal site access tracks;
- (viii) provision of an on-site visitor cabin and parking;
- (ix) all associated underground electrical and communications cabling connecting the proposed turbines to the proposed onsite substation;
- (x) laying of approximately 1.5 kilometres of underground electricity cabling to facilitate the connection to the national grid from the proposed onsite substation to connect to an existing 110kV overhead line;
- (xi) temporary works on sections of the public road network along the turbine delivery route (including hedge or tree cutting, relocation of powerlines/poles, lampposts, signage, and local road widening);
- (xii) one number temporary construction site compound and additional mobile welfare unit;
- (xiii) one number borrow pit to be used as a source of stone material during construction;
- (xiv) three number spoil deposition areas (one at borrow pit location);
- (xv) associated surface water management systems;
- (xvi) tree felling for wind farm infrastructure.

The applicant is seeking a ten-year permission and an operational period of no less than 35 years from the date of commissioning the Wind Farm, all in the townlands of Cappateemore East, Ballycannan West, Ballycannan East, Ballycar South, Ballycar North and Glennagross (or se Glenagross, Glennacross) County Clare.



Decision

Refuse 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.

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 Commission had regard, inter alia, to the following:

- (a) the nature and scale of the proposed development;
- (b) the revised Renewable Energy Directive (REDIII);
- (c) the European Wind Power Action Plan;
- (d) Climate Action and Low Carbon Development Act 2015, as amended in 2021;
- (e) Climate Action Plan 2024 (CAP24) and 2025 (CAP25);
- (f) Project Ireland 2040: National Planning Framework First Revision, April 2025 and the National Development Plan 2018-2027 and National Development Plan review 2025;
- (g) The National Biodiversity Action Plan 2023-2030;
- (h) National Renewable Energy Action Plan;
- (i) National Landscape Strategy for Ireland 2015-2025;
- (j) The Wind Energy Development Guidelines, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2006;

- (k) The Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019;
- (l) Development Management Guidelines for Planning Authorities, June 2007;
- (m) Guidelines on the information to be contained in Environmental Impact Assessment Reports (EPA 2022);
- (n) Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, Department of Housing, Planning, Community and Local Government (2018);
- (o) Environmental Impact Assessment of Projects Guidance on the preparation of the Environmental Impact Assessment Report, European Union 2017;
- (p) EUROCONTROL Guidelines for Assessing the Potential Impact of Wind Turbines on Surveillance Sensors;
- (q) Spatial Planning and National Roads Guidelines for Planning Authorities' (DoECLG, 2012);
- (r) Guidelines for Landscape and Visual Impact Assessment (3rd Edition) Landscape Institute and Institute of Environmental Management & Assessment 2013;
- (s) Guidelines for Ecological Impact Assessment 2018 Chartered Institute of Ecology and Environmental Management;
- (t) Guidelines for Assessment of Ecological Impacts of National Road Schemes (National Roads Authority, 2009);
- (u) Scottish Natural Heritage, Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation 2019;
- (v) BRE: Site layout planning for daylight and sunlight 2022;
- (w) Regional Spatial Economic Strategy for the Southern Region 2020-2032;
- (x) the policies and objectives set out in the Clare County Development Plan 2023-2029;

- (y) the submissions received, and the presentations and submission made to the limited agenda oral hearing, including from the planning authority, prescribed bodies, third parties and the applicant;
- (z) the documentation submitted with the application, including the Natura Impact Statement and Environmental Impact Assessment Report;
- (aa) 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 on European Sites;
- (bb) the report of the external independent aviation consultant appointed by An Coimisiún Pleanála - Sagentia Aviation; and
- (cc) the report and recommendations of the Planning Inspector.

Appropriate Assessment: Stage 1:

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's report that the proposed development could result in significant effects on the:

- Lower River Shannon Special Area of Conservation (Site Code: 002165) and the
- River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077)

in view of the conservation objectives of a number of 'qualifying interests' and 'Special Conservation Interest' features of those sites. It was therefore determined that Appropriate Assessment (stage 2) of the proposed development is required.

This determination is based on:

- (a) the potential for impacts on water quality, habitat loss/alteration, disturbance and/or displacement of species and the spread of non-native invasive species in the Lower River Shannon Special Area of Conservation (Site Code: 002165) during the construction phase of development, and
- (b) the potential for impacts on water quality, habitat loss/alteration, disturbance and/or displacement of species and habitat or species fragmentation in the in River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) during both the construction and operational phases of development.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement and all other relevant submissions on file and carried out an Appropriate Assessment of the implications of the proposed development on the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), in view of those sites conservation objectives.

The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the conservation objectives of the site using the best available scientific knowledge in the field.

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

- (i) the site-specific conservation objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and

(iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission 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.

In overall conclusion, the Commission 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 their conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment:

Having regard to the examination of environmental information provided in respect of the proposed development, in particular the Environmental Impact Assessment Report and the supplementary information provided by the applicant, including further information, the submissions from the local authority, prescribed bodies and observations received over the course of the application and at the limited agenda oral hearing, it is considered that the main significant, direct, indirect and cumulative effects on the environment, with the implementation of proposed mitigation measures are as follows –

- **Population and Human Health:** Negative impacts on human health and population arising from construction and operation including noise, traffic and dust disturbances to sensitive receptors in the area. Such impacts can be adequately mitigated through the implementation of the Construction Environmental Management Plan, best practice construction methods, installation of shadow flicker systems on the turbines and noise levels within level recommended in the national wind energy guidelines as well as suitable planning conditions. Furthermore, there will be a long term significant positive

effect on population and human health due to the displacement of CO² from the atmosphere arising from fossil fuel energy production and from the implementation of the Community Benefit Fund.

See also Material Assets - Significant risk to Population and Human Health i.e. possible degradation of existing surveillance radar and other aviation related operational impacts. The mitigation measures and recommendations proposed do not adequately address the extent of potential impact.

- **Biodiversity:** Impacts to existing habitats and birds (including identified collision risks) can be mitigated through the delivery of mitigation measures including those set out in the revised Natura Impact Statement, Environmental Impact Assessment Report and implementation of the Biodiversity Enhancement Management Plan, final details of which can be agreed with the planning authority by condition. The impact on habitats and species will not have any significant effect on the nature or range of any habitats or the conservation objectives of any European Sites. Negative impacts on species within the site, which are likely to arise in the construction and operational phase can be mitigated through the measures proposed and are not considered to be significant. Subject to the mitigation proposed works in or close to watercourses including crossings will not adversely impact on hydrological connectivity or movement of fish or result in the loss of instream habitat. Negative effects on aquatic species and habitat which are likely to arise from potential release of sediments and other pollutants into watercourses can be adequately mitigated by the measures outlined in the application including monitoring.
- **Land, Soils, Water, Air and Climate:** Negative effects on surface water and ground water as a result of accidental spillage of hydrocarbons, increased sedimentation and any other contaminants entering the drainage system can be adequately mitigated by measures outlined in the application. The proposed development will not impede the ability of surface waters to achieve good or high status and the Water Framework Directive and no further assessment is required.

- **Landscape and Visual and Cultural Heritage:** Significant negative Landscape and Visual and Cultural Heritage impacts arise during the operational phase of the development given the placement of significant structures within the local landscape thereby changing the existing visual context significantly and cannot be avoided by new mitigation measures. The impact is therefore considered mitigated by the sites location within an area designated as a 'Strategic Areas' and considered to be "*eminently suitable for wind farm development*" in the Clare County Development Plan 2023-2029 and its Wind Energy Strategy. No significantly adverse impacts to cultural heritage interest and or scenic views are expected given separation distances between same and intermittency of such views.
- **Material Assets:** At least Significant operational impacts potentially arise regarding Aviation concerns as raised by AirNav Ireland (ANI) and Shannon Airport Authority (SAA/SAG) regarding degradation of existing radar surveillance. The applicant considers the extent of such impacts to be negative, moderate to significant and long term for the duration of the operational phase. ANI contend the proposed development will have adverse impacts on existing radar surveillance systems, without measurable, evidence-based, demonstrable mitigations being applied. Based on the information on file and the content of the External Aviation Report, it is not considered possible to mitigate against the potential for at least significant aviation related impacts, including through the imposition of a planning condition for such matters to be agreed at a later date. Other aviation related operational impacts including prolonged operational outages and loss of CAT II designations to runway 24 at Shannon Airport are also highlighted.

Negative traffic impacts also arise during the construction phase of the proposed development. Impacts arising from traffic can be appropriately mitigated. Potential negative effects on other material assets including telecommunication links during operation can be adequately mitigated through the measures proposed.

**Conclusions on Proper Planning and Sustainable Development and
Recommended Reason for Refusal of Planning Permission:**

1. The Commission is not satisfied, on the basis of the information lodged with the application, at further information stage, in response to the submissions and observations received and following the 'Specified Matter only' oral hearing under section 135 (2AB) of the Planning and Development Act 2000, as amended, including submissions to same, that measurable, evidence based, demonstratable and credible mitigation measures have been submitted by the applicant, that can remove all level of aviation related risk, likely to arise as a result of the proposed development or that such measures can then be agreed and implemented to the satisfaction of AirNav Ireland, the Shannon Airport Group and the Irish Aviation Authority.

Furthermore, as aviation related mitigation measures are required, the Commission is not satisfied, that the applicant has sufficient legal interest, or can acquire such interest to implement such mitigation measures on lands that have not been identified within the application site boundary, the applicant's landholding or within the applicant's control i.e. through a letter of consent from the appropriate landowner where necessary mitigation measures are required.

The Commission 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 Development Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with Climate Action Plan 2024 and Climate Action Plan 2025 and the national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans set out in those Plans and in furtherance of the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State). A refusal of planning permission for this proposed development falls squarely within the spectrum of outcomes available to the Commission and in accordance with the above statutory and policy framework,

in particular as they relate to climate goals. In this context, it is not practicable, for the Commission to approve the development in a manner consistent with the Climate Act by imposing a condition requiring such matters to be agreed between parties where the necessary consents have not been demonstrated as achievable or the necessary mitigation measures required as credible and implementable.

Accordingly, the Commission is not satisfied that the proposed development would not endanger or would not interfere with the safety of aircraft or the safe and efficient navigation thereof. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Schedule of Costs

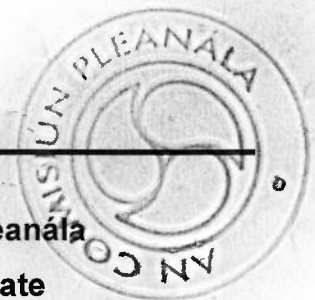
In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be recouped **from** the applicant is **€73,668**.

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

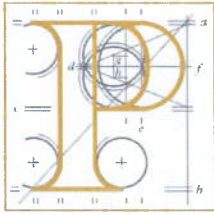


Liam McGree

Member of An Coimisiún Pleanála
duly authorised to authenticate
the seal of the Commission.



Dated this **07th** day of **MAY** 2026



An
Coimisiún
Pleanála

**Commission Order –
Appendix 1**

ABP-318943-24

Strategic Infrastructure Development

Costs of determining the Application

Case Number: ABP-318943-24

Proposed Development: Proposed 12 turbine windfarm, located on a 140-hectare site located within the townlands of Cappateemore East, Ballycannan West, Ballycannan East, Ballycar South, Ballycar North, and Glennagross.

Commission Costs		
(1)	Cost (calculated based on Inspector's time) Inspector 1 (pre-application consultation) €4,063 Inspector 2 (application) €150,570	€154,633
(2)	Costs invoiced to Commission: Sound/ Recording Costs - €1414.50 Oral Hearing Venue - €980 Consultancy - €24,790.84	€27,185.34
	Total chargeable costs	€181,818.34
Commission Fees		
(3)	Application Fee - €100,000 Pre-application Consultation Fee- €4,500	€104,500
(4)	Observer fees paid	€3,650
	Total	€108,150
	Net amount due to be recouped from the applicant	€73,668


Liam McGree

Member of An Coimisiún Pleanála

duly authorised to authenticate

the seal of the Commission.

Dated this 07th day of MAY

2026

