

An
Coimisiún
Pleanála

Commission Order
ABP-319961-24

Planning and Development Acts 2000, as amended

Planning Authority: Clare County Council

Planning Register Reference Number: 2460143.

Appeal by Ballykett Green Energy Limited care of Jennings O'Donovan and Partners Limited of Finisklin Business Park, Sligo against the decision made on the 23rd day of May, 2024 by Clare County Council to refuse permission for the proposed development.

Proposed Development: Permission for the erection of four number wind turbines with an overall ground to blade tip height of 150 metres with a rotor diameter of 136 metres and a hub height of 82 metres, the construction of crane hardstand areas and turbine foundations, the creation of a new site entrance onto the L6132, construction of one number temporary construction compound with associated temporary site offices, parking areas and security fencing, installation of permanent meteorological mast of 82 metres overall height, construction of new internal site access tracks and upgrade of existing site track, to include all associated drainage including new clear span bridge crossing of the Moyasta River, development of a site drainage network, biodiversity enhancement measures, construction of one number permanent 38kV electrical substation, two number permanent spoil storage areas, all associated underground electrical and communications cabling connecting the wind turbines to the wind farm substation and to the existing Tullabrack 110kV

Substation, all ancillary forestry felling to facilitate construction including the development of one no. borrow pit, vertical realignment of an existing crest curve on the L6132. This application is seeking a ten-year permission and a 35-year operational life from the date of commissioning of the wind farm, Ballykett, Tullabrack East, Tullabrack West, Tullabrack and Gower South, Kilrush, County Clare.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

The Commission 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, the Climate Action Plan 2024, the Climate Action Plan 2025, the relevant provisions of Ireland's Long-term Strategy on Greenhouse Gas Emissions Reductions 2024, the National Adaptation Framework Planning for a Climate Resilient Ireland 2024, including the relevant sectoral adaptation plans as they relate to biodiversity and energy, and in the furtherance of the objective of mitigating greenhouse-gas emissions and adapting to the effects of climate change in the State.

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

- (a) European legislation, including:
- the Renewable Energy Directive EU/2023/2413,
 - Directive 2014/52/EU amending Directive 2011/92/EU (Environmental Impact Assessment Directive),

- Directive 2000/60/EC (Water Framework Directive),
 - Directive 92/43/EEC (Habitats Directive), and
 - Directive 79/409/EEC, as amended by 2009/147/EC (Birds Directive).
- (b) National policy and guidance, including:
- Project Ireland 2040 - National Planning Framework 2025,
 - the National Development Plan 2021-2030,
 - the National Biodiversity Plan 2023-2030,
 - the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2006,
- (c) Regional and local planning policy, including:
- the Regional Spatial and Economic Strategy for the Southern Region 2020-2032, and
 - Clare County Development Plan 2023-2029,
- (d) the location, nature, scale, layout and design of the proposed development,
- (e) the range of mitigation measures set out in the application documentation, including the Environmental Impact Assessment Report and Natura Impact Statement,
- (f) the submissions received in relation to the application and appeal, and
- (g) the Inspector's report and recommendation.

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 Lower River Shannon Special Area of Conservation (Site Code 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an Appropriate Assessment of the implications of the proposed development on the aforementioned sites, in view of the 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 sites using the best available scientific knowledge in the field.

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

- (a) current conservation status, threats and pressures of the qualifying interest features for otter, tidal, mudflats and sandflats, large, shallow inlets and bays,
- (b) likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, specifically impacts to water resource and displacement/disturbance of otter,
- (c) the mitigation measures which are included as part of the current proposal, and
- (d) the site-specific conservation objectives for the European Sites.

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, having regard to the sites' conservation objectives.

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

The Commission completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application, including the addendum report,
- (c) the submissions from the first party, the planning authority, third parties, and prescribed bodies in the course of the application and appeal, and
- (d) the Planning Inspector's report.

The Commission considered that the Environmental Impact Assessment Report, including the addendum report, supported by the documentation submitted by the first party during the course of the application and the appeal, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Commission agreed with the examination set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report

including the addendum report, and the associated documentation submitted by the first party and submissions made in the course of the planning application and appeal.

The Commission considered that the Environmental Impact Assessment Report, including the addendum report, supported by the documentation submitted by the first party during the course of the application and the appeal, provided information that is up-to-date, compliant with the provisions of the EU Directive 2014/52/EU, reasonable and sufficient to allow the Commission 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 Commission considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- significant direct negative effects arising for human health as a result of shadow flicker to residential properties in the vicinity during the operational phase, which would be mitigated by detailed shadow flicker curtailment strategies restricting wind turbine operations in certain environmental conditions, resulting in no residual impacts on human health,
- direct negative effects arising for aquatic ecology during the construction phase, which would be mitigated by a suite of appropriate construction phase surface-water management measures, including sediment and pollution control measures, avoidance of in-stream works and pre-construction surveys, resulting in no residual impacts on aquatic ecology,
- direct negative effects arising for flora and fauna during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, including construction-zone buffers, restricting the timing of works, appointment of an ecological clerk of works and the undertaking of further pre-construction surveys, resulting in no residual impacts on flora and fauna,



- direct negative effects arising for land, soils and geology during the construction, operation and decommissioning of the project as a result of the increased risk of peat slide and failure, which would be mitigated by a suite of appropriate management measures during the during the construction, operation and decommissioning phases, including measures to address the known deposits of peat and their storage, continued monitoring of ground conditions and taking remedial actions, if necessary,
- direct negative effects arising for water during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, including sediment and pollution-control measures, resulting in no residual impacts on water,
- direct negative effects arising for water as a result of flooding during the operation phase, which would be mitigated by the design of the watercourse crossings, construction levels and layout, and the surface water management proposals accounting for medium and high-risk flood events, as well as factoring in climate-change, resulting in no residual impacts on water,
- direct negative effects arising for air quality during the construction and decommissioning phases, which would be mitigated by a suite of appropriate management measures, including dust minimisation and suppression measures,
- indirect positive effects for air quality and the climate during the operational phase by displacing the necessity for fossil-fuel dependent energy sources,
- direct negative effects arising for noise and vibration during the construction and decommissioning phases, which would be mitigated by a suite of appropriate construction phase management measures, including the control of construction hours, a construction traffic management plan and noise minimisation measures,

- direct negative effects arising for noise during the operation phase, which would be mitigated by the separation distances to the nearest sensitive receptors, as well as the final turbine model featuring a serrated-trail edge or similar feature, and a noise-compliance monitoring programme with noise-level exceedance amelioration measures,
- potential direct negative short-term effects on the valuation of property which will be dependent on a number of additional factors and will not be significant in the long term with no reduction in residential amenity and direct negative short-term effects arising from traffic generated during the construction phase, which would be mitigated by a suite of appropriate construction phase traffic management measures,
- direct negative effects arising for undiscovered archaeological remains during the construction phase, which would be mitigated by a planning condition requiring monitoring and recording by a suitably qualified archaeologist under an appropriate licence,
- direct negative, long-term visual effects on the landscape from neighbouring residences, intermittent sections of the immediate road network and within the site, the impacts of which would be reduced where screening is available and maintained, as viewers become accustomed to the appearance of the turbines, and as the landscape is already altered, featuring windfarms and long-established commercial forestry and agricultural operations.

Having regard to the above, the Commission is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. The Commission is satisfied that the reasoned conclusion is up-to-date at the time of making the decision. The Commission 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 herein, the effects of the proposed development, by itself, and cumulatively with other

development in the vicinity, would be acceptable. In doing so, the Commission adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

Having regard to the scale, form and extent of the proposed development and the details submitted with the application and appeal, the Commission is satisfied that the proposed development accords with European, national, regional and local planning policy provisions and that an approval for the proposed development would be consistent with the national climate ambitions and with the relevant provisions of the Climate Action Plan 2024 and the Climate Action Plan 2025. Furthermore, the Commission has performed its functions in relation to the making of this decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended, and subject to compliance with the conditions set out below, it is considered that the proposed development would be in accordance with the relevant provisions of the Clare County Development Plan 2023-2029, would not seriously injure the visual amenities of the area or the residential amenities of property in the area, would be acceptable in terms of traffic safety and would constitute an appropriate form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and in the submission received from the applicant in on the 9th day of May, 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The mitigation and monitoring measures identified in the Natura Impact Statement shall be carried out in full.

Reason: In the interest of protecting European sites.

3. The mitigation and monitoring measures identified in the Environmental Impact Assessment Report shall be carried out in full.

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

4. The period during which the development hereby permitted is constructed shall be ten years from the date of this Order.

Reason: Having regard to the nature of the development, the Commission considers it appropriate to specify a period of validity of this permission in excess of five years.

5. (a) The permission shall be for a period of 35 years from the date of the first commissioning of the windfarm. All structures shall then be removed and the site reinstated unless, prior to the end of that period, planning permission shall have been granted for their retention for a further period.
- (b) Prior to the commencement of development, a detailed Site Restoration Plan providing for the removal of the turbines and all ancillary structures, and a timescale for its implementation, shall be submitted to, and agreed in writing with, the planning authority.
- (c) On full or partial decommissioning or if the wind farm ceases operation for a period of more than one year, the windfarm, the turbines and all ancillary structures shall be dismantled and removed permanently from the site. The site shall be restored in accordance with the agreed Site Restoration Plan and all decommissioned structures shall be removed from the site within six months of decommissioning.

Reason: To enable the planning authority to review the operation of the windfarm over the stated time period, having regard to the circumstances then prevailing, and in the interest of landscape restoration upon cessation of the project.

6. The following design requirements shall be complied with:
- (a) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
- (b) Cables within the site shall be laid underground.

- (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (d) 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 interests of visual and residential amenity.

7. Noise levels generated by the wind farm following commissioning by itself or in combination with other existing or permitted wind energy development in the vicinity, when measured externally at noise-sensitive locations, shall not exceed:
- (a) For the daytime period 0700 to 2300 hours, in quiet environments, where background noise is less than 30dB(A)L90 T10, a maximum noise level of 40dB(A)L90 T10,
 - (b) For daytime periods, 0700 to 2300 hours, where the background noise level exceeds 30dB(A)L90 T10, the greater of 45dB(A)L90 T10, or 5dB(A) above background levels, and
 - (c) For the nighttime period 2300 to 0700 hours, for all noise environments, 43dB(A)L90 T10.

The wind farm shall not give rise to amplitude modulation, tonal or impulsive noise at noise-sensitive locations. Prior to the commissioning of the windfarm, the developer shall submit and agree in writing with the planning authority, a Noise Compliance Monitoring Programme (NCMP) for the operational wind farm. The Noise Compliance Monitoring Programme (NCMP) shall include a detailed methodology for all sound measurements, including frequency of monitoring and recording of

results, which shall be made publicly available. The Noise Compliance Monitoring Programme (NCMP) shall be fully implemented during the operation of the wind farm.

Reason: In order to protect the amenities of noise-sensitive properties in the vicinity of the development.

8. (a) Cumulative shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy developments 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) Appropriate software shall be employed on each of the turbines to ensure that there will be no shadow flicker at any existing neighbouring dwelling. Turbine shutdown shall be undertaken by the wind energy developer or operator in order to eliminate the potential for shadow flicker.
- (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 the commissioning of the wind farm, this report shall be prepared and 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.

9. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant section of the planning authority for such works and services.

Reason: In the interests of public health and surface water management.

10. Prior to the commissioning of the windfarm, the developer shall submit for the written agreement of the planning authority, details of actions to be taken by the developer in the event of the proposed development causing interference with telecommunication signals. Such actions shall be completed to minimise interference with telecommunication signals and shall be carried out to the written satisfaction of the planning authority at the developer's expense.

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

11. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, details of an obstacle-warning light scheme, which can be visible to night-vision equipment.

Reason: In the interest of aviation safety.

12. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority, the Irish Aviation Authority and the Department of Defence of the co-ordinates of the as constructed positions of the turbines and the highest point of the turbines (to the top of the blade spin).

Reason: In the interest of air traffic safety.

13. (a) The developer shall engage a suitably-qualified, licence-eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works, topsoil stripping, site clearance and construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record, archaeological excavation and/or monitoring may be required.
- (b) Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (c) No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority.

- (d) The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority and in accordance with measures outlined in the Environmental Impact Assessment Report.

Reason: To safeguard the amenities of property in the vicinity.

15. (a) The construction of the proposed development shall be managed in accordance with a final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The final Construction and Environmental Management Plan shall be subject to ongoing review throughout the construction phase of the proposed development through regular environmental auditing and site inspections.

- (b) The Construction and Environmental Management Plan 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.
- (c) Works near watercourses shall be carried out in consultation with and in accordance with Inland Fisheries Ireland 'Guidelines on the Protection of fisheries during Construction work in and adjacent to Waters' (2016).
- (d) The Construction and Environmental Management Plan shall include a draft decommissioning plan for the turbines, to include reuse and/or recycling of turbine components. A revised decommissioning plan shall be submitted to, and agreed in writing with, the planning authority prior to commencing decommissioning of the development.

Reason: In the interest of environmental protection and neighbouring amenities.

16. The delivery of large-scale turbine components for the construction of the wind farm shall be managed in accordance with a Construction 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 over-sized loads, detailed proposals for access point sightlines (including those to be retained after the construction phase), and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to

engage with and notify the local community in advance of the delivery of abnormal, oversized loads.

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

17. The Community Benefit scheme shall be adhered to for the life of the wind farm. The scheme shall be administered in accordance with the Renewable Electricity Support Scheme 'Community Benefit Fund Good Practice Principles' prepared by the Department of the Environment, Climate and Communications in 2021.

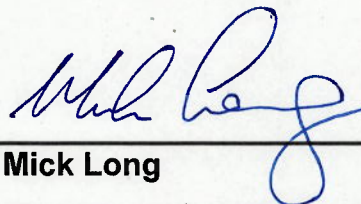
Reason: To ensure that the community living in proximity to the wind farm, benefits from it.

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 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 Coimisiún Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

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 Coimisiún 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.



Mick Long

Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 8th day of October 2025.