



An
Bord
Pleanála

Board Order ABP-321244-24

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 24/60326

Appeal by Lea Mór Rec Limited of Cherryfield House, Lea Beg, Blue Ball, Tullamore, County Offaly against the decision made on the 22nd day of October, 2024 by Offaly County Council to refuse permission.

Proposed Development: Construction of one Enercon E138 Wind Energy Converter on an 81-metre tower with an electrical rating of 4.5 megawatts and an overall tip of 149.38 metres, installation of the hardstanding area for the Wind Energy Converter, installation of underground circuit cables which will run in underground cable trenches (circa 1.2 metres deep) from the proposed Wind Energy converter to the proposed substation building on the site, construction of the proposed substation building which will be located circa 340 metres from the proposed wind energy converter and surrounded by stock proof fencing, it will be a single storey building measuring 52 square metres and circa five metres in height, construction of proposed internal site access track constructed from permeable material and which will run from the site entrance to the Wind Energy Converter hardstanding area and all associated ancillary infrastructure and preparatory works such as provision of the site entrance, all at Rin, Ferbane, County Offaly. The power rating associated with the proposed wind turbine is 4.5 megawatts (MW). The proposed project will have a 30-year lifespan.

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 the provisions of the Offaly County Development Plan 2021-2027 and in the absence of significant adverse impacts on the environment or on the amenities and property in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

The Board 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 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.

The Board noted that the planning authority considered the proposed development a material contravention of the development plan. However, under section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the Board may grant permission for development which materially contravenes the development plan. The Board had regard to the revised National Planning Framework (April 2025) and National Policy Objective 70 which promotes renewable energy generation at appropriate locations towards achieving a climate neutral economy by 2050.

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The Board had regard to the County Wind Energy Strategy and the 'Areas open for Consideration for Wind Energy Developments' in Map 10 Wind Energy Strategy Designations Map and noted that the proposed development is located outside an 'Area Open for Consideration for Wind Energy Development', under Objective CAEO-05 of the development plan.

The Board noted that in 'Areas not deemed suitable for wind energy developments' it is that these areas are generally considered to be unsuitable due to significant environmental, heritage and landscape constraints and housing density. The site is located within an area where the landscape is designated 'Low Sensitivity', where a range of developments, including wind energy installations, are acceptable for consideration, albeit adjacent to an Area of High Sensitivity and an Area of High Amenity (Figure 4.22 Chapter 4 Biodiversity and Landscape of the County Development Plan), and the most notable structures in the vicinity are identified as being two wind turbines adjacent to the site. There were no significant environmental or heritage constraints identified at this location.

The Board noted Objective CAEO-03 which is to achieve a reasonable balance between responding to government policy on renewable energy and in enabling the wind energy resources of the county to be harnessed in an environmentally sustainable manner. The Board noted that the proposed development is a 100% community owned and led project which is in line with the Climate Action Plan 2025 Measure to accelerate Renewable Energy Generation to 6GW onshore wind capacity and the Small Scale Renewal Energy Support Scheme (May 2024).

The Board agreed with the Inspector and concluded that the proposed development of one turbine at this location was acceptable and is in accordance with the proper planning and sustainable development of the area notwithstanding the provisions of policy CAEP-38 and Objective CAEO-05 of the development plan taking into consideration the totality of relevant Government policies and the Climate Action Plans 2024 and 2025.

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Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 28th day of August, 2024, 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 mitigation measures contained in the submitted framework Construction Environmental Management Plan/Surface Water Drainage Management Plan shall be implemented in full.

Reason: To protect the environment.

3. The period during which the development hereby permitted may be carried out shall be 30 years from the date of the first commissioning of the wind energy development.

Reason: To enable the planning authority to review its operation in light of the circumstances then prevailing.

4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

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5. The proposed development shall be amended as follows:

- (a) The tarmacadam surface shall be installed from the edge of the public road as far as the new entrance gates.
- (b) The proposed 1.5-metre-wide ridge along the edge of the public road shall be removed, so that surface water from the public road can flow in an unrestricted manner into the new entrance way.
- (c) Updated drawings shall be compiled to ensure that the proposed piping of the open drain along the public road is in accordance with Transport Infrastructure Ireland's Road Construction Detail RCD/500/20 Filter Drains Trench and Bedding Details.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the protection of public health and traffic safety.

6. The following design requirements shall be complied with:

- (a) The wind turbine shall be geared to ensure that the blades rotate in the same direction.
- (b) 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 visual and residential amenity.

7. Noise levels generated by the development following commissioning by itself or in combination with other existing or permitted wind energy development in the vicinity, when measured externally at existing noise sensitive locations shall not exceed:
- (a) For the daytime period 0700 to 2300, in quiet environments, where background noise is less than 30dB(A) $L_{90}T_{10}$, a maximum noise level of 40dB(A) $L_{90}T_{10}$.
 - (b) For the daytime period 0700 to 2300, where background noise exceeds 30dB(A) $L_{90}T_{10}$, the greater of 45dB(A) $L_{90}T_{10}$, or 5dB(A) above background levels.
 - (c) For the night time period 2300 to 0700, for all noise environments, 40dB(A) $L_{90}T_{10}$.

Prior to the commissioning of the development, the developer shall submit to, and agree in writing with, the planning authority a Noise Compliance Monitoring Programme (NCMP) for the operational windfarm. The 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 NCMP shall be fully implemented during the operation of the windfarm.

Reason: To protect the amenities of nearby residential properties.

8. In the event that the wind energy 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 turbine and following consultation with the relevant authorities.

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

9. Prior to commissioning of the turbine, the developer shall inform the planning authority and the Irish Aviation Authority of the 'as constructed' tip heights and co-ordinates of the turbine.

Reason: In the interest of air traffic safety.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, and not at all on Saturdays, Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances and subject to the prior approval of the planning authority.

Reason: To protect the amenities of nearby residential properties.

11. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, a Road Safety Audit of the entrance, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

12. The developer shall engage a suitably qualified licenced 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/or 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 and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. 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. 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.

13. (a) Appropriate software shall be employed on the turbine 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 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.

14. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

15. On full or partial decommissioning of the development, or if the wind energy development ceases operation for a period of more than one year, the turbine concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, all to be completed to the written satisfaction of the planning authority within three months of decommissioning or cessation of operation.

Reason: In the interest of landscape restoration upon cessation of the project.

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: 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 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.



Marie O'Connor

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 23 day of May 2025.