An Coimisiún Pleanála

Commission Order
ABP-322673-25

Planning and Development Act 2000, as amended

Planning Authority: Donegal County Council

Planning Register Reference Number: 2151990

APPEAL by Cuilfeach Teoranta against the decision made on the 30th day of November 2021 by Donegal County Council to refuse permission for the proposed development.

Proposed Development: A 10 year permission for an amended wind farm development, with an operational life of 30 years from the date of the first commissioning, in lieu of the previously permitted wind farm development (An Bord Pleanála appeal reference number: PL 05B.237656) consisting of (a) erection of eight wind turbines with both a Nordex 133 and an Enercon 126 model assessed, with only one type of the identified turbine models to be erected in the townlands of Graffy, Meenamanragh, and Dalraghan More, Glenties; (b) associated access tracks and hardstands, underground cable connections and peat recovery areas in the townlands of Graffy, Meenamanragh, Dalraghan More, Glenties; (c) a meteorological mast 80 metres high in the townland of Graffy, Glenties; (d) a substation and a temporary construction compound in the townland of Meenagrubby, Glenties; (e) an underground grid connection, circa 7.5 kilometres long, from the proposed substation at Meenagrubby to the Tievebrack electricity station at Drumnalough through the townlands of Meenagrubby, Meenamanragh,

Graffy, Banganboy, Stracashel, Meenamalragh, Drumconcoose and Drumnalough, Glenties; (f) road strengthening, verge widening and culvert extensions along the delivery road through the townlands of Lugaveen, Tieveragh, Dalraghan More, Meenamanragh and Graffy and a new road section at Lugaveen to facilitate deliveries of turbines; all at Graffy, Meenamanragh, Dalraghan More, Meenagrubby, Tievebrack, Banganboy, Stracashel, Drumconcoose, Drumnalough, Lugaveen, Glenties, County Donegal.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

The Commission reached its decision in accordance with its duties under Section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended, and the requirement to, in so far as practicable, perform its functions in a manner consistent with inter alia the Climate Action Plan 2025 and the furtherance of the national climate objective.

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 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).

And in coming to its decision, the Commission had regard to the following:

(a) European legislation, including of particular relevance:

(i) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.

(ii) EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy and amending Directive EU/2023/2413 which aims to speed up the EU's clean energy transition.

(iii) Directive 2011/92/EU (The EIA Directive) as amended by Directive 2014/52/EU.

(b) National and regional planning and related policy, including:

(i) National policy with regard to the development of alternative and indigenous energy sources and minimisation of emissions from greenhouse gases. Particularly the National Planning Framework First Revision 2025 and National Policy Objective 70.

(ii) Wind Energy Guidelines: Guidelines for Planning Authorities 2006 and the draft guidelines published in 2019.

(iii) The objectives and targets of the National Biodiversity Action Plan 2023-2030.

(c) Regional and local planning policy, including:

(i) Regional Spatial Economic Strategy for the Northern and Western Regional Assembly;

(ii) Donegal County Development Plan 2024-2030, as varied.

(d) Other relevant national policy and guidance documents.

(e) The nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity.

(f) The likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry

out the proposed development and the likely significant effects of the proposed development on European sites.

(g) The submissions made on the planning appeal to An Coimisiún Pleanála and the applicant responses to the same.

(h) The report and the recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and the assessment including environmental impact assessment within the original Inspector's report, as well as the specialist ornithologist report for the Commission relating to the same.

Appropriate Assessment: - Stage 1

The Commission considered the Screening Report for Appropriate Assessment, contained within 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 Commission agreed with the screening assessment and conclusion carried out in the Inspector's report that the West of Ardara/Maas Road Special Area of Conservation (Site Code 000197); River Finn Special Area of Conservation (Site Code 002301), Lough Nillan Bog Special Protection Area (Site Code 004110), and Derryveagh and Glendowan Mountains Special Protection Area (Site Code 004039) are only European Sites which the proposed development has the potential to have a likely significant effect.

Appropriate Assessment: - Stage 2

The Commission considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and carried out an Appropriate Assessment of the implications of the proposed wind farm development for European Sites in view of the conservation objectives for the West of Ardara/Maas Road Special Area of Conservation (Site Code 000197); River Finn Special Area of Conservation (Site Code 002301), Lough Nillan

Bog Special Protection Area (Site Code 004110), and Derryveagh and Glendowan Mountains Special Protection Area (Site Code 004039). The Commission considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and to allow it to reach complete, precise and definitive conclusions for Appropriate Assessment.

In completing the assessment, the Commission considered, in particular, the likely direct and indirect impacts arising from the proposed development, both individually and in combination with the other plans and projects and taking into account any mitigation measures which are included as part of the current proposal, in view of the conservation objectives for the European Sites.

The Commission accepted and adopted the Appropriate Assessment carried out in the inspector's report with respect to the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to those 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 any European Site, in view of the conservation objectives for those site's and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects of relevance and took into account all submissions received during the course of the application.

While the Commission noted the concerns of the Department of Housing Local Government and Heritage Development Applications Unit, and other parties to the appeal in relation to the potential impact of the proposed development on Merlin, as well as consequential adverse effect upon Merlin populations resulting from displacement of non-Special Conservation Interest (SCI) Merlin from areas proximate to the site into the Lough Nillan Bog Special Protection Area (Site Code 004110), and subsequent displacement (as a result of territorial dispute/ competition) of SCI Merlin, the Commission also noted additional findings presented by the applicant (Graffy Wind Farm,

breeding Eagle and Merlin Surveys 2024 and 2025, Updating Ornithological Impact Assessment for Golden Eagle, White Tailed Eagle and Merlin) with respect to Merlin, and the Commission's specialist ornithology report which concluded that the case for Not Significant effects on Merlin to be robust on the basis of representative baseline data, collision risk conclusion that holds up under a wide range of population uncertainty and an account of how any displaced birds would respond and an extensive literature review provided by the applicant.

Environmental Impact Assessment

The Commission completed in compliance with s.172 of the Planning and Development Act 2000 an environmental impact assessment of the proposed development, taking into account:

(a) the nature, scale, location, and extent of the proposed development;

(b) the Environmental Impact Assessment Report and associated documentation submitted with the application;

(c) the submissions from the applicant, the planning authority, the observers and the prescribed bodies; and

(d) the Inspector reports, and adopting in particular, the relevant reasoned conclusions set out in the original Inspectors report, with the exclusion of matters relating to Merlin (Falco Columbarius) which are considered in Inspector report ABP-322673-25.

The Commission considered that the Environmental Impact Assessment Report supported by the documentation submitted by the applicant during the course of the appeal, 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 Commission agreed with the examination, set out in the Inspector reports, of the information contained in the Environmental Impact Assessment Report, and associated documentation submitted by the applicant and submissions made in the course of the planning appeal.

Reasoned Conclusions

The Commission considered that the Environmental Impact Assessment Report (EIAR), and supporting documentation submitted by the applicant during the course of the appeal, provided information which is 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 is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of Directive 2011/92/EU as amended by EU Directive 2014/52/EU amending. The Commission considered that the main significant direct and indirect effects of the proposed development (including the windfarm and substation) on the environment are those arising from the impacts listed below.

The main significant effects, both positive and negative, are:

(a) Potential impacts arising on population and human health as a result of noise and shadow flicker to residential property in the vicinity, which would be encountered during the construction and operational phase and would be mitigated by the implementation of the measures set out in the EIAR and the CEMP which include specific provisions relating to the control of dust, noise and shadow flicker.

(b) Significant adverse landscape and visual impacts arising from the siting, scale and height of the proposed turbines, which would be highly prominent over an extensive geographical area, would have a dominant and obtrusive impact on visually and environmentally sensitive landscapes, and would impact on the amenity of the area and designated landscape. The incongruity with the natural landscape and adverse visual impact would not be mitigated by design, the separation from settlements or its setting on the downward side of the slope of Aghla Mountain or its partial setting of certain turbines within commercial forestry. In addition, it should be noted that the comparisons used as part of the LVIA between the proposed development and the previously permitted but now expired permission (ABP PL05B.237656) was not

considered useful for the purposes of this assessment as it presents a skewed and unreliable baseline.

(c) Potential impacts arising on lands, soil and geology, as a result of the increased risk of peat instability and peat erosion during the construction and operational phases which would be mitigated by the implementation of measures set out in the EIAR, Peat Stability Plan and the CEMP which include specific provisions relating to peat and spoil management, including monitoring. Potential impacts on water quality, hydrology, hydrogeology and associated aquatic ecology, in particular fresh water pearl mussel and Atlantic salmon as well as other fish species and additionally on water dependant species such as otter arising from the potential indirect effects caused by increased run-off, such as soil erosion and sediment release into the receiving watercourses, which would be mitigated by project design features, including attenuation measures and management of any in-stream works, and the measures outlined in the CEMP, including Ecological Management Plan, HDD methodology, Watercourse Crossing Methodologies, Surface Water Quality Monitoring Plan and an outline Site Drainage Management Plan;

(d) Potential positive impacts on air and climate during the operational phase arising from the connection of renewable energy technology and transfer to the national grid, thereby facilitating a transition from fossil-fuel dependent energy sources to renewable sources;

(e) Potential negative impacts on the public road network due to the increase in vehicle movements and resulting traffic during the construction phase which would be mitigated by upgraded site access and the preparation of a Construction Traffic Management Plan.

(f) Development of wind turbines at the height, scale and siting proposed would likely pose a significant risk of collision for the Annex I bird species White tailed Eagles and functional habitat loss and displacement for Annex I bird species Golden Eagle. Furthermore, the proposed development, would substantially erode the quality of the environment for these sensitive bird species, including the erosion of habitat,

encroachment of foraging areas, and effect on roosting and breeding sites.

(g) The impact on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features or deposits that may be identified.

The Commission completed an environmental impact assessment in relation to the proposed development and concluded that the effects of the development on the environment by itself and in combination with other plans and projects in the vicinity would not be acceptable due to the adverse landscape and visual impacts and the impact on protected bird species. In doing so the Commission adopted the report and conclusions of the inspector.

The Commission concluded that the development would result in significant adverse landscape and visual impacts arising from the siting, scale and height of the proposed turbines, which would be highly prominent over an extensive geographical area and would have a dominant and obtrusive impact on visually and environmentally sensitive landscapes. The incongruity with the natural landscape and adverse visual impact would not be mitigated by design, the separation from settlements or its partial setting within commercial forestry.

The Commission concluded that the appeal site and surrounding area is of importance to both Golden Eagle and White-tailed Eagle, species included for protection in Annex I of the Birds Directive (2009/147/EEC), and that notwithstanding the mitigation measures set out by the appellant to address the impacts of the development on these species, it is considered that the proposed development would have a significant adverse effect failing to preserve and maintain sufficient diversity of area and habitat for both species and failing to ensure the continued presence and reproduction of these species in their current area of distribution in County Donegal.

The Commission is satisfied that a refusal for the reasons as indicated below is consistent with the CAP 2025 and the 'national climate objective' to pursue and achieve the transition to a climate-resilient, biodiversity-rich, environmentally sustainable, and climate neutral economy by the end of the

year 2050. While the proposed development would contribute to the reduction in greenhouse gas emissions, the subject site is not suitable for wind energy development which would be contrary to the sustainable development of the area. The proposed development would also have significant adverse impacts on the ornithological importance of the area. The precedent it would set, would therefore not pursue, or contribute to the transition to an environmentally sustainable and biodiversity-rich economy, as required under the national climate objective. The Commission is satisfied that a refusal of permission as indicated above is consistent with its obligations under section 15(1)(a) and (d) of the Climate Action and Low Carbon Development Act 2015, as amended.

1. The proposed development is located on a site, which lies within an area designated for Especially High Scenic Amenity (EHSA). As outlined under Policy WE-P-2 of the County Donegal Development Plan 2024-2030, wind farm development must not be located in EHSA areas, with reference to Map 11.1: 'Scenic Amenity', and noting possible exceptions outlined in policy WE-P-1A which are not applicable to the proposed development. Notwithstanding the potential contribution this proposed renewable energy project would have in meeting National renewable energy targets and obligations under section 15(1)(a) and (d) of the Climate Action and Low Carbon Development Act 2015, it is considered that the proposal would result in a considerable and unacceptable adverse visual impact upon this upland environment designated as an Especially High Scenic Amenity area. It is further considered that the proposed development, sited at this location, would constitute a highly obtrusive development that would detract from the existing natural character of the area, would undermine the setting of this unspoilt valley and would erode the designated scenic landscape and visual quality of this rural area and compromise the scenic amenities of this visually sensitive and vulnerable area. The proposed wind turbines would, thereby, be excessively dominant features and a visually obtrusive form of development in this landscape, would materially contravene policy

WE-P-2 as set out in the Donegal County Development Plan 2024-2030, and would seriously injure the landscape and visual amenities of the area. In addition, the proposed wind farm development is not normally permissible as defined in Map 9.2.1 of the County Donegal Development Plan 2024-2030 and associated policy WE-P-1^{cc} of the County Donegal Development Plan 2024-2030. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within an area of significant ornithological value, as evidenced by the applicant's bird surveys in support of the application. It is considered that the siting, height, scale and operation of the proposed turbines would result in a significant risk of collision for the Annex I bird species White-tailed Eagles and functional habitat loss and displacement for Annex I bird species Golden Eagle. On the basis of the information submitted in support of the application and specifically within the submitted Environmental Impact Assessment Report and subsequent submissions during the course of the appeal, (including 'Graffy Wind Farm, Breeding Eagle and Merlin Surveys (2024 and 2025)', and 'Updating Ornithological Impact Assessment for Golden Eagle, White-Tailed Eagle and Merlin'); in respect of the Golden Eagle and the White Tailed Eagle, both of which are classed as 'high sensitivity to wind farm developments', it is considered that potential risks to the aforementioned Annex I species have not been adequately addressed in the form of scientific evidence and conclusions.

The proposed development would, thus, have significant adverse impacts on the ornithological importance of the area by way of collision risk for White-tailed Eagle and functional habitat loss and displacement for Golden Eagle, adversely impacting these protected bird species and would, therefore, be contrary to the proper planning and sustainable development of the area.



Emer Maughan
Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.

Dated this 3rd **day of** November **2026**