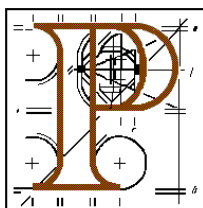


An Bord Pleanála



Inspector's Report

Development: Two wind turbines, new internal access roads, upgrading of existing internal roads, underground cables and associated works at Knockduff and Inchvora, Milestone, Co. Tipperary.

Planning Application

Planning Authority: Tipperary County Council

Planning Authority Reg. Ref.: 14/10

Applicant: ABO Wind Ireland

Type of Application: Permission

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): As above

Type of Appeal: First Party V Refusal

Observers: None

Date of Site Inspection: 15th October 2014

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The appeal site is located in a rural area adjacent to the village of Milestown and approximately 18.5 km west of Thurles.

The area of the appeal site and the immediate area is characterised by rolling countryside comprised of a series of upland areas intersected by valleys. In general the area is located in an area of transitional zone between lowland areas to the east and southeast and upland areas to the west, namely the Slieve Felim Hills and the Silvermines Mountains to the northwest.

The appeal site and immediate context is characterized with areas of active farmland incorporating a mix of field patterns with mature trees and hedgerows. The appeal site is currently in use for agricultural purposes such as cattle grazing and conifer plantation.

The size of the appeal site is approximately 10.1 ha (25 acres) and the shape of the appeal site is irregular. A small part of the appeal site adjoins the R503 regional road.

2.0 PROPOSED DEVELOPMENT

The proposed development consists of the erection of two wind turbines and the construction of an internal access road. The proposal also includes upgrading of existing internal access road, underground cables and associated works.

The height of the proposed wind turbines is approximately 126 metres high. The proposed internal access road will be accessed off the regional road R503. The overall length of the proposed internal access road is approximately 1.1km. The internal access road is also to include the upgrading of an existing agricultural track.

Additional information sought in relation to the following (a) visual / landscape assessment, (b) consideration of omission of turbine no. 1 having regard to implications for SAC, (c) noise / shadow flicker issues in relation to revised ministerial guidelines, (d) cumulative noise implications, (e) clarification of all factors in relation to worst case shadow flicker, (f) an assessment of the proposal on bats, (g) update the submitted EIS to take account of the site's location within the source protection area of the Dundrum Regional Water Supply as such an assessment of the impacts on this water supply is required and mitigation measures.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to refuse planning permission for the following reason;

1. The proposed development would be located near to the Slievefelim to Silvermines Special Protection Area (Side Code 004165), selected for special conservation interest for the Hen Harrier. The Planning Authority is not satisfied, on the basis of the information submitted in connection with the planning application and having conducted an Appropriate Assessment based on Natura Impact Statement submitted with the application, that the proposed development would not adversely affect the integrity of this European site in view of its conservation objectives. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Internal Reports: There are 3 internal reports on the file:

- Water Services Section: - No objections subject to conditions.
- Area Engineer: - Additional information sought in relation to (a) cable connection route, (b) drainage attenuation on site, (c) section 50 for river crossing.
- Environment Section: - Additional information sought requiring the applicant to consider the impacts on drinking water. It is also concerned that the effectiveness of the mitigation measures which involve (i) the replacement of habitat due to permanent loss of hen harrier foraging habitat and (ii) reducing power output of turbines to reduce cumulative noise, will be difficult to confirm.

Objections: There are no third party objections on the planning file.

Submissions: There is a submission from An Taisce who state that construction of any development should be restricted from April to August. The site is located close to a tributary of the Lower River Suir SAC (002137) and conditions should be attached to prevent any waste disposal and use of heavy machinery near the watercourse. There should be continued ecological monitoring through the operational phase to ensure that any changes are detected and mitigation measures enforced. There is also a submission from Department of Arts, Heritage and the Gaeltacht who request that pre-development and archaeological testing and monitoring is undertaken.

4.0 PLANNING HISTORY

- None

Adjoining Site

- L.A. Ref. 13/51/0414 – Permission **granted** by North Tipperary County Council, subject to conditions, for a new vehicular entrance off the regional road (R503). This application forms part of the current application before the Board as it will provide the vehicular access to the proposed wind farm.

Adjacent Site

- L.A. Ref. 13/510003 – Permission granted by North Tipperary County Council, subject to conditions for, 22 no. wind turbine development. This subject site is located several hundred metres from the R503 to the north and north-east. This application was appealed (appeal ref. 243040) and the Board subsequently granted planning permission.

5.0 DEVELOPMENT PLAN

The operational development plan is South Tipperary County Development Plan, 2009 – 2015.

7.5 Wind Energy

The County Wind Energy Policy was adopted by South Tipperary County Council in December 2006. The areas suitable and unsuitable for wind energy development have been identified under the following categories as set out in Appendix 3:

(i) Preferred areas: Areas suitable for wind energy development that should be granted planning permission unless specific local planning circumstances within the context of the Development Plan support a decision to refuse.

(ii) Areas open for consideration: Applications treated on their merits with the onus on the developer to demonstrate why the development should be granted permission.

(iii) No-Go Areas: Areas identified as particularly unsuitable for wind energy development. This category is used for areas, which due to their scenic, ecological, historic or tourism values are unable to accommodate wind development.

The Council will also require prospective developers to scope for wind potential for a period of approximately two years, which could run concurrent with the preparation of an EIS, prior to any planning application being made for subsequent wind energy development.

Policy INF 10: Wind Energy

The Council will facilitate the exploitation of the natural wind energy resource available, provided that it can be demonstrated that such development, and associated infrastructure, is in accordance with Appendix 3: Policy on Wind Energy Development, and the other policies contained in this County Development Plan.

Appendix 3 sets out guidance in relation to 'Wind Energy Development'. In accordance with the Wind Energy Policy Maps, i.e. Map 5, the appeal site is located within an 'Preferred Area for Wind Energy Development'.

Appendix 6 sets out 'protected views'.

6.0 NATIONAL POLICY / GUIDELINES

The National Spatial Strategy 2002 – 2020

This document states, “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aqua-culture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development, 2006

Planning policy guidance is outlined in “Wind Farm Development: Guidelines for Planning Authorities”, 2006. The guidelines offer advice on planning for wind energy through the development plan process and in determining applications for planning permission and are intended to ensure consistency of approach in the identification of suitable locations for wind energy developments and acknowledge that locational considerations are important. These considerations include ease of vehicular access and connection to the electricity grid. It is acknowledged that visual impact is amongst the more important issues to be taken into account when deciding a particular application.

Any wind farm proposal will require an assessment of the possible ecological effects. Consideration should also be given to sensitive habitats and species as well as possible risks to birds including migratory birds. Regard should be had to special areas of conservation and other designated sites. Rural land uses other than housing are generally unlikely to conflict with wind farm developments. Conditions will generally be required to provide for the decommissioning of wind farms and ancillary developments on site.

Chapter 5 of the guidelines refers to other environmental considerations, including the impact on habitats and bird species, noise and electromagnetic interference. Section 5.3 states that a planning application must be accompanied by information on such issues as slope stability and an assessment of whether the development could create a hazard of bogburst or landslide.

Chapter 6 of the guidelines refers to the assessment of siting and location of such development in terms of aesthetic considerations, landscape sensitivity, spatial extent and cumulative effect, with regard to landscape character types including hilly and flat farmland, mountain moorland and transitional landscapes. The factors to be assessed comprise landscape sensitivity, visual presence of the windfarm, its aesthetic impact on the landscape and the significance of that impact.

7.0 GROUNDS OF APPEAL

ABO Wind Ireland Ltd., submitted a first party appeal. The main grounds of appeal are summarised as relating to the following; -

- It is submitted that T1 is located approximately 115m from the SPA boundary and T2 is located approximately 347m from the SPA boundary.
- Part of the access track from T2 to T1 crosses within the SPA, however it is proposed to utilise an existing track.
- Following consultation with the NPWS an ecologist assessed the area within 250m of Turbine 1 and Turbine 2. A total of 7 ha were considered potentially suitable for hen harrier foraging habitat.
- The ecologist states that the area within 250m comprises as a mix of improved, wet and rough grassland features and maybe suitable foraging habitat for hen harrier.
- No hen harrier was recorded in these areas / over these habitats during the 2012 / 2013 surveys. However it is considered best practice to mitigate for potential loss of foraging habitat.
- The habitat on site is closed canopy and will remain so for the lifetime of the project.
- This habitat offers low potential for foraging.
- The low foraging value is evident by the absence of any flight lines over the subject site.
- The construction of T2 or associate site access will not result in any loss of foraging habitat.
- Disturbance to foraging for the hen harrier from either SPA or wider area will be avoided during construction phase.
- The construction work will be restricted to take place outside the hen harrier breeding season.
- If a pre-construction hen-harrier survey is carried out and no breeding territory is present within 500m of the site boundary the restrictions of the construction site will be lifted from 31st July.
- An alternative foraging habitat will be provided.
- Full details of the alternative habitats are provided in appendix 2 of the appeal document.
- The provision of alternative foraging habitat will ensure that there are no residual impacts on the hen harriers.
- It is submitted that with the implementation of mitigation measures it is not expected that there will be any significant impact on the structure or function of the SPA.
- The proposed habitat areas will be managed during the life-time of the wind farm and monitored by an ecologist.
- No objection has been received from the NPWS.
- The applicant intends to fully comply with the requirements of the submission from An Taisce.

Response to Planning Report Concerns

- In relation to the compensatory habitat this area will be managed in accordance with the habitat management plan.
- Depending on the requirements of the NPWS or the local authority the area will be monitored and surveyed regularly.
- In relation to alternatives they were considered in the EIS. It was originally proposed to install 7 or 8 turbines within the adjoining Milestone Wind Farm however sufficient land was unavailable.
- This resulted in the consideration of two turbines to the west of Milestone. These proposed turbines will be connected to the Milestone sub-station and therefore the proposal is limited to 2km from the milestone sub-station.
- The appeal site was chosen because it (a) is outside the SPA, (b) is 500m from a dwelling, (c) has adequate separation distance from adjoining turbines, (d) has good wind speeds, and (e) is located on marginal farmland.
- It is acknowledged that the local authority sought the relocation of T1 however this option is limited in order to maintain the 500m distance from a dwelling.
- In relation to planning application L.A. Ref. 12/510385, i.e. Milestone Wind Farm, it was required that all land within 250m radius of the SPA be assessed for suitable habitat. This requirement addressed the NPWS concern in relation to hen harriers and loss of potential foraging habitat. It is considered that the same could apply to the current application.
- It is submitted that mitigation by avoidance cannot be implemented due to the limited size of the site.
- A total area 0.2607 ha will be lost due to T1 and no area will be lost within the SPA.
- In compensation a total of 7.7 ha is available for the hen harrier as a compensatory measure.
- As noted in the 2012 and 2013 surveys no hen harrier was noted as foraging or flying over the development boundary area.
- The NIS concludes that the majority of the habitats within the 250m buffer zone of the turbines do not have significant potential for foraging hen harrier. However a small area of rough pasture grassland (3.77 ha) near Turbine T1 may provide suitable foraging habitat. Although no foraging was recorded in these areas during the 2012 and 2013 surveys.
- The mitigation measures include (a) avoidance of construction during hen harrier season, (b) provision of alternative habitat, (c) the preparation of a habitats and species management plan for the proposed alternative habitat. It is contended that the implementation of these measures will remove any risk of significant adverse impacts on qualifying interests and conservation objectives of the SPA.

Planning Policy

- It is submitted that the proposal is located within a preferred area for wind energy.
- The proposal is consistent with Policy INF10: Wind Energy.

Examples of other permitted wind farms near to and within an SPA

- L.A. Ref. 12/510385 i.e. Milestone Wind Farm is located adjacent to SPA.
- L.A. Ref. 13/510003 i.e. Upperchurch Wind Farm located adjacent to SPA.
- L.A. Ref. 11/510251 i.e. Castlewaller Wind Farm located within an SPA
- L.A. 10571, i.e. Drommada Wind Farm, Co. Kerry, located within an SPA.
- All these proposed wind farms included monitoring conditions of the mitigation areas.

Conclusion

- It is considered that the proposal will not (a) adversely affect the integrity of the SPA, (b) the site is within a preferred area for wind, (c) the proposal is located adjacent to an existing wind farm and it is proposed that it will be connected to this wind farm, (d) the proposal can be managed in accordance with ministerial guidelines, and (e) there is precedence for granting permissions for wind turbines adjacent to or within SPA's.
- The proposed development would have the capability to generate enough electricity to power 2,690 homes.
- The project has the potential for Ireland to achieve its 20% target for renewable energy.
- The proposed development is in accordance with national policies.

8.0 OBSERVERS

There was an observation submitted from An Taisce requesting that the complete Construction and Environment Management Plan is made available for comment.

9.0 RESPONSES

Second Party Response

The following is the summary of a response submitted by the local authority;

- The subject site intersects with an SPA which is of conservation interest for hen harriers and other bird species.
- Turbine no. 1 is located within a field of improved agricultural land with some wet or rough pasture grassland features. These are considered suitable for hen harriers foraging.
- The proposed development will result in the loss of 2,607 sq. metres of hen harrier foraging habitat. The EIS considers this loss as of low significance.
- It is proposed to mitigate this loss through providing an alternative habitat for foraging.

- The proposed habitat is illustrated in Appendix 5, Volume 3 of the EIS and comprises of 4 unconnected pieces of land located southeast and northeast of the site.
- Only one land parcel adjoins the SPA and the lands are located outside the application site.
- Section 6.4.2 of the EIS considers that the hen harrier may avoid the site due to wind disturbance when wind turbines are operating.
- The planning authority is concerned with the impacts of the proposed development on the conservation objectives of the SPA.
- The proposal, in particular T1 and the access road, will reduce the available foraging habitat of the hen harrier and disturb the breeding habitat of the hen harrier.
- It is contended that the reduction of the foraging habitat and disturbances to the breeding habitat of the hen harrier would be contrary to the SPA conservation objectives.
- It is considered that mitigation through avoidance is best rather than mitigating through compensatory habitat.
- The compensatory habitat is fragmented and largely unconnected with the SPA.

First Party Response

The following is a summary of a response from the applicant;

- The ecologist states that the area within 250m of Turbine no. 1 comprises as a mix of improved, wet and rough grassland features and maybe suitable foraging habitat for hen harrier.
- No hen harrier was recorded in these areas / over these habitats during the 2012 / 2013 surveys. However it is considered best practice to mitigate for potential loss of foraging habitat.
- It is noted that the local authority consider that the proposal will result in the loss of 2,607 sq. m. of hen harrier foraging habitat. However the ecologist states that this area may provide suitable habitat and as a precaution mitigation measures were provided to mitigate any potential loss of foraging habitat.
- In relation to the compensatory habitat it is accepted that this land is comprised of four parcels and is unconnected. These land parcels were chosen with the adjoining compensatory habitat management areas for Milestone (L.A. Ref. 12510385) and Upperchurch Wind Farm (L.A. Ref. 13510003) in mind. There is an attached map illustrating the linkage of the four areas.
- There are no requirements to connect a proposed habitat management area to the SPA.
- The EIS states that hen harrier may avoid the site during construction. However no hen harriers or breeding hen harrier activity was recorded in these areas / over these habitats during the 2012 / 2013 surveys. It is therefore considered that displacement or disturbance is considered unlikely.
- It is submitted that the area around T1 may provide suitable foraging ground but the majority of the area is of little or no value so the

construction of T1 is unlikely to reduce or disturb the foraging habitat of the hen harrier.

- The proposed development is not within the SPA, but, as a precaution all land within 250m radius of T1 and T2 were assessed for potentially suitable hen harrier foraging land and compensatory lands have been proposed with the application.

Conclusion

- The site is located within a 'preferred area' for wind development.
- The proposal is located adjacent to granted wind farm and will be connected to this wind farm.
- The proposal is consistent with the ministerial guidelines.
- Precedents have been set for wind farms in the area.
- Compensatory mitigation measures have been accepted by the NPWS for all adjacent wind farms in the area.

10.0 ASSESSMENT

The main issues to be considered in this case are: -

- 10.1 Principle of Development
- 10.2 Environmental Impact
- 10.3 Environmental Assessment
- 10.4 Traffic and Access
- 10.5 Appropriate Assessment

10.1 Principle of Development

There is a positive presumption in favour of alternative energy projects including renewable energy and this is acknowledged at National, Regional and Local levels. This is also reflected in the DOEHLG 'Wind Energy Guidelines', 2006, and in policies of the South Tipperary County Development Plan, 2009 - 2015.

Policy INF10 of the County Development Plan is relevant and this policy states that *'the Council will facilitate the exploitation of the natural wind energy resource available, provided that it can be demonstrated that such development, and associated infrastructure, is in accordance with Appendix 3: Policy on Wind Energy Development, and the other policies contained in this County Development Plan'*. Appendix 3 of the County Development Plan sets out policies in relation to wind energy and Policy Wind 3 states that it is the policy of the council to ensure that wind energy development shall only be permitted in areas as detailed in the associated wind energy maps.

The wind energy policy maps of the South Tipperary County Development Plan sets out the preferred areas for wind energy development. I would note that the appeal site is located within a preferred wind development area.

I would note from the documentation on the file that the appeal site is located adjacent to permitted wind farms i.e. Upperchurch Wind Farm (appeal ref. 243040) and Milestown Wind Farm (L.A. Ref. 12/510385). As such there is an established precedent for wind farm development in the area.

In developing wind farms the level of gaseous emissions is reduced in the short and long term and this assists in meeting national targets for renewable energy. Therefore the proposed development offers a sustainable energy solution in accordance with current international, national and local policies.

However while such a development for renewable energy is acceptable in principle given its location, regard has to be had to its environmental sustainability. Other issues such as the visual impact on the landscape taking into account the siting, scale and layout of the proposed wind farm development, impact on local residents and the amenities of the area including noise and shadow flicker, environmental issues including impact on the ecology, cultural heritage and accessibility/traffic and drainage issues need to be taken into account.

Overall I would consider that the principle of the proposed wind farm is acceptable provided the proposed development would not adversely impact on the environment and amenities of the area.

10.2 Environmental Impact

The application is accompanied by an environmental impact statement and there is a non-technical summary document.

In relation to the adequacy of the E.I.S, I submit that it contains the information specified in Schedule 6 of the Planning and Development Regulations 2001, as amended. In general the information provided is considered to be relatively clear and precise. I would suggest that the statement be seen as a contribution towards the process of making available to the relevant decision maker and the competent authority, in this case the Board, the information necessary to enable the decision to be made. The information flowing from this process also includes information submitted with the application.

In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning and Development Act, 2000 – 2010, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority, at this juncture the Board. In this assessment the direct and indirect effects of the proposed development need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive.

Human Beings, fauna and flora

In relation to direct and indirect impacts to **human beings** the proposed development will result in low scale employment opportunities during operation stage. The proposal will also result in more significant employment creation during construction. This employment creation during the construction stage may have spin-off implications for the local economy.

The construction phase of the proposed development will directly impact on the local road network which will have an indirect impact on human beings. The proposed development will also result in the creation of dust, noise, and air pollution during construction stage which will also indirectly impact on human beings. Construction noise will occur during excavation and earth moving, laying of roads and hard standings, transportation of materials and erection of the wind turbines. The construction works will be phased and temporary. Additionally given the possibility of a construction site for the proposed development the proposal will have health and safety implications for human beings, i.e. construction workers.

In terms of operational impacts on human beings the proposed turbines will be located within 500m of one dwelling however this dwelling belongs to the applicant's father who is part of the proposed development. All other neighbouring residential dwellings are located outside a 500m radius of the proposed turbines. However given the size of the proposed turbines a visual impact is unavoidable. The proposed turbines may have shadow flicker and noise implications for local residents during operation stage. The impact of shadow flicker depends on a number of factors including orientation, wind direction and the amount of available sunlight. The main noise sources from the proposed development will include aerodynamic noise and mechanical noise from the gearbox and generator. The proposed development is not located near established tourist attractions or amenity areas and therefore will have no direct impacts on tourism and amenity areas.

In relation to **fauna and flora** the appeal site is partly located within the Slievefelim to Silvermines Mountains SPA (site code 004165). This Natura 2000 site has a special conservation interest for the hen harrier. I would note that including the aforementioned SPA there are also four SAC's located within a 10km radius of the appeal site and these are illustrated in Figure no. 6.1 of the EIS. The appeal site has hydrological connections to the Lower River Shannon SAC (2.8km west of the closest point of the appeal site) and the Lower River Suir SAC (a distance of 5km to the closest point to the subject site). I would note that Table 6.1 of the EIS summaries the designated conservation sites within 10km of the appeal site.

Paragraph 6.3.4 of Chapter 6 sets out the habitats present on the overall site and the most dominant habitat is improved agricultural grassland. The main impacts to these habitats will be during the construction phase and

the principle construction impacts include habitat removal due to construction, increased pollutant levels from construction vehicles, earth movements and excavations, increased disturbance levels from vehicular movement and construction. The construction of the proposed development would result in the generation of more surface water run-off which would have potential for significant impacts for receiving watercourses.

In relation to fauna the EIS indicates that bat species were recorded on the appeal site. The network of vegetated earth banks and scattered tree lines throughout the site, provide good commuting routes and foraging opportunities for bats. The area of improved grassland and wet/semi-improved grassland would be expected to provide a good supply of invertebrate prey. There are several bird species of conservation importance, including the hen harrier as noted above, that fly over the appeal site.

The operational phase of the proposed development will have implications, including barrier effects and collision risks, for birds of conservation interest. The main potential negative impacts relate to the hen harrier which has been identified in the area. The removal of hedgerows, tree and open grassland will remove habitats for bats.

Soil, water, air, climate and the landscape

In relation to **soil** a direct impact of the proposed development would be the removal of soil as part of the site clearance and for laying foundations for the proposed turbines. There are also activities associated with disposal of soils, contaminated materials and bedrock, and also the compaction of soil due to construction vehicles. The contamination of soil could be caused during construction stage by hydrocarbon leaks. A hydrocarbon leak would have negative short-medium term moderate impact on the vegetation and earth materials on-site and down gradient of the development site. On-site mobile equipment will require regular refuelling from a fuelling station.

In relation to **hydrology** I would note that surface water from the western portion of the site drains to Augavama River and eventually onto the River Shannon SAC. Surface water run-off from the eastern portion of the site drains to a tributary of the River Turraheen and eventually onto the River Suir SAC. A tributary of the of the Turraheen River runs along the eastern boundary of the appeal site in a direction towards Milestone and this eventually joins the River Suir at Golden, Co. Tipperary. The proposed development could potentially cause flood risk and pollution impacts on receiving waters during the construction stage and operational stage.

In relation to **air** the construction of the proposed development would have implications for air quality due to dust generation, including earth moving and site excavations and associated construction traffic. During the operation stage there are potential implications for air quality due to traffic

emissions also the creation of dust from traffic entering and leaving the site. In relation to impact on **climate** the EIS anticipates no implications.

The **landscape** of the subject site and the immediate environs is characterised generally by rolling countryside comprised of uplands dissected by river valleys. The highest elevation of the current appeal site is 307 metres OD and this is lower than some of the surrounding uplands. The general topography of the area rises more gradually towards the Slievefelim Mountains (423m OD) and Slievekimalta (694m OD) to the west and north-west respectively. The Silvermine Mountains (475m OD) are situated immediately north of Slievekimalta. The appeal site is dominated by improved agricultural grassland used for pasture farming and conifer plantation. There are several areas of wet grassland and rough pasture, while a strip of marshy vegetation occurs alongside the eastern boundary of the site. Having regard to the height and scale of the proposed turbines I would consider that the proposed development would have implications for the existing landscape in terms of visual impact.

Materials assets and cultural heritage

In relation to **material assets** the proposed development will result in traffic generation in both the construction and operational stage and these issues are discussed in greater detail below in this assessment.

In relation to **cultural heritage** there are no recorded monuments located within the EIS boundary however there are eighteen recorded monuments located within 2km of the proposed EIS study area boundary. These recorded monuments include mainly megalithic tombs. The closest monument to the development site is located approximately 639m to the west. The proposed development is not likely to have any direct / indirect impacts on archeological sites given the context of the appeal site and its environs however there is the potential during the construction stage of the proposed development impacting on unknown archeological environment.

The interaction between the factors mentioned in the first, second and third indents

In my opinion the following interactions are relevant;

Human beings / landscape – the proposal will be visible from adjoining areas.

Human beings / noise and traffic – the proposed development will generate additional traffic primarily during construction stage.

Human beings / air quality – the proposal will have air implications during construction period,

Flora & fauna / landscape – the proposed development in terms of the works will result in a material alteration to the landscape.

Soil / water – the removal of soil for site excavation purposes may result in increased run-off with implications for receiving waters.

10.3 Environmental Assessment

The following section of the report assesses the likely significant effects identified in the context of the likely impacts on the environment having regard to mitigation measures proposed.

Human Beings, fauna and flora

In relation to human beings I would consider the most significant impacts of the proposed wind turbines would be noise and visual impacts.

The proposal would in my view have positive economic benefits locally in terms of employment creation during construction phase and the indirect benefits of this. There would also be small employment creation during the operation stage. I would consider that impacts in relation to health and safety, having regard to the mitigation measures described in Section 11.3.3 of the EIS would largely be neutral.

The construction period will result in the generation of additional traffic on the local road networks. Given the nature of vehicles required for turbine transportation and having regard to the local road network I would consider that this is likely only to result in local disturbance. However this disturbance is likely for a temporary period and traffic control measures will be implemented during the construction phase. I would not consider the traffic implications of the proposed development significant. I have considered in greater detail the likely extent of traffic and access in Section 4.0 below.

I would note from the submitted EIS (Chapter 11) that there is one house, labelled H1 in Figure 11.1 of the EIS situated within 500m of Turbine no. 2. This house is owned and occupied by the applicant's father who is involved in the proposed development and therefore is generally discounted in terms of general implications on residential amenity. There are 22 houses within 1 km of the proposed turbines.

The DOEHLG 'Wind Energy Guidelines', 2006, recommend that '*shadow flicker at neighbouring dwellings within 500m should not exceed 30 hours per year*'. The EIS contains a shadow flicker model for the proposed development and this model estimates that house no. 6 and house no. 9 marginally exceed the guidelines recommendation of 30 minutes per day however these houses are located outside the 500m radius of the proposed turbines. The EIS also records the shadow flicker impacts in excess of the guidelines recommendation for cumulative models however these models take into account worst case scenarios. In reality, I would consider, given prevailing weather conditions that it is likely the impact of shadow flicker, in conjunction with proposed mitigation measures set out in

Section 11.3.5 of the EIS, will be less than that recorded in the submitted models. Having regard to the distance of the subject houses from the proposed turbines and the prevailing weather conditions I would conclude that any shadow flicker implications are acceptable.

In relation to noise implications of the proposed development there will be noise generation at construction and operation stage. Firstly construction noise which is temporary in nature and secondly operational noise which will include aerodynamic noise and mechanical noise from the gearbox and generator. The mechanical noise emanating from wind turbines has generally reduced due to technological improvements however aerodynamic noise is generally referred to as the 'swish' of the turbine blades. The Ministerial guidelines recommend that noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres. Table 10.3 of the EIS outlines the distances of neighbouring dwellings to the nearest turbine. In addition Figure 10.2 maps this relationship in spatial form. These illustrations are relevant as house no. 1 is located approximately 485 metres to turbine no. 2 however this house is occupied by the applicant's father who is connected to the proposed development. The next nearest dwelling is house no. 9 which is located approximately 633 metres from the nearest turbine. The EIS includes a noise measurement model at three noise sensitive locations for construction phase 1, i.e. on-site access tracks, construction phase 2, i.e. daily construction traffic. These models have concluded that without the benefit of mitigation measures that the construction noise level is generally below relevant thresholds.

In relation to operational noise I would note that Figure 10.17 of the EIS outlines the noise prediction contours and it is evident that the operational noise will not have any significant impacts on any neighbouring sensitive properties. However adverse operational impacts were predicted on house no.s 6, 7 and 8 during cumulative impacts with the permitted wind farms in the immediate area. I would consider having regard to the proposed mitigation measures outlined in Section 10.5 of the EIS that the overall noise emissions from the proposed development would not adversely impact on the amenities of the area.

In relation to **flora** present on the appeal site I would note from the findings of the EIS that there are no rare species on the subject site. The EIS concludes that no protected plant species have been recorded within a 10km grid square of the development site. The EIS includes an ecological survey of the subject site which involved walkovers and reference to Fossit (2000) code. The plants recorded are listed in Table 6.3 of the EIS. Based on the evidence of the EIS I would generally concur with the findings and therefore I would conclude that the proposed two wind turbines are unlikely to have an adverse impact on any flora of conservation interest.

In relation to **fauna** I would note that the survey recorded four bat species either on the appeal site or adjoining the appeal site. The EIS considers that the network of vegetated earth banks and scattered tree lines

throughout the site, provide good commuting routes and foraging opportunities for bats. The mitigation measures are set out in Section 6.5 of the EIS and these include construction works outside the breeding season, a pre-construction bat survey to identify any bat roosts in the site.

The adjoining SPA is of conservation importance for the hen harrier and a survey accompanying the EIS recorded no hen harriers foraging on the appeal site however the same survey recorded flight lines adjacent to the appeal site. I would acknowledge that the proposed development will result in the potential loss of 7ha of foraging habitat.

Therefore given the proximity of the appeal site to the SPA the proposed development could result in the loss of foraging habitat and also the loss of potential breeding habitat. The EIS also outlines potential impacts that the proposed development may have on the hen harrier and these include disturbance / displacement, barrier effect and collision effect however these are considered minimal.

The EIS considers that the proposal will not have any significant adverse impact on bird species of conservation importance in the area. The EIS concludes the overall impact will be neutral and imperceptible residual impact.

In mitigation terms it is proposed to provide a compensatory 7.7ha as an alternative habitat. The local authority is concerned with this mitigation measure as the land parcels provided are unconnected and not adjoining the SPA. I would be concerned with the proximity of turbine no. 1 to the adjoining SPA and the potential loss of foraging habitat and also I would be concerned with the potential for loss of breeding habitat given the conservation objective to maintain or restore the favourable conservation status of habitats.

In my view construction activities, including noise, and the loss of habitat could impact on bats. Other bird species of conservation interest that maybe impacted on include peregrine falcon and curlew.

In relation to implications for the SAC's I have addressed these in the Appropriate Assessment in Section 5.0 below.

Soil, water, air, climate and the landscape

In relation to **soil** a significant direct impact of the proposed development will be the extraction of soil from the site to allow for site clearance and foundations on the site. The impact of construction activity may include contamination of soil quality and ground water due to hydrocarbon leaks. In relation to operational impacts these are largely limited. An investigation at the subject site indicated that the site is a very low risk / probability of slope failure or landslides due to the vertical absence of peat. The mitigation measures for the construction phase and the operation phase are outlined in Section 7.4 of the E.I.S. The E.I.S. predicts that there will

be no significant residual impacts to soils at both construction and operational phase. I would concur with the findings of the E.I.S. that no residual impacts to soils would occur based on the mitigation measures proposed.

In relation to **hydrology** I have examined the EIS and I note the main potential implications of the proposed development is increased run-off and implications for water quality and potential flood risk. The EIS has indicated that the construction of the proposed wind farm will result in negligible increase in the volume of surface water on existing catchments. The increase in surface water run-off will be managed by provision of road-side swales and stilling ponds. I would also note that the management of surface water run-off will include settling of suspended solids. I would note that a flood risk assessment was undertaken and the implications on current flows is estimated to be negligible. The EIS outlines mitigation measures in Section 8.5 and 8.6 and I would generally concur with the EIS that should the mitigation measures be implemented the residual impacts will be minimal.

In relation to **air quality and climate** I would consider that potential impacts would occur during construction including potential for short-term dust impacts due to excavation, construction and traffic sources. I would consider that the mitigation measures as outlined in Section 13.3.1 of the EIS would ensure that the construction impact would not have a significant impact. Additional air quality concerns would include the generation of traffic to / from the site and also within the site during the operation stage. However I would note from the traffic section of the E.I.S. that the overall predicted traffic volumes to / from the site during the operation stage will be low. Having regard to the nature of the proposed development and the limited traffic from the proposed development, during operation stage, I would not consider that the proposal would have any significant implication for climate and this is consistent with the conclusions of the EIS.

In relation to **landscape** I would acknowledge based on the submitted photomontages in chapter 9 of the EIS and a visual observation of the area that the proposed turbines would be visible from the immediate local area and also there would be cumulative impacts given permitted wind farms in the area.

The EIS concludes that the proposed wind farm will result in a notable change to the landscape character at a localised level within the immediate surrounding valleys and hills. The EIS notes that there are existing and permitted wind farms in the general area and it concludes that given the nature of the varying topography of this landscape there is capacity to accommodate the proposed wind farm without undue deterioration in the landscape character of the area.

I would note in accordance with the provisions of the South Tipperary County Development, 2009 – 2015, that the appeal site is located within a designated preferred wind development area and the policy for this area is

therefore *'wind energy development in these areas shall generally be considered to be acceptable in principle, subject to proper planning and sustainable development'*.

In accordance with Phase 1 of the South Tipperary County Landscape Chapter Assessment the appeal site is situated within a landscape that is designated a secondary amenity area. Accordingly the South Tipperary County Development Plan, 2009 – 2015, identifies the subject site and immediate area as a Secondary Amenity Area, and states that *'in secondary amenity areas (highly sensitive) the landscape is capable of absorbing change that reflects and enhances the current landscape condition. In assessing applications for development within these areas, the Council will have regard to the capacity of the landscape to absorb the development. In so doing, the Council will balance the need to protect the landscape character against the requirement for the appropriate and sustainable socio-economic development of the area while also having regard to the relevant policies on wind energy'*. In this regard, **Policy AEH 4: Primary and Secondary Amenity Areas** is relevant. This policy states as follows: *It is the policy of the Council to protect and enhance the visual quality of primary and secondary amenity areas. The scale, design and siting of new developments shall enhance this visual quality.* I would also note in Figure 13 'Landscape Sensitive areas within the County' of Appendix 11 of the County Development Plan that the appeal site is located within an area of medium sensitivity.

Overall I would consider that the location of the appeal site is significant within an area of preferred wind development and within a medium sensitive landscape. The principle issue in these policy provisions, in my view, is that having regard to the landscape designation that the appeal site is capable of absorbing change that reflects and enhances the current landscape condition.

I would also note that in accordance with Appendix 6 'Schedule of Protected Views' that views in all directions from Ironmills to Milestone Road (R497) are protected, i.e. protected view V036.

I would consider that having regard to the permitted wind farms and the landscape designations applicable to the site that the proposed two turbines would not adversely impact on the visual amenities or the landscape character of the area. I would also consider that the proposed development would not adversely impact on the established residential amenities in the area from a visual perspective.

10.4 Traffic and Access

The proposed wind farm development will be served by a permitted vehicular access onto the adjacent regional road (R503). The permitted vehicular access is situated within the administrative boundary of the former North Tipperary County Council and is therefore permitted under L.A. Ref. 13/510414. I would note that approximately 1km of new access

track will be constructed and approximately 620 metres of existing track will be upgraded providing access to the proposed turbines from the regional road.

The proposed development will have two very different traffic implications during construction and operation phases. Firstly in relation to the operational stage a wind farm of this scale will not, in my view, generate significant traffic. The EIS estimates that traffic generation during the operation phase will amount to approximately 2 no. vehicles per day which are maintenance related trips.

In relation to the construction phase I would note that the most significant traffic implication is during a two day period coinciding with the concrete pour at the site. Overall I would consider on the basis of the information in the EIS that the construction related traffic is temporary in nature and not significant.

The proposed haul route is outlined in Figure 15.1 of the EIS and the applicant states that this haul route was used by for a number of other wind farm developments in the area.

I would note that the Area Engineer in his report dated 26th February 2014 indicates no objections or issues on traffic or access grounds. Overall I would be satisfied that the proposed development would not endanger public safety by reason of traffic hazard.

10.5 Appropriate Assessment

I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

The Department of Environment, Heritage and Local Government Guidelines on 'Appropriate Assessment of Plans and Projects in Ireland, 2009,' recommend that the first step in assessing the likely impact of a plan or project is to conduct an Appropriate Assessment Screening to determine, on the basis of a preliminary assessment and objective criteria, whether a plan or project, alone or in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site's conservation objectives. The Guidelines recommend that if the effects of the screening process are 'significant, potentially significant, or uncertain' then an appropriate assessment must be undertaken.

I note from the submitted drawings that the proposed Wind Turbine 1 (WTG1) is located in close proximity to the Slievefelim and Silvermines SPA. In relation to the Slievefelim and Silvermines Mountains SPA an ecological feature of this protected area is the hen harrier.

There is a submission on the file from the NPWS which notes that WTG1 is located within 250m of the SPA. However having regard to the

additional information response submitted by the applicant, in particular Figure 2, I would consider that WTG1 is located approximately 100 metres from the boundary of the SPA. This is relevant as the NPWS advises that any loss of habitat within 250m of radius of a wind turbine is fully mitigated. The proposed access road serving WTG1 intersects with the boundary of the SPA. I would note from a visual observation of the area that the site of WTG1 is located within a field of improved agricultural grassland with some wet or rough pasture grassland pastures which is considered suitable foraging habitat for hen harrier.

In considering this current appeal I would have regard to appeal ref. 243040. This appeal related to a planning application for 22 no. turbines in close proximity to the appeal site and although this was a larger development the nearest wind turbine to the Slievefelim and Silvermines SPA boundary was turbine no. 21 which was a distance of 500 metres. Therefore in my view the current proposal with a distance of approximately 100 metres from the proposed turbine to SPA boundary is not comparable to the aforementioned permitted development.

The proposed development may reduce the amount of foraging habitat for hen harriers, with a possible reduction in breeding density and possibly productivity. I note from the survey accompanying the EIS that no hen harriers were recorded within the subject site however flight lines were recorded adjacent to the site. Having regard to the information on the file I would note that hen harriers could potentially be affected by the following, construction activities, loss of habitats, disturbance / displacement by the presence of the turbines, risk of collision.

I would acknowledge that the applicant has proposed mitigation measures including compensatory land which will provide alternative foraging habitat. However I would also acknowledge that the local authority considered that the most favourable form of mitigation is avoidance and requested the applicant to consider this option in particular to WTG1. The local authority take the view that mitigation through avoidance is the best approach and I would consider this a reasonable approach given the proximity of the SPA. I would be concerned with the proximity of turbine no. 1 to the adjoining SPA and the potential loss of foraging habitat and also I would be concerned with the potential for loss of breeding habitat given the conservation objective to maintain or restore the favourable conservation status of habitats.

In relation to Special Areas of Conservation I would note that the appeal site has hydrological connections to the Lower River Shannon SAC (2.8km west of the closest point) and the Lower River Suir SAC (a distance of 5km to the closest point).

The proposed wind farm has the potential to adversely impact on these SAC's during construction stage. This may occur with the release of silt-laden run-off into aquatic habitats. Any engineering works which cause run-off of sediments can also increase the levels of nutrients in receiving

environment. This can potentially result in the enrichment or eutrophication of the affected watercourses and catchment areas further downstream resulting in a possible reduction in overall water quality status. The construction phase could also adversely impact on water quality as a result of accidental spillage of cement or oil / fuel / hydrocarbons.

The mitigation measures are outlined in Section 8.6 of the EIS I have considered the mitigation measures for both operational, construction and decommissioning phase I would consider that these mitigation measures are reasonable. The EIS concludes that the residual impact on the water environment during the construction and operational phase of development is unlikely to be significant and I would concur with this conclusion.

11.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be refused for the reason set out below.

REASONS AND CONSIDERATIONS

1. The proposed development would be located near to the Slievefelim to Silvermines Special Protection Area (Side Code 004165), selected for special conservation interest for the Hen Harrier. The policies and objective of the planning authority, as set out in the current Tipperary County Development Plan 2009 - 2015, include the protection, conservation and enhancement of wildlife habitats and Designated Sites. These policies and objectives are considered reasonable. It is considered that the proposed development would have significant adverse impacts by way of destruction of habitat, disturbance and displacement of protected species. Furthermore, it is considered that the proposed development would constitute an undesirable precedent for further development of this nature in the immediate vicinity with significant potential to cumulatively undermine the conservation value of the sensitive area. The Board is not satisfied, on the basis of the information submitted in connection with the planning application and the appeal and having conducted an Appropriate Assessment based on Natura Impact Statement submitted with the application, that the proposed development would not adversely affect the integrity of this European site in view of its conservation objectives. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
24th October 2014