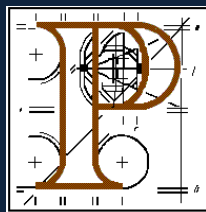


An Bord Pleanála



Inspector's Report

Addendum Report following the receipt of Further Information

Site Address: Ballyhorgan South and East, Irramore, Lissahane,
Muckenagh Co. Kerry

Proposal: A windfarm of 10 turbines and associated works.

Planning Application

Planning Authority: Kerry County Council
Planning Authority Reg. Ref.: 14/13
Applicants: Stacks Mountain Windfarm Ltd.
Type of Application: Permission
Planning Authority Decision: Refuse

Planning Appeal

Appellants: Stacks Mountain Windfarm Ltd.
Type of Appeal: 1st Party –v- Refusal
Observers: Dromclough N.S. Parents' Association.
John O'Donoghue and Loreto Weir
Liam, Michael, Louise, Eileen Somers
Dromclough National School
Sinn Féin Advice Clinic
An Taisce – Kerry Association
Aidan Galvin
Aidan Linnane
North Kerry Wind Turbine Awareness Group
John O'Sullivan
Cllr John Brassil

Date of Site Inspection: 29th December 2014

Inspector: G. Ryan

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1.0 INTRODUCTION

1.1 INTRODUCTION TO THIS ADDENDUM REPORT

1.2 I have written this report following a request from the board to provide an addendum report in respect of information received by the board since my initial inspector's report dated 28th May 2015.

1.3 I recommended refusal of permission for 3 reasons; policy, noise, and shadow flicker. The board sought further information in relation to the 'O Grianna' grid connection issue under Section 132 of the Planning and Development Act 2000. The applicant responded by submitting information in this regard including an EIS addendum and a revised NIS, along with information on some other matters. The Board considered the further information to be significant and revised public notices were required. The further information was circulated to prescribed bodies and observers, and responses were received.

1.4 This report should be read in conjunction with my initial report of 28th May 2015. In the interests of brevity, I have confined this report to matters impacted upon by the further information, although in order to achieve a clear and comprehensive assessment of some issues, a wider remit is required on some topics, which will by necessity involve some repetition.

1.5 INTRODUCTION TO CASE

1.6 The subject proposal is for 10 large (156.5m to tip) wind turbines in a lowland area of North Kerry. Further information was sought by the planning authority, who subsequently issued a refusal of permission largely on visual and residential amenity grounds. The applicant submitted an appeal to this decision, and the board also received 11 3rd party observations, of which 10 oppose the proposed development.

1.7 This report, and my initial inspector's report are written against the backdrop of two significant developments in the proposal's legal and policy context, which have occurred since the appeal was submitted to the board. The first is the court decision in O'Grianna -v- An Bord Pleanála, which stipulates a closer relationship between EIA for windfarms and their grid connection than has been practice to date and indeed than has been undertaken in this case. The second development is the adoption of the 2015-2021 Kerry County Development Plan, and in particular objective EP-12, which amounts to an effective moratorium on any further permissions for windfarms in North Kerry until 80% of existing permissions are either implemented or expire.

2.0 SITE

- 2.1 No additional comment or assessment needed on this topic following the receipt of further information. See the corresponding section of my initial report.

3.0 PROPOSAL

3.1 BROAD OUTLINE

- 3.1.1 No additional comment or assessment needed on this topic following the receipt of further information. See the corresponding section of my initial report.

3.2 ENVIRONMENTAL IMPACT STATEMENT

- 3.2.1 The scheme is described predominantly within Chapter 3 of the applicant's EIS – 'The Proposed Development' - as well as throughout the EIS. The Chapters covered in the EIS are as follows.

- 1 Introduction
 - 2 Background to the Proposed Development
 - 3 Description of the Proposed Development
 - 4 Human Beings
 - 5 Flora and Fauna
 - 6 Soils and Geology
 - 7 Water
 - 8 Air and Climate
 - 9 Noise and Vibration
 - 10 Landscape
 - 11 Cultural Heritage
 - 12 Material Assets
 - 13 Interaction of the Foregoing
- APPENDIX 1 Scoping Responses
- APPENDIX 2 Planning Drawings
- APPENDIX 3 Construction Methodology Drawings
- APPENDIX 4 Health Study References
- APPENDIX 5 NPWS Site Synopses
- APPENDIX 6 Natura Impact Statement
- APPENDIX 7 Vascular Species List
- APPENDIX 8 Turbine Base Botanical Surveys
- APPENDIX 9 Species Distribution Maps
- APPENDIX 10 Peat Stability Assessment
- APPENDIX 11 Recharge Co-efficients

APPENDIX 12	Certificates of Analysis
APPENDIX 13	Carbon Calculations
APPENDIX 14	Glossary of Noise Terms
APPENDIX 15	Preliminary Noise Contour
APPENDIX 16	Turbine Noise Data
APPENDIX 17	Modelling Parameters
APPENDIX 18	Noise Contours at Various Wind Speeds
APPENDIX 19	ZTV and Photo Locations Map (A0 Size)
APPENDIX 20	Cultural Heritage Photographs

3.3 FURTHER INFORMATION SUBMISSION AT PA STAGE

3.3.1 The planning authority requested further information of the applicant on 9 points, and the substantive response to this request was submitted by the applicant on 25th July 2014. The submission was readvertised by way of revised public notices stating that significant further information had been furnished to the planning authority, and that further submissions would be accepted.

3.3.2 The planning authority also received unsolicited further information.

3.3.3 See my initial report for more information in this area.

3.4 S132 FURTHER INFORMATION REQUEST BY THE BOARD

3.4.1 On foot of a direction dated 27th August 2015, the board issued a request to the applicant as follows

The Board draws your attention to the recent High Court judgments in the case of Pol O Grianna and Others - v - An Bord Pleanála in respect of a proposed windfarm development in County Cork. In his judgment, Mr. Justice Michael Peart found, inter alia, as follows:-

- *The connection to the national grid forms an integral part of the overall development of which the construction of the turbines is the first part;*
- *The cumulative effects of the construction of the turbines and the connection to the national grid must be assessed in order to comply with the Environmental Impact Assessment Directive.*

The Board is of the view that the O’Grianna judgment may be relevant to the current proposed windfarm development and is concerned that the details submitted in respect of a connection to the national grid may be inadequate for the purposes of carrying out an environmental impact

assessment for the entire project, including the assessment of cumulative impacts.

The Board notes that a Indicative 11.1 km Grid Connection Route from the proposed windfarm to the electricity substation at Muingnaminnane was indicated in Figure 3.12 of the Environmental Impact Statement submitted with the application, and was referred to in paragraph 3.4.8 of this Statement, but was not part of the application and was not included in the statement of environmental impacts submitted with the application.

Having regard to the above, and to the requirement of the EIA Directive that projects likely to have significant effects on the environment are subject to an assessment with regard to their effects before consent is given, the Board considers that, in the absence of detailed proposals for the connection to the national grid, it may not be possible for the Board to complete an assessment in accordance with the requirements of the Directive and that, as such, the proposed development may be contrary to proper planning and sustainable development.

In the light of the above, the Board hereby invites you to submit a revised Environmental Impact Statement to incorporate sufficient information to enable An Bord Pleanála to complete an Environmental Impact Assessment in relation to the overall proposal, including the grid connection. The level of detail should be such as to enable the Board to complete an Environmental Impact Assessment in accordance with the requirements of the EIA Directive, and should include the following details in respect of a proposed grid connection:-

- General route corridor for proposed grid connection – whether that indicated in the original EIS or an alternative route;*
- Pole/tower type and height, if relevant;*
- Line voltage;*
- Overground and/or underground connection or combination of both.*

The Environmental Impact Assessment should consider the cumulative effects of the proposed windfarm and the proposed grid connection (based on these details). In the event of alternative route corridors being proposed in respect of the grid connection, details of each alternative should be submitted and an assessment of the cumulative

effects of the proposed windfarm and each alternative should be provided.

Please also submit a revised Habitats Directive screening, and if necessary a revised Natura Impact Statement, in respect of the overall proposal, including the grid connection.

3.5 S132 FURTHER INFORMATION SUBMISSION - OVERVIEW

3.5.1 The applicant submitted a number of documents in response to the board's request, which are summarised in the following sections.

- EIS Addendum (EISA)
- Revised NIS (RNIS)
- (a 2nd copy of the EISA as an appendix to the RNIS)
- New planning drawings

3.6 S132 FURTHER INFORMATION SUBMISSION – EIS ADDENDUM

3.6.1 This document, which I will refer to as the EISA, follows the structure of the EIS, and is intended to be read in conjunction with that initial document. As set out in the Non-Technical Summary, the extent of the project has been expanded to consist of not only the turbines and associated infrastructure as contained in the original EIS, but also the proposed grid connection route. The EISA is presented as considering both these elements as a single project.

3.6.2 As set out in the introduction, the EISA does not alter the findings or conclusions of the previously submitted EIS.

3.6.3 **EISA Section 3 – Description of the Proposed Development.**

3.6.4 Figure 3.1 of the EISA provides a useful overview of the overall project, including the proposed grid connection route, which would be undergrounded along the public road corridor from the site's southern boundary to the existing Reamore Electricity Substation.

3.6.5 No works would be carried out on the cable route during the general bird breeding season from 1st March to 31st August.

3.6.6 A silt filtration system would be used in conjunction with the cabling trench works to prevent contamination of any watercourse.

3.6.7 There would be 17 watercourse or culvert crossings, as mapped on Figure 3.3 of the EISA. No in-stream works are required. Cables would either pass beneath piped culverts, or above (within the road deck), potentially with a rising of the pavement level locally. Figures 3.4-3.6 describe these proposed works. If none of these options are

appropriate, directional drilling would be utilised. The proposed crossing methodology – Options 1, 2, or 3, above - is set out in Table 3.2 with a split of 6, 8, and 3 respectively.

- 3.6.8** Some additional information pertaining to temporary junction works to facilitate turbine delivery is included in Section 3.3. The impact of these works are considered further within the EISA.
- 3.6.9** Section 3.4 discusses off-site replanting of trees, which is a requirement of the Forestry Act 1946. A total of 2.53ha of forestry felling is proposed in connection with the subject proposal. An equivalent area would be replanted in County Roscommon.
- 3.6.10** In terms of alternatives to the proposed grid connection, alternate routes and connecting technologies are discussed in Section 3.6.1.
- 3.6.11** **Sections 4, 5 – Human Beings, Flora and Fauna**
- 3.6.12** The EISA discusses additional disruption to residents and visitors to the area due to the cabling works and temporary junction works.
- 3.6.13** An additional survey and ecological assessment of the proposed cable route and temporary works was carried out, with surveying on 14th September 2015. This report is contained in Appendix 5-1 of the EISA.
- 3.6.14** Due to the cable route being predominantly within the road carriageway or verge of the local road network, the impacts on flora and fauna is considered to be ‘temporary, minor, and neutral’ and ‘temporary negligible and negative’ respectively. Runoff from the cabling route works is considered, although this is to be addressed by specific aspects of construction methodology.
- 3.6.15** **Sections 6, 7, 8, 9 – Soils and Geology, Water, Air and Climate, Noise and Vibration**
- 3.6.16** Risks to soils and geology associated with fuel/chemical spills along the cabling route are discussed. Risks to surface water drainage from the 17 crossings are also discussed, along with associated pollution prevention measures.
- 3.6.17** **Sections 10, 11 – Landscape, Cultural Heritage and Archaeology**
- 3.6.18** The EISA does not envisage any significant impacts in this regard. Decommissioning of the cable route can take place via the joint bays.
- 3.6.19** There is a record of a ring fort (RMP KE06-043) adjacent to the public road in the townland of Lissahane. The grid connection cable route works have the potential to cause a slight to moderate negative impact. Measures are proposed in this regard.

3.6.20 Three bridges along the cable route are considered to be of high architectural merit, but are not subject to statutory protection. A structural engineer would assess these bridges prior to cabling.

3.6.21 Sections 12, 13 – Material Assets, Interactions

3.6.22 A traffic management plan is proposed in connection with the overall project. The cabling route works will be limited to around 100-150m in length per day, to minimise disruption.

3.6.23 In terms of interactions, the matrix set out in Table 13.1 of the EIS still applies.

3.6.24 Appendices

- 1-1 Letter of consent for connection to Reamore substation
- 3-1 Grid connection route drawings
- 3-2 Constriction and Environmental Management Plan
Includes by way of appendices the following
 - Road and Hardstand Construction Method Statement
 - Floating Road and Hardstand Method Statement
 - Piled Turbine Base Method Statement
 - Turbine Base Method Statement
 - Culvert Survey Summary and Crossing Methodology
 - Site Layout Drawings
- 3-3 Traffic Management Plan
- 3-4 Assessment of Proposed [Forestry] Replanting
- 5-1 Ecological Assessment of Proposed Grid Connection Route
- 5-2 Invasive Species Management Plan
- 6-1 Soils and Geology Assessment Report
- 7-1 Hydrology and Hydrogeology Assessment Report
- 11-1 Cultural Heritage and Archaeology Assessment Report

3.7 S132 FURTHER INFORMATION SUBMISSION – REVISED NIS

3.7.1 The applicant has submitted a revised Natura Impact Statement (NIS), which is intended to substitute for the initial NIS submitted as Appendix 6 of the further information submission to the planning authority [see Section 3.3.4 of my initial report].

3.7.2 My intention is to draw on this document during my AA Screening in Section 12.0 below, as per the approach taken in my initial report.

3.8 S132 FURTHER INFORMATION SUBMISSION – ADDITIONAL PLANNING DRAWINGS

3.8.1 This A3 booklet of drawings shows the layout of the proposed cabling route for the grid connection.

4.0 SUMMARY OF REPORTS AND SUBMISSIONS TO THE PLANNING AUTHORITY

4.1.1 See my initial report in respect of all submissions received in advance of the date of my report. Subsequent submissions received by the board following the receipt of further information under S132 are dealt with under section 9.1 below.

5.0 PLANNING AUTHORITY DECISION

5.1.1 Prior to deciding the application, the planning authority requested further information on 9 issues. The planning authority subsequently refused for one reason, relating to the size and scale of the proposed turbines in relation to the receiving landscape.

5.1.2 See the corresponding section of my report for more information in this regard.

6.0 HISTORY

6.1 No additional comment or assessment needed on this topic following the receipt of further information. See the corresponding section of my initial report.

7.0 POLICY

7.1 No additional comment or assessment needed on this topic following the receipt of further information. See the corresponding section of my initial report.

- 7.2 I note that there have been no changes to the county development plan since my initial report, and no ministerial directives have been issued¹. (see Section 11.5.7 of my report on this issue).

8.0 GROUNDS OF APPEAL

- 8.1 The first party appeal was submitted by McCarthy Keville O'Sullivan Planning and Environmental Consultants on behalf of the applicant, Stacks Mountain Windfarm. It was received by the board on 6th November 2014.
- 8.2 No additional comment or assessment needed on this topic following the receipt of further information. See the corresponding section of my initial report.

9.0 SUMMARY OF RESPONSES TO THE APPEAL

9.1 PLANNING AUTHORITY

- 9.1.1 The planning authority made an initial submission to the appeal, as summarised in Section 9.1 of my initial report. They subsequently made a submission to the board following the submission of further information under S132. This submission is in the form of a memo from the Senior Executive Engineer of the Planning Section (unnamed) and can be summarised as follows.
- 9.1.2 The proposed connection to the national grid is to be constructed under the public road network. Given its underground nature, the most likely impacts relate to ecology and archaeology. Refers to the reports on these matters from the County Council's Biodiversity Officer and County Archaeologist [see below]. Concludes that the county council has no objection to the proposed grid connection.
- 9.1.3 **Memo from the Biodiversity Officer**
- 9.1.4 Notes aspects of the EIS Amendment and revised NIS.
- 9.1.5 **Email from the County Archaeologist**
- 9.1.6 I infer from its content and the substantive submission from the Senior Executive Engineer that the email accompanying the planning authority's submission is from the County Archaeologist. It notes that the [cable] route passes through a zone of potential defined in the RMP in relation to KE016-043; a ringfort. This fort has been destroyed and is now under a farmyard. As such there are no archaeological issues relating to the route.

¹ <http://www.environ.ie/search/archived/current/category/planning/sub-type/ministerial-directionorder>

10.0 OBSERVERS TO THE S132 FURTHER INFORMATION

- 10.1.1** A total of 11 observations to the initial appeal were received from 3rd parties, as summarised in Section 10.0 of my initial report.
- 10.1.2** On foot of the cross-circulation and readvertising of the further information received by the board, a number of additional observations were received, both from the original observers, and from new parties.
- 10.1.3** In the interests of clarity, I have attempted to restrict my summaries below to matters relating to the further information submission, and to matters not previously summarised in my initial report.

10.2 LIAM, MICHAEL, LOUISE, EILEEN SOMERS

- 10.2.1** No submission was received from this party following the receipt by the board of further information under S132.

10.3 DROMCLOUGH NATIONAL SCHOOL

- 10.3.1** Insufficient public notice has been given of the proposed cabling route.
- 10.3.2** The submission otherwise largely covers matters relevant to the proposed windfarm itself, and indeed matters covered in my initial report.

10.4 SINN FÉIN ADVICE CLINIC

- 10.4.1** No submission was received from this party following the receipt by the board of further information under S132.

10.5 AN TAISCE – KERRY ASSOCIATION

- 10.5.1** States that the revised NIS incorrectly presents a scoping submission from An Taisce as being their substantive position. Their submission of 28th November 2013 must also be taken into account.

10.6 DROMCLOUGH N.S. PARENTS' ASSOCIATION

- 10.6.1** No submission was received from this party following the receipt by the board of further information under S132.

10.7 JOHN O'DONOGHUE AND LORETO WEIR

- 10.7.1** No submission was received from this party following the receipt by the board of further information under S132.

10.8 AIDAN GALVIN

10.8.1 No submission was received from this party following the receipt by the board of further information under S132.

10.9 AIDAN LINNANE

10.9.1 First submission – 11/12/15

10.9.2 No public consultation has taken place in respect of the proposed grid connection.

10.9.3 The proposed roadworks to facilitate the grid connection would result in significant detours for residents.

10.9.4 There is no evidence of consent having been obtained in respect of the proposed joint bays.

10.9.5 Includes a photo of a joint bay, and a map prepared by the county council showing permitted turbines (built and unbuilt) in Co. Kerry as of February 2015.

10.9.6 Second submission – 5/1/16

10.9.7 A second submission largely addresses issues pertaining to the windfarm itself, and to matters previously raised in submissions on file, which were discussed in my initial report, and to matters raised in Mr Linnane's December 2015 submission above. The submission is accompanied by the same attachments as those of the North Kerry Wind Turbine Awareness Group's submission (see below).

10.10 NORTH KERRY WIND TURBINE AWARENESS GROUP

10.10.1 First submission – 13/12/15

10.10.2 The observers contend that the quantity of material submitted on foot of the S132 request warrants public consultation. The residents along the cabling route are not aware of the proposed route. There have been no public notices along the cabling route.

10.10.3 There is no information as to whether the ESB have reviewed and/or approved the route, or if the county council or affected 3rd parties will grant the necessary consents to use the roads.

10.10.4 Raises safety concerns regarding the proposed 'joint bays'.

10.10.5 Insufficient time has been devoted to the necessary studies of flora and fauna.

10.10.6 The observers note that the board sought information on the cumulative impact of the proposed windfarm. To this end, they have submitted Appendixes 1 and 2 which are maps that show the number of turbines planned, erected, under construction, and

awaiting construction [the same map as under Aidan Linnane's submission above]

10.10.7 Second submission – 4/1/16

10.10.8 A second submission raises a number of additional matters as follows.

10.10.9 Flora and fauna survey work was not undertaken at the appropriate times of the year.

10.10.10 The submission is accompanied by a report from 'Ecologists Ireland'. It largely addresses issues pertaining to the windfarm itself, and to matters previously raised in submissions on file, which were discussed in my initial report. It criticises the survey work undertaken by the applicant and the conclusions reached. Particular criticism is reserved for the 'screening out' for AA of the Stacks to Mullaghareirk Mountains, West Limerick Hills, and Mount Eagle SPA. The applicants have avoided the need to afford a higher level of assessment to the cumulative impacts of wind energy developments and in-combination impacts of forestry on Hen Harrier regionally.

10.10.11 The submission is accompanied by copies of emails with Birdwatch Ireland relating to the presence of internationally significant numbers of Whooper Swans in the Cashen River estuary [around 10km to the northwest].

10.10.12 The submission is accompanied by a report from Doyle and O'Troithigh Landscape – Architecture. Again, this largely addresses issues pertaining to the windfarm itself, and to matters previously raised in submissions on file, which were discussed in my initial report. There is a particular focus on the policies of the County Development Plan in relation to the proposed turbines.

10.10.13 The submission is accompanied by copies of representations made by or on behalf of a number of TDs and Councillors. All are opposed to the proposed development.

10.11 JOHN O'SULLIVAN

10.11.1 The submission otherwise largely covers matters relevant to the proposed windfarm itself, and indeed matters covered in my initial report. It pays particular attention to the policies of the 2015 County Development Plan, and also includes the map of permitted and constructed turbines across the county, as contained in Aidan Linnane's submission.

10.12 CLLR JOHN BRASSIL

10.12.1 No direct submission was received from this party following the receipt by the board of further information under S132.

10.13 BANEMORE RESIDENTS ASSOCIATION (NEW PARTY)

- 10.13.1** This submission, care of Marina Smith of Banemore, is from a group that had not previously been party to the appeal.
- 10.13.2** The Banemore residents object to the cable route running up Banemore Hill, which would involve digging up this single carriageway local road. The diversion would result in an increase in journey time of approximately 17 minutes, with time, financial, and safety consequences. This road is used by agricultural vehicles, school busses, and local businesses.
- 10.13.3** The cabling associated with the nearby Pallas windfarm left the road in bad condition.
- 10.13.4** The applicant has not secured the necessary consents. The observers will not be giving permission for works to take place on their lands.

10.14 MARY BROWNE (NEW PARTY)

- 10.14.1** This submission is submitted in the name of Mary Browne 'on behalf of residents of Ballyhorgan' and is from a party that had not previously been party to the appeal.
- 10.14.2** There were no site notices along the route of the proposed grid connection.
- 10.14.3** There was insufficient survey work in respect of the Hen Harrier and bats. Refers to impacts on the River Feale, with impacts on sensitive species. Trench digging will lead to the spread of invasive species.

11.0 ASSESSMENT

As with the entirety of this report, this assessment is intended to be read in conjunction with initial inspector's report dated 28th May 2015. I have mirrored the structure of my initial report below. This report concerns itself with the additional assessment required in relation to any aspect of the further information submitted by the applicant on foot of the board's S132 request, or any relevant matters raised in submissions subsequently received.

11.1 PRINCIPLE OF DEVELOPMENT AND POLICY CONTEXT

- 11.1.1** No additional assessment is necessary on this issue on foot of information submitted to the board since my initial inspector's report.
- 11.1.2** My recommended refusal reason No. 1 from my initial report is still valid, in my opinion.

- 11.1.3 The board may find the map submitted by the 3rd parties (John O’Sullivan, North Kerry Wind Turbine Awareness Group, Aidan Linnane) showing the existing and permitted turbines across the county, as prepared by the planning authority’s planning department, an informative reference document on this issue.

11.2 LEGAL AND PROCEDURAL MATTERS

- 11.2.1 The substantive issue covered in the board’s S132 request to the applicant (see Section 3.4 above) related to the legal infirmity pertaining to the proposal on foot of the High Court judgments in the case of *Pol O Grianna and Others - v - An Bord Pleanála* in respect of a proposed windfarm development in County Cork.
- 11.2.2 My interpretation of this judgement is that there should be sufficient detail in a windfarm EIS relating to the grid connection to allow for a cumulative and comprehensive assessment of environmental impacts. In the absence of such information, the EIS is defective, and permission cannot be granted.
- 11.2.3 The issue of consent for the cabling route from the ESB [sic], the County Council, and any relevant landowners was raised in the 3rd party submissions received by the board following the S132 submission.
- 11.2.4 In my opinion, the question of whether planning consent for the grid connection is required, has been given, is in place, or the process by which it might be obtained is irrelevant to the issues arising from *Ó Grianna*. Similarly, the resolution of any dispute over legal title to the lands involved is not relevant to this assessment. The question is whether there is sufficient information regarding the proposed grid connection to allow for a comprehensive EIA of the scheme by the board, with the entirety of the scheme encompassing both the windfarm and the grid connection.
- 11.2.5 In my opinion, the amalgamated body of material presented in the EIS and in the EISA submitted on foot of the S132 request by the board presents a comprehensive and complete description of the proposed development and its impacts for the purposes of EIA by the board.

11.3 EIS – COMPLIANCE WITH PLANNING AND DEVELOPMENT REGULATIONS 2001

- 11.3.1 As per my assessment on this matter under my initial inspector’s report, the only infirmity in this regard was the lack of information regarding the grid connection, which has now been successfully addressed. As such, I consider that the proposed development is now fully compliant with Article 94 and Schedule 6 of the Planning and Development Regulations 2001.

11.4 EIA – ALTERNATIVES CONSIDERED (EISA CHAPTER 2)

- 11.4.1** In terms of alternatives to the proposed grid connection, alternate routes and connecting technologies are discussed in Section 3.6.1 of the EISA. I consider this to be an appropriate and complete exploration of this topic.
- 11.4.2** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.5 EIA – HUMAN BEINGS (EISA CHAPTER 4)

- 11.5.1** The EISA discusses additional disruption to residents and visitors to the area due to the cabling works and temporary junction works. This matter is also raised in the 3rd party submissions received by the board following the S132 submission.
- 11.5.2** In my opinion, this disruption has been accurately quantified, but would not represent an undue imposition on residents and visitors to the area. It would be consistent with the extent of disruption normally associated with large infrastructural interventions in any area, such as a new road or telecommunications networks.
- 11.5.3** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.6 EIA – HUMAN BEINGS - NOISE AND VIBRATION (EISA CHAPTER 9)

- 11.6.1** Additional noise and vibration would arise due to the cabling works, but again, I do not consider this to be an undue imposition.
- 11.6.2** At this juncture, I consider it appropriate to revisit my assessment of the noise impacts associated with the turbines themselves, as contained in my initial inspector's report. While no additional information has been submitted in this regard, my subsequent work on other windfarm cases has given me cause to reflect on my initial interpretation of the 2006 guidelines on this issue. As such, I consider it appropriate to review and amend my initial analysis.
- 11.6.3** Paragraph 2 of Page 30 of the 2006 guidelines reads as follows.

In general, a lower fixed limit of 45 dB(A)² or a maximum increase of 5dB(A) above background noise at nearby noise

² Footnote 10 of the guidelines reads "An 'A-weighted decibel' - a measure of the overall noise level of sound across the audible frequency range (20Hz-20 kHz) with A-frequency weighting to compensate for the varying sensitivity of the human ear to sound at different

sensitive locations is considered appropriate to provide protection to wind energy development neighbours. However, in very quiet areas, the use of a margin of 5dB(A) above background noise at nearby noise sensitive properties is not necessary to offer a reasonable degree of protection and may unduly restrict wind energy developments which should be recognised as having wider national and global benefits. Instead, in low noise environments where background noise is less than 30 dB(A), it is recommended that the daytime level of the LA90, 10min of the wind energy development noise be limited to an absolute level within the range of 35-40 dB(A).

- 11.6.4** I find it difficult to reconcile the internal logic of the guidelines on this issue. The general scenario of 45dB(A)/+5dB(A) is ambiguous, but is often interpreted as being ‘whichever is higher’. However, this does not tally with the follow-on section which states that the margin of +5dB(A) may be too restrictive in quiet areas. Looking at the geometry of the ‘45dB(A) / +5dB(A)’ intersection, this follow-on section could only make sense if the ‘whichever is lower’ interpretation is applied, as a drop of the ‘whichever is higher’ ‘floor’ from 45dB(A) to 35/40dB(A) would result in a *more* restrictive limit, contrary to the stated intention of this section. The only way a 35dB(A) floor as a less restrictive limit would make sense would be in the scenario whereby the limit curve ‘left’ of the 45dB(A)/+5dB(A) intersection was otherwise following the +5dB(A) ‘arm’ down to impossibly low values at low windspeeds. Or in other words, that the guidelines envisage a ‘whichever is lower’ approach to the 45dB(A)/+5dB(A) standard.
- 11.6.5** In reconciling this matter, I consider it helpful to refer to the UK document ETSU-R-97, which is referred to in appendix 6 of the 2006 guidelines. This document also advocates a hybrid approach between a 35/40/43dB(A) ‘flatline’ and a +5dB above background noise ‘curve’. However, the clear and unambiguous approach in ETSU-R-97 that it is the ‘whichever is the greater’ interpretation that is applied. As such, given that this is a contributing document to the 2006 DoE guidelines, which follows a comparable logic, I propose to apply this interpretation in this instance. It should be noted that I had applied the ‘whichever is lower’ interpretation in my initial inspector’s report, as set out in Section 11.10.3 of that report and my analysis in tables 4, 5, and 6.
- 11.6.6** The next question becomes how to incorporate the reduced 35/40dB(A) ‘floor’ for ‘quiet areas’ (less than 30dB(A) background noise). I have seen two interpretations of this element of the 2006 guidelines, both of which can be explained in terms of a baseline noise curve that passes through the 30dB(A) level, and considering

frequencies. The decibel scale is logarithmic. A10 dB(A) increase in sound level represents a doubling of loudness. A change of 3 dB(A) is the minimum perceptible under normal circumstances.

what happens moving right along the curve, at a baseline level of 31dB(A). Under some interpretations I have seen presented, the noise limit would jump immediately to 45dB(A) on passing the 30dB(A) threshold. Under other interpretations, as presented under ETSU-R-97, the limit curve would proceed to the right (increasing windspeeds) and begin to shadow the baseline noise curve at a +5dB(A) remove – 36dB(A) threshold at a 31dB(A) baseline, etc. This latter interpretation would appear to be the most common sense interpretation of the 2006 guidelines, and is the one I will follow in this revised assessment.

11.6.7 Below are revised analysis tables for the selected properties based on this revised interpretation. I have applied the standard of +5dB(A) above baseline noise level for all windspeeds, with an absolute floor of 45dB(A), dropping to 40dB(A) (the guidelines present an optional range of 35-40dB(A)) where the baseline noise levels are less than 30dB(A) at any windspeed, which in this case applies to all 3 selected instances.

H114 (south) daytime	dB L_{A90, 10min} at various standardised wind speeds								
Windspeed (m/s)	4	5	6	7	8	9	10	11	12
Modelled noise (source EIS Table 9.17)	29.8	35.5	37.5	39.0	39.3	39.5	39.5	39.5	39.5
Baseline noise level (nearest = S03) (source EIS Figure 9.7)	29	31	33	35	37	39	41	43	46
Noise limits (source DoE 2006)	40	40	40	40	42	44	46	48	51
Within limits by...	10.2	4.5	2.5	1	2.7	4.5	6.5	8.5	11.5

Table 1

H86 (east) daytime	dB L_{A90, 10min} at various standardised wind speeds								
Windspeed (m/s)	4	5	6	7	8	9	10	11	12
Modelled noise (source EIS Table 9.17)	30.4	36.2	38.1	39.5	39.6	39.7	39.7	39.7	39.7
Baseline noise level (nearest = S02) (source EIS Figure 9.5)	30	32	33	33	34	36	36	37	38
Noise limits (source DoE 2006)	40	40	40	40	40	41	41	42	43
Within limits by...	9.6	2.8	1.9	0.5	0.4	1.3	1.3	2.3	3.3

Table 2

H168 (north) daytime	dB L _{A90, 10min} at various standardised wind speeds								
	4	5	6	7	8	9	10	11	12
Windspeed (m/s)	4	5	6	7	8	9	10	11	12
Modelled noise (source EIS Table 9.17)	29.4	35.5	37.1	38.4	38.5	38.6	38.6	38.6	38.6
Baseline noise level (nearest = S01) (source EIS Figure 9.3)	30	32	33	34	34	35	35	36	37
Noise limits (source DoE 2006)	40	40	40	40	40	40	40	41	42
Within limits by...	10.6	4.5	2.9	1.6	1.5	1.4	1.4	2.4	3.4

Table 3

11.6.8 As such, and as per my analysis, the noise limits would be complied with in respect of all selected houses, albeit that this is predicated on applying the most permissive limit within the allowable 35-40dB(A) threshold floor for quiet areas. Even a drop to 39dB(A) would see H86 fall into non-compliance.

11.6.9 I consider that the proposed comprehensive development of windfarm and cable route is acceptable on the issue of noise and vibration

11.6.10 On the basis of the above revised analysis, and having regard to a revised interpretation of the 2006 Guidelines gleaned during my work on other windfarm cases since my initial inspector's report, I would propose to omit my initial recommended refusal reason No. 2.

11.7 EIA – HUMAN BEINGS – SHADOW FLICKER (EISA CHAPTER 4)

11.7.1 No additional assessment is necessary on this issue on foot of information submitted to the board since my initial inspector's report.

11.7.2 My recommended refusal reason No. 3 from my initial report is still valid, in my opinion.

11.8 EIA – FLORA AND FAUNA (EISA CHAPTER 5)

11.8.1 An additional survey and ecological assessment of the proposed cable route and temporary works was carried out, with surveying on 14th September 2015. This report is contained in Appendix 5-1 of the EISA.

11.8.2 Off-site forestry replanting (in Roscommon), as required under the Forestry Act, and as discussed in Section 3.4 of the EISA, is relevant insofar as it provides information on the totality of the scheme, but is of marginal relevance. An assessment of the

impacts of this aspect of the scheme is given in Appendix 3-4 of the EISA.

- 11.8.3** The introduction of invasive species in connection with the cabling works is raised by the 3rd parties. It is addressed in Appendix 5-2 of the EISA.
- 11.8.4** I note the report of the planning authority's Biodiversity Officer in relation to the EISA and RNIS, but I also note that the author does not proffer an opinion on these documents.
- 11.8.5** I also note the report from 'Ecologists Ireland' submitted by two of the 3rd parties following the receipt by the board of the further information under Section 132. This submission is critical of the applicant's survey work and the conclusions reached.
- 11.8.6** On balance, I concur with the findings of the applicant in regard to the potential impacts on flora and fauna, which I consider have been adequately and accurately described, and are not undue in their magnitude.
- 11.8.7** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.9 EIA – SOILS AND GEOLOGY, WATER (EISA CHAPTERS 6 AND 7)

- 11.9.1** The watercourse crossing methodologies for the cabling route are set out in EISA, as discussed in detail at Section 3.6.7 above. Risks associated with these works relating to soils, geology, and water are set out in Sections 6 and 7 of the EISA. The Construction and Environmental Management Plan (CEMP) is also relevant in this regard.
- 11.9.2** It is clear that the greatest risk in this regard derives from the possibility of releasing suspended solids and hydrocarbons into the surface water network. However, the construction methodologies outlined would be sufficient, in my opinion, to reduce these risks to a minimal level.
- 11.9.3** On balance, I concur with the findings of the applicant in regard to the potential impacts on soils, geology, and water, which I consider have been adequately and accurately described, and are not undue in their magnitude.
- 11.9.4** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.10 EIA – AIR AND CLIMATE (EISA CHAPTER 8)

- 11.10.1** No additional assessment is necessary on this issue on foot of information submitted to the board since my initial inspector's report.
- 11.10.2** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.11 EIA – LANDSCAPE (EISA CHAPTER 10)

- 11.11.1** No additional assessment is necessary on this issue on foot of information submitted to the board since my initial inspector's report. I note that the grid connection cable would be routed underground.
- 11.11.2** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.12 EIA – CULTURAL HERITAGE (EISA CHAPTER 11)

- 11.12.1** Archaeology along route is addressed in Section 11, and in particular the potential impact on a specific ringfort record adjacent to the cabling route. The County Archaeologist raises no objections due to the fact that the monument has since been effectively destroyed by the subsequent construction of a farmyard. In the event of a grant of permission, archaeological monitoring conditions would be appropriate, in my opinion.
- 11.12.2** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.13 EIA – MATERIAL ASSETS (EISA CHAPTER 12)

- 11.13.1** Additional information regarding the temporary junction works to facilitate turbine delivery is presented in Section 3.3 of the EISA. Further, an overall traffic management plan is set out in Section 12 of the EISA and Appendix 3-3. Works along the cable route would be limited to a 100-150m stretch on any given day.
- 11.13.2** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

11.14 EIA – INTERACTION OF THE FOREGOING (EISA CHAPTER 13)

- 11.14.1** I note that the applicant contends that the interactions between EIA topics are as per the original EIS. I concur with this assertion.
- 11.14.2** No additional assessment is necessary on this issue on foot of information submitted to the board since my initial inspector's report.
- 11.14.3** I consider the proposed development to be acceptable on this topic, both in terms of the additional information relating to the cable route, and indeed the comprehensive scheme of windfarm plus cable route.

12.0 SCREENING FOR APPROPRIATE ASSESSMENT UNDER THE HABITATS DIRECTIVE

- 12.1** This section is intended to replace, not supplement, the equivalent section (also Section 12.0) of my initial inspector's report.
- 12.2** Significant inputs to the consideration of this issue are available from:
- The applicant's NIS, presented at (PA) further information stage.
 - The reports from the planning authority's Biodiversity Officer, both before and after (PA) further information was requested, and following cross-circulation of the 'ABP' further information, submitted under S132
 - The submission pre-further information of the DoAHG.
- 12.3** The DoAHG raised difficulties with original NIS in that it was not an NIS, but rather a 'stage 1' screening report. This was addressed by way of item 2(viii) of the planning authority's further information request and by Appendix 6 to the further information submission titled 'Article 6(3) Appropriate Assessment Natura Impact Statement'. I will reference this 'stage 2' document in the first instance, where relevant. This document was subsequently replaced by the revised NIS (RNIS) submitted by way of further information to the board on foot of the S132 request
- 12.4** The plan is not directly connected with or necessary to the management of a Natura 2000 site.
- 12.5** The proposed development is for a 10-turbine windfarm in North Kerry, as described in detail in section 3.0 of my initial report.
- 12.6** Species, habitats, surface drainage patterns, etc. are all described in full in Chapters 5, 6, and 7 of the EIS/EISA and in the Revised Natura Impact Statement (RNIS). I note that the applicant's Screening exercise

is set out in Pages 20-35 of the RNIS, with the 'Stage 2' AA following directly after.

12.7 In order to screen for appropriate assessment, I will undertake 6 steps, as follows

12.8 STEP 1: IDENTIFY EUROPEAN SITES WHICH COULD POTENTIALLY BE AFFECTED - CONSIDER SOURCE-PATHWAY-RECEPTOR

12.8.1 The RNIS considers 5 sites in the first instance, as does the planning authority's AA screening report. The NIS considers 2 of these for further assessment, as does the planning authority.

Site type	Site name	Distance from subject site	Considered further by RNIS	Considered further by PA
SAC	Lower Shannon	0km	yes	yes
	Moanveanlagh Bog	8.7km	no	no
SPA	Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle	0km	yes	yes
	Kerry Head	12km	no	no
	River Shannon and River Fergus Estuaries	14km	no	no

Table 4

12.8.2 It should be noted that the cable route passes through the 'Stacks' SPA and crosses the Lower Shannon SAC³ twice. The SPA had not been considered further in the original NIS, but was considered further in the RNIS.

12.8.3 On the basis of the source-pathway-receptor model, I would hold with both the applicant's and the planning authority's decision not to consider further Kerry Head SPA, Rivers Shannon/Fergus SPA, and Moanveanlagh SAC.

12.8.4 I also hold with both parties' decision to consider the Lower Shannon SAC and the 'Stacks' SPA further. In the case of the SAC, there is both a hydrological connection to the subject site in the case of the windfarm, and a crossing of the SAC by the cable route. In the case of the SPA, the majority of the cable route passes through the SPA.

³ Separation distances had been 1.4km and 800m respectively under the AA screening in my initial inspector's report, which dealt solely with the windfarm site itself.

12.9 STEP 2: IDENTIFY THE CONSERVATION OBJECTIVES OF THE RELEVANT SITES

12.9.1 Lower Shannon SAC (site code 002165)

12.9.2 Conservation Objectives for this site are published in a document available online, and dated 7th August 2012. They aim to define favourable conservation conditions of the following species and habitats.

- 1029 Freshwater Pearl Mussel *Margaritifera margaritifera*
- 1095 Sea Lamprey *Petromyzon marinus*
- 1096 Brook Lamprey *Lampetra planeri*
- 1099 River Lamprey *Lampetra fluviatilis*
- 1106 Atlantic Salmon *Salmo salar* (only in fresh water)
- 1110 Sandbanks which are slightly covered by sea water all the time
- 1130 Estuaries
- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1150 *Coastal lagoons
- 1160 Large shallow inlets and bays
- 1170 Reefs
- 1220 Perennial vegetation of stony banks
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts
- 1310 *Salicornia* and other annuals colonizing mud and sand
- 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
- 1349 Bottlenose Dolphin *Tursiops truncatus*
- 1355 Otter *Lutra lutra*
- 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
- 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- 6410 *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*)
- 91E0 *Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

12.9.3 In the case of each habitat or species of qualifying interest, the document sets out targets which are accompanied by attributes, measures, and notes by which the conservation status of the habitat or species may be defined.

12.9.4 Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161)

12.9.5 Conservation Objectives for this site are published in a document available online, and dated 13th February 2015. The conservation objectives are to maintain or restore the favourable conservation condition of a single species, the Hen Harrier.

12.9.6 The accompanying Site Synopsis (2007) notes that this SPA is

“a stronghold for Hen Harrier and supports the largest concentration of the species in the Country A survey in 2005 resulted in 40 confirmed and 5 possible breeding pairs, which represents over 29% of the national total.”

and goes on to state that

“Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank.”

Interestingly, the Site Synopsis states that

“The main threat to the long-term survival of Hen Harriers within the site is further afforestation, which would reduce and fragment the area of foraging habitat, resulting in possible reductions in breeding density and productivity. The site has a number of wind farm developments but it is not yet known if these have any adverse impacts on the Hen Harriers.”

12.10 STEP 3: IDENTIFY THE POTENTIAL A) LIKELY AND B) SIGNIFICANT EFFECTS OF THE PROJECT WITH REFERENCE TO THE SITE'S CONSERVATION OBJECTIVES

12.10.1 In summary, the likely impacts relate to the following, with reference to the relevant Natura 2000 sites' conservation objectives.

- Construction: Run-off of silt, fuels/oils, construction materials to watercourses.
- Construction: Disturbance/displacement of fauna during construction of turbines and cable route.
- Operational: Bird/bat collision with turbines.

12.10.2 With reference to this information, I would identify the significance of the potential risks as follows.

	Potential significant impact	Potential receptor
Lower Shannon SAC	Run-off	The subject site drains to the River Feale catchment where designated habitats or species could be affected by contaminated run-off
Stacks to Mullaghareirk Mountains, West Limerick Hills & Mount Eagle SPA	Turbine collision Disturbance /displacement	Designated species' (Hen Harrier) flight paths could cross the proposed development.

Table 5

12.11 STEP 4: AS ABOVE, CONSIDERING IN-COMBINATION EFFECTS.

- 12.11.1** I note the information presented by the applicant on page 30 of the RNIS in relation to other windfarms – permitted and operating – within a 20km radius.
- 12.11.2** I consider the specific in-combination effects that arise from other plans or projects to be negligible.

12.12 STEP 5: EVALUATE POTENTIAL EFFECTS ABOVE

- 12.12.1** Using the source-pathway-receptor model, I do not consider, on the basis of the information submitted, that the proposed development would be likely to impact significantly on the qualifying interests of the Natura 2000 sites in question through the potential mechanisms outlined above.
- 12.12.2 SAC**
- 12.12.3** The design of the drainage systems on site, and in connection with the cable route, which I consider to be an integral part of the project itself, would be sufficient to prevent run-off off pollutants to the surrounding watercourses, which connect to Natura 2000 sites. In this regard, I disagree with the position taken by both the applicant in Table 5.2 of the RNIS and the planning authority's Biodiversity Officer in her AA screening report.
- 12.12.4** It is worth highlighting at this juncture that the proposed development is not upstream of any of the designated catchments for Freshwater Pearl Mussels within the Lower Shannon SAC.
- 12.12.5 SPA**
- 12.12.6** On the issue of the cable route passing through the 'Stacks' SPA, I note the information presented by the applicant in the RNIS giving

an undertaking that works would occur outside the breeding season, and asserting that disruption would be minimal due to the works being along the road corridor – where Hen Harrier would be in any event habituated to activity.

- 12.12.7** On the basis of survey information on file relating to bird species present on site, and their patterns of behaviour, there would be no risk to species identified as ‘qualifying interests’ for any of the relevant Natura 2000 sites, namely the Hen Harrier by way of disturbance/displacement or collision. In this regard, I concur with the position put forward by the applicant in Table 5.2 of the RNIS and disagree with the position taken by the planning authority’s Biodiversity Officer in her AA screening report.

12.13 STEP 6: DETERMINE WHETHER OR NOT LIKELY SIGNIFICANT EFFECTS, INDIVIDUAL OR IN COMBINATION WITH OTHER PLANS OR PROJECTS, ON THE EUROPEAN SITES, CAN BE REASONABLY RULED OUT ON THE BASIS OF OBJECTIVE SCIENTIFIC INFORMATION.

- 12.13.1** In my opinion, likely significant effects, either individually or in combination with other plans or projects, on the European sites, can be reasonably ruled out on the basis of objective scientific information. The proposed development is not likely to have significant effects on any European Site in light of its conservation objectives.
- 12.13.2** As such, I will not proceed to ‘Stage 2’ appropriate assessment. I note that the applicant in their NIS did proceed to ‘Stage 2’ assessment, as directed by the planning authority. I would attribute this divergence in approaches to a judgement call on whether the construction methodology proposed forms an integral part of the proposal (my assessment) or mitigation measures (the planning authority’s approach).

13.0 CONCLUSION AND RECOMMENDATION

13.1 CONCLUSIONS

- 13.1.1** I consider that the additional works covered under the EISA have been adequately described and quantified, and that the further information request has adequately addressed the legal infirmity that arose on foot of the Ó Grianna decision. As such, the board has the latitude to consider the proposed development on its merits, in my opinion.

13.2 RECOMMENDATION

- 13.2.1** While the scheme performs relatively well across a range of topics, there are 2 outstanding issues that preclude the board from granting permission in this instance, in my opinion.
- 13.2.2 Outstanding issue #1 – Objective EP-12**
- 13.2.3** As discussed in depth in Section 11.5 of my initial report, the medium-term ‘moratorium’ on windfarm permissions in the north of the county, as set out in the 2015 County Development Plan precludes a grant in this instance. It is a robust policy which holds up to scrutiny in the context of superior planning policy and legislative requirements, in my opinion.
- 13.2.4 Outstanding issue #2 – shadow flicker**
- 13.2.5** There are modelled exceedances of the shadow flicker standards set out in the 2006 guidelines, as set out in my initial report. Permission should be refused for this reason, in my opinion.
- 13.2.6 Recommendation**
- 13.2.7** I recommend that permission be refused for these two reasons above, which reflect reasons 1 and 3 of my initial recommendation. As per my revised analysis at section 11.6 above, I no longer consider recommended refusal reason 2 of my initial report to be applicable.

14.0 REASONS AND CONSIDERATIONS

1. The proposed development is located in the Listowel Municipal District, and this appeal is being determined at a time when less than 80% of the turbines with permissions in this area on the date of adoption of the Kerry County Development Plan 2015-2021 have either been erected or have had their relevant permission expire. To grant permission would be a contravention of Objective EP-12 of the plan which is to not permit the development of windfarms under these circumstances. The proposed development would, therefore, contravene materially a development objective as set out in the development plan and be contrary to the proper planning and sustainable development of the area.
2. The proposed development would, on the basis of the information provided in the Environmental Impact Statement, result in levels of shadow flicker at dwellings in excess of relevant thresholds set out in 'Wind Farm Development: Guidelines for Planning Authorities' (Department of Environment, Heritage and Local Government, 2006). The proposed development would therefore be contrary to Ministerial guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended). Consequently, the proposed development would be injurious to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

G. Ryan
Planning Inspector
24th March 2016