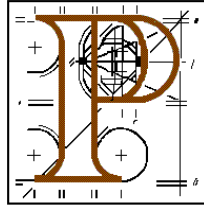


An Bord Pleanála Ref. No.: PL 04.244439

An Bord Pleanála



Inspector's Report

Proposed Development:

Permission is sought for the construction of an electricity substation compound. This application is intended to replace the substation already granted permission under PL04.219620 (05/5907) and subsequently extended under 11/6605. The electricity substation layout includes 3 no. control buildings, associated electrical plant and equipment, security fencing and ancillary works. This application is seeking a 10 year planning permission all Barnadivane, Kneevies, Terelton, Co. Cork.

Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 14/00557

Applicant: Arran Windfarm Ltd.

Type of application: Permission

Planning Authority Decision: Grant permission

Planning Appeal

Appellants: Ms. Stephanie Larkin & Others

Observers: None

Type of appeal: Third Party against Permission

Site Inspection: 14th April, 2015

Inspector: A. Considine

1.0 THE SITE

- 1.1 The proposed development is for the construction of a substation to serve a permitted wind farm. Planning permission was also granted for the construction of a substation and this current application seeks to relocate the permitted substation. The reason for this is that the 110kV substation is required to meet Eirgrid requirements which have changed since the original application was lodged. The design standards require a larger footprint than the permitted substation and it is submitted that the permitted site is constrained to the west by the existing 110kV overhead line and to the east by the local road. The current proposed development site lies within the original development site boundary of the permitted windfarm development and is located to the south of a county road and at a level of 250 – 260m OD.

- 1.2 The subject proposed development site is located in this upland area of County Cork approximately 9km to the south of the town of Macroom. The closest towns and villages to the site are Terelton, (approx. 2km to the north west) and Coppeen (approx. 2km to south west) of the site. As indicated above, the subject site is located within the original overall windfarm development boundary which can be described as a broad triangular area bordered by the N22 (Crookstown-Macroom), the R584/587 (Macroom to Dunmanway) and the R585 (linking the R587 north of Dunmanway back to Crookstown). The R585 travels in a NE-SW direction to the south of the upland area (through Bealnablath, Coppeen and Slieveowen). The appeal site is located just over 1km north of the R585 and in the townland of Barnadivane.

- 1.3 The appeal site has a peculiar shape which is essentially T shaped along the public road and widens into almost a square on a south facing plateau within the Bride River Valley. This site is located approximately 500m from the permitted substation site. The site is currently in agricultural use and the larger field boundaries are defined by natural hedgerow boundaries. The primary uses in the area comprise agriculture and there are a number of residential properties in the vicinity of the site. The stated area of the site is indicated at 2.95ha while the overall windfarm area is indicated at 355km. The Bord will note the presence of an existing 4 turbine windfarm in proximity to the site and the existing 110kV overhead lines run to the east of the current proposed site.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development, as per the public notice, is described as follows:

Permission is sought for the construction of an electricity substation compound. This application is intended to replace the substation already granted permission under PL04.219620 (05/5907) and subsequently extended under 11/6605. The electricity substation layout includes 3 no. control buildings, associated electrical plant and equipment, security fencing and ancillary works. This application is seeking a 10 yer planning permission all Barnadivane, Kneeves, Terelton, Co. Cork.

The planning application was accompanied by an Environmental Report.

2.2 The proposed new 110kV grid connection substation will include the following:

- Site Dimensions – 108m x 86m
- 3 single storey control buildings – rendered with pitched roofs and each building will have a maximum floor area of 185m², and maximum height of 6.2m
- 2.4m high steel palisade fencing enclosing an area of approximately 76m x 79m
- 200 metre access track.
- 2 no. steel lattice masts with a maximum height of 18m

3.0 ENVIRONMENTAL REPORT

3.1 Legislative Context:

The proposed development does not fall within the scope of or is below the thresholds of Schedule 5 Development for the purposes of Part 10 (Environmental Impact Assessment) of the 2001, Planning & Development Regulations. An Environmental Impact Statement may however still be required should the development be associated with 'significant effects on the environment'. In this regard, EIA screening was undertaken by the applicant where it was concluded that as significant effects can be excluded, a full EIS is not required in this instance. In this regard, an

Environmental Report has been prepared. The following is a summary of this report:

3.2 The report consists of 13 chapters, which consider the potential impacts of the proposed substation on the receiving environment. The report considers the development in terms of the site selection, project construction and alternatives to the current proposal. Each chapter of the Environmental Report deals with a specific element of environmental impact as follows:

1. Project Background
2. Summary of the site & Existing Environment
3. The Development
4. Planning & Policy Context
5. Human Environment
6. Ecology
7. Geology, Hydrogeology and slope stability
8. Hydrology and Water Quality
9. Landscape and Visual Assessment
10. Noise
11. Air and Climate
12. Cultural Heritage
13. Interaction of the Foregoing.

3.3 The following is a summary of the main impacts identified:

3.3.1 Human Environment:

Notwithstanding visual, landscape and noise impacts which are addressed in separate chapters, the report considers the potential impacts of the development on the human environment, which includes a description of the existing context and impacts including

- Land use - negligible impacts on land use
- Socio-economic - expected to have a positive impact especially during construction phase.

- Health & Safety - A number of mitigation measures are proposed in terms of Health & Safety and as such, it is concluded that the implications of the proposed development from the design phase through to construction and operation of the substation have been taken into account. Significant cumulative impacts are not expected.
- Electromagnetic impacts - based on the assessment, it is concluded that the potential electromagnetic impact arising from the proposed substation will be insignificant and that there is no risk to human health arising from this insignificant electromagnetic impact.
- Recreation, Amenity & Tourism - not expected to have any significant or adverse effect on tourism in the area or result in a critically adverse landscape impact. The proposed development site does not lie within or adjacent to any tourist routes or significant sites of interest.
- Traffic & Transportation - Mitigation measures have been proposed to minimize the construction phase impacts. If all measures are implemented, there is a high degree of confidence that the traffic and transportation impacts associated with the development will not be significant.
- Material Assets - the development is not expected to have any significant or adverse effect on the material assets of the area.

3.3.2 Ecology:

Chapter 6 of the Environmental Report deals with Ecology and the information provided details the methodology employed in the preparation of this chapter. The report identifies six designated sites within 10km of the site of which three are Natura 2000 sites. The site does not form part of, nor is it in the proximity of any SAC, SPA or pNHA. In addition, the site does not fall within any Conservation Areas or Special Amenity Areas listed in the Cork County Development Plan. The nearest SAC/pNHA sites are Killaneer House Glen NHA Site Code 001062, 6.4km to SE, Boylegrove Wood pNHA Site Code 001854, 6.5km to NW and Gearagh SAC/NHA/SPA Site Code 000108 and Nature Reserve, 6.7km to the north of the study area.

The Environmental Report presents details of a number of surveys which were carried out including habitats, mammals, birds – both breeding and wintering and reference is made to previous surveys in terms of the Pearl Mussel and bats. In addition, the report considered the presence of rare or protected flora and fauna. In terms of an overall impact assessment, the ER acknowledges that though small scale habitat loss of improved agricultural grassland, hedgerow and earth bank habitat and disturbance to mammals and birds, the impact of the proposed works is thought to be slight, with no expected further impacts on ecology associated with the operational phase. A number of mitigation measures are presented it is concluded that the proposed development is expected to have a slight to imperceptible impact on ecology.

Screening for Appropriate Assessment was undertaken. It was determined that a full AA was not required. The AA Screening Report concludes that no significant impact on designated habitats is expected to occur with no likely changes to any Natura 2000 site. A Findings Of No Significant Impacts report is presented as part of the AA.

3.3.3 Geology, Hydrogeology and Slope Stability:

The Environmental Report presents chapter 7 in order to provide information with regard to the environmental at the location of the proposed development works in terms of geology, hydrogeology and slope stability and seeks to describe same. The report discusses the potential impacts that the construction and operation of the proposed development may have on them and mitigation measures are proposed where necessary. The assessment was carried out through a desk top study, field visits and site investigations and extends to advising that the site walkover did not find any evidence of peat on the site. In this regard, it was concluded that a Peat Stability Assessment was unnecessary.

The EIS considers that the risk to ground waters is generally slight due to the shallow depths of excavation required and due to the absence of any significant drains in the vicinity, it is considered that there is little potential of impacts on surface waters associated with the proposed development. Mitigation measures are presented at section 7.5 of the report and it is concluded that overall residual risk to geology, hydrogeology and slope stability associated with the construction and operation of the proposed development is considered to be negligible.

3.3.4 Hydrology & Water Quality:

Chapter 8 of the Environmental Report describes the aspects of the hydrogeological environment that could be affected by the proposed development. The report notes that the site is located at an elevation of 253m and the land to the south slopes downwards towards the Barnadavine tributary of the River Bride. The rise of the tributary is at a distance of 300m from the subject site. In terms of the Water Framework Directive, the status of the Bride is currently good and is classified as not at risk. Mitigation measures are presented in Section 8.5 of the report in relation to hydrology and water quality and it is concluded that subject to the implementation of same, a high degree of confidence can be assured in the mitigation measures proposed for hydrology and water quality.

3.3.5 Landscape & Visual:

The Environmental Report presents a landscape and visual impact assessment in accordance with the various guidelines, in support of the proposed development. The assessment was carried out by MosArt and Chapter 9 of the report provides details of the assessment methodology employed in the preparation of the Landscape and Visual Impact Assessment. The landscape character of and in the vicinity of the identified study area is indicated, under the Draft Landscape Strategy for Cork, as a Landscape Type 10b: *Fissured Fertile Middleground (Rylane East to Waterford)*, with the following values:

Landscape Value:	Low
Landscape Sensitivity:	Low
Landscape Importance:	Local

The Type 10b landscape is described as ‘an elevated landscape which is fissured by fairly gentle slopes, with reasonably fertile agricultural land comprising a mosaic of small to medium sized fields with broadleaf hedgerows’, and a landscape character that ‘has characteristics of both flatter fertile farmland areas and the higher marginal hilly farmland’. The report notes that the low value landscapes are defined as ‘landscapes with positive characters and with local or county importance’, whilst high sensitivity landscapes are considered to be ‘vulnerable landscapes with the ability to accommodate limited development pressure. To the north of the site, the landscape is indicated as Landscape Character Type 6c – *Broad Fertile Lowlands*.

In terms of the visual assessment presented, the ER notes that as a form of industrial infrastructure of a reasonable scale and extent, the proposed substation has the potential to physically alter the existing land form and land cover of the site itself and to influence the prevailing rural character of the local area. From a visual impact perspective the proposed development has the potential to intrude on views from local roads and dwellings and also on more distant uphill views from the R585.

It is noted that planning permission exists for a windfarm in the vicinity, which includes a 110kV substation. In this regard, it is submitted that precedent exists for the proposed development. It is further submitted that when the windfarm is constructed, the substation will be less out of place in this elevated rural context. The ER acknowledges that the substation will represent a cluttered industrial form of development and will detract from the amenity of the broader rural views. Mitigation measures are presented to include planting and the report chapter concludes that the locality has the ability to absorb the proposed development.

3.3.6 Noise:

Chapter 10 of the ER deals with noise and the report describes the methodology employed in the assessment of noise associated with the proposed development as well as the potential impacts of noise. The report concludes that the development has been assessed against a proposed noise limit of 65dB L_{Aeq} . Operational noise from the transformers located at the substation will be below 30dB L_A, T_r and therefore there will be no significant operational noise impacts are predicted.

3.3.7 Air & Climate:

Chapter 11 of the submitted ER deals with Air and Climate, describing the existing environment in this regard. The site is located within an Air Quality Zone D and the assumption is that air quality is good and any potential impact on air quality as a result of the proposed development will be confined to the construction phase. There are no significant potential impacts on air and climate during the operational phase as there will be no emissions or dust from the substation once operational. As the proposed development supports the development of a renewable energy development, it will ultimately have a positive benefit in reducing carbon emissions.

3.3.8 Cultural Heritage:

Chapter 12 of the submitted ER seeks to address any potential issues arising in relation to the proposed development and impacts on the cultural heritage of the study area. The assessment included both a desk top study and a field inspection of the proposed development area. The report details the legal framework and requirements regarding the protection of archaeological monuments and architectural heritage, and identifies the information sources employed in the desk top study of the site. The ER identified 2 archaeological monuments, both ringforts, located at 771m and 845m from the proposed development site. No new archaeological monuments or sites were detected during field inspections. In terms of Architectural and Cultural Heritage, the ER notes that there are no protected structures within 5km of the subject site. Mitigation measures have been considered in this chapter

No new archaeological monuments or sites were detected during field inspections. In terms of Architectural and Cultural Heritage, the ER notes that there are no protected structures within 5km of the subject site. In terms of the proposed development, the EIS acknowledges that archaeological remains may appear due to earth movements associated with the development. The ER submits that all construction works will be monitored under archaeological licence, and in consultation with the relevant authorities. The report concludes that no direct or indirect impacts will occur in terms of archaeology or architectural and cultural heritage.

3.3.9 Interactions of the foregoing:

Chapter 13 of the ER addresses the interaction of the previous environmental aspects in accordance with Schedule 6 of the Planning & Development Regulations, 2001 as amended. The chapter considers the interactions by means of a matrix, Table 13.1 and concludes that based on the positive energy and climate impacts that will be facilitated by the proposed development, and the slight visual, soils, ecology and water quality impacts, it is considered that the site is a suitable site for the development of a substation and associated equipment and access track.

In terms of the do noting scenario presented at each chapter, the report also notes that if permission is refused, the permitted substation will be constructed.

3.4 Appendices:

The ER includes 4 no. appendices as follows:

Appendix 1: Pre-Application Consultation with An Bord Pleanala

Appendix 2: Appropriate Assessment Screening Report

Appendix 3: EIA Screening Report

Appendix 4: Details of Silt Fencing

4.0 REPORTS ON PLANNING FILE

4.1 The PAs report notes that a pre planning meeting was held between the Planning Authority personnel and representatives of the developers, in relation to this development. This meeting discussed whether the proposal constitutes *Strategic Infrastructure* or not.

4.2 There are 3 submissions noted on the planning file from third parties. I have read the content of all submissions. The issues raised in the objections are summarised as follows:

- Lack of transparency with regards to planning intentions.
- The increased scale of the substation is, in the opinion of the writer, to facilitate a future change to the original wind farm permission and amounts to project splitting.
- Visual impact of the proposed relocated substation. It will be highly visible than the original location.
- Questions the visual assessment. The development will be visible from the only designated walks in the community and the statement of negligible impact on amenities is nonsense.
- Size and scale of the development is unsuited to the proposed location.
- The development goes against community initiative to promote local archaeology, history and culture of the area.
- The bird assessment is biased
- The amount of soil to be removed from the site is a concern,
- No grid connection to applicant
- Has written confirmation been provided that the 60Mw grid allocation to Barna Wind Energy Ltd has been transferred to Arran Windfarm Ltd.
- It is not clear why construction of a substation requires a 10 year permission. The applicant advises that the Barnafivane Wind Farm is

scheduled for a connection to the national grid in 2015 and there is no reason for a ten year permission.

- It is considered that an EIS is required.
- The AA screening report is limited and wholly inadequate, *Kelly v An Bord Pleanala* is cited in this regard.
- The substation cannot be presented in isolation as done and the PA should require the applicant to disclose their full plans.
- There is no clarity on the need for two¹ control buildings with the same layout and facilities

4.3 There are no submissions from elected representatives received.

4.4 1 no. external report was submitted to the Planning Authority in relation to the proposed development from Irish Water advising no objection to the proposed development.

4.5 There are 4 no. reports noted from internal County Council Departments on the Planning Officers report from the following:

Area Engineer: Discusses issues relating to roads and surface water and provides for a number of conditions to be included in any grant of planning permission, including conditions relating to the repair of public roads.

Environment Section: Notes no objection to the proposed development, subject to compliance with a number of condition.

Heritage Officer: Concern is raised in this report regarding or not EIS and EIA is required.

Senior Planner: Completed an EIA Screening Report concluding that EIA was not mandatory in this instance.

4.6 The Planning Authority considered the proposed development together with the information submitted in support of the proposal against the

¹ 3 control buildings proposed

requirements of the County Development Plan and National Policy pertaining to Wind energy projects. The Planning Officers report also had regard to the submissions made in relation to the proposed development as well as reports received from internal departments with the Planning Authority and from prescribed bodies. A number of concerns were raised in the report regarding the proposed development its location on an exposed elevated landscape. In addition, the PO considers that the application provides little exploratory evidence which would dismiss the overall suitability of the previous site as well as questioning the necessity for a ten year permission. The report concludes that there are a number of issues arising in relation to the proposed development and that further information is required.

4.7 The Senior Executive Planner also provided a short report in support of the Planning Officers and recommended that further information be sought. Further information was sought in relation to 5 issues as follows:

1. Count data for winter bird survey
2. Copy of guidelines issued by Eirgrid in relation to the upgrade and size increase required.
3. A detailed rationale as to why the original site for the substation is considered unsuitable.
4. A detailed landscaping plan
5. A detailed justification for a 10 year permission.

4.8 A response to the further information request was submitted to the PA on the 9th December, 2014. The response deals with each issue raised in the FI request. Of particular note are the comments in response to item 5 above. The applicant notes that permission for the windfarm is to be replaced and that a separate consent for same will be submitted. The proposed substation will facilitate the connection of the windfarm – either that permitted or the proposed replacement – to the national grid. The substation will therefore be delivered, programmed, constructed and financed as part of the development of the overall wind farm project. It is noted that there is potential for substantial delays in all stages of a wind farm project.

- 4.9 Following receipt of the response to the further information request, there were no further submissions noted on the planning file from third parties.
- 4.10 Following receipt of the response to the further information request, there were no further submissions noted on the planning file from elected members
- 4.11 Following receipt of the response to the further information request, there were no further external reports submitted to the Planning Authority in relation to the proposed development:
- 4.12 Following receipt of the response to the further information request, there were a further 3 no. reports noted from internal County Council Departments on the Planning Officers report from the following:

Environment Section: No objection to the proposed development subject to compliance with conditions.

Heritage Officer: No objections to the proposed development subject to compliance with conditions.

Executive Engineer: Bond of €72,000 required for roads.

- 4.13 The Planning Officer prepared a report following the submission of the response to the Planning Authority's further information request and deals with each issue in turn. The report concludes that, the development is important and necessary in order to facilitate the permission for 14 turbines granted under PL04.219620. It notes that the development is generally in accordance with the requirements of Eirgrid and is in compliance with current 'Wind Energy Development' Guidelines. In addition, the PO is satisfied that engineering, environment and heritage requirements have been satisfied. The issue of effect on the visual amenity of the area is mitigated by the proposed landscaping plan. In this regard, the report concludes that permission be granted for the proposed development.

- 4.14 The Senior Planner also prepared a short report in relation to the proposed development and noted that the concerns of the Heritage Officer have been satisfied. Permission is recommended subject to conditions.

5.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority granted planning permission for the proposed development subject to 28 conditions.

6.0 RELEVANT PLANNING HISTORY

- 6.1 The Board should note that there are currently two planning applications with Cork County Council for decision relating to the subject site including for a wind farm development to replace the permitted 14 turbine, PL04.219620 and for the construction of a private road – see below for details.

PA Ref 14/6760: Permission is sought for the construction of six wind turbines, with a maximum tip height of up to 131m and associated turbine foundations and hardstanding areas, 1 no permanent meteorological mast up to 90m in height, upgrade of existing and provision of new site tracks and associated drainage, new access junction and improvements to public road to facilitate turbine delivery, 1 no borrow pit, underground electrical and communications cables, permanent signage and other associated ancillary infrastructure. This application is said to be '*intended to replace*' development already granted planning permission under PL04.219620 and subsequently extended under 11/6605. This application is seeking a 10 year planning permission.

This planning application is currently on a further information request where a number of issues have been raised by the Planning Authority with regard to the proposed development (FI request attached). The Board will note that a full EIS has been submitted as part of this proposed development which appears to have included a full ZTV which provided for the cumulative visual impact of the now proposed windfarm together with existing wind farm developments in the area. Photomontages are also included. Due to the size of the document, I was unable to download to

the relevant sections of the document to consider as part of my assessment of this current appeal.

PA ref 14/6803: Permission is sought for the construction of a private roadway, approximately 150 metres long, from the R585 to the L6008 and all associated works. This will facilitate the delivery of abnormal loads to a wind farm located in the townlands of Barnavidane (Kneeves), Lackareagh & Garranereagh. A decision in relation to this proposed development is due on the 25th May, 2015.

6.2 The following is the planning history associated with the subject site with regard to a wind energy project:

PL04.219620 (PA ref 05/5907): Planning permission was granted for the construction of a Windfarm with 18 no. turbines, with hub height up to 70m and rotor diameter of 70m, and base to blade-tip height of 105m, 18 no. associated transformers, a 70m meteorological mast, substation and switch station compounds, construction of internal tracks, turbine foundations, hardstands and associated works and a grid connection to the National Grid at Barnadivane, near Terelton, Co. Cork. A total of 14 turbines was granted on appeal to An Bord Pleanala.

PL04.204928 (PA ref 03/2365): Planning permission was refused by the Board following third party and first party appeals against the grant of planning permission for a windfarm with turbines of 60m hub height and 80m blade diameter, 110 kV substation, 110 kV switch station, one 60 m high meteorological mast, entrances, tracks etc. The original application was for 26 turbines but this was revised to 23 turbines, and the planning authority decided to grant permission for 17 turbines. The Board refused permission on the basis of excessive dominance and visual obtrusion in the landscape due to the layout, number and size of the turbines, having regard to the landscape character and pattern of residential development in the area.

In the Board direction, it was stated that the Board agreed with the Inspector that a revised proposal might be possible but considered that the impact of the proposed development by reason of the layout, number and size of the turbines would be excessive.

6.3 The following is the planning history in the vicinity of the proposed development site:

PA ref 03/2047: Permission granted for 5 no. wind turbines on a site to the east, Art Generation project, no plans and particulars provided by P.A.

7.0 POLICY CONTEXT:

7.1 Cork County Development Plan 2014

7.1.1 Within the Cork County Development Plan 2009, Wind Energy is addressed in terms of policy on transport and infrastructure in chapter 6. Policy INF 7-2 commits the planning authority to support the National Climate Change Strategy in seeking to reduce the emission of greenhouse gases. Policy INF 7-3 is an objective generally to encourage the production of energy from renewable sources including wind energy subject to normal proper planning considerations, including in particular the impact on areas of environmental or landscape sensitivity.

7.1.2 In relation to wind energy, and following a study of wind speeds and the landscapes of the County on a broad level, the Plan identified in broad strategic terms, two specific areas with regard to the provision of wind energy developments, under objective INF 7-4 and Figure 6.3:

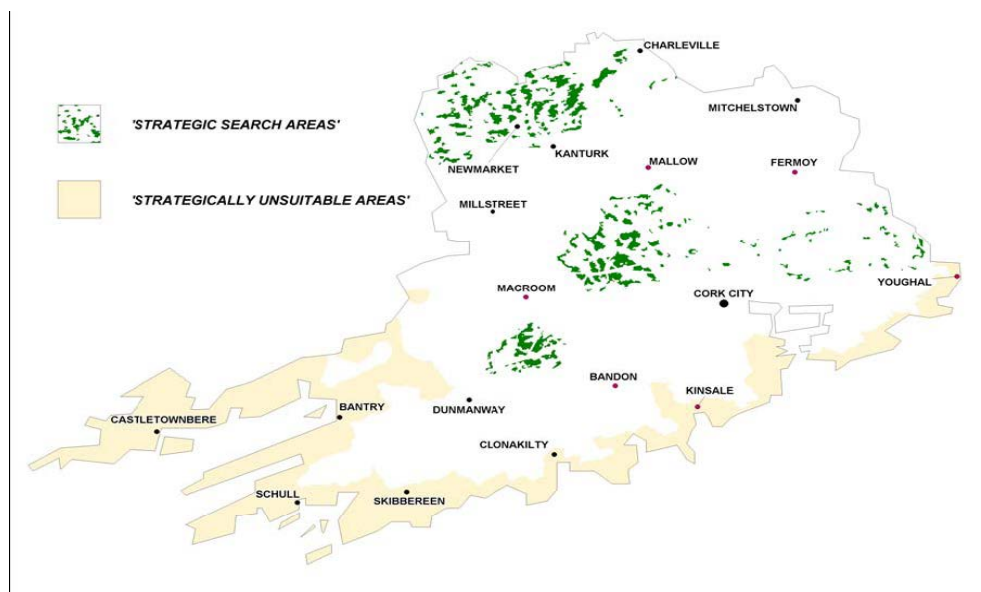


Figure 6.3: Strategic Wind Energy Areas

Strategic Search Areas: Areas which have both relatively high wind-speeds and relatively low landscape sensitivity to wind projects. Whilst not all locations within these areas would be suitable for wind projects they do give a strategic representation of generally preferred areas.

Strategically Unsuitable Areas. Areas which because of high landscape sensitivity, are considered generally to be unsuitable for wind energy projects. The Board will note that the subject site lies in neither described area.

7.1.3 The Plan also sets out that the identification of these areas does not give any certainty about the outcome of any particular wind energy proposal and, even within the strategic search areas, there will be particular constraints at individual sites. For example, within the identified search areas, important breeding and feeding grounds for rare and protected hen harriers can be found and these can be damaged or destroyed by inappropriate development.

7.1.4 INF 7-4 is the objective to encourage prospective wind energy businesses and industries. INF 7-4 deals specifically with Wind Energy Projects and provides that it is an objective of the council to encourage wind energy projects while avoiding strategically unsuitable areas identified in the plan. Part (c) of this policy deals with those areas that are identified as neither strategic search areas nor strategically unsuitable areas and provides that it is an objective in such areas to consider new, or the expansion of existing, wind energy projects on their merits having regard to normal planning criteria. The policy, provided in full in the appendix to this report, cites a number of planning criteria to be considered in this regard. Objective INF 7-5 deals with overhead power lines which are also considered relevant.

7.1.4 Chapter 7 of the County Development Plan deals with Heritage and Environment and the following policies are relevant in relation to the subject proposed development:

ENV 1-5: which deals with Natural Heritage Sites:

- ENV 1-8: which deals with Legally Protected Plant and Animal Species:
- ENV 1-9 which deals with Features of Natural Interest:

7.1.5 In relation to Landscape issues, the following policies are considered relevant:

- ENV 2-11: which deals with Scenic Routes:
- ENV 2-13: which deals with Development on Scenic Routes

7.1.6 Section 7.3 of the County Development Plan deals with Archaeological Heritage, and the following policies are considered relevant:

- ENV 3-1: which deals with Sites, Features and Objects of Archaeological Interest:
- ENV 3-2: which deals with Newly Discovered Archaeological Sites:
- ENV 3-3: which deals with Zones of Archaeological Protection:
- ENV 3-4: which deals with Archaeology and Infrastructure Schemes:

7.2 County Development Plan, 2014

7.2.1 Since the decision to grant planning permission for the proposed development, Cork County Council has adopted a new County Development Plan. The following is considered relevant in this instance:

7.2.2 The current development plan seeks to support the development of renewable energy projects. The subject site is located within an area identified as most likely to be suitable for the development of a wind energy project.

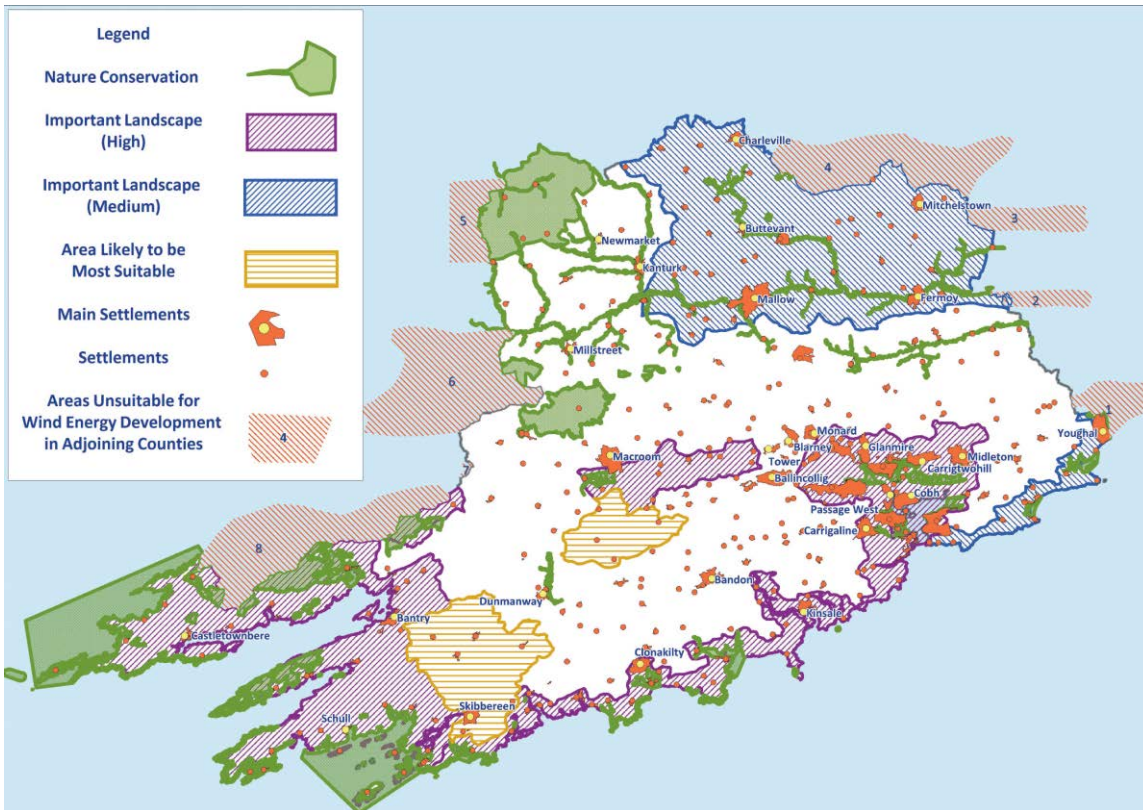


Figure 9.2 Policy Considerations for Wind Energy Projects

7.2.3 County Development Plan Objective ED 3-4: Acceptable In Principle states:

Commercial wind energy development is normally encouraged in these areas subject to protection of residential amenity particularly in respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives.’

7.3 National Policy

National policy on renewable energy has arisen primarily in response to international agreements, most particularly the UN Framework Convention on Climate Change and the Kyoto Protocol. Current government policy in relation to renewables is outlined in the National Climate Change Strategy 2007 – 2012 which highlights the need for a radical strategy to meet the climate change commitments made under Kyoto.

7.3.1 *Sustainable Development – A Strategy for Ireland*, includes emphasis on the use of renewable resources.

7.3.2 *The National Spatial Strategy 2002 – 2020*, states, “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aquaculture, 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).

7.3.3 *National Biodiversity Plan 2002*, was prepared in response to Article 6 of the Convention on Biological Diversity and ‘pays special attention to the need for the integration of the conservation and sustainable use of biological diversity into all relevant sectors.’

7.3.4 *Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development* - 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.

Chapter 6 of the draft 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 wind farm, its aesthetic impact on the landscape and the significance of that impact.

7.3.5 *South West Regional Planning Guidelines 2010-2022*

The vision of the RPGs is stated as follows:

“to maintain and develop a sustainable and competitive economy, optimise the quality of life of its residents and visitors, protect and enhance its unique environment, culture and heritage.

By 2022, the South West Region will be realising its economic potential and providing a high quality of life for its people by meeting

their employment and housing, educational and social needs in sustainable communities. At the same time it will reduce its impact on climate change and the environment, including savings in energy and water use and by strengthening the environmental quality of the Region.”

One of the key principles identified in the RPGs as underpinning this stated vision includes promoting the security of energy supply and the development of renewable energy in the region in a sustainable manner.

RKI-01 of the RPGs sets out the key planning and development issues facing the region, while Section 1.3.37 of the RPGs identifies that “wave and wind technologies are expected to play a significant part in meeting additional demand with excess renewably generated power being exported through an enhanced transmission grid to other regions within the State.”

Section 5.6.21 of the RPGs acknowledges that there is a growing network of wind powered electricity generators in both Cork and Kerry and significant potential exists for additional electricity generation by sustainable wind, wave and tidal energy sources.

Objective RTS-09 Energy and Renewable Energy, promotes the development of renewable energy resources in a sustainable manner. In particular development of wind farms shall be subject to:

- the Wind Energy Planning Guidelines
- consistency with proper planning and sustainable development
- criteria such as design and landscape planning, natural heritage,
- environmental and amenity considerations.

7.4 Wind Turbines Bill, 2012.

In the interests of presenting a complete consideration of legislative requirements, and for information purposes, I would refer the Board members to the above Bill which is currently with the Houses of the Oireachtas. This Bill seeks to provide clear guidance with regard to the minimum separation distances between residential properties and wind turbine generators. The minimum separation distances are determined by way of the overall height of the proposed turbines as follows:

- (4) If the height of the wind turbine generator is –
 - (a) greater than 25m, but does not exceed 50m, the minimum separation distance requirement is 500m;
 - (b) greater than 50m, but does not exceed 100m, the minimum separation distance requirement is 1,000m;
 - (c) greater than 100m, but does not exceed 150m, the minimum separation distance requirement is 1,500m;
 - (d) greater than 150m, the minimum separation distance requirement is 2,000m;

8.0 GROUNDS OF APPEAL

8.1 This is a third party appeal against the decision of Cork County Council to grant planning permission for the proposed development. The comprehensive document provides a number of enclosures in support of the appeal and the Board will note that there are 11 parties represented by the appeal. The specific grounds of appeal are summarised as follows:

- No convincing reason has been given for the enlargement of the substation in the context of the permitted turbine development. The present application only makes sense if it is being enlarged to facilitate multiple future wind farm connections of which no details have been presented. Evidence has been presented to indicate that this is the intention as reported in the Southern Star Newspaper, dated 10th January, 2014, where it is stated that the intended new substation is designed to facilitate connections from other potential wind farms up to 25km distant.
- Questions regarding the need for 10 year permission.
- An EIS is required but has not been submitted. The substation is an integral part of a yet to be built wind farm, being a wind farm which is subject to the mandatory EIA provisions.
- There are two further relevant planning applications pending decision with Cork County Council.
- The application is considered invalid as the ECJ has made it clear that there can be no piecemeal approval of elements of a larger EIA type development which when taken together would require EIA or AA.
- The AA submitted is limited and is wholly inadequate.

- The Board can place no reliance on the previous planning permission when considering the current proposal as it was granted under a procedure now seen to be unlawful.
- The true scope and extent of the project remains unknown
- Lack of clarity on whether this development is intended to replace and therefore make obsolete the previously permitted substation.
- Visual intrusion on the landscape.
- Lack of clarity on the necessity for a number of control buildings.
- Water and waste water demands.
- Impact of the development from an amenity point of view.
- Impact of the development on flora and fauna including birds.
- Level of excavation required to accommodate the development is a concern.
- There is no need either in terms of EU policy on renewables or in terms of national economic benefit for increasing the proportion of wind generation to the grid.
- Significant impacts will arise in terms of residential amenity.

Enclosures with the appeal document, beyond those considered mandatory, include as follows:

1. Southern Star Newspaper Article “Wind farm a second power-related blow to Lee Valley resident over 50 years on”.
2. High Court Judgement of Mr. Justice Michael Peart, *O Grianna & Others v An Bord Pleanala*, 12th December, 2014
3. High Court Judgement of Ms Justice Finlay Geoghegan, *Kelly v An Bord Pleanala*, 25th July 2014.

9.0 OBSERVERS

There are no observers noted in relation to this third party appeal.

10.0 RESPONSES

10.1 Planning Authority:

The Planning Authority has not responded to this appeal.

10.2 First Party Response to Third Party appeal:

The first party has responded to the third party appeal against the decision of Cork County Council to grant planning permission for the proposed development. The substantial document presents a background to the proposed development and a number of appendices. The response to the grounds of appeal is summarised as follows:

- The size of the proposed substation is as required by EirGrid which cannot be accommodated on the permitted site.
- It is not the intention of the applicant to facilitate the connection of multiple other wind farms to the national grid. Once built, the substation will be transferred to EirGrid and the applicant will have no control over future connections.
- Visual assessment concluded that the substation will not give rise to significant landscape and visual effects. The effects will be slight and localised in nature.
- Control buildings are required by EirGrid
- The fill requirement for the development of the site will be in the order of 5,625m² which will likely be sourced on site
- The 10 year permission is sought to enable the developer adequate time to complete the proposed development including having regard to the current application for a revised wind farm in the area.
- The application for the revised wind farm was accompanied by an EIS which considered the cumulative impact of the proposed wind farm, with that of the proposed substation. This has no bearing on the assessment of this application.
- A standalone permission for the substation provides a grid connection for the wind farm (either permitted or proposed) and provides the greatest flexibility to the relevant consenting authorities in their consideration of the proposal while ensuring that all impacts, including cumulative impacts, were considered appropriately.
- Pre application consultations with An Bord Pleanala determined that the substation does not constitute Strategic Infrastructure.
- In terms of EIA requirement, it is submitted that the proposed substation does not fall within the mandatory requirements for the production of an EIS. EIA screening must be undertaken by the competent authority.
- The proposed development is in line with EU, national and local energy policy.

- The reasoning for the separate stand alone applications has been advised. The EIS submitted with the application for the revised wind farm (PA ref 14/06760) includes an assessment of potential cumulative impacts including the proposed substation. This ensures that the overall impact of the various developments is fully considered.

11.0 ASSESSMENT:

11.1 The Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. The Board will note that an existing planning permission exists in the wider area for the construction of a wind energy project as well as the necessary substation to facilitate same. This current appeal seeks to relocate and enlarge this substation. In principle there is no real objection to this. However, I do have a number of concerns pertaining to the proposed development as follows:

1. Clarity in terms of the intended use of the substation and the conflicting information presented in this regard.
2. The fact that there are two concurrent planning applications currently with Cork County Council in relation to the overall wind energy development, one which relates to a complete redesign, layout and number of turbines proposed to replace the permitted 14 turbines on the site and a proposed access road. The Board will note the concerns of third parties relating to perceived project splitting.
3. Lack of comprehensive visual assessment of the proposed substation and the potential significant visual intrusion a grant of planning permission would represent.
4. Lack of details relating to water and waste water treatment and disposal facilities.

These matters are discussed below.

11.2 Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, I suggest that it is

appropriate to assess the proposed development under the following headings:

- Principle of the development
- Landscape/visual impact
- Residential Amenity
- Other Issues
- Necessity for EIS

11.3 Principle of Development

The Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. In this regard, I am satisfied that the principle of the proposed development has been established at this location and as such can be considered as being acceptable. That said, I note the relocated site presents certain issues and in particular, I have concerns regarding the visual impacts associated with the enlarged substation and the potential to affect the general amenities and the enjoyment of dwelling houses and of the surrounding rural environment of this area of Co. Cork.

11.4 Landscape/Visual Impact

11.4.1 Overall, there is no doubt that the visual impact of a wind energy project must be considered significant given the nature of the installation. Whether or not the impact is negative or positive is a matter of opinion. In addition to the turbines, the substation also has a potential impact and the Board will note that the proposed steel towers will rise to approximately 18m in height. While I acknowledge that this height is significantly lower than the overall height of the permitted turbines, in terms of the potential visual impact of the enlarged substation in the subject landscape, having regard to the gentle hilly, open and exposed nature of the landscape, I consider that the substation as currently proposed will be highly visible, compared to the permitted location. That said, the significance of the visual impact of the substation needs to be considered in the context of the surrounding landscape and the permitted development it supports.

11.4.2 The Environmental Report presents a landscape and visual impact assessment report, in accordance with the various guidelines, in support of the proposed development. The assessment was carried out using both a desk top study as well as site surveys. The landscape character of and in the vicinity of the identified study area is indicated, under the Draft Landscape Strategy for Cork, as a Landscape Type 10b: *Fissured Fertile Middleground*, with the following values:

Landscape Value:	Low
Landscape Sensitivity:	Low
Landscape Importance:	Local

The Type 10b landscape is described as ‘an elevated landscape which is fissured by fairly gentle slopes, with reasonably fertile agricultural land comprising a mosaic of small to medium sized fields with broadleaf hedgerows’, and a landscape character that ‘has characteristics of both flatter fertile farmland areas and the higher marginal hilly farmland’. The ER concluded that it is considered that the proposed substation will not give rise to significant landscape and visual effects. Instead the effects will be slight and localised in nature.

11.4.3 It is clear that the proposed development would be highly visible from a very wide and extended area and in particular, if permitted, the development would impart a notable change to landscape character at a very localised level. In terms of my consideration of the visual impact associated with the proposed enlarged substation at this location, I am mindful that the applicant has already secured, not only permission for a wind farm, but also, connection to the grid in proximity to the site. While I acknowledge this, it must be noted that the subject site is located within an area where there is a population of residents, and the visual impact of the proposed substation at the proposed alternative location will be present on the scenic routes in proximity to the site.

11.4.4 Where the ER and the visual impact assessment fails, in my opinion, is the absolute lack of any photomontage or a Zone of Theoretical Visibility as part of the overall visual impact assessment. In this regard, I would advise the Board that I have consulted the EIS (on-line) relating to the current application with Cork County Council for the proposed replacement wind

farm (PA ref 14/06760) and note that the substation the subject of this appeal appears not to have been included as part of that visual assessment either. Indeed, the current subject site is excluded from the Red Line site area of the application with Cork County Council. In this regard, I have a real concern that the overall assessment of this proposed substation is incomplete, and I consider that if permitted, the development would represent a significant visual intrusion in this landscape. In addition, I note the requirements for cutting in order to accommodate the proposed development which will compound the visual impact, in my opinion.

11.4.5 There are a number of residential properties in the vicinity of the subject site. Having regard to the topography of the area, which might reasonably be considered flat and hilly farmland, guidance is provided in the 2006 Wind Energy Guidelines. In this regard, it is stated “that the essential key here is one of rational order and simplicity, as well as respect for scale and human activities.” As such, and while acknowledging the planning history of the area and the presence of a wind farm to the east of the subject site, due regard must be given to houses and farmsteads. The ER, in my opinion, fails to really consider this potential of the visual impact to seriously affect the residential amenities of existing properties close to the site as required by the guidelines. I refer the Board to the ER relating to the Human Environment which makes very little reference to the visual impacts associated with the development. This is compounded by the lack of any visual aids to facilitate some assessment of the visual impacts on the houses in the vicinity.

11.4.6 I have a real concern that the introduction of such a significant industrial installation will dramatically alter the receiving wider landscape. The permitted location of the permitted substation has, in my opinion, a greater opportunity to be screened. Certainly at a more local level, the impact of the proposed substation development on the visual amenities of the area will be significant and negative in my opinion. While I acknowledge the submission and conclusions of the first party, I would not agree that proposed development represents an acceptable level of landscape and visual impact across the study area. I concur with the local residents who raise concerns in relation to the visual impacts associated with the proposed substation. I note the submission of the first party in response to the third party appeal that a full assessment of cumulative impacts has

been presented in the EIS for the proposed revised wind farm, but no details have been presented in support of this current proposal. Should the Board be minded to grant planning permission in this instance, I would consider it important that this information is provided by the first party in support of this proposed substation, having regard to my concerns raised above.

11.5 Residential Amenity

While the issue of visual impact has been discussed above, I would wish to state at this point that, notwithstanding the potential impact of the proposed development on the general visual impact of the area, it is my opinion that the substation, if permitted without a more detailed visual impact assessment to include visual aids, has the potential to have a significant visual impact on a number of houses in the vicinity of the site. It is generally considered by the first party, that while a certain level of visual intrusion at a small number of properties will occur, permission exists for the construction of a windfarm and substation in this area and this will be constructed should permission for the enlarged substation be refused. While it is appropriate and relevant to give weight to this issue, I consider that the proposed location and scale of the substation proposed here and on the site as indicated, will significantly and adversely impact upon the existing residential amenities of a number of houses and properties in this area.

11.6 Other Issues

11.6.1 As advised above, the Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. The Board will note that an existing planning permission exists in the wider area for the construction of a wind energy project as well as the necessary substation to facilitate same. This current appeal seeks to relocate and enlarge this substation. A number of concerns have been raised by the third party appellants which I consider reasonable to address in this assessment.

11.6.2 The Third Party appellant submits that there is a lack of clarity in terms of the intended use of the substation and the Board will note that there is conflicting information presented in this regard. The Third Party submitted

a newspaper article whereby it is advised that it is intended that the subject proposed substation will be used to facilitate other wind energy developments within 25km connecting to the national grid. I also acknowledge that once constructed, the first party will relinquish ownership of the substation and therefore, will have no further say on the future uses and expansion of same. The intention of the applicant is to construct the as permitted substation should permission be refused for the current proposal. Notwithstanding the submissions of the third parties, I accept the comments of the first party in this regard. While this may not be considered acceptable to the third parties, the Board will note that the Wind Energy Guidelines, 2006 note that 'Details of indicative and feasible options for grid interconnection lines and facilities should in general be adequate for a planning authority to consider a wind energy application as the precise capacity required for connection will not be known until planning permission is obtained.'

11.6.3 The third party appellant raises serious concerns regarding the fact that there are two concurrent planning applications currently with Cork County Council in relation to the overall wind energy development at this location. The two applications include one which relates to a complete redesign, layout and number of turbines proposed to replace the permitted 14 turbines on the site and the second relates to a proposed access road. The Board will note the concerns of third parties relating to perceived project splitting. I hold the same concerns in this regard.

11.6.4 I note from the submitted drawings that it is intended to provide for 3 no. control rooms on the site of the proposed substation. Each of these control rooms have WC facilities. The proposed development provides that water supply to the site will be via rainwater harvesting and the importation of water. No clear details in this regard have been provided. In addition, it is submitted that waste water will be managed by way of the provision of a sealed holding tank which will have a high level alarm linked to the on-site SCADA system. This tank will be maintained and emptied by a licenced contractor for off-site disposal. The submitted drawings indicate that two such tanks will be provided on the site, one each adjacent to Control Buildings A and B. I am satisfied that this issue can reasonably be addressed by way of a condition of permission should the Board be so minded to grant permission in this instance.

12.0 ENVIRONMENTAL IMPACT ASSESSMENT SCREENING:

12.1 It is a requirement under the EU Directive 2011/92/EU that member states ensure that a competent authority carries out an assessment of the environmental impacts of certain types of projects prior to development consent being given. This requirement is transposed into Irish Law under the Planning & Development Acts, 2000-2014 and the Planning & Development Regulations, 2001-2013. The preparation of an Environmental Impact Statement is compulsory for certain projects which fall within those classes of development as prescribed in Article 93 of and Schedule 5 to the Planning & Development Regulations 2001-2013.

12.2 Where a development is considered to be sub-threshold of those prescribed classes of development in Schedule 5, under the provisions of Article 103 of the P&D Regulations, an EIS can still be required to be prepared if it is considered that the development would be likely to have significant effects on the environment. In arriving at the decision, the competent authority is required to have regard to the criteria set out in Schedule 7 of the Regulations. The proposed development relates to the development of an 110kV substation associated with a wind energy project. Planning permission has been granted for the overall wind energy project and an Environmental Impact Statement was prepared in support of the original proposal. The current subject site comprised part of the study area associated with that EIS.

12.3 Category 21 of Schedule 5, Part 1 of the Planning and Development Regulations 2001, provides that an Environmental Impact Statement shall be prepared in respect of a planning application for the following development:

“Construction of overhead electrical power lines with a voltage of 220 kilovolts or more than a length of more than 15 kilometres.”

Clearly the proposed development does not fall within this class of development.

12.4 Category 3(i) of Schedule 5, Part 2 of the Planning and Development Regulations 2001, provides that an Environmental Impact Statement shall

be prepared in respect of a planning application for the following development:

“Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.”

I have considered this issue carefully and accept the findings of the Planning Authority in relation to the conclusion that while the proposed development is necessary to facilitate a wind energy development, the subject proposal of itself, is not energy generating as such. Rather the proposal relates to the facility used to transmit the power generated by the permitted turbines. In this regard, I am satisfied that an EIS is not required under this category.

- 12.5 Category 13 of Schedule 5, Part 2 of the Planning and Development Regulations 2001, relates to *changes, extensions, development and testing* which is considered relevant in terms of the subject proposal. Part (a) of this category provides as follows:

“Any change or extension of development which would:-

- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*
- (ii) result in an increase in size greater than –*
 - 25 per cent, or*
 - an amount equal to 50 per cent of the appropriate threshold.*

In this regard, the proposed development will not result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of Schedule 5 and therefore, I am satisfied that an EIS is not required under this category.

- 12.6 In light of the above, I am satisfied that the proposed development does not require a mandatory Environmental Impact Statement.

12.7 Schedule 7 of the Planning & Development Regulations sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environments. In terms of the overall wind energy project already permitted which includes the subject site, I consider that the following is relevant:

1. Characteristics of the proposed development:

The size of the proposed development is limited in terms of the overall study area associated with the wind farm.

In terms of the cumulation with other developments, the Board will note that a substation is necessary to support the permitted wind energy development. In EIA terms, the development is acceptable in this regard.

In terms of the use of natural resources, production of waste, pollution and nuisances and the risk of accidents, I consider that there is minimal difference between the permitted substation and that currently proposed in terms of EIA.

2. Location of the proposed development:

The subject site is currently used for agricultural purposes.

The development, if permitted, will have little impact on the abundance, quality and regenerative capacity of natural resources in the area.

The subject site is not located within any designated sites or within a landscape that is protected under legislation.

3. Characteristics of potential impacts:

The primary impact associated with the proposed development relates to the visual impacts. I have addressed this issue above in my assessment. I advise that the visual impact associated with the proposed development will require further consideration prior to a

decision issuing but acknowledge that the extent of same would not warrant the preparation of a full EIS.

There is no issue with the transfrontier nature, the magnitude or complexity of the impact.

The probability of the impact is unavoidable and will be continuous until such time that the substation is decommissioned.

13.0 APPROPRIATE ASSESSMENT:

13.1 The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

13.2 An Appropriate Assessment Screening Statement was presented to the planning authority as part of the planning documents, Appendix 2 of the Environmental Report. The appeal site is not located within or immediately adjacent to any Natura site. The Gearagh cSAC (Site Code 000108) and The Gearagh SPA (Site Code 004109) are located 6.7km and 6.8km to the north of the site respectively. The Bandon River cSAC (Site Code 002171) is located 10.8km to the south west of the subject site. The submitted AA identifies the conservation objectives of the Natura 2000 sites and assesses likely impacts of the development thereon.

13.3 The site the subject of this appeal itself can be considered a greenfield rural site. Given that there are Natura 2000 sites located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified SPAs and cSACs. The site must

be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

- 13.4 Having considered a number of potential significance indicators which have regard to any potential or likely effects of the proposed development on the on-site habitats, together with the habitats so protected under the designated SACs within 15km of the subject site, it is clear that the potential impact associated with the proposed development relates to the deterioration of water quality, which could have an indirect effect on the species and habitats that occur within the cSAC. That said, I consider that, given the scale of the proposed development, together with the distance between the site and the cSACs, the proposed development is unlikely to have an impact on the Natura 2000 sites within the 15km of the site. I am of the opinion therefore, that the development, if permitted, is likely to have little or no impact on the proximate Natura 2000 site. Invoking Article 28 and seeking the comments of the NPWS, is unnecessary in my opinion.
- 13.5 The AA screening report submitted determined that a full AA was not required, as the subject site is located at a distance from any designated sites and that no significant impact on designated habitats is expected to occur. The Planning Authority have considered and agreed with this conclusion.
- 13.6 The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. Having regard to information provided, and in terms of screening for AA, I conclude that the proposed development would not be likely to have a significant effect on any Natura site and that there is therefore no requirement for stage 2 Appropriate Assessment.

14.0 CONCLUSION & RECOMMENDATION

14.1 Conclusion:

14.1.1 Having regard to the information submitted in support of the application together with all reports and third party submission, and the requirements of the Cork County Development Plan 2014, the planning history of the site and general area and having regard to the nature of the proposed development, I am satisfied that the proposed development can be considered as being acceptable in principle.

14.1.2 Notwithstanding the above, I do have a real concern regarding the scale of the proposed substation development at this proposed revised site. I consider that the development would represent a significant industrial installation in a very exposed site and would exist in a rural, but well-populated, particularly in terms of visual impact and certain residential amenity impacts. I further consider that a full and robust visual impact assessment has not been undertaken to fully assess the proposed development and its potentially significant visual impacts in this landscape. I consider that the development of the substation as currently proposed on this site, would substantially dominate the surrounding landscape and in my opinion, would be contrary to the provisions of The Department of Environment Heritage and Local Government Planning Guidelines for Wind Energy (June 2006). In this regard, I consider that the development, if permitted at this location, would adversely impact upon the visual amenities of the area, warranting refusal.

14.1.3 I have also indicated concern in my assessment in relation to the perception of project splitting having regard to the concurrent planning applications currently with Cork County Council.

14.2 Recommendation:

Having considered the contents of the submitted planning application including the Environmental Report and all specialist reports contained therein, the planning history associated with the subject site, the decision of the planning authority, the provisions of the Cork County Development Plan, the provisions of the Wind Energy Development Guidelines (DOEHLG 2006) the grounds of appeal and the response thereto, my site inspection and my assessment of the planning issues, I recommend that permission be refused for the reasons set out hereunder:

REASONS AND CONSIDERATIONS

- 1 Having regard to the information submissions made in connection with the appeal together to the nature of the proposed development, together with the concurrent applications currently under consideration by the Planning Authority, the Board is concerned that a grant of planning permission in this instance would amount to project splitting of the overall wind energy project in the area. The proposed development would therefore be contrary to the proper planning and development of the area.

2. It is the stated objective of the current Cork County Development Plan, 2014, Objective ED 3-4, to consider the protection of residential amenity in respect of visual impacts. Having regard to the nature of the receiving landscape and the open nature of the adjoining lands, it is considered that substation development of the scale proposed, and having regard to the lack of detailed visual aids to the contrary, would create a significant visual intrusion in this landscape by reason of the height and spatial extent of the proposed substation which would be excessively dominant and visually obtrusive in the receiving landscape and when viewed from the surrounding countryside. The proposed substation development would, therefore, seriously injure the visual amenities of the area, would be contrary to the provisions of The Department of Environment Heritage and Local Government Planning Guidelines for Wind Energy (June 2006), the objectives of the County Development Plan, 2014 and would be contrary to the proper planning and sustainable development of the area.

A. Considine,
Planning Inspector.
19th May, 2015