



An Bord Pleanála

Inspector's Report

Development: Construction of a five turbine windfarm at Derrykillew, Ballyshannon, Donegal P.O., Co. Donegal

Planning Application

Planning Authority: Donegal County Council

Planning Authority Reg. Ref.: 14/51400

Applicant: Derrykillew Community Windfarm Ltd

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Derrykillew Community Windfarm Ltd.

Type of Appeal: 1st Party

Observers: None

Date of Site Inspection: 16/09/2015 and 17/09/2015

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 I refer the Bord to Section 2 and Section 5.4 of the submitted Environmental Impact Statement, which gives a comprehensive description of the subject site and the surrounding area.
- 1.2 The site is located in the townland of Derrykilleg, approximately 7km east of Ballyshannon, Co. Donegal and approximately 1800 metres from Belleek, Co. Fermanagh. The site is located within County Donegal but is approximately 500 metres from the border with Northern Ireland.
- 1.3 The stated area of the landholding is 216 hectares with the site ranging in elevation from 80m to 120m OD (Malin Head). It is bisected by the local road L7825-2. This is a rural area and the site is primarily comprised of peatland and commercial forestry. The site is bordered by Coillte plots to the north. Turf cutting has taken place on the lands with turf banks evident. A small number of one-off dwellings are evident in the vicinity. Doo Lough Lower, consisting of two distinct lakes are located within the site area.

2.0 PROPOSED DEVELOPMENT

- 2.1 The Bord is referred to Section Two of the EIS, which gives a comprehensive description of the development proposed. In summary, the original application included for the construction of five turbines with overall heights not exceeding 150m, together with hardstandings, a 38kv substation, an electrical compound with grid system services equipment, a grid connection (approximately 3.1km in total length consisting of 2.85km underground cable and 0.25km overhead line) along the public road network to Cliff 110kV generating station, a wastewater holding tank, temporary construction compound, upgraded access roads, associated site roads, drainage and site works

- 2.2 An Environmental Impact Statement (EIS) accompanies this application. A revised EIS was submitted with the appeal. It is the revised EIS that I am assessing in this report.
- 2.3 A duration for 10 years is being sought for any planning permission issued on foot of this application. An operational lifetime of 25 years is being sought for the proposed wind farm, plus a three year construction/commissioning period and a 2 year decommissioning period.
- 2.4 Within the appeal submission, a height reduction of the turbines is proposed from 150m blade tip height to 136m blade tip height, with a 79.5m hub height.
- 2.5 The exact turbine model to be used for the project will not be decided until the applicant engages in the turbine procurement process. The turbine type selected will be submitted to the planning authority prior to the commencement of development. It is stated that each turbine will be three-bladed and that turbines and associated transformers will all be painted in a light matt grey to minimise reflection of sunlight.
- 2.6 With regards grid connection, the development will connect into Cliff 110kV generating station just over 2km southwest of the site. All on-site cabling between turbines and on site 38kV substation will be underground. The proposed grid connection cable route will be installed underground for 2.85km using a conventional trench and 250m of overhead line, both designed to ESB Network's Specification. The proposed route runs adjacent to existing public roads for most of its length outside the windfarm site. It is stated that the Cliff 110kV station has capacity to accept electricity from the proposed windfarm.
- 2.7 Accompanying documents include:
- Revised Environmental Impact Statement- dated July 2015
 - Environmental Impact Statement- dated November 2014
 - Screening Report for Appropriate Assessment

- Haul Route Assessment Report
- Outline Pollution Contingency Plan
- Environmental Management Plan
- Water Quality Management Plan
- Ecology, Outline Habitat Management Plan
- Bat Survey Results
- Soils, Geology and Hydrology
- Noise Monitoring data
- Shadow Flicker data
- 38kv Underground Cable Outline CMS

3.0 PLANNING AUTHORITY'S DECISION

3.1 Planning permission REFUSED for three no. reasons related to:

- (1) Having regard to the (a) absence of fully completed bat and bird surveys for application site (b) fact that habitat surveys were conducted outside of the optimum time for flowering plants (c) inappropriate proposal to curtail the operation of Turbine T4 for a limited period to reduce potential impacts on protected bat species and (d) absence of any detailed assessment on potential environmental impacts of proposed grid connection, the planning authority considered that the EIA and Screening statement for appropriate assessment submitted are deficient in terms of content and do not definitively demonstrate that the proposed development not have significant adverse impact on protected habitats and species
- (2) Unacceptable visual impact on landscape character and visual amenity of a trans boundary state, in particular on the Lower Lough Erne and Croagh & Garvary River Landscape Character Areas
- (3) Planning Authority not satisfied that a safe haul route for turbine components can be provided to access the subject site-prejudicial to traffic safety.

4.0 TECHNICAL REPORTS

Planner's Report

The report generally reflects the decision of the Planning Authority.

An Appropriate Assessment Screening for the Purposes of Article 6 of the Habitats Directive has been undertaken as an addendum to the Planner's report. This assessment concludes by stating that an appropriate assessment of the development is required as it cannot be excluded on the basis of the objective scientific information that the proposed development would have a significant effect on any Natura 2000 site.

Prescribed Bodies:

Department of Arts, Heritage and the Gaeltacht (23/01/2015)

- Noted that the proposed development is not situated within any lands designated SPA, SAC or NHA
- However it is noted that the proposed development is situated immediately adjacent to the Lough Golagh and Breesy Hill SAC (Ref. 002164)
- Due to the location and nature of the development it is their opinion that the proposal has the potential to significantly impact on a number of habitats and species mentioned in the EU Habitats Directive (92/43/EEC), the EU Birds Directive (79/409/EEC) and protected under Wildlife Acts 1976-2010
- Is of the view that the proposed development could damage/destroy an area of heath/bog habitat; could damage/destroy freshwater habitat and species in the River Erne catchment including otter; could significantly damage/destroy the habitat of Marsh Fritillary; could disturb populations of breeding and migratory bird species; could significantly damage/destroy populations of terrestrial mammals

- Potential impacts have been outlined

Information submitted does not allay the Department's concerns in relation to:

- Final decision should not be made in relation to this project until full bird surveys have been completed and assessed and full consideration given to the possible displacement of wintering and breeding birds, the risk of interference with bird flightlines and the risk of bird strike, and the impact to bat species
- Further recommends that the level of survey in relation to birds should closely conform to international best practice standards
- Habitat surveys were conducted outside the optimum time for flowering plants- not satisfied that all rare and protected flora that may occur at the proposed development would be detected at this time of year
- Recommends that the Northern Ireland Environment Agency (NIEA) is consulted in relation to the potential for transboundary impacts from the proposed development
- The EIA and Screening Statement for Appropriate Assessment do not consider the potential impacts of the grid connection of the project, in particular the potential impacts on ecology, including European Sites outside of the landholding boundary
- Recommends that the Surface Water Management Plan, referred to in EIS is reviewed and approved by a suitably qualified ecologist
- Recommends that the timeframe for examination of the Tullybaradair River and un-named watercourse should be determined by a suitably qualified ecologist and not the NPWS
- Additional information should be requested to address the concerns outlined above

Coillte

Consent given to the location of turbines within 260m of Coillte's site boundary

NRA

Conditions attached

An Taisce

The development of this site for wind energy needs to be justified on the basis of appropriate national, regional and local authority area strategies for wind energy development to ensure optimum site selection, while similarly avoiding locations with significant adverse impacts on ecology, significant landscapes and residential amenity.

Inland Fisheries Ireland

Recommendations made, conditions attached

Transboundary Consultations:

Department of the Environment (report dated 21/04/2015)

Two landscape character areas (LCAs) in particular would be affected by this proposal

LCA2 Lower Lough Erne- Supplementary Planning Guidance (SPG) advises that development in southern County Donegal could significantly damage the character of the LCA, which is considered to have a character and special qualities which could easily be affected by inappropriate wind energy development. Cumulative impacts should also be carefully considered. Overall sensitivity to wind energy development is deemed to be 'High'

LCA3 Croagh and Garvary River- This small LCA is largely open in character- characterised by small loughs and knolls with a strong wild character. The SPG advises that 'transboundary issues might arise if

there was any windfarm development in adjoining areas of County Donegal such as around Bressy Hill or Bradlieve Mountain to the west'. The SPG also advises that particular care should be taken to avoid adverse impacts on views from Lower Lough Erne or the Cliffs of Magho.

The Department is of the view that the Derrykillew proposal would have significant adverse impact on the landscape character and visual amenity of both of these features by way of the number, scale, size and setting of the turbines. Overall sensitivity to wind energy development is deemed 'high'

The Department would have serious concerns in particular regarding the height of the proposed turbines. The setting of Lower Lough Erne is a very important consideration in the landscape of this part of Fermanagh and its tourism appeal and there are concerns that the proposal could adversely impact on the landscape character areas identified above.

As is currently proposed, the Department considers that the proposal has an unacceptable adverse impact on the landscape character and visual amenity of the locality in Northern Ireland, through the number, scale, size and siting of the turbines.

Enniskillen Airport

No objections, subject to condition

Fermanagh District Council- Environmental Health Department

Recommended conditions attached

Loughs Agency

No comment

Rivers Agency

Not envisaged that the proposed development will impact on flood risk in Northern Ireland

Dept. of Culture, Arts and Leisure- Inland Fisheries

Comments noted in relation to small watercourse adjacent to eastern boundary of proposed site, which has the potential for supporting juvenile fish populations; potential impacts on Keenaghan Lough which is a DCAL Public Angling Estate; and potential impacts for the Garvary River catchment and salmonid populations.

NIEA- Water Management Unit

Conditions recommended in relation to control of emissions; submission of method statement; details of mitigation measures and work practices

NIEA- Historic Monuments Unit

Proposal acceptable on archaeological grounds

NIEA- Natural Environment Division

No objection, conditions attached regarding timing of construction works

Concur with the conclusion of the EIS that, based on bird surveys around the project site, the proposed wind farm is unlikely to impact on the integrity of Pettigoe Plateau SPA.

The development area is not of outstanding importance for foraging by birds of prey of conservation concern breeding within Northern Ireland.

Acknowledges that EIS conclusion that the risk of collision to individual bats will be low and will not represent a significant risk to the future conservation status of populations of bat in the surrounding area

RSPB

Outlines issues in relation to vantage point locations utilised

Recommends mitigation measures to protect birds from disturbance during breeding season

Transportni

Concerns expressed regarding the haulage route for abnormal loads and particularly relating to the proposed alterations to Gaol Square, Enniskillen. They advise that the applicant consider an alternative route for turbine component deliveries such as the Port of Killybegs.

Further plans are required

5.0 APPEAL GROUNDS

5.1 The appeal submitted on behalf of the first party may be summarised as follows:

- Outlines context of development and details of pre-planning discussions
- In response to issue of absence of fully completed bat and bird surveys, states that Doherty Environmental was appointed to continue bat and bird surveys beyond the date of lodgement of the application, in order to obtain a full year of bat and bird survey results
- Results of full year of surveys are now been included in amended Chapter 5 of EIS
- Additional over-wintering bird surveys recorded low levels of activity of sensitive target species at or in the vicinity of the proposed wind farm- one flight line of a pair of whooper swans was recorded in Jan 2015, one flight of a pair of wigeon in Feb

2015 and two flight lines of individual male red grouse were recorded.

- Additional bat surveys undertaken in 2015 concentrated on surveying activity at the height of the bat activity season in late June 2015- results were dominated by pipistrelle species
- The results of the full year bat and bird surveys do not change the level of impact determined in the original EIS that accompanied the planning application- level of impact was determined as not significant

5.2 In relation to the assertion that the habitat surveys were conducted outside of the optimum time for flowering plants

- Outlines dates that surveys were undertaken
- Results of habitat and flora surveys at proposed site recorded a suite of commonly occurring species typical of peatland and grassland habitats
- Habitat survey of the grid connection route was undertaken on June 23rd and July 1st 2015- characterised by roadside grassy verges, hedgerows and treelines supporting commonly occurring species
- Habitat surveys undertaken in accordance with the Heritage Council Draft Best Practice Guidance for Habitat Survey and Mapping (Smith et al, 2011)
- A number of guidance documents referred to. The UK Joint Nature Conservation Committee recommends monitoring at blanket bogs take place between March and September and for wet heath between April and June. In light of the above, it is considered that previous and current habitat surveys have been undertaken within the optimum period for the surveying of peatland habitats

5.3 In relation to the assertion regarding the inappropriate proposal to curtail the operation of Turbine T4 for a limited period to reduce potential impacts on protected bats, it is stated that

- Outlines details of proposed curtailment
- Increasing cut-in speeds of wind turbines is frequently recommended as a measure to mitigate the potential for bat fatalities at wind farm sites- aims to significantly reduce potential interactions between bats and rotating turbine blades
- Rationale is based on known bat flight behaviour
- Refers to a number of studies which suggest that an increase in the cut-in speed of the turbine, thereby reducing the operation of the turbine at low wind speeds, have resulted in a significant reduction in the bat mortality at study sites
- Use of increased cut-in speeds, as well as ongoing operational phase monitoring, as a measure to mitigate the potential for bat fatalities at wind energy developments is currently included as a mitigation measure in the draft EuroBats Guidelines for Consideration of bat in Wind farm Project- revision 2014. Have also been recommended and accepted in previous wind energy application in both Ireland and UK- cites examples of same
- Outlines measures proposed to mitigate impacts on bats at this proposed windfarm including the establishment of a minimum 50m buffer distance from the nearest bat habitat features; altering of operating regime of turbines; together with pre-operational and operational monitoring

5.4 In relation to assertion that there was an absence of any detailed assessment of potential environmental impacts of proposed grid connection, it is stated that:

- The application was lodged prior to the judicial review decision in relation to the Pol O’Grianna and Others V An Bord Pleanala
- Outlines details of the proposed grid connection cable route
- EIA studies were extended to cover the grid connection and the EIS was revised- accompanies this appeal. Screening for Appropriate Assessment was also carried out
- In light of the findings of the Screening for Appropriate Assessment, it is concluded that the project will not have the potential for any significant negative effect on Lough Golagh and Bressy Hill cSAC, Pettigoe Plateau SPA, Donegal Bay or Durnesh Lough SPA and will not negatively affect the conservation objectives or integrity of these European sites.
- Full assessment of grid connection contained in Appendix A of updated EIS

5.5 In relation to reason for refusal No. 2, the appellants respond as follows:

- Challenges the reference to ‘high’ sensitivity of LCAs in Northern Ireland
- Proposal amended to reduce height of turbines from 150m blade tip height to 136m with a 79.5m hub height
- Height reduction noticeably reduces the visual prominence and related landscape and visual effects as shown in new VPRs- also important to note that viewpoints were selected to show maximum turbine visibility

- Turbines of the height proposed are essential for economic viability of the project given the relatively lower wind speed and fewer turbine numbers than an average commercial wind farm
- Cites examples of previous permissions in the general area
- Proposed turbines are compliant with suggested acceptable locations for turbines in both LCA descriptions
- Draft Landscape Character Assessment for Co. Donegal 2015 does not preclude wind energy development in the site specific LCA 44 River Erne Lowlands or adjacent Co. Donegal LCAs- CDP also has policies that favour community groups developing wind projects
- In Northern Ireland landscape is but one issue that has to be balanced with other material considerations under PPS18
- Proposed turbines will not necessarily have an unacceptable visual effect on the landscape character of the wider area or the recipient LCAs

5.6 In response to reason No. 3, the following is noted:

- Revised Haul Route Assessment has been prepared for turbines with a rotor diameter of up to 120m (ie blade length of up to 60m)- see Appendix B of updated EIS
- Outlines revised route
- All works required on the route have been identified- any additional minor works will be identified in advance with appointed haulage contractor- will be agreed in advance with Road Service Northern Ireland in advance

6.0 OBSERVERS

None

7.0 RESPONSES

7.1 A response to the appeal was received from the Department of the Environment, Strategic Planning Division, Belfast which reiterates many of the points previously made. Additional points may be summarised as follows:

- Includes LCA Map
- Outlines policy structure in NI- policy for renewable energy currently based on Planning Policy Statement 18 (PPS), which is accompanied by Best Practice Guidance (BPG) and Supplementary Planning Guidance (SPG) which advised on sensitivity of landscapes in NI to accommodate wind energy developments- PPS does not differentiate between designated and other landscapes- receiving landscape in NI is not designated
- Fermanagh is famous for its lakelands and outlines characteristics of same- SPG advised of issues that need careful consideration including impacts on landscape character and skyline; recreational features; impacts on wild character and cumulative impacts
- Accepted that the Cliffs of Magho restrict visibility to the south- landscapes to the north of the cliffs in LCA2 and 3 are important in terms of Fermanagh and Lower Lough Erne
- Para 7.7.3 of the appellant's NTS accepts that there will be a moderate to major landscape effect on the LCA adjacent to the site as they are considered to have high landscape sensitivity to wind energy development in the SPG

- Reduction in height from 150m to 136m makes little difference in terms of overall theoretical visibility with regards impacts on Northern Ireland
- NTS further advises that Viewpoint (VP) 07B will have major effects on the Magho Cliffs- acknowledged as one of the two most important viewpoints in the entire study area
- Accepts that turbines of 125m in height have been approved across NI including within designated landscapes- this blanket approach is not currently supported by renewable energy planning policy in NI- should be assessed on case by case basis and advice and guidance provided for all 130 LCAS
- With regards 6 revised photomontages submitted by appellant, 4 are within NI.
- Do not accept that that the impacts on VP7A are moderate in this locality along the A46 due to the high sensitivity of the landscape
- Impacts from VP7b- considers that the impacts on the landscape character from this location would be significantly adverse in landscape and visual amenity terms
- Impacts from VP10-deciduous vegetation- even at reduced height of 136m, the turbines will still dominate above such vegetation and their moving blades will draw attention and detract from landscape quality
- Impacts from VP13- significant change that is considered out of scale with immediate landscape along this route- will overwhelm the modest scale features from Cane's Turn to Belleek- will represent a significant visual change in this locality
- Considers that reduction in height to 136m does little to lessen the impact of the proposal

- While visibility is restricted to a relatively small land area in LCAs 2 and 3, it is nevertheless a very distinctive and sensitive location also containing a large area of open water that is an important landscape and tourism resource for NI
- Turbines of this scale and dominance have the potential to have significant adverse impacts on the sensitive landscapes of this part of NI
- Unlikely that many of the wider benefits arising from the proposed windfarm would filter into NI, however the sensitive landscapes in this part of NI would experience negative impacts in terms of landscape character and visual amenity
- Single turbines approved in LCAs 2 and 3 are at least 60% smaller in scale than those proposed and are therefore much less dominant in scale alone
- Notes that updated EIS continues to refer to 150m turbines throughout, their comments are made in relation to revised proposal of 136m high turbines and the revised visuals

7.2 The appeal response from the Department of the Environment, NI also includes a revised report from transportni which may be summarised as follows:

- Proposed haulage route would be acceptable with mitigation measures proposed
- Advises that in relation to proposed access point of A47, majority of their requested detail have not been depicted on revised drawing- conditions attached

7.3 A response was received from the planning authority on 13/11/15 in which no new issues were raised.

7.4 A response to the above was received on behalf of the first party on 16/11/15 and may be summarised as follows:

- With regards response to submission from transportni, DCAN 15 Vehicular Access Standards states that the minimum setback distance is normally 2.4m for access with traffic flow up to 60 vehicles per day(vpd) - was assumed that a 3m setback distance would suffice as, even at the height of constriction period, traffic volumes are unlikely to reach 60vpd
- Entrance point off A47 will be a temporary access point, used only during construction phase and rarely during operational phase- detail requested by transportni has been applied to Drawing No. 5148/FI/100 submitted
- Construction traffic access route outlined in Drawing 5148/FI /102 submitted- all construction traffic will access wind farm site using new access point off the A47- a TMP will be agreed prior to commencement of construction with relevant authorities

Response to Strategic Planning Division submission prepared by Canavan Associates and may be summarised as follows:

- Rebuttal of many of the points made by the Department of the Environment, NI
- Landscape zonings are not designated zonings and are non - statutory classifications that proffer guidance- Fermanagh in totality is not a special landscape in this SPG context- neither is it designated as such
- In relation to VPR7A- vegetation is dense and likely to be difficult to view through in most seasons- proved difficult to find a roadside viewpoint along A46 with views over Lower Lough Erne towards proposed site- where viewpoints were found not all turbines are visible with generally only lower portions visible- roadside vegetation therefore mitigates against actual visibility
- VPR7B- actual view is not accessible by vehicle rather a steep climb to over 250m elevation- this view only available to able

bodied recreational users- much of the visible area in E and SE Donegal is designated as an acceptable landscape for wind energy by virtue of the 'open for consideration' designation for wind energy developments

- VRP10- 3 turbines hidden and partly hidden by vegetation- road users travelling east would not have views of proposed wind farm- Lower Lough Erne has quite considerable movement with boating traffic
- VRP13- close range view- community supported development- dwellings are adequately setback from individual turbines- Belleek pottery museum is unlikely to be adversely affected as it is within a settlement where potential visibility will be obstructed by the built environment- within area designated in Co. Donegal for such development- views will not be available for road users travelling east along A47 from Belleek
- Referred 2 LCAs in west County Fermanagh are not within an actual designed AONB, albeit there has been a long standing proposal for such a statutory designation- NI authorities have declined to enact such designation
- No prohibition of wind turbines in LCAs in Co. Fermanagh and it would be administratively unfair of the DoENI to now contend that a wind farm in nearby Co. Donegal is unacceptable
- Area located in an 'Area Open for Consideration' as indicated on Map 9 of CDP- within such an area, "appropriate community wind turbine(s)" are also acceptable- material consideration in assessment of appeal
- Outlines a number of planning appeals in NI that have argued that there would be leakage benefits to Ireland- argues reciprocation of these benefits- argues that there will be direct social and economic benefits on both sides of the border for the

life time of the project- outlines letter from Nordex, one of the turbine suppliers that the proposed windfarm has engaged with- based in Omagh- All Ireland Grid system with major connectors proposed- considered in an All Ireland context and not solely for one jurisdiction or another

- Outlines benefits to both jurisdictions of proposed development
- Project is not in NI and cannot be decided based on NI planning policy or guidance- ABP has only to have regard to the views of the of the transboundary authority
- Outlines current legislation in relation to views of transboundary states
- Transboundary consultations were undertaken by way of informal consultation between PA and DoENi during first phase of review of CDP
- Outlines appeal PL05E.242411 which is cited as precedent

8.0 PLANNING HISTORY

No recent relevant history

Previous application for similar type development (Ref. 14/50394)
WITHDRAWN

9.0 DEVELOPMENT PLAN

The operative Development Plan is the Donegal County Development Plan 2012-2018

The subject site is located within an area 'open for consideration' for wind farm development.

These areas are open to consideration for appropriate wind energy proposals. They have been identified having regard to a range of factors, including wind energy potential (through the wind speed atlas www.seai.ie), existing grid connections, proposed grid connections, natural heritage designations and landscape sensitivity, the road infrastructure is adequate and where likely conflict with natural heritage designations can be protected. Islands with communities have also been included to enable consideration to be given to appropriate community wind turbine(s) and as a consequence encourage self-sufficiency.

Chapter 7 Natural Resource Development

ED-O-10: To maximise the appropriate development of the county's renewable energy resources and to support and facilitate the creation of a sustainable local renewable energy market place in Donegal from where local wind and marine energy operators can transport, store, trade and export their "local renewable energy product" to domestic and non-domestic markets subject to environmental designations and amenity considerations.

E-P-2: It is a policy of the Council to facilitate the appropriate development of renewable energy from a variety of sources, including wind, wave, tide, biofuel, biogas, solar power, geothermal, hydro and the storage of water as a renewable kinetic energy resource, in accordance all relevant material considerations and the proper planning and sustainable development of the area.

E-P-11: It is the policy of the Council to:

(1) Facilitate the development of appropriate wind energy proposals in the "Area Open to Consideration" as identified on the Wind Energy Map No. 9,

E-P-13: It is a policy of the Council to encourage the development of community windfarms/ cooperatives/ autoproduction to enable communities to generate their own electricity, income and to sell surplus back to the grid, in accordance with other policies of this Plan and the proper planning and sustainable development of the area.

10.6 Wind Energy

County Donegal Landscape Character Assessment 2014 (draft)

- Site located within LCA 42- Lough Derg Uplands while the Cliff Substation is located within LCA44- River Erne Lowlands.

Wind Energy Development Guidelines for Planning Authorities 2006 (DoEHLG)

These Guidelines supersede the previous Wind Farm Guidelines (1996). The guidelines address the following issues: -

- The need to identify suitable areas in development plans;
- Making and assessment of planning applications, including suggested conditions;
- The siting and design of wind farms including advice for different types of landscapes. Visual impact is among the more important considerations and advice is given on spatial extent, spacing, cumulative effect, layout and height. There is an emphasis on the distinctiveness of landscapes and their sensitivity to absorbing different types of development;
- Environmental considerations such as the impact on habitats and birds and the need for habitat management. It is noted that designation of an area of natural and cultural heritage does not in itself preclude development, unless it is judged to be such that it would impact on the integrity of such sites and their natural heritage interests;
- The need for information on the underlying geology of the area including a geotechnical assessment of bedrock and slope stability

and the risk of bog burst or landslide. Geological consultants should be employed to ensure that sufficient information is submitted.

- Other impacts on human beings such as noise and shadow flicker.

10.0 ENVIRONMENTAL IMPACT ASSESSMENT

10.1 The attention of the Bord is drawn to the fact that a revised EIS was submitted with the appeal documentation as the original submitted to the planning authority did not include for the proposed grid connection. Article 94 and Schedule 6 of the Planning and Development Regulations 2001 sets out the information to be contained in an EIS and in my opinion, the revised EIS documentation accompanying the application technically accords with the said details, with the subjects to be addressed set out therein. It is the revised EIS received with the appeal submission which is being examined within this report and any reference to the EIS relates to this revised document. Section 1 of the EIS comprises the *non-technical summary*, which is included as a preface to the main document.

10.2 **Section 1** of the EIS is an *Introduction*. It describes the perceived need for the development, the planning history for the lands and applicable legislation and policy. It outlines project predictions, format and methodology of the EIS, the personnel involved in its preparation, together with the limited details of the promoters of the proposed development.

10.3 **Section 2** of the EIS is the *Project Description*, with this section focusing on a site description; duration of permission; reference to designated areas of conservation, together with planning context. This Section also examines existing land use, alternatives considered, details of the finalised project and drainage design.

10.4 **Section 3** of the EIS is a description of the *Post-Planning Stages* which outlines a construction programme; an overview of construction

methodology; machinery and labour to be used during construction; temporary site facilities; construction materials; peat management; site management and habitat enhancement; commissioning and decommissioning details.

- 10.5 **Section 4** of the EIS relates to *Human Beings*. It examines the existing environment, the potential impact of the development, together with mitigation measures. Concludes that there are likely to be no significant impacts to human beings.
- 10.6 **Section 5** relates to *Flora, Fauna and Fisheries*. The stated purpose of this assessment is to identify habitats of the site; identify existing fauna of the site; identify potential impacts of proposed development; recommend mitigation measures and identify any residual impacts to the site's ecology. The methodology used is identified, including details of habitats surveys conducted and bat and bird surveys.
- 10.7 This Section concludes that the proposed site is not subject to any statutory nature conservation designations. It is dominated by low quality coniferous plantation with relatively discrete areas of wet heath and blanket bog occurring. The blanket bog habitat occurring within the site is representative of EU Habitats Directive Annex I habitat active blanket bog. The proposed wind farm layout will not overlay this example of active blanket bog.
- 10.8 Potential negative impacts relate to habitat loss and perturbations to water quality and protected Annex II aquatic species downstream of the proposed site. In the absence of mitigation, a risk has been identified to Soprano pipistrelles roosting at a farmstead in the vicinity of T4. Management proposals for surface water drainage and slope stability have been put forward together with mitigation measures for the roosting bats.

- 10.9 **Section 6** of the EIS relates to *Soils, Geology and Hydrology (with PSRA)*. This Section sets out the methodology used; details of the receiving environment; potential impacts of the development; residual impacts; mitigation measures proposed and monitoring details. Concludes that the proposed development has been assessed on aspects of soils, geology and surface water and is deemed to present no adverse scenarios to the local environment, as outlined, should compliance with construction mitigation measures and recommendations be maintained.
- 10.10 **Section 7** of the EIS relates to *Air Quality*. It examines the existing environment, potential impacts of the development and mitigation measures proposed. It states that air quality around the site is good. It concludes that the proposed development will contribute to a long-term positive impact in terms of air quality and climate.
- 10.11 **Section 8** of the EIS relates to *Noise*. It examines the existing environment; methodology used; noise limits; aerodynamic modulation; together with low frequency noise and vibration. It concludes by stating that the impact of the proposed wind energy project on the local environment has been assessed in line with current guidelines and the proposed revisions. Noise levels have been predicted at the nearest NSLs and it states that noise emissions will be well below current limits. When the proposed fixed limit is applied it has been demonstrated that the limit will be exceeded at 4 no. NSLs, under certain operational conditions. However each of these NSLs, at which the proposed limit may be exceeded have a financial interest in the development and have expressed in writing their support for the project. The low frequency noise and vibration from the proposed development is predicted to have a negligible impact on residents and local properties. Construction noise will be short-term and if the control measures outlined are adhered to then the impacts will be negligible.

10.12 **Section 9** relates to *Shadow Flicker*. This Section includes a Statement of Authority, flicker definition; outlines relevant legislation; methodology used; shadow flicker receptions and analysis. The chapter summary states that from the shadow flicker modelling, it is clear that shadow flicker will not have any significant impact on the 29 no. dwellings which fall within the study area. NSL6 which is financially linked to the proposed development will encounter the largest impact with real time shadow flicker of 18.35 hours expected over the year, while the most exposure a non-financially linked property will be NSI5 with 9.45 hours of predicted shadow flicker over the course of the year. Mitigation measures are proposed, if deemed necessary.

10.13 **Section 10** of the EIS relates to *Landscape*, which outlines the methodology used; details of the receiving environment; landscape character of the site and study area; details of the Landscape Character Areas (LCAs); construction and operational phase impacts; effects on landscape resource and character; predicted impacts of the proposed development; mitigation and monitoring measures. It is stated that the proposed windfarm is located in a rural setting on an upland ridge of bogland with an elevation of between 80 metres to 120 metres above sea level. The site is bisected by a third class public road. To the south of the road topographical high points occur to the east and west of the site, with the area in between characterised by a generally level plateau of peatland habitats that begin to slope steeply to the south along the site's southern boundary. Between the eastern and western extremities the site consists of broad-scale peatland enclosures and coniferous forestry plantations that appear to have been planted since after 2000. There is blanket peat of varying thickness dominating the soil and subsoil within the site, with lands to the north and south of the local road subject to intensive turbarry.

10.14 The assessment study area covers a 20km radius from the centre of the proposed wind farm and includes parts of Donegal, Fermanagh and Leitrim. It is stated that there are two existing windfarms within 20km

radius of the site, with 5 other sites permitted. Within the 20km study area there is only one Area of Especially High Scenic Amenity located approximately 13km to the northwest of the site, at Donegal Golf Club. There are no key views or prospects within 9km of the site and none are centred on the proposed windfarm site. The site is located within LCA42- Lough Derg Uplands within the draft County Donegal Landscape Character Assessment 2014 while the Cliff Sub-station is located within LCA44- River Erne Lowlands. The proposed site is not subject to any statutory nature conservation designations. It is stated that the area could be described as a 'Transitional Marginal Landscape' as per the Wind Energy Planning Guidelines 2006. Areas of Outstanding Natural Beauty and Areas of High Visual Amenity located within the Leitrim CDP are located more than 10km from the proposed site to the southwest. Within the Fermanagh LAP, only 1 of 13 tourism zones is located within 10km of the site; 1 National Nature Reserve and one historic park/garden within 10 km of the site.

10.15 There is theoretical visibility of the proposed turbines within 5km from the site and then west and east in wedge shaped bands. Outside this distance, visibility is more intermittent. Generally there will be a moderate landscape effect on the LCAs that are within 10km of the site, beyond that adverse landscape effects will decrease with distance. In terms of visual effects, of the 15 photomontages prepared, some 9 have been considered as having High Sensitivity; 4 with Medium Sensitivity and 2 with Low Sensitivity. The proposed windfarm will have acceptable cumulative effects in the context of the two other wind farms and the distant wind farm cluster in the study area. They are not visible over most of the Wild Atlantic Way route within the study area, with negligible cumulative impact on this scenic drive. It is stated that the landscape and visual impacts are reversible and of a temporary duration as a 25 year life for this wind farm is proposed.

10.16 **Section 11** of the EIS relates to *Material Assets*. It examines the existing environment; natural resources of economic value; roads and traffic; ESB network; house prices; air navigation; mitigation measures and conclusion. It states that grazing practices can continue unimpeded on the wind farm site with minimal impact predicted on agricultural and forestry practices. In addition, no significant impacts are predicted on the natural resources in the area. In terms of traffic and access, it is concluded that the proposed route offers the least amount of disruption to local road users. The proposed haul route and associated works and traffic management plans shall be discussed and agreed with the relevant Councils prior to the commencement of construction. No significant impact is predicted in relation to the local grid infrastructure. It is stated that the project will indirectly and in the long term improve the standard of living in the region. No significant impacts are predicted on property prices as a result of the proposed development and no significant impacts are predicted on air navigation.

10.17 **Section 12** of the EIS relates to *Cultural Heritage*. This section outlines the background and purpose of the study, archaeological assessment; methodology used; details the receiving environment; assessment of potential impacts and direct impacts; together with mitigation measures. It is stated that there are no archaeological sites known to the National Monuments Service within the site of the proposed wind farm or in the vicinity of the proposed cable route. The nearest recorded RMP is 3km away at Cashelard. In terms of mitigation, an archaeologist will be on site at the start of any new excavation works to monitor excavation material and will consult and liaise with the Heritage Section of the DoE, H and LG.

10.18 **Section 13** of the EIS is *Interactions of the Foregoing*. This section concludes by stating that following the assessment of the interactions of the foregoing topics, it can be concluded that no significant interactive negative effects from the proposed windfarm are predicted.

10.19 I am satisfied with the scope and detail included in the revised EIS submitted and consider it to be sufficient to assess the environmental impact of the proposed development.

11.0 SCREENING STATEMENT FOR APROPRIATE ASSESSMENT

11.1 A Screening Statement in support of an Appropriate Assessment, prepared by Doherty Environmental, was submitted as Appendix A with the revised EIS. It is stated in the response to the appeal that the EIA studies were extended to cover the grid connection and the EIA was revised and accompanies this appeal. Screening for Appropriate Assessment was also carried out which included for the grid connection. This issue formed part of the first reason for refusal which issued from the planning authority. With regards grid connection, the development will connect into Cliff 110kV generating station just over 2km southwest of the site. All on-site cabling between turbines and on site 38kV substation will be underground. The proposed grid connection cable route will be installed underground for 2.85km using a conventional trench and 250m of overhead line (crossing the River Erne), both designed to ESB Network's Specification. The proposed route runs adjacent to existing public roads for most of its length outside the windfarm site. The overhead section will be suspended from double wood pole structures, 5 in total each of 13 metres in height. The design of the cable connection is such that it will be erected below the maximum height of the barrier such that it does not stand proud of the barrier and create a further barrier to birds.

11.2 The aim of the statement is to determine whether or not the proposal will have a likely significant effect on European sites. The report states that in total, 17 European sites consisting of 12 SACs and 5 SPAs occur within 15km of the site. As the project layout is not located within or adjoining European sites, there will be no potential for direct impacts

to habitats. With the exception to bird species, the project's potential to effect European sites is restricted to indirect impacts.

11.3 The Screening concludes that the Lough Golagh and Bressy Hill cSAC and Pettigoe Plateau SPA, Durnesh Lough SPA and Donegal Bay SPA were the European Sites identified as occurring within the zone of impact of the project. Of the 17 Sites identified, it was found that the following occur within the sphere of influence of the project site:

- Lough Golagh and Bressy Hill cSAC
- Pettigoe Plateau SPA
- Durnesh Lough SPA
- Donegal Bay SPA

11.4 This Screening exercise has found that due to the absence of potential effects to aquatic habitats, the absence of qualifying/special conservation species of interest including otters, brent geese, common scoter, golden plover, whooper swan and Greenland white-fronted geese at the project site and absence of negative effects to surrounding peatland habitats that the project will not have the potential to result in likely significant effects to European Sites.

11.5 In light of the findings of this Screening for Appropriate Assessment, it is concluded in the Statement that the project will not have a significant negative effect on Lough Golagh and Bressy Hill cSAC, Pettigoe Plateau SPA, Donegal Bay or Durnesh Lough SPA and will not negatively affect the conservation objectives or integrity of these European Sites.

12.0 ASSESSMENT

12.0.1 This application is assessed in terms of Development Plan policy and all other relevant Government Guidelines. I conducted a visit of the site and the wider area and on foot of this, I consider that the photomontages submitted with the file appear to portray an accurate representation and I have utilised them as part of my assessment. Having examined the file and having visited the site and its environs, I consider that the main issues are as follows:

1. Principle of proposed development
2. Landscape and Visual Impact
3. Human Beings- Noise and Shadow Flicker
4. Roads and Access Issues
5. Soil, Geology and Hydrology
6. Ecology
7. Transboundary Impacts
8. Appropriate Assessment
9. Other Issues

12.1 PRINCIPLE OF PROPOSED DEVELOPMENT

12.1.1 The proposed development is considered to be compatible with European, national and regional planning and renewable energy policy as set out in the revised EIS above, subject to the consideration of environmental, landscape and social impacts.

12.1.2 The proposed development would be compatible with the wind energy policies and objectives of the current County Development Plan as it would be located within an area that is Open for Consideration for appropriate wind energy proposals as identified on Map 9. It is not located within an designated Area of Especially High Scenic Amenity as indicated on Map 8 and it is not located within or adjacent to a designated European sites or Natural Heritage Areas.

12.1.3 I note the national guidelines cited above in relation to wind farm development and reduction in reliance on fossil fuels. Both Development Plan policy and National policy are supportive of the generation of renewable energy through wind energy developments as proposed in this case. The site is located within a general area which has experienced other wind energy developments and is a location with suitable wind resources. Notwithstanding such, the proposal must be acceptable in regards to environmental impact, visual impact and in the context of the proper planning and sustainable development of the area. The principle of the proposed development is acceptable, subject to the proposed development being acceptable in the context of each of these aspects, which are to be explored in detail in the later sections of this assessment.

12.2 LANDSCAPE AND VISUAL IMPACTS

12.2.1 This issue forms one of the main components of the second reason for refusal which issued from the planning authority namely concerns relating to the impact of the proposed wind turbines on the visual amenity and landscape character of a transboundary state, with particular impacts cited on the Lower Lough Erne and Croagh & Garvary River Landscape Areas. The first party appeal submission aims to address this issue by proposing a reduction in the height of the proposed turbines from 150 metres originally proposed to 136 metres, with a stated hub height of 79.5 metres. This is a reduction in the overall height of 14 metres. The first party appellants contend that the reduction noticeably reduces the visual prominence and related visual and landscape effects as evidenced in 6 new VRPs prepared with both the previous 150m blade tip height and new 136m blade tip height portrayed. The appellants further contend that the viewpoints were selected to show maximum turbine visibility. It is stated that in many cases the turbines disappear from view, given the undulating landscape. They further contend that turbines of the height now

proposed are essential for the economic viability of the project given the relatively lower wind speed and fewer turbines numbers than the average commercial wind farm. It is stated that the Acres windfarm, outside Ballyshannon and almost 8km from Derrykillew has permission for up to 130.5m blade tip height.

12.2.2 I have examined all submissions received and acknowledge the concerns expressed therein in this regard. The proposed development be located within an area that is 'Open for Consideration' for appropriate wind energy proposals as identified on Map 9 of the Development Plan; it would not be located within any designated Areas of Especially High Scenic Amenity as indicated on Map 8; and it would not be located within the line of any Protected Views. Notwithstanding this policy context, the windfarm would also be located in very close proximity to Belleek village, c. 1800m to the SW, and this is one of the main tourist hubs in the region. At 136 metres in height, there is no argument that they will be a visible feature on the landscape in the region, when viewed both in the near and far distance from certain locations. In my opinion, it is the degree to which this proposed development impacts on both the visual and landscape amenity which is of critical importance.

12.2.3 A Landscape and Visual Impact Assessment of the proposed development was submitted as part of the EIS. This Assessment included fifteen photomontages illustrating representative views of the proposal within the surrounding landscape. As part of the appeal submission, revised photomontages were submitted showing the proposed reduction in height. I have examined the submitted information in this regard and am satisfied that the images submitted are adequately portrayed and with the level of detail included. Within the submitted revised EIS, the applicants state that having regard to the height of the proposed turbines, the Zone of Theoretical Visibility (ZTV) radius required is 20km from the outermost turbines of the

schemes, in accordance with the information contained within the Wind Energy Development Guidelines, published by the D0EHLG.

12.2.4 The visual assessment concludes that in terms of singular effects, of the 15 photomontages 3 have moderate-major effects; 5 have moderate effects; 2 have minor-moderate effects; 1 has minor effect; 1 has slight to minor; 1 has slight and 2 have no effects. It is stated that the proposed wind farm would not have unacceptable or significant effects on singular or cumulative impacts on major roads, scenic routes, cycling and walking routes within the study area. Cumulatively, the windfarm has reduced visual effects compared to when considered singularly.

12.2.5 In terms of cumulative impacts, the Acres Windfarm is 7.9km NW of the nearest proposed turbine with intervening upland areas and afforestation. The VPRs in the site vicinity show no actual cumulative co-visibility due to the above screening factors and distance. It is stated within the revised EIS that the other potentially co-visible wind farm at Callagheen is also removed from the landscape setting of Derrykillew and will not have a cumulative adverse effect. This is considered reasonable.

12.2.6 Having examined the Planning Guidelines for Wind Energy Development 2006, the subject landscape can be accurately described as being a transitional marginal landscape, comprising of upper ground that is open and extensive. These guidelines state that taller turbines may be more appropriate at such locations. The revised EIS states that visually the turbines appear sited on a plateau moorland type landscape from most vantage points; turbines spacing is irregular and layout is informal. I would concur with this assessment and consider such to be appropriate at such a location. I am of the opinion that the landscape at this location would appear to have the capacity to accommodate a development of the nature and scale proposed.

12.2.7 Having examined the documentation provided and having conducted a visit of the site and surrounds, I would tend to argue that in the most part, views of the turbines from the surrounding areas are partial views and negated by existing topography, vegetation and structures within the landscape. It is acknowledged that in other areas, for example VRP5, the Scenic Viewpoint on Lough Melvin Scenic Drive the entirety of the proposed turbines will be clearly visible. From an examination of the submitted photomontages, I would consider that the reduction in height of the turbines from 150 m to 136m in height makes little difference on the larger scale- they will remain a prominent feature on the landscape when viewed from certain viewpoints. I have taken on board the substantial submissions received from the Department of the Environment, NI on this matter and their concerns relating to Lower Lough Erne (LCA2) and Croagh and Garvary River (LCA3). I note in this regard that the subject site is located approximately 500m from the border with Northern Ireland and that the receiving landscape in Northern Ireland is not designated as an Area of Outstanding Natural Beauty. A map outlining the Northern Ireland Landscape Character Areas has been included in Appendix 1 of the submission received from DoENI, received on 30/09/2015.

12.2.8 Of importance is the fact that the area where the proposed turbines are to be located is designated as being acceptable for such developments within the operative County Development Plan. Having deliberated over the issue, I am of the opinion that the proposed turbines at 136m in height are relatively substantial and will be visible over a wide area, including areas within the adjoining jurisdiction. I am also however of the opinion that their impact on the receiving environment would not be so great as to warrant a refusal of permission. It is my opinion that being visible on the landscape, does not necessarily mean that this is a negative impact. Opinion is divided on this issue but I am of the opinion that they would not detract significantly from the amenity or landscape character of the area to such an extent as to warrant a refusal of permission. I note that this is a community windfarm and that

no observations have been received from the local community. I also note the proximity of the proposed development to the village of Belleek, which is an important tourism hub within the area. I would be of the opinion that the proposed development when viewed from the town would be partly obscured by the built environment and that the view of the proposed windfarm in its totality would not be excessive. Taking all of the above on board, it is therefore my opinion that the proposed development is acceptable from a landscape and visual impact situation.

12.3 HUMAN BEINGS- NOISE AND SHADOW FLICKER

12.3.1 I note that a baseline noise survey was undertaken continuously over a 20 day period from February 10th 2014 to 1st March 2014. This is acknowledged to be a sparsely populated area. I note the submitted EIS states that the nearest residential property without a financial interest is located approximately 568 metres away from the nearest turbine. It does not appear to be explicitly stated the distance of the nearest property with a financial interest in the project from any proposed turbine. From an examination of the submitted documentation, it would appear to be NSL4 and NSL5, both located approximately 500 metres from the nearest turbine, T1. With regards to noise, I acknowledge that the proposed windfarm will give rise to noise disturbance during the construction phase. This would mainly relate to the delivery of large components along the local road network, turbine base excavations and the road works which include local road and junction upgrades, and the construction of access tracks throughout the site. Although these works would be short term and temporary, they have the potential to adversely affect the residential amenities of local residential in nearby houses. These concerns could be addressed by way of conditions which restrict the hours of construction operation and noise control and monitoring conditions. However local residents should be notified in advance of any major

construction works and of the transport of large pieces of plant and equipment along the local road network

12.3.2 Of the 29 NSL chosen, I note that 14 are stated to have a financial interest in the proposed development. Noise generated during the operational phase of the proposed windfarm should remain within acceptable limits so as not to cause a disturbance at any nearby noise sensitive receptors including dwelling houses. However any outstanding concerns could be addressed and managed by way of noise control and noise monitoring conditions.

12.3.3 With regards noise from the turbines themselves during the operational phase, I note the documentation contained within the EIS, together with the guidance contained within the Wind Energy Development Guidelines for Planning Authorities 2006 (DoEHLG) which sets out detailed recommendations with regards to acceptable noise levels. As stated above, noise surveys were undertaken and these concluded that the noise levels were generally within acceptable parameters as set down by the Department of the Environment, Heritage and Local Government. The property without a financial link and without any expressed interest in the development, determined to be the most exposed to noise emissions from the proposed development is NSL5 located 568 metres from the nearest proposed turbine (Turbine T1). NSL16 which had the highest predicted noise levels is stated to be a holiday home and the owner is stated to have given written affirmation of his support for the project. It is stated within the EIS that there are 29 dwellings located within 1.2 km of the site of which only 14 have a financial interest in the proposed development. I note that when the proposed fixed limit is applied, it has been demonstrated that the limit will be exceeded at 4 no. NSLs under certain operational conditions. It is stated however that each of these NSLs where the proposed limit may be exceeded have a financial interests in the development and have expressed in writing their support for the project. Having regard

to all of the information before me, I am satisfied that the proposal is acceptable in relation to this issue.

12.3.4 As regards shadow flicker, the Wind Energy Development Guidelines (2006) note that the effect known as shadow flicker occurs where the blades of a wind turbine cast a shadow over a window in a nearby house and the rotation of the blades causes the shadow to flick on and off. This effect lasts only for a short period and happens only in certain specific combined circumstances. It is recommended that shadow flicker at neighbouring dwellings within 500m should not exceed 30 hours per year or 30 minutes per day.

12.3.5 The submitted EIS states that an assessment was carried out to assess the shadow flicker impact of the proposed wind farm on nearby dwellings with regard to potential nuisance that could be caused. The assessment has calculated the predicted hours of shadow flicker at each residential receptor in the immediate area and indicates that none of the houses in the vicinity of the wind farm will exceed the DoEHLG, Planning Guidelines (2006), i.e. shadow flicker will not exceed 30 hours per annum or 30 minutes per day. In the unlikely event of these guidelines being exceeded, mitigation measures are proposed. I am satisfied with the information provided in this regard.

10.4 ROADS AND ACCESS ISSUES

10.4.1 The third reason for refusal related to concerns regarding the provision of a safe haul route to the proposed site with it being considered that the proposal would be prejudicial to traffic safety. The report of Transportni has been detailed above but in summary their concerns appear to relate primarily to alterations to Gaol Square, Enniskillen. They advised that the applicant consider an alternative route for deliveries of the wind turbine components. As part of the appeal submission, the first party have submitted a revised haul route which avoids Gaol Square, Enniskillen completely. Details of the revised route have been submitted, with works required to the road network

identified in Appendix B of the revised EIS. It would be my opinion that the phasing and scheduling of this construction traffic will ensure that the impact will not be significant. I also consider that such issues relating to traffic and safety concerns are greatest during the construction phase of development when the turbines are being transported to site and preliminary construction works are underway. During the operational phase, the proposed development would be expected to have only minimal impacts on the local road network. I also note that the smaller turbines now proposed should have a direct impact on their transportation. I note that that a revised report was received from Transportni on 30/09/2015 which states that the proposed haul route would be acceptable with the mitigation measures proposed. It is noted that conditions are attached, in particular in relation to the proposed access point off the A47 and I recommend that if the Bord is disposed towards a grant of permission that this issue be dealt with by means of condition.

10.4.2 Having regard to all of the above, I now consider that the proposed development, subject to compliance with appropriate conditions, together with the implementation of the mitigation measures proposed, would not lead to the creation of a traffic hazard or obstruction of road users in the vicinity.

10.5 CULTURAL HERITAGE

10.5.1 There are no recorded monuments within the site. The nearest recorded RMP monument is at Cloghore, approximately 1.8km to the southeast of the site. The EIS acknowledges that the prevalence of bog in this upland area requires that suitable measures to taken to ensure that any archaeology concealed by bog vegetation be protected. Suitable mitigation measures are proposed. Have regard to the above, I consider that the proposed development is acceptable in terms of cultural heritage impact.

10.6 SOILS, GEOLOGY AND HYDROLOGY

10.6.1 Section 6 of the revised EIS deals with the issue of soils, geology and hydrology. Methodology used included desk study and site investigations. The majority of the proposed development site consists of peatland, turbary and isolated areas of semi-improved grassland. Further investigations showed that peat is underlain by a natural sequence of glacial soils, which in turn is underlain by moderately shallow bedrock. The EIS states that the thickness of peat ranges from up to 0.00m to 6.4 metres across the survey area. It is stated that slope ranges are generally negligible to moderate across the survey area and the site of the development exhibits slope gradients of less than 10 degrees to the horizontal.

10.6.2 The proposed turbine locations are in areas that coincide with moderate peat depths and slopes approximately 5-10 degrees. New road construction will necessitate the clearance of the full road width of peat until a stable firm foundation is obtained. A floating road construction technique shall be employed where necessary. It is stated that peat slide monitoring and management will be carried out during the construction of the project and in the months following completion. An appraisal of the hazard risk for each turbine location and for access roads is stated to have an overall 'Insignificant Hazard Ranking', provided strict mitigation measures are undertaken.

10.6.3 Details of local watercourses are provided in Section 6.3.3 of the EIS and this includes for two small loughs which are present within the proposed site boundary. The proposed windfarm is located within the Scolban waterbody catchment and Erne West Water Management Unit while the Tullybaradair River is the main watercourse draining the proposed site. A second unnamed watercourse rises to the south of the abandoned farmhouse at the eastern boundary of the site. It is stated that proposed turbines will not be placed in locations closer than 50m to existing designated watercourses. An analysis of local

hydrology indicates a relatively low risk of suspended solid and pollution entering streams during the construction phase. Mitigation measures have been provided for.

10.6.4 Given the somewhat limited nature of the development and based on the details provided, I consider that the proposal is appropriately mitigated. I consider that there is no impediment to development in terms of the above.

10.7 ECOLOGY

10.7.1 This Section should be read in conjunction with the Appropriate Assessment section below. An Ecological Impact Assessment was prepared by Doherty Environmental and updated within the revised EIS. As is stated above, the majority of the proposed development site consists of peatland, turbary and isolated areas of semi-improved grassland. No part of the subject site is within a protected habitat or designated Natura 2000 site. The nearest is Lough Golagh and Bressy Hill SAC (Ref. 002164) located approximately 150 metres to the north of the site while Pettigoe Plateau SPA (Ref.004099) is located 550 metres to the north-east of the site. The nature of wind farm development is such that they have a small footprint and therefore generally have low impacts with regards to habitats they are located within. The most significant impacts would occur during construction phase due to excavation works, which will result in some vegetation loss.

10.7.2 The planning authority in their first reason for refusal raised the issue that habitat surveys were conducted outside the optimum time for flowering plants. The appellant stated that a number of habitat surveys were undertaken from 2008 to 2014, at differing times of the year including the summer months. These surveys aimed to identify the presence or otherwise of any rare or protected species and no such species were recorded. Instead a suite of commonly occurring species typical of peatland and grassland habitats were identified. In addition

to this, it is noted that a habitat survey of the grid connection route was undertaken in June/July 2015. The route is stated to be characterized of roadside grassy verges, hedgerows and treelines supporting commonly occurring species. It is stated that the surveys were undertaken in accordance with Heritage Council Draft Best Practice Guidance for Habitat Survey and Mapping (2011). I consider however that having regard to all of the above, including the fact that there would be no physical damage to any protected habitat/designated site and the proposal does not radically alter the nature and use of the land substantially, such would be acceptable.

10.7.3 I note that the first reason for refusal which issued from the planning authority also cited concerns regarding the absence of fully completed bat and bird surveys for the application site. As has been stated above by the appellants, completed full year bat and bird surveys have now been submitted and are included within Chapter 5 of the revised EIS submitted with the appeal. The information contained therein is considered acceptable. Only low levels of activity were recorded in the vicinity of the site. The results of additional bat surveys show that the activity at the subject site was dominated by pipistrelle species with low level activity for other species with the number of bats likely to roost at this location is low, with no evidence of maternity roost. The proposal includes the curtailment of the operation of turbine T4 for a limited period, between sunrise and sunset during June to October for the first three years of operation in order to reduce the potential impacts on protected bat species. The planning authority considered this mitigation measure inappropriate in the first reason for refusal. The first party appellants in their appeal state that increasing cut-in speeds is frequently recommended as a mitigation measure, with the rationale based in known bat flight behaviour. They cite various studies in support of their argument, and state that the use of increased cut-in speeds, together with on-going monitoring is currently included as a mitigation measure in the draft Eurobats Guidelines for Consideration of bat in Wind farm Projects (2014). This mitigation measure is stated

to have been accepted as appropriate in previous wind energy applications and examples are given. I note that further mitigation measures are also included within the submitted revised EIS. Having regard to the above, I consider that such mitigation measures would appear to be reasonable and appropriate and if the Bord is disposed towards a grant of permission, this issue should be dealt with by means of condition. In conclusion, based on the information before me, I am satisfied that sufficient detail has been provided to assess the impact of the development on flora and fauna and that subject to appropriate mitigation measures, the proposed development would not significantly affect ecological habitats.

10.8 TRANSBOUNDARY IMPACTS

10.8.1 I am satisfied that the overall impact of the development has been adequately assessed not only in terms of the adjoining lands, but also the potential transboundary impacts of the proposal, considering its proximity to the border with Northern Ireland. It is noted that the development was referred to several agencies within Northern Ireland with their responses detailed above.

10.9 APPROPRIATE ASSESSMENT

10.9.1 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the (European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”.

10.9.2 In the context of the appeal site, the proposed site is not subject to any statutory nature conservation designations. There are a number of Natura 2000 Sites within 15km of the subject site. The nearest is Lough Golagh and Bressy Hill SAC (Ref. 002164) located approximately 150 metres to the north of the site while Pettigoe Plateau SPA (Ref.004099) is located 550 metres to the north-east of the site. A Stage 1 Screening Assessment was carried out, which included for the grid connection, which found that Lough Golagh and Bressy Hill SAC, Durnesh Lough SPA, Donegal Bay SPA and Pettigo Plateau SPA are all located within the sphere of influence of the project. Bird surveys were completed and no evidence was recorded to suggest that the SCI bird species for which the SPAs are designated interact with the project site. These bird species include breeding golden plover, wintering Greenland white-fronted geese, brent geese and common scoter. In light of these findings, it was considered that the project would not represent a risk to their future conservation status. Due to the lack of hydrological pathways linking the site to Lough Golagh and Bressy Hill SAC, due to its location downstream of the subject site, it was found that the project will not have the potential to negatively affect the water quality of Lough Finn, which represents the nearest point of this SCA and the nearest qualifying feature of interest for which this SAC is designated. There was found to be an absence of potential effects on aquatic habitats and also an absence of negative effects to surrounding peatland habitats. In terms of the grid connection, the situating of the cable close to the dam and below its maximum height will ensure the risk to birds colliding with this cable is unlikely and will not represent a significant risk. The cable will be immediately upstream of the existing dam barrier and will be erected below the maximum height of the barrier. In addition, further mitigation measures including increasing the visibility of the cable are proposed. This is all considered reasonable. Based on the above, the need for Stage 2 Appropriate Assessment was ruled out.

10.9.3 It is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site numbers 002164 in view of the site's conservation objectives and an appropriate assessment is therefore not required.

10.0 OTHER ISSUES

10.1 With regards to climate, the main issue would be air quality. The nature of the proposal is such that it features no emissions with only potential impact on air quality relating to dust generation during the construction phase of development. I am satisfied that the applicant is proposing suitable mitigation measures to deal with this aspect of the proposal.

10.2 In terms of interaction of the foregoing, I acknowledge that there is potential for same. I am satisfied however that the mitigation measures proposed for each of the issue outlined above are sufficient to prevent adverse environmental impact in isolation or in conjunction with others.

10.3 It is noted that the revised EIS, received by the Bord on 07/07/2015, continually refers to turbine height of 150m, notwithstanding the fact that the proposed turbines have been amended and reduced to 136m in height within the appeal documentation. My assessment is based on a reduced height of 136m and if the Bord is disposed towards a grant of permission, I recommend that the subject height be clarified by condition.

10.4 It is noted that the appeal decision referred to by the first party in their response received by the Bord on the 17/11/2015 refers to the precedent of PL05E.242411 and states that this development was permitted on appeal. This is factually incorrect and the appeal was refused permission for one reason relating to inadequate information on prevailing ground conditions.

11.0 CONCLUSION

- 11.1 Having addressed the matters arising, I am of the opinion that the principle of a wind farm at this location is acceptable. Having regard to all relevant government guidelines, in particular the national targets for a contribution of 40% from renewable energy by 2020; the Wind Energy Development Guidelines for Planning Authorities 2006 (DoEHLG), together with relevant policies and objectives of the operative County Development Plan, I consider the proposal as submitted to be generally acceptable.
- 11.2 In addition, it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of impact on the visual amenities or landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would not lead to the creation of a traffic hazard. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.
- 11.3 Having regard to all of the above, the proposed development is considered acceptable and consistent with the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

In light of the above assessment, I recommend that the decision of the planning authority be OVERTURNED and that permission be GRANTED for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Having regard to:

- (a) the national targets for a contribution of 40% from renewable energy by 2020;
- (b) the Wind Energy Development Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the policies of the planning authority as set out in the Donegal County Development Plan 2012-2018, as varied
- (d) the general topography and landscape features in the vicinity of the site,
- (e) the separation distance of the proposed turbines from any inhabited dwellings, and
- (f) the submissions on file and the report of the Inspector

it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of impact on the visual amenities or landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by Unsolicited Further Information received by the planning authority on the 08/01/2015 and 09/01/2015 and Further Information received by An Bord Pleanála on 17/11/2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

REASON: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

REASON: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. This permission is for a period of 25 years from the date of commissioning of the wind farm. The wind turbines and related ancillary structures and temporary roadway shall then be removed and the site appropriately reinstated, prior to the end of this period, unless planning permission shall have been granted for their retention for a further specified period. Details of the reinstatement plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

REASON: To enable the impact of the development to be reassessed, having regard to the changes in technology and design during this period.

4. The maximum height of the proposed turbines shall not exceed 136 metres

REASON: In the interests of clarity

5. The developer shall review usage by birds and bats of the wind farm site and document bird and bat casualties through an annual monitoring programme, carried out by a competent ecologist, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed in consultation with the Department of the Environment, Heritage and Local Government, and shall cover the entire period of the operation of the wind farm.

REASON: To ensure appropriate monitoring of the impact of the development on the fauna of the area.

6. Prior to commencement of development, the developer shall ascertain and comply with all requirements of the planning authority in relation to roads and access issues.

REASON: In the interest of traffic safety.

7. Prior to commencement of development, a traffic management plan, designed to ensure that all construction vehicles and turbine transporting, vehicles follow the haul route identified in the revised Environmental Impact Statement, received by An Bord Pleanala on the 07th day of July 2015 to the site, shall be submitted to and agreed in writing with the planning authority. This management plan shall include

details of the proposed measures to ensure that all contractors/operators use this route.

Implementation of same shall be the responsibility of the developer and in the event that alternative routes are used, the developer shall take all necessary actions to ensure compliance with this condition.

REASON: In the interest of traffic safety.

8. (a) Adequate precautions shall be taken to prevent any surface water runoff from construction areas to discharge directly to any stream or watercourse. All such water shall be trapped and held in settling ponds until such time as the suspended solids are deposited and the colour of the water dropped to a level that will not cause discolouration of the receiving waters.

(b) During the operational phase, surface water run-off from hard standing areas, roofs, driveways and parking areas shall be collected and disposed of within the site to soakpits, drains or adjacent watercourses.

In particular, no such surface water run-off shall be allowed to flow onto the public road.

REASON: In the interest of public health, protection of watercourses and traffic safety.

9. The proposed mitigation and monitoring measures described in the Revised Environmental Impact Statement shall be implemented and integrated into the construction and operation of the proposed development and revised periodically to ensure that they are effective in the control of noise, dust and odour emissions. Prior to commencement of development, the contingency plan as per the Construction Industry Research and Information Association document for the Control of Water Pollution from Construction Sites, 2001, shall be submitted to and agreed in writing with the planning authority. The

implementation and review of the mitigation measures shall be documented and made available for inspection by the planning authority and submitted on request.

REASON: In the interest of public health, residential amenity and proper planning and sustainable development.

10. (a) Noise levels from the proposed development when measured at the nearest noise sensitive location shall not exceed 45 dB(A) LA90 or 5dB(A) above ambient noise when measured over any 10 minute period between 0800 hours and 2000 hours and 43 dB(A) at any other time. Measurements shall be made in accordance with ISO recommendation or 1996/1 (Acoustics Description and Measurement of Environmental Noise Part 1: Basic Qualities and Procedures).
- (b) The developer shall arrange for the monitoring of noise levels within six months of the commissioning of the development. Details on the nature and extent of the monitoring programme, including any mitigation measures, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (c) Where noise levels interfere with the amenities of the area, the developer shall submit to the planning authority for written agreement detailed proposals for ameliorating excessive noise levels.

REASON: In the interest of residential amenity.

11. The following dust suppression measures shall be carried out by the developer:
 - i. Dust levels shall not exceed 350 mg/sqm/day, averaged over 30 days, when measured at the site boundary.
 - ii. The developer shall install two dust-monitoring stations within three months of commencement of operations and operate these for the lifetime of the workings. The location of these stations and type of equipment to be installed and the

agency/organisation carrying out all monitoring shall be agreed in advance with the planning authority. Results of the monitoring shall be submitted to the planning authority when requested.

REASON: To protect the amenities of the area.

12. Prior to commencement of development, a detailed environmental management plan for the construction stage shall be submitted for the written agreement of the planning authority which shall incorporate the following:
- (a) a detailed construction programme,
 - (b) a detailed method statement for the construction phase,
 - (c) a programme for the on-going monitoring of water quality during the construction period,
 - (d) a site drainage management plan, by a suitably qualified drainage engineer to the satisfaction of the planning authority, to incorporate a silt management plan and pollution prevention plan, and details of site drainage to be installed to the satisfaction of the planning authority prior to the commencement of development,
 - (e) a construction waste and demolition management plan,
 - (f) a re-construction ecological assessment of all watercourses in the vicinity in accordance with criteria to be set out in consultation with Inland Fisheries Ireland,
 - (g) a site drainage management plan supervised by a suitably qualified person to the satisfaction of the planning authority which shall provide full details of all the control of drainage during and after construction and (including tree-felling prior to construction), and incorporating a silt management plan and pollution prevention plan,
 - (h) full details of surface water management including control of run-off from temporary spoil storage areas, and a programme for the on-going monitoring of water quality during and after the construction period,
 - (i) an emergency response plan.

- (j) full details of the nature of all materials used in constructing temporary and permanent access tracks to the turbines and borrow pits,
- (k) full details of treatment of stockpiled material arising from excavation during construction and management of peat storage and disposal,
- (l) full details of temporary facilities and storage proposals for hazardous materials, cement leachate, hydrocarbons and other materials to be used during construction,
- (m) details of management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management , and
- (n) details of the timing of works to ensure no works impacting on watercourses takes place during the bird breeding season or the fish spawning season.

The environmental management plan shall be subject to ongoing independent audit (all costs of which shall be borne by the developer) in accordance with the requirements of the planning authority in consultation with the National Parks and Wildlife Service. Details in relation to the reporting of results shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

REASON: In the interest of protecting watercourses and natural habitats and the prevention of environmental pollution.

13. The wind turbines including masts and blades, and the anemometer mast, shall be finished externally in a light grey colour.

REASON: In the interest of visual amenity.

14. (a) Cables within the site shall be laid underground.
- (b) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (c) Transformers associated with each individual turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.

REASON: In the interest of visual amenity and for clarification purposes

15. Facilities shall be installed to minimise interference with radio or television reception in the area. Details of the facilities to be installed, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines.

REASON: In the interest of residential amenity.

16. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority of the coordinates of the as constructed positions of the turbines and the highest point of the turbines to the top of the blade spin.

REASON: In the interest of air traffic safety.

17. Details of the road network to be used by construction traffic and by the long-term maintenance traffic shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

REASON: In the interest of traffic safety.

18. On full or partial decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the masts and the turbines concerned, including foundations, shall be removed and all decommissioned structures shall be removed within three months of decommissioning.

REASON: To ensure satisfactory reinstatement of the site upon cessation of the project.

19. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

REASON: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

20. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, details of a monitoring programme in relation to shadow flicker agreement. The monitoring results shall be submitted to the planning authority within one month of the completion of the programme. All mitigation measures set out in the Environmental Impact Statement in relation to shadow flicker shall be implemented, unless otherwise agreed with the planning authority.

REASON: In the interest of residential amenity.

21. Prior to the commencement of development full details of the location and extent of any borrow pits shall be submitted and agreed in writing with the planning authority

REASON: In the interests of clarity

22. Prior to the commencement of any development on site, the applicant shall ascertain and comply with all requirements of the Environment and Water Services Department of the Planning Authority in relation to site investigations to determine the potential for landslides, together with site specific geo-technical investigations for each turbine site

REASON: IN the interests of proper planning and sustainable development

23. Prior to the commencement of any development on site, the applicant shall agree details of a lighting programme with the Irish Aviation Authority and evidence of such an agreement shall be submitted to the Planning Authority, prior to the commencement of development

REASON: In the interests of public safety

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

REASON: To ensure satisfactory reinstatement of the site.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

REASON: In the interest of road safety and the proper planning and sustainable development of the area.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

REASON: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

L. Dockery

Planning Inspector

01st February 2016