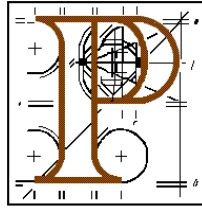


# An Bord Pleanála



## Inspector's Report

PL.93.245176.

**DEVELOPMENT:-**

Wind turbine with extended access at Beallough, Portlaw, County Waterford.

**PLANNING APPLICATION**

**Planning Authority:** Waterford City and County Council

**Planning Authority Reg. No:** 14/600108.

**Applicant:** Tornado Electrical Limited.

**Application Type:** Permission

**Planning Authority Decision:** Permission with conditions.

**APPEAL**

**Appellants:**  
1. Curraghmore Estates and others.  
2. Tornado Electrical Limited

**Type of Appeal:** Third Party and First Party.

**Observers:** None.

**DATE OF SITE INSPECTION:** 23<sup>rd</sup> October 2015.

**Inspector:** **Derek Daly.**

## **1.0 SITE LOCATION AND DESCRIPTION.**

The appeal site is located in a rural area in the townland of Beallough approximately 3 kilometres southwest of Portlaw County Waterford. The site is relatively elevated in the context of the general area and is located on the northwestern slopes of a hillside referred to on the O.S. maps as Donnell's Hill and is located off the eastern side of a local narrow road which traverses around the western side of this hill.

The area is sparsely populated and the road rises in elevation from Portlaw and skirts the upland area which has large tracts of mature forestry and woodland to the north and east on the lower slopes with open areas on the higher section. There are a number of houses fronting onto the local road. Immediately adjoining the appeal site there are two wind turbines served by an access road which has access off the narrow public road.

The area of the site to which the application relates is stated as 11.7661 hectares.

In the lower lands to the north in the lower valley area and rising northwards from the valley are the grounds of Curraghmore Estate a walled demesne, which incorporates woodlands and open pastures and a number of important buildings such as Curraghmore house, various gate lodges, a shellhouse and a chapel within the grounds. Many of buildings are protected structures and the demesne has 14 listings in the National Inventory of Architectural Heritage (NIAH).

The appeal site itself is relatively open upland grassland and scrubland with a stand of forestry in the northern area of the site. There is a pond located adjoining the western boundary of the site.

## **2.0 PROPOSED DEVELOPMENT.**

The proposed development as submitted to the planning authority on the 30th of July 2014 was for;

- The erection of a wind turbine with rotor diameter not exceeding 54 metres and a height not exceeding 60 metres with a maximum output not exceeding 850Kv;
- An extension of an existing access road.

The documentation submitted also included an assessment of flora and fauna; a report on potential impact on existing telecommunications facilities; calculations relating to noise and shadow flicker and photographs relating to visual impact based on the presence of existing turbines adjacent.

Further information was submitted on the 20<sup>th</sup> of March 2015 in relation to,

- Additional photomontages in particular from within the Curraghmore Demesne.

- A report from conservation consultants in relation to the impact of the development on the demesne noting that the development of the development is outside of the traditional and expansive demesne and that very minor and small changes to the historic landscape will occur and consequently will not adversely affect the character and setting of the Curraghmore Estate.
- Justification of the location of the proposed development which was determined as more influenced by forestry than wind speed and this is outlined in a report by EMD International A/S.
- Details relating to noise assessment and methodology and that the assessment considers cumulative impact of existing and proposed turbines.
- Details relating to shadow flicker and the methodology of the assessment and that the development will comply with planning guidance.
- A Natura Impact Assessment in particular with reference to woodland mammals, bird strike and impact on the River Clodiagh.
- An ecological report was also submitted indicating that in relation to existing habitats the pond is the most important habitat on the site and should be protected. Reference is made to the presence of freshwater mussel in the River Clodiagh approximately 1.9 kilometres from the site.
- A geological assessment and report by GDG Geo Solutions which indicated no peat was observed and indicates recommendations in relation works to be carried out.
- Details relating to surface water drainage indicating that surface water mitigation measures were put in place in the construction of the existing wind turbine development.
- The access route for construction which largely uses an existing road.
- Clarification in relation to location of dwellings and in this regard data has been updated and noise and shadow flicker assessments reflect this.

Further clarification of additional information was submitted on the 8<sup>th</sup> of June 2015 which included,

- Revised photomontages from a series of locations.
- An assessment of the visual impact which indicates a negligible impact arising from the additional turbine.

### **3.0 PLANNING HISTORY.**

P.A. 14/123.

Application for a wind turbine was withdrawn.

ABP Ref No 24.212302 / P.A. Ref No 04/1522

Permission was sought for amendments to previously approved permission (ref. 01/188) for 2 no wind turbines with alterations to proposed access. The amendments included increasing the rotor diameters to 80 metres and an increase in the hub height to 70 metres. Permission was refused on appeal and one reason was stated.

“Curraghmore House and demesne are identified as a protected structure in the current Waterford County Development Plan and are also identified as of National Importance in the National Inventory of Architectural Heritage. Having regard to the nature and scale of the proposed development and its close proximity to and visibility from Curraghmore House and demesne, it is considered that the proposed development would materially and adversely affect the character and setting of a protected structure and would interfere with views from it. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

PA ref. 01/188.

Notification of decision to grant Permission was issued by the Planning Authority to Tornado Electrical Ltd. on 25/07/2001 for 2 no. wind turbines at the current site with a rotor diameter not exceeding 54m, and a hub height not exceeding 60m, and minimum output of 800 KW each together with access roads and entrance, electricity substation and a 40m wind monitoring mast.

#### **4.0 PLANNING AUTHORITY REPORTS.**

The conservation officer report dated the 18<sup>th</sup> of September 2014 refers to the site’s location in the context of Curraghmore House and Demesne and the impact of the development on the demesne and architectural heritage should be assessed in considering the proposal. Refusal of permission was recommended.

The planning report of 22<sup>nd</sup> of September 2014 refers to the planning history; to provisions of the county development plan in particular that the site is located within an area zoned agriculture; to appendix 8 of the current plan in relation to an adopted wind energy strategy and that the site is within a preferred area for windfarm development; to consideration of a number of criteria in the assessment of the proposal including noise, shadow flicker, visual impact including Curraghmore Estate and designated sites. Further information was recommended.

The report of the Heritage Officer dated the 8<sup>th</sup> of April 2015 in relation to the further information submitted indicates that the proposed development will not affect the integrity of the River Suir SAC given the distance from the site and the measures in place by way of mitigation and indicates no objections on ecological grounds

The conservation officer report dated the 9<sup>th</sup> of April 2015 considering the further information recommended refusal of permission.

The planner report dated the 9<sup>th</sup> of April 2015 considering the further information recommended refusal of permission.

The planning report dated the 14<sup>th</sup> of April requested further clarification of the further information submitted.

The planning report dated the 25<sup>th</sup> of June 2015 refers to the clarification of further information submitted and permission was recommended.

## **5.0 SUBMISSIONS BY OTHER PARTIES DURING PLANNING APPLICATION.**

**Irish Aviation Authority** in a submission dated the 14<sup>th</sup> of August 2015 refer to,

- In the event of permission the applicant is to agree a scheme of aviation warning lights with coordinates and elevational details of the turbines also to be supplied.

### **Third Parties.**

I would note that during the assessment of the application a large number of submissions in excess of fifty were made by third parties. Some of the submissions are site specific in relation to impact on the individuals and their properties. The submissions also cover a wide range of issues relating to impacts arising on the wider area and the economy of the area. Issues raised include,

- Visual impacts locally and in relation to the county.
- Negative impact on tourism and economy.
- Impact on designated sites
- Health issues.
- Impacts arising from noise, shadow flicker and on the road network.
- Impact on wildlife.
- Impact on water.

The matters raised are considered in the assessment section of this report.

## **6.0 PLANNING AUTHORITY'S DECISION.**

The Planning Authority decided to grant planning permission for the development subject to 22 conditions. Among the conditions of note,

- Condition no.2 limits the operational period of the turbines to a period of 20 years.
- Condition no.4 relates to a special contribution in relation to road strengthening and reinstatement.
- Condition no. 5 requires lodgement of a bond to secure the satisfactory reinstatement of the public road in the vicinity of the site.

- Condition no.6 relates to restoration of the site and lodgement of a 20,000 euro bond.
- Condition no. 8 relates to agreement on air navigation warning systems.
- Condition no. 9 relates to a construction management plan.
- Condition no. 11 relates to agreement on a traffic route and traffic management plan.
- Condition nos.14 and 16 relate to noise.
- Condition no.15 relates to shadow flicker.
- Condition no. 17 relates to the height of the turbine.
- Condition no. 19 relates to the removal and replacement of hedgerows and trees.
- Condition no. 20 relates to details of impact on the built heritage to be assessed which includes bridges and mitigation measures to be outlined.

## **7.0 APPEAL SUBMISSIONS.**

### **7.1 THIRD PARTY APPEAL.**

The appellants Curraghmore Estates and others c/o Reid Associates in the grounds of appeal state,

- The decision of the planning authority is flawed and in this regard reference is made to the report of the conservation officer who recommended refusal of planning permission.
- The methodology used in relation to visual assessment is questioned.
- There is no reference to the turbines being located on a ridgeline overlooking Curraghmore and there is no basis for indicating negligible impact.
- The development will also impact on Portlaw village.
- Photographs in support of this are submitted.
- Reference is made to the previous refusal of planning permission by the Board in relation to the current appeal site and other sites.
- An oral hearing is requested.
- Reference is made to the importance of Curraghmore House and its Demesne.
- Reference is made to the context of the site not only in relation to Curraghmore House and its Demesne but also the Lower Suir SAC and that the appeal site is an elevated sensitive and vulnerable site.
- Curraghmore House and its Demesne abounds Beallough Woods just north of the appeal site and is within 500 metres of the demesne.
- The base of the third turbine is 225.4m is higher than the existing turbines at 216.2m and 207.3m and this increases the visual impact.
- The presence of the turbines had a profoundly damaging impact on the demesne and impacted on its use in the film industry and other aspects of the tourism product of the demesne.

- The failure to assess the visual impact is a fundamental flaw in the application.
- The turbines have impacted on dwellings in the area in relation to health and residential amenity.
- Reference is made to impact of noise in this regard and also impacts on farm animals.
- The development amounts to project splitting and reference in this regard is made to grid connection.
- There is an absence in relation to details of the turbine and there are significant gaps in the information submitted.
- The development does not comply with current national guidance and there is an absence of an integrated approach to renewable energy infrastructure.
- Decommissioning has not been adequately addressed.
- Reference is made to the current city and county development plan and that the site not a preferred location but open for consideration following an Appropriate Assessment of the development plan.
- There is an overriding requirement in the Planning Acts to secure the conservation and protection of the environment and the provision of infrastructural requirements are supplementary.
- The area is zoned agricultural and the development will sterilise agricultural lands on the site and adjoining lands.
- Reference is made to section 8.10 of the development plan.
- Reference is also made to disproportionate impacts in section 4.2 and the impact of the development has to be considered in this context as it located on a ridgeline overlooking an important demesne.
- Reference is also made to policy ENV11 in relation to wind energy and also to the policies on sensitive areas.
- Reference is made to groundwater protection and to policy ENV 6 and to impacts on wells arising from the development.
- There is an absence of assessment in this regard.
- Reference is made to policy ENV13 in relation to noise.
- There is also reference to Policies NH1, NH2, NH3, NH4, NH6, NH7, NH8, NH9 and NH10 of the plan in relation to natural heritage and landscape and the overriding requirement for protection. There are similar policies and objectives in relation to historic landscapes and architectural protection.
- The issue of Appropriate Assessment is raised in the context of the adopted wind energy strategy for the county.
- The screening report identifies risks and refers to silt fencing to prevent silt runoff to watercourses and mitigation measures but gives no construction details of the fences.
- There is no reference to bats.
- A stage 2 AA is required and there is an absence of clarity and therefore doubt as the NIS does not provide adequate information to make a determination.

- An EIS is warranted in relation to this development although it does not exceed the threshold.
- The request for an NIS by the planning authority amounts to a determination of likely significant effects on the environment.
- The Board can request an EIS.
- Reference is made to Articles 103 and 105 of the Planning Regulations.
- The Board is requested to refuse the development owing to the impact on Curraghmore House and Demesne; its effects on farming, its impacts on residential amenities and groundwater and the inadequacy of the NIS.
- Photographs and other material are also included in the submission.

## **7.2 FIRST PARTY APPEAL.**

The applicant in the grounds of appeal refers to,

- The appeal relates to condition nos. 2, 4 and 6 of the planning authority's decision to grant planning permission.
- Condition no.2 relates to an operational period of 20 years and the applicant requests the Board to extend this to 30 years.
- Turbines have been designed for a period of 20 years but recent initiatives indicate a shift to 25 years and maintenance can further extend their operational life.
- Condition no.4 relates to a special contribution in relation to road strengthening and reinstatement and it is requested that the condition be removed.
- The access route was included in the application and used to install the existing turbines and the route was not damaged.
- Conditions 5, 11 and 20 satisfactorily deal with any traffic, road damage and reinstatement issues which arise. There is also provision for a bond.
- Condition no.6 relates to restoration of the site and lodgement of a 20,000 euro bond. It is requested that the bond is removed as it is unduly onerous.
- The scrap value of the materials on the site will exceed any reinstatement costs.
- Small schemes should not be overburdened with such costs.

## **8.0 RESPONSES TO APPEAL.**

### **8.1 THIRD PARTY RESPONSE.**

Curraghmore Estates and others in response to the first party appeal in a response dated the 14<sup>th</sup> of August 2015 indicates,

- The appeal against the conditions further undermines the possibility of ensuring compliance with any grant of planning permission.



- The environmental impact of the development requires to be reappraised in the event of the development being operational for a period of 20 years.
- The structure of the roads has been materially and significantly damaged by the works involved in construction but also ongoing maintenance traffic and this contributes to runoff to rivers.
- The development cannot be considered small scale in a local context.

## **8.2 FIRST PARTY RESPONSE.**

The applicant in a series of submissions has submitted a response to the third party appeal dated the 19<sup>th</sup> of August 2015.

### **8.2.1 In relation to general aspects of the first party appeal Peter Thomson Planning Solutions in a submission indicates,**

- The conservation officer in the report refers to the Board decision which was for a higher hub height and also there was no turbines constructed to carry out an evaluation.
- The location of the photomontages was as directed by the planning authority.
- The location of the turbines allows for an accurate representation of the montages for evaluation.
- The turbines are 2.4 kilometres from Curraghmore House and an assessment of the development has the benefit of the existing turbines to make an assessment and there less reliance on photomontages.
- In relation to planning precedent the only precedent is in relation to refusal of higher turbines.
- The previous permitted development was assessed and the planning authority is consistent in its assessments and decisions.
- It is largely the rotors which are visible from Curraghmore House.
- An additional turbine will not change the position in relation to economic uses in the demesne.
- No damage has occurred to the road structure.
- Wind turbines do not cause health problems.
- The applicant is not aware of problems in relation to wells and how it could be attributable to the turbines.
- The applicant will not be developing further wind turbines and there will not be capacity at the sub station.
- Details were submitted in relation to the turbine.
- No EIS was required.
- The nearest noise sensitive receptor dwelling is 526 metres from the turbine and not less than 400 metres as stated.
- The development is well within the guidance limits outlined in the national planning guidelines.
- Even if the limits of the review on guidelines are applied the development complies with these limits.

- In relation to the county development plan does not accept a change of designation from preferred designation to open for consideration.
- What can be said is that the lands between the existing turbines and the Clodiagh River are within the open for consideration area but the existing and proposed turbines are within the preferred area.
- Irrespective the NIS found that the proposed development will have no negative effect on the River Suir SAC. As a precaution silt netting is proposed to prevent any potential runoff.
- The contention that an area zoned as agriculture cannot permit wind energy development is not correct as the Wind Energy Strategy Map covers vast lands which are agriculture.
- Agricultural activity will not be affected.
- The contention of disproportionate visual impact referred to in section 4.2 of the plan is not accepted given what already exists on the receiving landscape and that there are two turbines in situ.
- There are no issues in relation to groundwater and ground conditions; no complaint has been received in relation to well pollution and the proposed road will use permeable material which will provide natural drainage and other mitigation measures are proposed.
- The purpose of the appeal is not to determine the validity of the development plan in relation to AA but the draft development plan including the wind energy strategy was screened at draft stage.
- The submission fails to take into account the current position of the two wind turbines which form part of the existing landscape and that the third turbine proposed will not have a significant visual impact on the landscape.
- Consequently the addition of a third turbine will not have a significant visual impact on the existing landscape or significantly alter the landscape setting of Curraghmore House.
- No EIS was required and the development does not amount to project splitting. AA was also carried out.
- The site is within a preferred area and while it is accepted that it will be visible from parts of the Curraghmore Estate significant weight must be placed to the existence of two turbines adjacent to the proposed turbine.
- The development will comply with current national guidance.

8.2.2 In relation to heritage and related aspects of the first party appeal John Cronin and Associates in a submission indicates,

- The cultural heritage significance of Curraghmore Estate was fully acknowledged in the original assessment.
- Having reviewed the grounds of appeal the opinion that the proposed development will only have a negligible impact on the heritage value of Curraghmore Estate is not altered.
- ICOMOS criteria were applied in the assessment.
- The respondent is fully qualified to make this assessment and is very acquainted with the area through previous projects.

8.2.3 In relation to environmental heritage and related aspects of the first party appeal Ted Walsh and Associates in a submission indicates,

- It is understood that silt fencing was part of the project design.
- Bats are not among the qualifying interests of the Lower River Suir SAC.
- Mute swans and Greylag Geese are not among the qualifying interests of the Lower River Suir SAC and wildfowl have been comprehensively treated in the ecology report.
- It is not possible to comment on general statement made in relation to NIS screening other than stating wildfowl are addressed in the ecological report.

•

8.2.4 In relation to health issues a copy of the Energy and Policy Institute paper on "*Wind Health Impacts Dismissed in Court*" August 2014 is submitted.

- The paper is a review of court decisions globally

### **8.3 PLANNING AUTHORITY RESPONSE.**

8.3.1 The Planning Authority in a response dated the 20<sup>th</sup> of August 2015 indicates,

In relation to first party appeal

- The planning authority considers condition no. 2 to be reasonable in terms of reviewing impact.
- Condition no. 4 is also considered reasonable and there is provision for a refund if the local authority does not proceed with the proposed works or part thereof.
- Condition no.6 is also considered reasonable in the context of ensuring satisfactory restoration of the site.

In relation to the third party appeal,

- The Planning Authority had regard to the cumulative effect of the proposed development and considered the third turbine will not have a significant effect on the receiving landscape in particular Curraghmore House.
- The hub height and rotor diameter are consistent with the existing turbines and will be partially obscured.
- The site is designated in the current county development plan as a preferred area.
- The staggered nature of the layout and the limited spatial extent is acceptable.
- Reference to the previous Board decision is somewhat disingenuous as that decision related to an increase in hub height and rotor diameter of the turbines.
- Regard was had to overall landscape assessment in relation to national guidance and also the county development plan. It should be noted

that designations do not necessarily preclude wind energy but rather the potential outcome in terms of impact.

- The application was assessed in relation to AA, shadow flicker, noise and its impact on Curraghmore House.
- The issue of a requirement of an EIS was also considered and project splitting the planning authority considers does not arise.
- The Planning Authority would not consider that there is a fundamental flaw in the nature and description of the development.
- The Board is requested to uphold the Planning Authority's decision.

#### **8.4 DAHG RESPONSE.**

The DAHG response dated the 22<sup>nd</sup> of September 2015 indicates,

- Reference is made to Curraghmore House and that any development even when it is located at a distance away from a protected structure can affect its character and special interest and impact on it in a variety of ways in particular if it visible in an important view of or from the structure or its attendant grounds.
- The Board is recommended to provide photomontages detailing the impact on views to or from the structure or its attendant grounds and other locations deemed relevant.
- The cumulative effects of an additional turbine should be considered.

#### **9.0 POLICY.**

##### **9.1 NATIONAL POLICY.**

National policy on renewable energy has arisen primarily in response to international agreements, most particularly the UN Framework Convention on Climate Change and the Kyoto Protocol.

Current government policy in relation to renewables is outlined in the National Climate Change Strategy 2007 – 2012 which highlights the need for a radical strategy to meet the climate change commitments made under Kyoto.

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

*The National Spatial Strategy 2002 – 2020*, states, “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aqua-culture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

*National Biodiversity Plan 2002*, was prepared in response to Article 6 of the Convention on Biological Diversity and ‘pays special attention to the need for

the integration of the conservation and sustainable use of biological diversity into all relevant sectors.'

### **Wind Energy Development - Planning Guidelines June 2006.**

National planning guidance is provided in the Wind Energy Development - Planning Guidelines published by the Department of the Environment Heritage and Local Government in June 2006, which emphasise the importance of wind energy as a renewable energy resource and also where there is a presumption in favour of wind farm development in suitable circumstances.

The Guidelines state in Chapter 3 that the development plan must achieve a reasonable balance between responding to overall Government Policy on renewable energy and enabling the wind energy resources of the planning authority's area to be harnessed in a manner that is consistent with proper planning and sustainable development. The assessment of individual wind energy development proposals requires to be conducted within the context of a 'plan led' approach.

Consideration of any wind energy development in or near designated areas of natural heritage must be subject to Ireland's obligations under the Habitats Directive and the EU (Birds) Directive. The visibility of a proposed wind energy development from designated views or prospects would not automatically preclude an area from future wind energy development but the inclusion of such objectives in a development plan is a material factor that will be taken into consideration in the assessment of the planning application.

The environmental implications of wind farm developments are referred to in Chapter 5. It is recognised that natural heritage may be impacted by wind energy development but in coming to a decision, the planning authority should also consider the importance of the development of wind energy projects including those proposed on designated sites, in view of their strategic importance in contributing significantly to the achievement of the targets by decreasing dependence on fossil fuels, with subsequent reductions in greenhouse gas emissions.

Birds may be impacted by wind energy arising from disturbance, collision, mortality, barrier to movement and direct loss or degradation of habitats for breeding, feeding and or roosting purposes.

Noise impacts are discussed in Section 5.6 and it is stated that noise impact should be assessed by reference to the nature and character of noise sensitive locations i.e. any occupied house, hostel, health building or place of worship and may include areas of particular scenic quality or special recreational importance. In general noise is unlikely to be a significant

problem where the distance from the nearest noise sensitive property is more than 500m.

Careful site selection, design and planning and good use of relevant software can help to reduce the possibility of shadow flicker in the first instance (Section 5.12). It is recommended in that shadow flicker at neighbouring offices and dwellings within 500 m should not exceed 30 hours per year.

Aesthetic considerations and the siting and design of wind farm developments are discussed in Chapter 6. Considerations are also given to landscape character types as a basis for practical application of siting and design guidelines.

### **Architectural Heritage Protection Guidelines for Planning Authorities 2011.**

The guidelines which are in two parts set out guidance for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and also for preserving the character of architectural conservation areas.

The guidance on the procedures for recording protected structures including the criteria to be applied when selecting proposed protected structures for inclusion in the RPS which are outlined in Part 1.

Part 2 contains supplementary detailed guidance to protect the architectural heritage when a protected structure, is the subject of development proposals

There is also reference to curtilage and attendant grounds and the guidelines indicate that the notion of curtilage is not defined by legislation, but for the purposes of the guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.

It is also indicated that although curtilage is a word in common use and an important legal concept, curtilage has never been defined in law and so its meaning is open to interpretation. It is also indicated that the curtilage of a protected structure will coincide with the land owned together with it but this is not necessarily so.

## **9.2 WATERFORD COUNTY DEVELOPMENT PLAN.**

9.2.1 The current Development Plan is the Waterford County Development Plan 2011-2017. The plan consists of 5 volumes.

- **Volume 1:** A written statement indicating the development objectives and policies for County Waterford;
- **Volume 2:** Map Booklet largely relating to settlements in the county;

- Volume 3: Book of Appendices which includes A8 a Wind Energy Strategy A9: Scenic Landscape Evaluation, A10: EU Sites: SACs, SPAs and NHAs and A13: Record of Protected Structures;
- **Volume 4:** Strategic Environmental Assessment; and
- **Volume 5:** Appropriate Assessment.

9.2.2 Volume 1 chapter 6 of the plan relates to economic development. Section 6.12 refers to sustainable tourism and recreation and that sustainable tourism provides for a high quality, competitive tourism product based on, and in harmony with, a high quality natural environment. And also protecting the built and cultural heritage which forms the resources on which the County's tourism industry is built upon. Section 6.16 refers to heritage and culture and Curraghmore is referred as an impressive country houses and associated garden that has the potential to become a major tourist attraction. Policy ECD 26 in this regard supports this and indicates a policy "to protect and enhance Waterford County's architectural and cultural heritage as a strong tourism product in a sustainable manner".

Chapter 8 relates to Environment and Heritage. Sections 8.1 and 8.2 relate to landscape and landscape protection with reference to the management of the County's landscape, which involves sustaining and conserving the landscape; protecting the landscape from inappropriate and unsustainable development; providing for development that will enhance and benefit the receiving environment; and ensuring adequate protection to sensitive and vulnerable landscapes through appropriate policies and objectives. There is reference to Appendix A9 of the plan a Scenic Landscape Evaluation and policies ENV 2 to ENV 4 which support the management principles outlined.

Section 8.4 relates to ground water protection and specifically policy ENV 6 outlines a policy to protect groundwater and surface water quality.

Section 8.8 relates to renewable energy and in support of nation policy, policy ENV 10 indicates that it is a policy of the plan "to facilitate and encourage sustainable development proposals for alternative energy sources and energy efficient technologies". It is also an objective as stated in ENV 5,

- a) To encourage, where appropriate, proposals for renewable energy developments and ancillary facilities;
- b) To promote and facilitate wind energy production in the County in accordance with the County Wind Energy Strategy and the Wind Energy Guidelines (2004) produced by the Department of the Environment, Heritage and Local Government;
- c) To facilitate, where appropriate, the development of small scale hydroelectric power generation, in particular when developed in combination with other forms of energy infrastructure, such as wind farms; and
- d) To support and encourage the appropriate development of the bio-energy sector and facilitate its development for energy production, heat storage and distribution.

Wind energy is specifically referred to in section 8.10 and there is reference to a wind energy strategy outlined in greater detail in volume 3 appendix 8 of the plan. The Wind Strategy categorises the County into areas based on their suitability to harness wind energy while taking into account the sensitivity of the landscape.

There is an accompanying map which categorises the County into four areas of suitability for wind farm development including Strategic Areas which are primarily suitable for wind energy and should be reserved for this purpose; Preferred Areas which are suitable and should generally be considered for permission unless local circumstances dictate otherwise; Open to Consideration areas where proposals for wind farms will be assessed on their merits with the responsibility on the developer to demonstrate suitability of the site and No-Go Areas: Areas which are unsuitable for wind farm development. In relation to the appeal site it is located within a preferred area and a copy of the wind energy strategy map of the appeal site and its immediate area is included with the maps attached to this report.

Section 8.17 relates to heritage to the protection of the built and natural environment, to enhancing biodiversity. Section 8.19 refers specifically to Nature Conservation Sites and that these sites must be managed to ensure maintenance or restoration of their favourable conservation status. Appropriate Assessment is referred to in section 8.20 and there are policies in relation to the protection of designated sites and for assessment of development to enable a fully informed assessment of impacts on biodiversity to be made and these are outlined in policies NH6, NH7 and NH8.

Sections 8.29 to 8.33 refer to Architectural Heritage and Archaeology, to the preservation of heritage including protected structures outlined in volume 3 Appendix A13 which it is indicated includes not only buildings and also elements of the built heritage such as vernacular heritage, industrial archaeology, streetscapes, walls, gardens, demesnes and landscapes. There is also reference to historic landscapes (section 8.32) where it is indicated that historic landscapes, gardens and demesnes are usually, but not always, associated with Protected Structures. There are accompanying policies and objectives outlined in relation to the protection of the built heritage.

The site is relative close proximity 2.4 kilometres to the Curraghmore House and Demesne, which is listed in volume 3 appendix 13 RPS 171 which in addition to Curraghmore House incorporates a number of other structures and is also listed in the National Inventory of Architectural Heritage (NIAH) has attributed a rating of National Importance to the overall estate. The NIAH listed 14 buildings and structures including the main house itself dating back to the 18<sup>th</sup> century with extensive grounds and landscaped areas, a number of gate lodges, gateways, a church Clonagam Church, a farmyard complex, a shellhouse, estate worker's house and piers.



Chapter 10 relates to Development Management where policy DM 1 is stated as a general policy requiring compliance with standards as set out in the plan.

## **10.0 ASSESSMENT.**

### **10.1 INTRODUCTION.**

In relation to the current appeal the development as submitted to the planning authority on the 30th of July 2014 was for the erection of a wind turbine with rotor diameter not exceeding 54 metres and a height not exceeding 60 metres with a maximum output not exceeding 850Kv and for an extension of an existing access road. In the course of the assessment of the application by the planning authority initial and further information submitted included an assessment of flora and fauna; a report on potential impact on existing telecommunications facilities; reports relating to noise and shadow flicker; an assessment of the development in the context of the local area focussing on Curraghmore House and Demesne; a Natura Impact Assessment and an ecological report; a geological assessment and report.

I note the issues raised in relation to the development by the third party appeal and also that the applicants have appealed three of the conditions nos. 2, 4 and 6 included in the decision to grant planning permission. In relation to the issues arising in relation to the development I propose to address the issue of EIA; the principle of the development in a policy context; other site specific issues raised in the third party appeal in relation to visual impact landscape, heritage, built and natural, geology/soil/water related issues, noise and shadow flicker and traffic and then to address the first party appeal.

### **10.2 ENVIRONMENTAL IMPACT ASSESSMENT.**

The issue of the submission of an EIS and subsequent EIA is raised in the third party grounds of appeal. The planning authority in their assessment of the application considered this matter and considered that a full EIA was not required having regard to schedule 5 part 3 (i) of the Planning and Development Regulations 2001-2013 as the development does not constitute *“installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts”*.

The third party contends that an EIS is warranted in relation to this development although it does not exceed the threshold; that the request for an NIS by the planning authority amounts to a determination of likely significant effects on the environment; that the Board can request an EIS and in this regard reference is made to Articles 103 and 105 of the Planning Regulations.

There is provision within the regulations for the submission of a sub threshold EIS and there also is guidance in relation to sub threshold EIS. The regulations in this regard in Article 103(1) do refer to matters including where *“the likelihood of significant effects on the environment cannot be excluded by the planning authority and consequently the planning authority shall make a determination as to whether the development would be likely to have significant effects on the environment and where it determines that the development would be likely to have such significant effects it shall, by notice in writing, require the applicant to submit an EIS”*.

Article 103(2) sets out criteria to consider the matter including among others where the development would be located on, or in, or have the potential to impact on a European site; an area designated as a natural heritage area; and a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan.

In considering this matter, the proposal as submitted in conjunction with the existing development is sub threshold in relation to EIA in respect of the planning regulations and therefore not a mandatory requirement. Although the planning authority requested by way of further information a NIS, this requirement in itself does not necessarily infer that EIS/EIA is required and the function of the NIS was to determine whether the development would be likely to have significant effects on the environment. In the event that significant effects were determined there would then be an onus to submit an EIS. The screening report documentation submitted concluded that no significant effects were determined and stage 2 was not required.

Issues relating to ecology and designated site will be considered in this report but initially I would agree with the planning authority’s assessment that EIA and the submission of an EIS is not required having regard to schedule 5 part 3 (i) of the Planning and Development Regulations 2001-2013 and the nature and scale of development proposed.

### **10.3 PRINCIPLE OF DEVELOPMENT.**

In section 9 of this report I have outlined the policy context at national and county level relating to renewable energy with specific regard to wind energy.

At national level current planning guidance as provided in the Planning Guidelines for wind farm development emphasises the importance of wind energy as a renewable energy resource and in general there is a presumption in favour of wind farm development in suitable circumstances.

In relation to the county the current operative plan is the Waterford County Development Plan 2011-2017. The provisions of the plan include a specific sections in relation renewable energy, section 8.8, wind energy section 8.10 and there is also appendix A8 a wind energy strategy with an accompanying map indicating the identified wind energy designations for the county.

The national and county policy as stated is broadly in favour of the promotion of renewable energy including the provision of energy from wind. In particular policies ENV 10 and ENV 11 are broadly supportive in principle but there is recognition that other factors required consideration in assessing wind energy proposals including nature conservation and visual impact.

In the wind energy strategy the county is considered in relation to identification of areas for wind farm development and four broad categories of areas are identified while taking into account the sensitivity of the landscape. In relation to the current appeal site it is located within the designation "Preferred Areas" which it is indicated are areas considered suitable and should generally be considered for permission unless local circumstances dictate otherwise.

In relation to the appeal site it is located within a preferred area. In relation to the grounds of appeal I note the matters raised questioning this but I am satisfied that the site is within the preferred area designation.

Having regard to policies and objectives of the Waterford County Development Plan 2011-2017 there is an overall adoption of a plan led approach to identifying areas suitable for windfarm energy sources and development. There is, I consider, a structured basis set out in the strategies as prepared and the process as followed is reasonable and complies with national guidance. The identification of the site as potentially suitable for windfarm development is also I consider reasonable.

There is, therefore, no policy objection to the principle of the development on the proposed site which is furthermore acceptable having regard to EU, National and Local policy considerations in relation to wind energy policy. The strategies and policy support, however, it is noted do require consideration of proposals for wind energy in the wider context of other criteria including those identified in policy ENV 11 and also detailed site specific matters, which require site specific examination and assessment and which are considered in more detail under the relevant headings below.

In overall terms the principle of locating windfarm development in the area which is the subject of this appeal is reasonable.

## **10.4 SITE SPECIFIC MATTERS**

### **10.4.1 Visual impact / Landscape / Built Heritage.**

In relation to visual impact this matter is raised at length in the third party appeal in the context of its impact not only in the context of Curraghmore House and Demesne but the wider area. It is therefore appropriate to consider the issue of visual impact not only in relation to the wider area but in relation to the built heritage given the importance of Curraghmore Demesne.

The site is located on the northwest of a hillside, Donnell's Hill, which is a significant upland area dominating the surrounding lower lands and valley areas including the Clodiagh River to the north, the Curraghmore Demesne which is located mainly to the north of the Clodiagh River, the town of Portlaw to the northeast and the valley of the River Suir to the east. There is extensive woodland on the northern and eastern slopes and the appeal site is open area on a lower ridge to the northwest of the summit of the hill.

The existing two turbines to the west of the proposed turbine are visible from lower areas in particular lands to the north and northeast. In this respect they offer a reasoned basis to consider the visual impact of the additional turbine as the two existing turbines have been constructed since the previous decision of the Board. They are less visible from the Clodiagh valley floor largely as a result of the woodland area but going northwards into Curraghmore Demesne and in particular from Curraghmore House and lands to the north the existing turbines are readily visible and in indicating they are visible it is the upper sections of the turbines including the hub and rotors. In other areas a similar level of impact arises but the hillside does offer higher levels of screening and elimination of visibility in particular to the east.

The additional turbine will therefore be largely as visible as the existing turbines and will be visible from significant areas of the Demesne as indicated by the third party. In this respect I do not consider that any of the parties dispute this.

I note that reference is made to the precedence of the previous decision of the Board by the third party ABP Ref No 24.212302 where permission was sought for amendments to previously approved permission (ref. 01/188) for 2 no wind turbines with alterations to proposed access. Significantly the amendments included increasing the rotor diameters to 80 from a permitted 60 metres and an increase in the hub height to 70 from a permitted 54 metres.

Permission was refused on appeal by the Board and one reason was stated where Curraghmore House and demesne are identified as a protected structure and are also identified as of National Importance in the National Inventory of Architectural Heritage. The decision also referred to the nature and scale of the proposed development and its close proximity to and visibility from Curraghmore House and demesne, and based on this the proposed development would materially and adversely affect the character and setting of a protected structure and would interfere with views from it.

The applicant in response indicates that an assessment of the development has the benefit of the existing turbines to make an assessment and there is less reliance on photomontages and I would accept this to be the case. Referring to planning precedent the applicant contends that the only precedent is in relation to refusal of higher turbines and there is also a precedent of a permitted development of two turbines as constructed.

The applicant in the response submission contends that the third party submission fails to take into account the current position of the two wind turbines which form part of the existing landscape and that the third turbine proposed will not therefore have a significant visual impact on the landscape. As a consequence therefore it is considered that the addition of a third turbine will not have a significant visual impact on the existing landscape or significantly alter the landscape setting of Curraghmore House. In effect the proposal could be considered in the context of a cluster of turbines.

In considering the current proposal the first issue to consider is the overall wider area before addressing Curraghmore Demesne. As already indicated the existing development is visible owing to the elevated nature of the site dominating adjoining lowland areas. In relation to an additional turbine this will also be visible and give rise to a visual impact but the matter to be determined is whether the additional turbine will result in a significant negative impact on the wider landscape. The site it is noted is not within a designated scenic landscape but forms part of a visually attractive and divergent landscape and within an area defined as a preferred area for this form of development in the current county development plan.

In a general sense therefore there will be varying levels of visual impact arising from the development. Although the wind turbines have a determined lifespan, visual and landscape impacts will occur in particular in the general area, in particular to the north and west given the nature of the topography irrespective of applying mitigation measures and best practice on siting as the contours will not present relief or screening in that regard given the relative elevated nature of the site.

Given the presence of two existing turbines it is difficult to identify or come to a conclusion that the addition of any individual turbine will to any significant degree affect the overall visual impact of the development on the wider area given the visual prominence of the existing development.

In overall terms, therefore, the principal impact will therefore not change the character of the area from what currently exists. The additional turbine by reason of its height will be as visible as the existing turbines and the matter to consider is whether the level and magnitude of impact arising from an additional turbine is such as to detract significantly from the relatively rural character of the area.

In considering this it is noted that the area is broadly acceptable within current county policy for consideration of wind turbines. Therefore accepting that the development will impact visually on the area it will not be to a significant degree, I consider, to adversely impact on the wider area given the presence of the existing turbines. I also consider that, cumulatively when considered with existing and permitted wind energy development the development will alter the visual character of the area but in overall visual terms it will not be to a significant degree as to be considered to adversely impact on the area.

The relative proximity to Curraghmore House and Demesne is however a significant matter to consider in relation to visual impact and in this regard the DAHG response dated the 22<sup>nd</sup> of September is of importance in referring to the position that any development even when it is located at a distance away from a protected structure can affect its character and special interest and impact on it in a variety of ways in particular if it visible in an important view of or from the structure or its attendant grounds and also that the cumulative effects of an additional turbine should be considered.

In the previous refusal by the Board, the Board were considering a revised proposal where there was already a permitted development if at that time not constructed.

The previous application may have been for an increase in height of the turbines but the refusal recognised the importance of Curraghmore House and demesne in relation to the built heritage at national and county level and the stated reason for refusal referred to the nature and scale of the proposed development and its close proximity to and visibility from Curraghmore House and demesne.

The current proposal although it proposes a turbine of a similar height to those constructed also I consider represents an additional level and significance of scale in the context of Curraghmore. It is also hard, therefore, not to consider that notwithstanding the current position regarding turbines that an additional turbine would not materially and adversely affect the character and setting of a protected structure and would interfere with views from Curraghmore House and demesne which is of major significance in relation to the built heritage.

In this regard Architectural Heritage Protection Guidelines for Planning Authorities 2011 do refer to the importance of curtilage and attendant grounds and a material consideration is an assessment of development which can affect its character and special interest. Having considered the matter I consider that the additional turbine can and will affect the character and special interest of Curraghmore House and demesne and the additional turbine is material and significant in this regard.

#### 10.4.2 Natural Heritage/ Flora and Fauna,

The issue of impacting on the natural heritage and in particular designated sites is referred to in the third party appeal. In this regard the applicant was requested to submit a NIS report and also submitted an ecological report.

The site is not within a designated site and there are no designated habitats on the site of identified designated species. The site is in relative close proximity to the Lower Suir SAC Site Code. 001237. The River Clodiagh approximately 1.5 kilometres to the north of the site is a tributary of the River

Suir and the appeal site would be within the watershed catchment of the River Clodiagh.

In relation to Lower River Suir cSAC (Site Code 002137), this site consists of the freshwater stretches of the River Suir immediately south of Thurles and extends to the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in County Waterford and includes many tributaries including the Clodiagh River. Given the long linear nature of the designation the cSAC includes a diverse range of 6 Annex 1 habitats and supports a diverse range of 8 designated Annex 2 species. The qualifying interest of significance is the presence of freshwater mussel as the River Suir is one of 17 sites for this species and the River Clodiagh is identified as a sensitive area of this species in this regard.

The screening report having considered the assessment of effects concluded no negative impacts in the context of distance, the nature and scale of the development and the provision of mitigation measures. Having reviewed the matter and considered the information presented I would agree with the information and conclusions presented.

In relation to the overall issue of flora and fauna generally the site is largely is an open upland grassland. There are no designated sites or habitats on the site and the site adjoins existing turbines.

The documentation presents details of survey in relation to flora and fauna species within the study area in particular in relation to land based mammals and birds including wildfowl and also aquatic species

In relation to flora and fauna generally the documentation as submitted has followed a methodology of identifying potential impacts including risk of bird strike. In overall terms I consider that subject to appropriate conditions that the development can be permitted and will not impact on flora and fauna.

#### 10.4.3 Soil, geology and Water.

As part of the submitted documentation a geological and geotechnical report was submitted which included risk assessment and which after outlining the prevailing position in relation to geology, the bedrock and overburden also assessed any potential impacts on groundwater and concluded no negative impacts arising.

In the third party appeal there is reference to impacting on groundwater and local wells but there is no substantive information submitted in relation to this and given the relative distance from properties and the nature of the terrain it is difficult to identify a relationship in this regard.

The main consideration would be potential impacts of runoff from the site in particular silt which would enter watercourses and detrimentally impact on the

water quality. It is indicated that silt fencing is proposed to mitigate against this occurring.

In overall terms given the scale of the development and the application of mitigation measures I do not consider that adverse impacts will arise.

#### 10.4.4 Noise and Shadow Flicker

In relation to noise, documentation submitted with the application includes a study of impact on sensitive receptors and calculations of predicted noise levels at 15 locations both in relation to the proposed development and cumulative impact with the existing development based on a wind speed of 9m/s (table 3 of further information submitted on the 20<sup>th</sup> of March 2015). The predicted cumulative noise levels are indicated as below the limit of 43dB(A) outlined in current national guidance in relation to wind energy. There will be certain receptors be an increase over existing levels but the level of increase will however be within the permitted levels. There will also be impacts arising in the construction phase arising from additional traffic and general construction activities in what is a relatively quiet rural location but they will be short term in duration.

In relation to shadow flicker a similar methodology is applied to the assessment of noise impact with calculations based on the single proposed turbine and the cumulative impact.

As part of the application a shadow flicker assessment was carried out at 15 locations. It is noted that in relation to national guidance it is recommended that shadow flicker at neighbouring offices and dwellings within 500 m should not exceed 30 hours per year. Most of the 15 locations by my estimation 13 are in an area in excess of 500 metres from the proposed development.

The result as presented in table 4 of further information submitted on the 20<sup>th</sup> of March 2015 indicated that the locations would be below the stated guidance.

On the basis of information submitted I consider having regard to the separation distances to sensitive receptors and houses, which are considered to be acceptable, I am satisfied that the methodology applied in assessing noise and shadow flicker impact in relation to the proposed development is reasonable and that a cumulative assessment with the existing development was undertaken.

Ongoing monitoring can be required and any residual concerns and possible impacts likely to arise can be addressed. I also consider that if exceedance arises after monitoring is carried out it can be appropriately addressed by means of condition. The proposed development I consider would be capable of operating within the limits set out in the "Wind Energy Development



Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in June, 2006.

#### 10.4.5 Traffic

Given the nature of the local road network some level of impact is likely to arise. The route of the delivery of the turbines is outlined in the submitted documentation and given the nature of the local road both in relation width and alignment some level of impact is likely to arise in the construction phase.

The main impact arising in relation to traffic and transportation will arise during the construction period with increased traffic including wide loads bringing the turbine and other material to the site. The extension of the access road internally within the site will also give to potential impacts including the requirement for drainage measures.

In principal I would have no objection to the works as proposed provided appropriate roadside drainage is provided for roadside drainage and any possible interference with existing drainage is addressed.

The proposal will also involve movement of material along the existing local road network. The network varies greatly in road width and in alignment both horizontal and vertical. I would however consider that any issues can be addressed by a Transport Management Plan in relation to bringing materials and plant to the site and for parking.

During the construction phase the development will I consider have an impact in particular leading to obstruction of the local road network to road users. The impact will be short term in duration and can be managed through the application of appropriate construction management practice and mitigated by the implementation of the construction management plan.

### **10.5 FIRST PARTY APPEAL.**

10.5.1 The applicant in the grounds of appeal has appealed condition nos. 2, 4 and 6 of the planning authority’s decision to grant planning permission.

10.5.2 In relation to condition no.2 this provides for an operational period of 20 years and the applicant requests the Board to extend this to 30 years. In requesting this amendment the applicant contends that turbines have been designed for a period of 20 years but recent initiatives indicate a shift to 25 years and maintenance can further extend their operational life. The planning authority in response considers condition no. 2 to be reasonable in terms of reviewing impact.

In relation to time limits the 1996 guidelines section 7.20 refers to applications where conditions that limit the life of a wind energy development to a particular time period have been included in the past in order to enable the

planning authority to reassess the operation or reequipping of the wind energy development in the light of circumstances prevailing at the time but indicates that the inclusion of a condition which limits the life span of a wind energy development should be avoided, except in exceptional circumstances.

I would note that in the permission granted under P.A. Ref. 01/188 there is no time limit on the permission granted. I would, however, consider that in the event of permission being granted a time limit is appropriate in relation to this development and if the turbines have an operation time period of between 20 and 30 years and the existing turbines commenced construction before 2006 a period of 20 years in respect of the current proposal is reasonable.

10.5.3 In relation to condition no.4 which relates to a special contribution in relation to road strengthening and reinstatement and it the applicant/first party appellant requests be removed the appellant contends that the access route was included in the application and used to install the existing turbines and the route was not damaged.

Conditions 5, 11 and 20 it is also indicated satisfactorily deal with any traffic, road damage and reinstatement issues which arise. There is also provision for a bond. In response the planning authority indicate condition no. 4 is also considered reasonable and there is provision for a refund if the local authority does not proceed with the proposed works or part thereof.

In relation to the requirement of a special contribution I note that conditions 5, 11 and 20 are road related and there is a bond in condition no. 5 specific to the reinstatement of the local road in the vicinity of the site not the wider overall route which construction traffic will use and condition nos. 11 and 20 do not address specific damage arising to the road infrastructure. I therefore consider condition no. 4 to be reasonable.

10.5.4 In relation to condition no. 6 this relates to the payment of a bond for reinstatement and it is requested that the bond is removed as it is unduly onerous and the appellant contends that the scrap value of the materials on the site will exceed any reinstatement costs. In this respect I note that the use of scrap material in relation to reinstatement cost is referred to in section 7.19 but it is equally difficult to establish whether this will be available as an asset to use for this purpose at some period in the future. In this context payment of a cash deposit to be used as a bond is not I consider unreasonable and the condition should be retained.

## **11.0 APPROPRIATE ASSESSMENT.**

The application also includes a Natura Impact Statement screening statement in support of Appropriate Assessment (AA). An ecological report was also submitted.

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

The primary issue to consider is whether the development individually and in combination with other plans or projects adversely affects the integrity of the European site concerned having regard to its conservation objectives.

The NIS in the screening process stage 1 indicates that the site is not within a designated site and there are no designated habitats on the site of identified designated species. The site is in relative close proximity to the Lower Suir SAC Site Code. 001237. The River Clodiagh approximately 1.5 kilometres to the north of the site is a tributary of the River Suir and the appeal site would be within the watershed catchment of the Rover Clodiagh.

In relation to Lower River Suir cSAC (Site Code 002137), this site consists of the freshwater stretches of the River Suir immediately south of Thurles and extends to the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in County Waterford and includes many tributaries including the Clodiagh River. Given the long linear nature of the designation the cSAC includes a diverse range of 6 Annex 1 habitats and supports a diverse range of 8 designated Annex 2 species.

The qualifying interest of significance is the presence of freshwater mussel as the River Suir is one of 17 sites for this species and the River Clodiagh is identified as a sensitive area of this species in this regard. There is an identifiable source pathway receptor link between the site and Clodiagh River.

The screening report considered the identification of potential impacts, direct, indirect and secondary was considered and that the development will not result in direct habitat loss of a designated site or fragmentation of habitats.

Having considered the assessment of effects concluded no negative impacts in the context of distance, the nature and scale of the development and the provision of mitigation measures. The mitigation measures outlined in large part address issues relating protection of water quality which would be the greatest potential impact. Based on initial assessment stage 2 assessment was not recommended.

Having reviewed the matter and considered the information presented I would agree with the information and conclusions presented.

There will be, I consider, should the proposed development proceed an overall management system in place in relation to the control of silt and

particulate matter entering the watercourse should that event arise in the pre-construction phase, the construction phase and the operational phase. The level and scale of runoff arising from the nature of the development proposed will therefore I consider be very low.

In relation to avian interests it is important to state that the appeal site is not within the boundaries of any SPA and it is important therefore to state that there is no loss of habitat within any SPA arising from the development. In this regard however as there is no loss of designated habitat arising the question of providing or requiring to provide for any loss of habitat does not arise.

The concerns largely arise in relation to potential bird strikes to listed species. It is however noted that surveys carried out has recorded no flight activity across the proposed development zone.

Having considered the issues arising I am satisfied that no adverse effects arise from the development in relation to the Natura Site and any qualifying interest or objectives.

An issue to consider is whether the proposed development individually and in combination with other plans or projects would or would not adversely affect the integrity of a European site concerned having regard to its conservation objectives.

The NIS screening report, I consider, has also examined the issue of cumulative impacts in the context of existing and proposed development. The current proposal as already stated is not within a SAC and therefore no loss of habitat arises. I am satisfied that no adverse effects arise from the development in relation to the Natura Site and any qualifying interest or objectives arising from the proposed development individually and in combination with other plans or projects.

On this basis and having considered the matter I do not consider on the basis of the information presented that the development would adversely affect the integrity of any European site concerned having regard to conservation objectives.

There is I consider based on the information submitted nothing to suggest significant effects or any loss of a protected habitat or in the fragmentation of habitat and any qualifying interest.

In relation to the impact on qualifying species the NIS screening report did, I consider, examine potential impacts. The NIS also did assess impacts in relation to identified potential impacts on the receiving environment in the context of source, pathway and receptor identifying a hydrological link between the site and the Clodiagh River in relation to water flows and the proximity between the source and receptor. I consider on the basis of the information presented that mitigation measures and site operational

management procedures as outlined address potential impacts and effects identified.

On the basis of the information submitted and consideration and assessment of same, I do not consider that the development will adversely affect the conservation of a number of water dependent Annex II species or conservation objectives.

I therefore consider it reasonable to conclude on the basis of the information available that the proposed development, individually and in combination with other plans or projects would not adversely affect the integrity of any Natura site in view of those sites' conservation objectives or directly or indirectly any European site.

In the context this assessment the requirement of an EIA is also not required

## **12.0 CONCLUSION AND RECOMMENDATION.**

Having regard to the foregoing, I recommend that permission be refused for this development for the reasons and considerations set out below.

Curraghmore House and demesne are identified as a protected structure in the current Waterford County Development Plan 2011-2017 and are also identified as of National Importance in the National Inventory of Architectural Heritage. Having regard to the nature and scale and the further extension of the footprint of the proposed development and its close proximity to and visibility from Curraghmore House and demesne, it is considered that the proposed development would materially and adversely affect the character and setting of a protected structure and would interfere with views from it. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

---

**Derek Daly**

**30<sup>th</sup> October 2015**

**Inspectorate.**