



An  
Bord  
Pleanála

## Inspector's Report PL08.245464 ADDENDUM REPORT

<b>Development</b>	Wind energy project 3 wind turbines (maximum height up to 125m), 2 new site entrances, new and upgraded internal site service roads, underground cabling and all associated infrastructure. A 10 year permission is sought.
<b>Location</b>	Beenanaspuck, Kilmorna, Listowel, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	14/571
<b>Applicant</b>	March Winds Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	An Taisce
<b>Observer(s)</b>	Kevin Deering & Peter Crossan John O'Sullivan

**Date of Site Inspection**

13<sup>th</sup> and 14<sup>th</sup> February 2016.

**Inspector**

Sarah Moran

**Note: This addendum report is to be read in conjunction with the original Inspector's report on file dated 22<sup>nd</sup> February 2016.**

## **Contents**

1.0 Section 132 Request .....	4
2.0 Additional Clarification Issued by the Board .....	4
3.0 Applicant's Response to the Section 132 Request .....	5
4.0 Observer Submissions.....	5
5.0 Assessment.....	6
6.0 Recommendation.....	18
7.0 Reasons and Considerations.....	19
8.0 Conditions.....	21

## 1.0 Section 132 Request

- 1.1. The Board issued a notice under section 132 of the Planning and Development Act 2000 (as amended) on 2<sup>nd</sup> March 2016. This stated that the Board was not satisfied, based on the bird survey information submitted with the application, that the development would not have significant adverse ornithological impacts. The Board concluded that the survey data was deficient with regard to best practice as exemplified by the recommendations of Scottish Natural Heritage (SNH) in its publication *Recommended Bird Survey Methods to Inform Impact Assessment of Onshore Wind Farms* (May 2014). The Board had particular concerns with regard to potential impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161), located 0.25km from the site. The Board concluded that the survey information available did not provide a full picture of local commuting and breeding patterns for these species. The section 132 notice stated:

*"The applicant is invited to demonstrate by way of further adequate survey information that the proposed development will not have adverse impacts on the Hen Harrier, Short-Eared Owl, Merlin and Red Grouse, or impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA. In particular, the applicant is requested to submit the results of additional bird surveys carried out at and around the development site during the summer breeding period. The applicant should also consider potential impacts on the Hen Harrier associated with the recent felling of conifers to the east of the site as this could create a new area of Hen Harrier habitat if replanted."*

## 2.0 Additional Clarification Issued by the Board

- 2.1. The applicant requested clarification of the section 132 notice on 15<sup>th</sup> September 2016, regarding the last sentence quoted above. The request stated:

*"There is currently no felling at, or to the east of the site, that we are aware of. Therefore, it is our interpretation that the 'recent felling of conifers to the east of the site' that the Board refers to is in fact the proposed felling associated with the construction phase of T8."*

The submission requested the Board to confirm the above. The Board issued a response on 19<sup>th</sup> October 2016. This made the following points:

- During the site visit the Inspector noted an area of tree felling to the east of the site – unconnected with the proposed T8.
- The principal focus of the further information request is on receiving adequate survey information relating to the species specified and to the named SPA in the notice.

### **3.0 Applicant's Response to the Section 132 Request**

3.1. The applicant submitted a full response to the section 132 request on 28<sup>th</sup> October 2016. This comprised a revised Natura Impact Statement (NIS) and a revised Ornithology chapter of the EIS, to include additional bird survey data collected during the summer 2016 breeding period.

### **4.0 Observer Submissions**

4.1. Both of the original observers submitted additional comments. The main points made may be summarised separately as follows.

#### **4.2. John O'Sullivan**

- The DoAHG document *National Survey of Breeding Hen Harriers in Ireland 2015* identifies a 38% reduction in Hen Harrier numbers in the last 5 years in this SPA, when only 40% of the permitted wind turbines in the SPA have been constructed.
- The SPA is one of the most important sites for Hen Harrier in the country and in Europe. There are Hen Harrier flight paths near the site and the area is clearly used extensively by the species. The operational phase of the development could cause disturbance and displacement to Hen Harrier and have impacts on their foraging area. There is a threat to young birds.
- There are many species of birds present at the site, some red and amber listed. This is an important natural unspoiled area inhabited by endangered birds.

- There is potential for cumulative impacts with other wind farms. There are 225 wind turbines permitted in the Kerry portion of the SPA, in addition to wind turbines permitted in the Limerick portion of the SPA.
- The site is close to the river Feale, an EU designated salmonid river, which needs to be protected. The Feale is the only river in the Shannon catchment that has 'open' status for salmon angling. The development involves tree felling, drainage and construction of tracks and trenching that could all involve seepage to the salmonid river.
- It is submitted that the EIS analysis of landscape character impacts is incorrect. The Landscape Character Assessment carried out by Kerry County Council, on which the EIS assessment is based, should be examined by An Bord Pleanála as its assessment of landscapes around Ballybunion and other areas of north Kerry is inadequate. The wind energy development zonings based on this LCA are consequently incorrect. Ireland's legal responsibilities under the European Landscapes Convention need to be considered and invoked.

#### 4.3. Kevin Deering and Peter Crossan

- The applicants have not submitted a satisfactory response to the section 132 request in respect of tree felling to the east of the site. There is a concern as to the likelihood of the clear felled area becoming an attractive foraging habitat for Hen Harrier.
- The development is not compatible with the conservation objectives of the SPA. The section 132 response does not change the Observer's views on this matter. It cannot reasonably be argued that the Hen Harrier will stay within the confines of the SPA when the nearest proposed turbine is 250m distance.

## 5.0 **Assessment**

- 5.1. It should be noted that the outset that this report relates only to the matters raised in the section 132 request issued by the Board on 3<sup>rd</sup> March 2016. All other issues, including potential impacts on water quality, landscape considerations and the Co. Kerry Renewable Energy Strategy, as discussed in the Observers' submissions, are

addressed in my original report. It is proposed to assess the submitted response with regard to the following topics:

- Adequacy of Additional Bird Survey Data
- Additional Assessment of Ornithological Impacts
- Additional Environmental Impact Assessment
- Additional Assessment of Effects on the Stack's to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA

## 5.2. Adequacy of Additional Bird Survey Data

5.2.1. The analysis of ornithological impacts in the original EIS and NIS is based on the following bird surveys carried out at the site:

- A summer bird survey during April – August 2013 (5 months). Including a vantage point (VP) survey for raptor species such as Hen Harrier. Also a breeding bird survey during the same period.
- Winter bird surveys during the periods October 2013 – March 2014 (6 months) and October 2014 to March 2015 (6 months). Including VP surveys for raptor species, also general winter bird survey.

This survey data was considered to be deficient with regard to the SNH guidance quoted above. The geographical extent of the survey was considered adequate, however the summer bird survey was carried out for one year only, not two years as required by the SNH guidance for sensitive areas.

5.2.2. The additional bird survey data now submitted comprises the results of a summer bird survey carried out during the period April – September 2016, inclusive. There is survey information from 4 no. vantage points (VPs), including VP1 to monitor any activity in the area to the south of the turbine envelope. In addition, the summer 2016 VP survey was carried out at a frequency of twice per month, rather than once per month as previously. A general summer bird survey was also carried out during the same period, to record all breeding birds and the presence of any species of conservation concern. The available survey data therefore now comprises summer VP raptor surveys and summer bird surveys for two summer periods, i.e. spring / summer 2013 and summer 2016, in addition to the winter bird survey results outlined

above. I am satisfied that the total available bird survey data is now comprehensive, thorough and robust and based on the best available scientific expertise in relation to research, the collection of survey data and the analysis of same. It is adequate in extent, duration and quality to enable a full assessment of potential ornithological impacts.

### 5.3. **Additional Assessment of Ornithological Impacts**

5.3.1. Potential impacts on the specific species mentioned in the section 132 notice may be considered separately as follows, along with impacts on other species included in the survey data on file.

#### 5.3.2. Hen Harrier

##### Additional Survey Data:

The Hen Harrier was recorded during every month of the summer 2016 surveys. There were 39 no. observations in total, 33 of which were individual males in flight, with 6 no. observations of hunting behaviour. There were four individual female observations and one that was either a female or a juvenile 'ringtail' bird. There was one observation of a male with a female, at VP1 on the 26<sup>th</sup> April. The EIS states that the higher number of Hen Harrier observations reflects the increased survey frequency. The majority of the activity was observed from VP1, to the south east of T8. This is an area of undeveloped land where peat was historically harvested. It is now a mosaic of largely abandoned cutover bog, reverting to a heath like habitat with a well-developed willow scrub component in places. The area is, at its nearest point, approx. 680m to the south east of T8. The closest Hen Harrier flight path observed was c. 150m to the east of T8, over an area of conifer plantation, rough grassland and improved grassland. A food drop had been recorded in this area in May 2013 (associated with breeding activity) and a male and female were seen to mimic a food pass at VP1 on 26<sup>th</sup> April 2016. The revised EIS identifies the location as a possible breeding site. However, the available survey data does not indicate that breeding has occurred. The additional EIS analysis notes that no significant use of the habitats within the proposed wind farm footprint was recorded during the site surveys. The additional survey data is consistent with the previous observances of Hen Harrier in the area, which were also concentrated in an area to the south east of



T8. It appears that Hen Harrier hunting and, possibly, breeding activity generally occurs in this undeveloped area of cutover bog, heath and willow scrub. This is in keeping with the known preference of Hen Harrier for open moorland habitats.

#### Construction Impacts:

The revised EIS concludes that significant construction impacts are not predicted, given that Hen Harrier are unlikely to be present at the development site, subject to the implementation of proposed mitigation measures. I accept this conclusion.

#### Operational Impacts – Displacement:

Potential impacts on Hen Harrier primarily relate to the operational stage of the development. The presence of the turbine structures could result in displacement of foraging Hen Harriers. Available research indicates that Hen Harriers may avoid areas of otherwise apparently suitable habitat up to 250m from wind turbines. The habitats within 250m of the turbines comprise agricultural grassland and closed canopy conifer plantation with little to no suitability for nesting or foraging Hen Harrier. The EIS addendum concludes that, in the light of the patterns of Hen Harrier activity recorded, the development will not lead to the loss of any habitat that constitutes a significant component of the ecological resources that support the Hen Harriers present. The EIS also notes that the wider geographical area retains a degree of habitat and structural diversity, which provides connectivity between the area to the south east of T8, where most of the Hen Harrier activity has been recorded, and the wider landscape. The large homogenous stretches of agricultural grassland habitats are interspersed with areas of suitable hunting ground in the form of semi natural bog and heath, with conifer blocks of varying age profiles within which the firebreaks and forest block edges provide suitable commuting corridors for Hen Harrier. The EIS addendum refers to a recent monitoring study carried out at the nearby Athea Wind Farm, 2-5 km to the east-southeast of the development site, much of which contains fragmented areas of high quality Hen Harrier foraging habitat. The wind farm was monitored by specialist bird surveyors prior to, during and post construction. When compared with the baseline studies, the results indicate that the post construction usage of wind farm site by foraging Hen Harrier has been

observed to be similar to usage in the years prior to construction, (Kelleher Ecology Services, 2016). I note the DoAHG comments on file in this regard (17<sup>th</sup> October 2014, summarised in my previous report). These note that Hen Harriers are considered to significantly hunt up to 4km from their nests but avoid any suitable hunting habitat within 250m of operational turbines. The DoAHG also comments that the plantation has not been designated and that sufficient foraging habitat exists within the SPA and elsewhere to sustain breeding Hen Harrier.

The EIS addendum states the following regarding the felling of forestry in the vicinity of T8:

*There is also the possibility that the conifer plantation surrounding turbine T8 will be felled towards the end of the operational lifetime of the wind farm and, should the area be re-planted at that time, the young forestry within 250m (equivalent to approximately 20 ha) of the turbine may be of use as a foraging habitat for up to 4 years after replanting. However, considering that this 250m corridor will be integrated within a more extensive block of similarly aged pre-thicket forestry which would become available to the north and south at that time also, given the relative small size of the area when compared to the extent of suitable habitat available in the surrounding landscape the possible loss of this potential foraging habitat associated with T8 is not considered to have a significant effect on future foraging behaviours of Hen Harrier...*

*The existing conifer plantation within 250m of T9 was planted around the year 2000 and felling is likely to take place between 2045 and 2050. As it is planned to construct Beenenespuck Wind Farm in 2016/2017 the wind farm would remain operational until 2041/42. Thus, the forestry east of T9 will not become suitable for foraging or nesting Hen Harrier during the lifetime of the wind farm.*

In addition to the above, EIS addendum section 6.4.2 recommends mitigation measures to be carried out to limit increased suitability of felled areas for Hen Harrier habitat, as per SNH guidance (2016).

The EIS addendum concludes that there is a low risk of disturbance and displacement to Hen Harriers during the operational phase of the wind farm. I accept this conclusion.

#### Operational Impacts – Collision Risk:

The other potential significant impact on Hen Harrier is collision risk at the operational stage of the development. The EIS addendum uses a collision risk model based on species avoidance rates developed by SNH, it is expected that 99% of Hen Harriers would avoid turbines (I note that a figure of 98% was quoted in the original EIS). It is documented that 90% of Hen Harrier flight activity occurs below potential collision risk height with the vast majority of flight taking place closer to the ground. The EIS addendum notes that the majority of the Hen Harrier activity in the area of the development site has been at height below 10m, well below 25m, which is the lowest height to which the blade tip will reach. There is higher potential for juvenile Hen Harriers to collide with wind turbines during the fledgling period, up to 500m from the nest. However, there is no suitable nesting habitat at the development site or within 500m. The area to the southeast of T8, where there is an observed concentration of Hen Harrier activity, is >500m to the south of T8. Due to the intervening distance, the EIS concludes that the development would not present a risk to juvenile Hen Harrier in the vicinity of the nest during the fledging period. The development will require some keyhole felling of forestry, primarily up to 50m around T8 but also some limited felling at the other two turbines. This could create new areas of Hen Harrier habitat. However, given the small size of the area and the availability of foraging pre-thicket forestry to the north and south of the site and the low use of the footprint by foraging and nesting Hen Harrier, it is considered that this would not create a significant collision risk. I accept this conclusion.

#### Cumulative Impacts:

Male Hen Harriers are known to forage over 11km from their nest and females over 7 km. The assessment of cumulative impacts includes considers operational within 15km of the development, i.e. windfarms at Dromada and Athea (combined total 35 turbines), located 2km and 7km respectively to the east of the proposed wind farm and the permitted Toberatooreen wind farm (4 turbines), 6 km to the south. Having regard to the lack of Hen Harrier breeding or foraging habitat at the development site and to the evidence lack of evidence of displacement impacts at Athea windfarm, the

EIS addendum concludes that there will not be a significant cumulative impact on Hen Harrier. I accept this conclusion.

#### Hen Harrier Impacts Conclusion:

To conclude, it is considered that there is sufficient evidence that the development will not have significant adverse impacts on Hen Harrier by way of disturbance or displacement or collision risk with regard to the following matters:

- The known preference of Hen Harrier for open moorland habitat, which is not present up to 250m from the turbine sites.
- The available data indicating that recorded observances of Hen Harrier are concentrated to the south east of the development site, over an area of suitable habitat.
- The availability of sufficient foraging habitat for breeding Hen Harrier within the SPA and elsewhere, as noted by the DoAHG comment on file dated 17<sup>th</sup> October 2014.
- The available SNH information for Hen Harrier regarding collision risk.

I note that the applicant's submission does not specifically address the issue of the felled area of forest to the east of T8, which could potentially create an area of Hen Harrier foraging habitat within 250m of a turbine. However, I am reasonably satisfied that there will not have a significant adverse impact on Hen Harrier in the area with regard to the following matters:

- The available additional survey results and to the additional analysis of Hen Harrier in the area in the submitted documentation;
- The relatively small size of the felled area in question;
- The overall pattern of Hen Harrier activity and habitat in the area, i.e. the known preference of Hen Harrier for open moorland, along with the presence of a degree of habitat and structural diversity in the area and the presence of high quality Hen Harrier habitat within the SPA;
- The results of the study of Hen Harrier activity at Athea wind farm, as quoted above.

### 5.3.3. Short-Eared Owl

The Short-Eared Owl was not recorded during the summer 2016 surveys. The species is rare in Ireland and breeds rarely in uplands throughout the country. It is known to have bred in the adjacent SPA. However, the EIS addendum states that consultation with an ornithologist familiar with the area established that the species has not been recorded in the recent past within the area. The species requires large tracts of open rough ground, especially moorland associated with young conifer plantations, for both foraging and breeding. The EIS concludes that suitable breeding or foraging habitat is not available in the conifer woodland and agricultural grassland habitats at the development site and surrounding areas. In addition, habitat of equivalent value is abundantly available in the area extending away from the wind farm development and cable route. The species is therefore unlikely to be present and is not expected to be exposed to any significant disturbance or displacement impacts during the construction or operational stages. Significant cumulative impacts as a result of synergistic interaction with other wind farms in the area are not expected.

### 5.3.4. Merlin

Merlin were not recorded during the summer 2016 site surveys. The EIS addendum notes that a total of 4 no. observances of Merlin occurred during the entire survey period. All of these dated to winter 2014/2015. It is known that Merlins will nest close to Hen Harrier, therefore the presence of Hen Harriers indicates that suitable habitat is available for the species. However, the available survey data does not indicate that the species is currently resident or that it makes frequent use of the area. The EIS concludes with regard to the scale and nature of the development and the habitats present at the development site and the surrounding area, that the significance of the change in habitat as a result of the wind farm is low with regard to Merlin. Potential significant habitat loss or alteration impacts are not expected from the unmitigated construction phase of the development. Significant cumulative impacts as a result of synergistic interaction with other wind farms in the area are not expected.

#### 5.3.5. Red Grouse

Red Grouse were not recorded during the summer 2016 bird surveys, or in the previous bird surveys. However, the species is recorded on some of the unplanted areas of bog and heath within the adjacent SPA. The most suitable grouse habitat is largely upland and mountain blanket bog and heath, with a mix of heather of varying age profiles. The EIS concludes that the species is not likely to be present in the area with regard to the available habitat and that the survey data accurately reflect this. Raptor predation of Red Grouse and their chicks may be an additional limiting factor on the presence of the species in the areas adjacent to the wind farm. Given that the species is unlikely to be present, it is not expected to be exposed to any significant disturbance or displacement impacts during the construction or operational stages. Significant cumulative impacts as a result of synergistic interaction with other wind farms in the area are not expected.

#### 5.3.6. Other Bird Species

The summer 2016 bird surveys observed a total of 49 species, of which 3 were raptors, i.e. Hen Harrier, Kestrel and Sparrowhawk. A total of 3 no. red listed species and 18 amber listed species were recorded with the red listed Meadow Pipit recorded during every month of the survey. As in the previous bird surveys, the assemblage of species recorded was typical for the habitats and land use mix present. The species mix is influenced by the intensively managed agricultural grassland and the presence of a substantial tree line at field boundaries in the survey site. Wind farms are not associated with significant direct impacts on passerine species, potential impacts are associated with habitat loss, however this is not expected to result from the development. Golden Plover was recorded on one occasion during the 2014/2015 winter surveys. Herring Gull was recorded once during the previous surveys and again in July and August 2016. Common Gull and Great Black-beaked Gull were recorded during the summer 2016 surveys. Curlew was recorded in April 2016. Given that the survey data indicates that none of these species is present frequently or abundantly and considering the low ecological value of the habitats present at the footprint of the proposed wind farm and in the surrounding area, it is considered that the significance of the change in habitat on other bird species is generally very low. Significant cumulative impacts as a result of synergistic interaction with other wind farms in the area are not expected.

### 5.3.7. Conclusion

I generally concur with the above findings of the additional analysis of ornithological impacts. With regard to the information available, I am satisfied that the development is unlikely to have significant adverse impacts on the species listed in the section 132 notice, i.e. Hen Harrier, Short-Eared Owl, Merlin or Red Grouse.

### 5.4. **Additional Environmental Impact Assessment**

5.4.1. I note that my assessment of the original EIS in my previous report (ref. section 10.3 of same) concluded as follows:

*“... I am of the opinion that the direct and indirect effects on the environment of the proposed development have been identified and described. It is my view that, excepting my concerns in respect of potential impacts on the Hen Harrier, the potential impact of the proposed development can be adequately mitigated and is not likely to result in any significant impact on the environment.”*

I now consider that adequate bird survey data has been submitted and that the potential for significant adverse impacts on the Hen Harrier does not arise, subject to the satisfactory implementation of the proposed mitigation measures. When the original EIS is considered in conjunction with the submitted addendum, with the other documentation and with the submissions received, there is adequate information available to carry out a comprehensive EIA in respect of the development. Subject to the implementation of the proposed mitigation measures set out in the EIS and EIS addendum and the other conditions attached to the recommendation of this report, I agree with the conclusions that the development would not have significant adverse impacts on the environment.

### 5.5. **Additional Assessment of Effects on the Stack’s to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA**

#### 5.5.1. The European Site and its Conservation Objectives

The development site is in close proximity to the Stack’s to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA, (site code 004161), which is designated under the EU Birds Directive as of special conservation interest for Hen Harrier (Birds Directive Annex I). There is a general conservation objective to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA, i.e. the Hen Harrier. According to the site

synopsis, the SPA supports the largest concentration of the species in the country and is among the top 2 sites in the country for the species. The mix of forestry and open areas provides optimum habitat conditions for the Hen Harrier. The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage for birds and small mammals up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests. Several other species of conservation importance have also been noted within the SPA, i.e. breeding Short-Eared Owl and Merlin (both also Annex I) and Red Grouse on some of the unplanted areas of bog and heath (Annex II). The site synopsis notes that the site has a number of wind farm developments but it is not yet known if these have any adverse impacts on the Hen Harriers.

The eastern side of the development site is c. 750m from the main part of the SPA and the western development site boundary is 250m east of a parcel of land that is also within the SPA, see enclosed maps. In addition, 730m of the proposed grid route is located within the SPA.

#### 5.5.2. Likely Significant Effects on the SPA at Construction and Operation Stages

The original NIS identifies potential effects on the Hen Harrier during the construction and operational stages of the development. The revised NIS takes into consideration the additional bird surveys carried out in April – September 2016.

According to the Habitats Directive, the conservation status of a species means the sum of influences acting on the species concerned that may affect the long term distribution and abundance of its population. The conservation status will be taken as 'favourable' when:

- Population dynamics data on the species concerned indicate that it is maintaining itself on a long term basis as a viable component of its natural habitats and
- The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future and
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long term basis.



Potential significant effects on the Hen Harrier relate to:

- Disturbance and / or displacement of species during construction and
- Displacement or potential risk of collision with turbines during the operational phase.

#### Construction Stage:

The revised NIS notes that the 2016 breeding bird survey confirms that foraging Hen Harriers make little use of the low value habitats at the development site. In addition, the development site is not suitable for nesting. The Hen Harriers have been using and continue to use semi-natural habitats to the southeast of the wind farm, which are well connected to the surrounding landscape by woodland strips, unmanaged field boundaries and corridors within the commercial forestry situated at a remove from the wind farm in the southeast. However, individuals that use the wider district for foraging or as commuting corridors could be effected by fugitive noise from construction activities or human presence during the projected 9 month construction period. A total of 730m of the grid connection route is within the SPA, contained along an existing mature forestry track / road. Work on this part of the development would take 9-15 days, creating potential for temporary effects on the SPA.

#### Operational Stage:

Potential operational impacts are as outlined above in the EIS, i.e. displacement of foraging Hen Harriers and collision risk. The NIS notes that the development will not result in any significant habitat loss or alteration within the SPA site. The specific structure and functions that are necessary for the long term maintenance of habitats within the SPA are likely to continue to exist for the foreseeable future. No significant habitat or species fragmentation impacts are predicted. Due to the lack of suitable foraging habitat at the development site, to the availability of more suitable habitat within the SPA and to the observed Hen Harrier activity at the nearby Athea wind farm, the development is not considered to have a significant effect on future foraging habitat for the Hen Harrier. Collision risk is not significant with regard to available SNH information and given that it is unlikely that Hen Harrier would select the keyhole felled areas or felled forestry within 500m of turbines.

### 5.5.3. Other Plans or Projects (In Combination Effects)

There is potential for significant 'in combination' disturbance / displacement effects when the development is considered together with agriculture, peat cutting and forestry, as well as other wind farms in the area. As per the EIS, no cumulative impacts with peat cutting, agriculture or forestry are envisaged. As per the above discussion regarding potential cumulative impacts associated with other permitted wind farms within 15km, it is not envisaged that there will be a cumulative adverse effects on the Hen Harrier or on the SPA.

### 5.5.4. Mitigation Measures and Residual Effects

The NIS outlines proposed mitigation measures, including supervision by a Project Ornithologist; limited vehicular movements at the development site; a bird monitoring programme commencing prior to construction and measures to reduce the suitability of afforested areas for Hen Harrier. The identified residual effects are imperceptible / slight and negative.

### 5.5.5. Additional AA Conclusion

I am satisfied that the development would not have adverse impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, with regard to the site's conservation objectives. Having regard to the available information, I am satisfied that I can conclude beyond reasonable scientific doubt that the proposed development including grid connection, either individually or in combination with other plans and projects, would not adversely effect on the integrity of the European site in view of that site's conservation objectives, during either the construction or operational phase of the wind farm development.

## 6.0 **Recommendation**

- 6.1. In view of the above assessment, permission is recommended, subject to the conditions set out below.

## 7.0 Reasons and Considerations

### 7.1. Having regard to:

- a) European and national policies to increase the proportion of energy that is generated from renewable sources including wind set out in the Renewable Energy Directive 2009/28/EC and the National Renewable Energy Action Plan which sets a target that 40% of the electricity generated in Ireland would be from renewable sources by 2020,
- b) the Guidelines for Planning Authorities on Wind Energy Development issued by the Department of the Environment, Heritage and Local Government in June, 2006 and the limits set therein for noise and shadow flicker,
- c) the provisions of the Kerry County Development Plan 2015-2021 and the location of the proposed development in an area zoned as a “Strategic Site Search Area” for the consideration of wind energy developments under the Co. Kerry Renewable Energy Strategy 2012,
- d) the character of the landscape and the topography surrounding the site,
- e) the distance to dwellings and other sensitive receptors from the proposed development,
- f) the separation of the site of the proposed development from sites designated as part of the Natura 2000 network and the nature of the connections between them,
- g) the Environmental Impact Statement and EIS Addendum submitted by the applicant,
- h) the Natura Impact Statement and revised Natura Impact Statement submitted by the applicant,
- i) the further information submitted by the applicant to the Board on 28<sup>th</sup> October 2016,
- j) the submissions made in the course of the planning application and appeal and
- k) the inspector’s report dated 22<sup>nd</sup> February 2016 and addendum report dated 8<sup>th</sup> February 2017,

it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with the National and County policies in respect of wind energy, would not have significant effects on the community in the vicinity, would not give rise to pollution, would not result in detrimental visual or landscape impacts, would not seriously injure the amenities of the area or of property in the vicinity of the site, would not seriously injure the visual amenities or landscape character of the area, would be acceptable in terms of traffic safety and convenience, would not create an unacceptable risk of environmental pollution or have an adverse effect on the ecology of the area, and would not otherwise be contrary to the proper planning and sustainable development of the area.

## 8.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19<sup>th</sup> day of June 2015 and by the further plans and particulars received by An Bord Pleanála on the 28<sup>th</sup> day of October, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures identified in the Environmental Impact Statement and addendum to the Environmental Impact Statement and Natura Impact Statement and revised Natura Impact Statement shall be implemented in full by the developer. Where the conditions below require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

3. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate surveys of this site for the Hen Harrier. Details of the surveys to be undertaken shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To monitor the impact of the development on the local population of the Hen Harrier.

4. The developer shall review usage by birds of the wind farm site and document bird casualties through an annual monitoring programme, 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 Arts, Heritage and the Gaeltacht, 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.

5. A protocol for annual reports on the impact of the windfarm on wildbirds in the vicinity with particular reference to the Hen Harrier shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for as long as the windfarm is operational.

**Reason:** To allow full monitoring of the ecological impact of the proposed development with particular reference to species scheduled under the Wildlife Act and the EU Habitats and Birds Directives.

6. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

**Reason:** In the interest of clarity.

7. Prior to commencement of development, a detailed Environmental Management Plan for the construction stage shall be submitted, generally in accordance with the Environmental Impact Statement, the EIS Addendum and the submissions made in accordance with the planning application and with the appeal, for the written agreement of the planning authority. The Environmental Management plan shall include the following:
  - (a) a detailed construction programme,
  - (b) detailed method statements for construction, including a method statement for the excavation of rock. Blasting is not permitted without a prior grant of planning permission,
  - (c) a Site Drainage Management Plan, in accordance with the submissions made in the Environmental Impact Statement, incorporating a detailed silt management plan and pollution prevention plan, and including appropriately-sized silt traps and/or settlement ponds as required, to be prepared by a suitably qualified drainage engineer or equivalent professional, with experience of drainage design in upland peat environments to the satisfaction of the planning authority,
  - (d) a programme for the ongoing monitoring of water quality during the construction period,
  - (e) a Construction Waste Management Plan, prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material, and

(g) an Emergency Response Plan.

The Environmental, Health and Safety Management Plan shall be subject to ongoing independent audit (all costs of which shall be borne by the developer) to the written approval of the planning authority.

**Reason:** In the interest of the protection of the environment and sustainable waste management.

8. 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. Pre and post construction surveys on all haulage routes leading to the development shall be undertaken by the developer in conjunction with the planning authority so as to ensure the structural integrity of the road network leading to the site.

**Reason:** In the interest of traffic safety and to protect public property.

9. A traffic management plan shall be prepared by the developer and submitted to the planning authority for agreement in writing prior to the commencement of development.

**Reason:** In the interest of traffic safety.

10. Monitoring of the construction phase shall be carried out by a suitably qualified person to ensure that all environmental mitigation measures contained in the documentation which accompanied the planning application are fully implemented. A designated member of the company's staff shall liaise with the planning authority or member of the public in the



event of complaints or queries in relation to environmental emissions. Details of the name and contact details and the relationship to the operator of this person shall be available at all times to the planning authority on request in writing or by a member staff of the planning authority at the site.

**Reason:** To safeguard the amenities of the area.

11. (a) Road widening / strengthening works shall be carried out by the planning authority on the L-10071 local road at the developer's expense.
- (b) Improvement works to the junction of the R523 regional road with the L-10071 local road shall be carried out by the planning authority at the developer's expense.
- (c) The developer shall have made all necessary arrangements with the affected landowners for any junction or road widening works.

The cost of the works shall be agreed with the relevant planning authority and the required monies shall be lodged with the planning authority prior to any works commencing.

**Reason:** In the interests of traffic safety and to protect public property.

12. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, a plan for the decommissioning of the authorised windfarm and the reinstatement of the site which shall provide for the removal of the turbines, towers, meteorological monitoring masts and all plant and equipment and the reinstatement of the turbine bases and hard standing areas, as well as a time frame for the completion of such works which shall not be greater than 12 months from the cessation of the operation of the windfarm.

**Reason:** To ensure the satisfactory reinstatement of the site and to prevent an accumulation of obsolete functional structures in the interests of orderly development.

13. The wind turbines including masts and blades, and the anemometer mast, shall be finished externally in a colour to be agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

14. Noise mitigation measures outlined in the Environmental Impact Statement shall be carried out in full. The following shall be complied with:

(a) wind turbine noise arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed the greater of:

5 dB(A) above background noise levels or

43 dB(A) L90,10min

when measured externally at dwellings or other sensitive receptors.

(b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the initial noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the wind farm.

**Reason:** In the interest of residential amenity.

15. (a) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

(b) A report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority, indicating compliance with the above shadow flicker requirements at dwellings. Within 12 months of commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of residential amenity.

16. (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.

(d) The developer shall be liable for the cost of full road restoration along any public roads where the cabling / ducting will be installed.

**Reason:** In the interest of visual amenity and traffic safety.

17. Facilities shall be installed to minimise interference with radio or television reception in the area. Details of the facilities to be installed 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.

- .18. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, following consultation with the Irish Aviation Authority. Prior to the commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the as-constructed tip heights and co-ordinates of the turbines and wind monitoring mast.

**Reason:** In the interest of air traffic safety.

- .19. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

**Reason:** In the interest of public health.

- .20. Silt traps shall be provided on all surface water drainage channels. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To prevent water pollution.

- .21. Landscaping of the site shall be carried out in accordance with a landscaping scheme, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

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**Reason:** In the interest of the visual amenities of the area.

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22. Soil, rock and sand excavated during construction shall not be left stockpiled on site following completion of works. Details of treatment of stockpiled materials shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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**Reason:** In the interest of visual amenities of the area.

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23. 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.

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**Reason:** To ensure satisfactory reinstatement of the site.

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 completion of road works 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 completion of road works.

25. . 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

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. Sarah Moran  
Senior Planning Inspector

8<sup>th</sup> February 2017