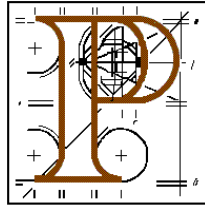


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# An Bord Pleanála



## Inspector's Report

**Development:** One turbine with hub height of 65 metres with associated site development works at Aghamore North Td., Causeway, Co. Kerry.

### Planning Application

Planning Authority : Kerry County Council

Planning Authority Register Reference : 15/341

Type of Planning Application : Permission

Applicants : Coillte Teoranta

Planning Authority Decision : Grant subject to conditions

### Planning Appeal

Appellants : B.O.M. Killahan National School & Concerned Residents

Type of Appeal : 3<sup>rd</sup> Party v. Grant

Observers : John O'Sullivan  
Liam O'Sullivan  
Environmental Alliance Ireland

**Inspector** : Pauline Fitzpatrick

**Date of Site Inspection** : 16/02/16

### Appendices

1. Photographs
2. Extracts from the Kerry County Development Plan 2015-2021 and Renewable Energy Strategy 2012.

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## 1. SITE LOCATION AND DESCRIPTION

The site which has a stated area of 1.7 hectares, is located within an area under commercial forestry, tracts of which have been recently felled. The site is within the townland of Aghamore North approx. 2.7 km to the south-east of the village of Causeway in North Kerry.

The site itself is located on a tract where felling has taken place. It is accessed from an existing forestry track from a cul de sac off a local road to the west. The said cul-de-sac was noted to be narrow and in relatively poor condition. It provides access to 6 houses.

The general area is flat with open views. The main land uses include commercial forestry and agriculture. The area around the site is characterised by a noticeable level of one off housing with the nearest being approx. 505 metres to the west accessed from a track off the cul-de-sac serving the site.

## 2. PROPOSED DEVELOPMENT

The application was lodged with the Planning Authority (PA) on the **28/04/15** with further plans and details submitted **30/10/15** by way of further information (FI) following a request for same dated 19/06/15.

The proposal development is for the construction of a wind turbine with a hub height of up to 65 metres and rotor diameter of up to 55 metres with a maximum overall tip height not exceeding 92.5 metres. The output of the turbine is 0.5MW. A control building with a stated floor area of 47.85 sq.m. is to be provided with cabling between the turbine and control building to be underground. The proposed existing forestry access track is to be upgraded to allow for the turbine construction and subsequent servicing.

The application is accompanied by an Environmental Report with the chapter headings and format comparable to those as used in an EIS. It is also accompanied by an AA-Screening report.

A grid connection report was submitted by way of FI. The most likely method of connection is via the 10kV power line located approx. 1km to the east of the proposed turbine site and will be by way of a single, wooden pole overhead line.

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**Note 1:** Objections to the proposal received by the PA have been forwarded to the Board for its information. The issues raised are comparable to those cited in the grounds of appeal and observations summarised in sections 5 and 8 below.

### **3. TECHNICAL REPORTS AND PRESCRIBED BODIES**

#### **3.1 Internal Reports**

**Building Control Officer** in a report dated **30/04/15** notes that Fire Safety and Disability Access Certificates are required.

The **County Archaeologist** in a report dated **12/05/15** notes that there are no recorded monuments in the area.

The **Biodiversity Officer** in a report dated **11/06/15**, which is accompanied by an AA Screening Report, considers that due to the location of the proposed development, distance from Natura 2000 sites and best practices proposed for construction works, no significant effects on Natura 2000 sites is considered likely from the development. Clarification is required as to whether there is raised bog habitat on the site. An additional bat survey and reasons for survey times and methodology are required. The **2<sup>nd</sup> report** dated **24/11/15** considers the matters to be satisfactorily addressed and recommends that the mitigation and best practices as detailed in the Environmental Report be undertaken and that the retention of an on-site environmental manager/ecological clerk of works be considered.

The **Environmental Health Officer** in a report dated **29/05/15** has no objections.

**Listowel Roads Office** in a report dated **17/06/15** recommends FI on turning movements along the haul route. The **2<sup>nd</sup> report** dated **19/11/15** following FI has no objection subject to conditions.

**Environment Section** in reports dated **16/06/15** & **16/11/15** details conditions to be attached should permission be granted.

The **1<sup>st</sup> Planner's** report considers that noise is unlikely to be a significant problem as the nearest noise sensitive property is more than 500 metres away. The turbine would not constitute an obtrusive feature in the landscape but recommends further assessment of the visual implications of the proposal. The report includes AA-Screening and sub threshold EIA Screening reports. A request for FI is recommended. The **2<sup>nd</sup> report** following the FI considers that the visual impact on the landscape is acceptable. A grant of permission subject to conditions is recommended.

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### 3.2 Prescribed Bodies

**Kerry Airport** has no comment.

An email from the **Irish Aviation Authority** dated **12/05/15** states that it will require an agreed scheme of aviation obstacle warning lighting.

### 4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 12 conditions. Of note:

*Condition 4:* 25 year operational period from date of commissioning of the turbine.

*Condition 6:* Appointment of Environmental Manager

### 5. GROUNDS OF APPEAL

The 3<sup>rd</sup> party appeal can be summarised as follows:

- The proposal contravenes the development plan provision precluding the further grant of permission for wind turbines until 80% of those already granted permission have been erected.
- The turbine is 2.6km from a school with an autism unit. Children with autism can pick up infrasound up to a distance of 5km. The absence of impact on childrens' health needs to be guaranteed.
- The turbine is in proximity to residential properties, one which has been overlooked c. 503 metres distant.
- By reason of the open and exposed nature of the landscape the proposal would have an adverse impact on visual and residential amenities including issues relating to noise.
- The proposal would have an adverse impact on the ecology of the area including the protected species of Whopper Swan and Barn Owl. The Board had regard to such matters when it refused permission for a land fill (sic) in 2011.
- Access to the site is via a local road which, at its widest point, is 5 metres wide narrowing down to 3 metres.
- The bond sought to ensure satisfactory reinstatement of the site is derisory. The site is bog. No proper analysis of the environmental damage that would be caused has been done.

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## **6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL**

The response can be summarised as follows:

- The development plan objective EP-12 refers to windfarms and does not apply to a singular 500kw mid range turbine. Therefore the proposal does not contravene same.
- The proposal is wholly compliant with the development plan policies and objectives.
- The impact of noise on human health has been fully assessed. Research into infrasound levels emitted from the Vesta turbine concluded that they dropped below human perception levels at a distance of 118 metres from a turbine. Due to the fact that all dwellings are located greater than 118 metres from the proposed turbine it has been found that there would be no impact to human health.
- A separation distance of 500 metres from all houses is maintained. The distance is in line with the requirements set out in the Wind Energy Development - Planning Guidelines 2006.
- The fact that the landscape is flat would not preclude the proposal.
- The Environmental Report demonstrates that the proposal does not adversely impact the visual amenities of the area.
- Bird and bat surveys were carried out. No evidence was found of barn owls in the area.
- No 3<sup>rd</sup> party agreements are required in terms of access to the site.
- No examples of active Callua-dominated raised bog are located within the immediate vicinity of the turbine and hardstanding footprint. There will be no potential for the proposed development to disturb active raised bog habitat.
- The turbine siting assessment undertaken determined that there is only a small area in the Aghamore North Coillte property that can accommodate a single wind turbine.
- Coillte does not have plans to develop additional single wind turbines in Co. Kerry.

## **7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION**

No response received.

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## 8. OBSERVATIONS

Observations have been received from

1. John O'Sullivan
2. Liam O'Sullivan
3. Environmental Alliance Ireland

The submissions can be summarised as follows:

- The density and cumulative effect of existing permissions in North Kerry cannot be considered to be in accordance with proper planning and balanced regional development.
- North Kerry has one of the highest industrial wind turbine densities in the world with 254 turbines permitted in an area of approx. 1000km.
- The proposal contravenes the development plan provision precluding the further grant of permission for wind turbines until 80% of those already granted permission have been erected in areas open to consideration.
- The proposal would detract from the landscape.
- The Landscape Character Assessment is incorrect when it states North Kerry lacks importance in terms of scenery, tourism and recreation. The Board should not rely on same in approving wind farm development. The area is rich in history and offers great tourist potential.
- There has been inadequate assessment of visual impacts and potential impacts on tourism. It is c. 850 metres from the Tralee-Ballybunion road which is a major tourist route. The site is on an exposed flat plain and would be visually dominant. It would alter the character of the area.
- The proposal would have an adverse impact on the ecology of the area. The Board had regard to such matters when it refused permission for a land fill (sic) under ref. PL08.238622.
- The site is in an area of regenerating raised bog which is an Annex 1 Priority Habitat. The area provides habitat for a number of protected species - Whopper Swan and Barn Owl.
- The site is 4.2km from the Lower Shannon SAC and is located within the same surface water catchment area.
- The area of the site is a flood plain and the proposal would make the situation worse.
- The number of residential properties in the vicinity has been underestimated.
- The proposal would have a negative impact on residential amenity arising from noise and shadow flicker.
- The proposal would set an precedent for further turbine development

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- Access to the track is via a substandard private lane. The applicant does not have right of access.
  - In terms of the proposed grid connection no consent from the relevant landowner whose land the line is to traverse has been secured.
  - The proposal does not comply with Articles 2(1) and 4 (2)(3) of the EIA Directive. The application is not complete as it does not contain a screening carried out by the Council in accordance with Article 4 (3).
  - There is non compliance with the SEA Directive. In accordance with Article 3 the applicant Coillte Teoranta shall, prior to making any planning applications for wind farms throughout the country, carry out SEA.
  - The applicant has not complied with the provisions of the National Renewable Energy Action Plans and the Aarhus Convention. There is no information in the planning application to allow the Council to make a balanced decision on the social, environmental and economic dimensions of sustainable development.
  - The proposal does not comply with Article 6 (1) (2) or (3) of the Habitats Directive.
  - There was no screening assessment carried out in accordance with Article 6 of the Habitats Directive that contained complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.
  - The cumulative impact of the project with other windfarms has not been assessed.
  - All identified potential turbines exceed 500KW.

## **9. RELEVANT PLANNING HISTORY**

I am not aware of any previous planning applications on the site or in the vicinity considered to be of relevance to the proposal at hand.

PL08. 238622 – permission refused on appeal for a materials recovery facility at Dromroe, Causeway (north-east of appeal site).

## **10. DEVELOPMENT PLAN PROVISIONS AND POLICY GUIDANCE**

### **10.1 Kerry County Council's Renewable Energy Strategy 2012**

Three types of wind deployment zones are detailed. The site is within that delineated as *Open to Consideration*. The strategy states that site searches within these areas will identify sites with wind energy capacity and the environmental and infrastructural capacity to support wind development....The capacity of these areas

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has limits and the cumulative impact of wind development in these areas will be monitored.

*Open-to-consideration* has been applied to areas with some capacity to absorb wind development but which are sensitive enough to require a site-by-site appraisal to ascertain the suitability of the area for development.

The site is within the landscape area - Listowel Plains. The area is *Open to Consideration* with constraints including population and impact on landscape.

## **10.2 Kerry County Development Plan 2015-2021**

**Section 7.6.3** addresses Renewable Energy and states that due to the fact that planning permission for 402 turbines have been granted and 216 of them remain to be constructed, the majority of which are located in the Municipal Districts of Tralee and Listowel the most densely populated rural area in western Europe, planning for windfarms in areas open to consideration in the Tralee and Listowel Municipal Districts will only be considered when the areas designated as Strategic have been developed to their capacity and the effect of such development can be fully quantified or when existing turbines in the areas zoned as strategic are considered obsolete have been replaced due to technological advancements by modern turbines producing multiple outputs of energy in comparison to existing turbines.

**EP-11** – It is an objective to implement the Renewable Energy Strategy for County Kerry (KCC 2012).

**EP-12** - It is an objective not to permit the development of windfarms in areas designated 'open to consideration' in the Tralee and Listowel Municipal Districts until 80% of the turbines with permission in those areas, on the date of the adoption of the Plan, have either been erected or the relevant permission has expired or a combination of both and the cumulative effect of all permitted turbines in the vicinity of the proposal has been fully assessed and monitored.

The site is within an area designated as 'Rural General'. Such areas generally have a higher capacity to absorb development. It is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

The site is within the Landscape Character Area - Listowel Plains. It is noted as a generally flat landscape and it is considered that there is capacity for wind development in the flattest part of the area. Turbine height is an issue. A hub height of 50-75 metres is considered appropriate for this area due to the nature of the



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landscape (flat and open) and there is a high level of population, acting as constraints to wind energy development.

## **11. ISSUES AND ASSESSMENT**

I consider that the issues arising in the case can be summarised as follows:

1. Compliance with National Policy and Development Plan Provisions
2. Visual Impact
3. Health and Safety
4. Site Access
5. Ecology
6. EIA - Screening
7. AA- Screening

### **11.1 Compliance with National Policy and Development Plan Provisions**

At national level current planning guidance as provided in the planning guidelines for wind energy 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.

The current County Development Plan has a clearly defined policy in terms of wind energy. It takes as its starting point the Kerry County Council's Renewable Energy Strategy 2012 in which three types of wind deployment zones are detailed namely *Strategic Site Search Areas*, *Open to Consideration* and *Unsuitable for Wind Development*. The site is within that delineated as *Open to Consideration*. The strategy states that site searches within these areas will identify sites with wind energy capacity and the environmental and infrastructural capacity to support wind development however it notes that the capacity of these areas has limits and the cumulative impact of wind development in these areas will be monitored.

It is a stated objective of the plan (Objective EP-11) to implement the said Renewable Energy Strategy for County Kerry. However objective EP-12 goes on to impose certain strictures on the strategy provisions. It is noted that of the 402 turbines granted permission in the County, of which 216 remain to be constructed, the majority are located in the Municipal Districts of Tralee and Listowel. The objective therefore precludes the development of windfarms in areas designated '*Open to Consideration*' in the Tralee and Listowel Municipal Districts until 80% of the turbines with permission in those areas, on the date of the adoption of the Plan, have either been erected or the relevant permission has expired or a combination of both and the cumulative effect of all permitted turbines in the vicinity of the proposal

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has been fully assessed and monitored. The site is within the Municipal District of Listowel.

The applicant contends that the above policy provision does not apply to the subject scheme in that the proposal for a single turbine does not constitute a windfarm. Certainly the definition of '*windfarm*' reasonably pertains to a group/multiple of turbines rather than a single unit. From the fact that the PA issued a favourable decision on the application it is reasonable to surmise that it would concur with such a view. I note that neither the development plan nor energy strategy appear to define '*windfarm*'. However I consider that the latter provides some clarity by the fact it differentiates single turbines to power single use developments such as factories and other commercial uses. The Strategy seeks to facilitate same where appropriate (section 5.17 Single User Turbines).

Whilst I would accept that the proposed single turbine may not be considered to come within the accepted definition of a *windfarm*, the wording of the objective EP-12 in making reference to '*turbines with permission*', coupled with the clear distinction made in the strategy to single unit developments serving a specific use that single unit, it is reasonable to submit that developments not serving such single use developments come within the remit of the said objective.

Figure 2.2 of the Environmental Report sets out the site relative to nearest existing and permitted windfarms (10 no. of which 6 are operational and 4 permitted) with the nearest being Bennageeha wind farm c. 11 km to the south-east. I would also bring to the Board's attention a further two applications in the vicinity for which decisions are as yet to be made - 10 turbine windfarm at Ballyhorgan Listowel (PL08.244066) and 3 turbine windfarm at Kilmorna Listowel (PL08.245464).

Whilst exact figures are not to hand regarding the number of turbines which have extant permission I consider that the 2015 County Development Plan provides a steer in this regard. At the time of the adoption of the plan, the percentage of permitted turbines having been constructed stood at 46% in which it states that the majority of the as yet extant permissions to be realised obtain to the Tralee and Listowel Municipal Districts. It is reasonable to assume that in the intervening 12 months (the development plan is effective since 16/03/15), the additional turbines constructed or permissions expired has not increased this percentage significantly, and that it remains below 80%. Effectively the Development Plan objective is placing a temporary moratorium on further windfarm development in areas open to consideration until an assessment of the cumulative impact has been carried out. I presume that the Local Authority would be the instigator and arbiter in terms of this plan requirement.

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In effect, therefore, the proposal should it be granted, would contravene development plan objective EP-12. Thus whilst it may be considered that the subject site may be capable of providing for a turbine without undue adverse impact on the amenities of the area the Development Plan is clear in its policy, and I would concur that, given the pressure for windfarm development in the area, it would be best practice for a comprehensive study to be undertaken in order to establish the cumulative impact of such developments prior to any further development being permitted.

## **11.2 Visual Amenities**

The site subject of the appeal is within a generally flat and open landscape within the Listowel Plains LCA and, while having an innate quality, is not of specific visual quality or amenity as to warrant special consideration in terms of designation as either primary or secondary amenity value in the current County Development Plan and is within an area classified as Rural general which generally has a higher capacity to absorb development. I consider this evaluation to be fair and reasonable. Whilst a number of observers would not concur with the development plan designations I submit that it is not a matter for resolution by the Board and would be better raised during the development plan review. I also note that the site is not within an area considered to be of archaeological importance.

In the LCA it is considered that there is capacity for wind development in the flattest part of the area of which the site forms part and thus is open for consideration for wind energy developments. Turbine height is an issue. A hub height of 50-75 metres is considered appropriate for this area due to the nature of the landscape (flat and open) and the high level of population which act as constraints to wind energy development. Certainly the level of one off housing in the vicinity of the site is notable especially on the minor local roads off the regional roads. Such a pattern of development is most likely a consequence of the area's relative proximity to Tralee. The proposed hub height at no more than 65 metres comes within the recommended parameters.

The zone of theoretical visibility shown in Figure 12.2 of the ER illustrates the overall visibility potential for the development from the surrounding countryside. The ZTV with a 10km radius does not take into consideration the effects of screening by natural vegetation and buildings and represents what is considered to be the worst case scenario. The settlements of Causeway, Ardfert and Ballyheigue are within the ZTV.

From my own observations based on my site inspection I consider that the ZTV gives a relatively accurate representation of the areas likely to gain visibility of the development. Both the details provided in the ER and the supplementary details

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submitted at further information stage provides a series of further photomontages and are considered to present a fair and reasonable reflection of the likely visual impact of the scheme.

Invariably the areas most impacted would be along the local roads in the immediate vicinity but due to the flat exposed landscape views from further distances will be available. I would concur with the view that landscape sensitivity is generally considered to be low characterised by agricultural fields lined with hedgerows and forestry.

The closest designated views and prospects are approx. 6km to the north with the views not oriented towards the site and therefore are not impacted upon. Whilst the proposed development will alter the character of the views from certain points along the R556 regional road connecting Ballybunion to Tralee to the east and from Causeway to the north, (both are on higher ground than the general area of the turbine location), I submit that in view of the intervening distance the impact would not be to a level as to warrant refusal.

There are no permitted or constructed windfarms within the ZTV with the nearest constructed being Beenageeha wind farm c. 11km to the south on Stack's Mountain. In my opinion there would be no intervisibility between same.

In my opinion the spatial extent of the proposed single turbine is appropriate relative to the scale of the landscape. Thus, on balance, while there can be no denying that the proposal will have a significant visual impact from the local road network circling the site views from elsewhere, where available, would be of such a distance or of an intermittent nature as not to be of significant concern. I therefore submit that the proposal in terms of impact on the visual amenities of the area would not be of such a magnitude as to warrant a refusal of permission.

### **11.3 Access and Roads**

Access to the site is to be from an existing track from a cul-de-sac lane off a minor county road to the west of the site. By way of FI the applicant has submitted details on what is expected to be the route construction traffic would take and details the improvement/remedial works anticipated to accommodate same. The route will entail transport from the port of Foynes, via Ballylongford and Ballybunion. The remedial works are minimal with the details provided considered to be acceptable.

The issue of the right of way over the cul-de-sac lane accessing the site and consent from the relevant landowners has been raised. I note that the applicant already avails of the access in terms of its commercial forestry activity and thus it is reasonable to conclude that it has a right of way. I note that both the Area Roads

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Office has no objection to the proposal subject to conditions. Any further contention regarding right of way is a matter for resolution through the appropriate legal channels.

#### **11.4 Health and Safety**

In respect of concerns pertaining to matters of public health and safety it is my opinion that such concerns primarily stem from the potential negative effects which may arise due to factors such as excessive noise levels, shadow flicker etc. generated.

As noted there is no occupied dwelling within 500 metres of the proposed turbine site with the nearest being just outside at a distance of approx. 505 metres. In terms of noise the ER sets out the requirements under the Wind Energy Guidelines in which it is noted that *in general noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres.*

Assessment of the receiving environment showed that the area is typical of a quiet rural environment. The Board will note that the Guidelines, in reference to daytime levels in low noise environments, recommends that the day time level LA90,10min of the wind energy noise should be limited to an absolute level within the range 35-40dB(A). In this instance an absolute level of 40dB(A) is being used. At night-time a fixed limit of 43dB(A) is seen to protect sleep inside properties.

The details provided in the ER as set out in Table 9.2 calculate that the nearest dwellings can attain the relevant fixed criterion. In my opinion the applicant has provided sufficient detail to corroborate its assertion that the proposal will not have a significant adverse impact on residential properties arising from noise. An appropriate condition setting out the noise parameters not to be exceeded is recommended in the interests of certainty and clarity should permission be granted.

The casting of shadows by turbines and the rotation of blades can occur with wind farm development in certain defined circumstances and can cause potential nuisance to residential properties in the vicinity. For such a phenomenon to arise the sun is required to be shining at a low angle, the turbine to be between the sun and the affected property and the turbine blades moving. Where shadow flicker can potentially occur the Wind Energy Guidelines recommend that it should not exceed 30 hours per year or 30 minutes per day for dwellings within 500 metres. The Guidelines also note that at distances greater than 10 rotor diameters from the turbine the potential for shadow flicker is very low. There are three dwellings within 550 metres of the turbine location.

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The calculations estimate the worst case scenario to be 29.9 hours annually at house 34 located 549 metres to the south-east of the turbine site which is just within the 30 hour annual limit detailed above. The said worst case scenario assumes that the sun is always shining, there is no cloud cover, the house is always occupied with the calculation based on topography alone and excludes vegetation, buildings etc. Further calculations were undertaken to calculate actual shadow flicker impact due to the absence of sunlight with the actual hours of sunlight representing 26% of the total hours of daylight, the results of which are set out in Table 10.2. It shows a material reduction over that calculated above.

Mitigation measures are proposed should shadow flicker present as a significant impact including installation of appropriate blinds and pre-programming of the turbine to prevent operation on the dates and times when shadow flicker could cause a nuisance.

Specific concern has been expressed in respect of the impact of the alleged low frequency noise and infrasound generated by wind turbines on public health. I would refer the Board to Section 8.5.1.1 of the ER and the applicant's response to the grounds of appeal. From research undertaken infrasound levels emitted from turbines are below human perception levels at distances greater than 118 metres. No dwelling is within 500 metres of the turbine location thus no impact is predicted.

## **11.5 Ecology**

The site is located within an area which has been subject of commercial forestry in which felling has recently been undertaken. The conifer plantation has been planted over low-lying peatland. Whilst no planting was undertaken in the central area of the applicant's landholding which supports remnant raised bog habitats which is managed by the applicant as a Biodiversity Area it is confirmed by way of FI that no such habitat exists on the appeal site with the raised bog habitat adjacent to the site experiencing disturbance and compression during the tree felling operations. Peat depth on the site is shallow at less than 1 metre. Due consideration is given to the indirect impact on the raised bog habitat arising from the potential disturbance affecting the hydrology and high water content of the habitat. As the underlying peat at this location has already been consolidated and compressed as a result of forestry planting and felling and the proposed construction methods to be used, such hydrological disturbance and water draw down is considered to be low and insignificant.

It is acknowledged in the ER that the habitat surveys were undertaken outside the optimum survey period for identifying vegetation but it is considered that the dominant habitats supported by the site were accurately identified.

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In terms of the Birds Surveys kestrel was the only sensitive raptor species recorded with low activity levels with sightings not recorded in the immediate vicinity of the proposed turbine location. Whilst the breeding survey was undertaken outside the optimum period by way of FI is it considered that it has not compromised the outcome with no records of breeding curlew recorded in the vicinity with the nearest stronghold in the Stack's Mountains c. 10km to the southeast.

The original bat surveys were supplemented by further work following a request for FI. The absence of any mature broadleaved trees would render the area low in terms of roosting potential with low level of bat activity recorded related to foraging. The issue of potential for bat fatalities is addressed against recognised criteria concluding that the risk is low with conifer plantation edges of moderate bat foraging value to be buffered by a minimum of 50 metres from the turbine rotor swept area.

There are no watercourses in the vicinity of the site with the nearest being the Aghabeg Stream c.450 metres to the north of the existing access track at the proposed entrance and c. 900 metres to the north of the turbine position. An artificial drainage ditch commences to the north of the site entrance and connects to the Aghabeg Stream. There is no hydrological pathway between the site and the Aghabeg Stream.

I accept the overall conclusion that impacts to habitats and species will be avoided due to the development's location in an area of low ecological value and that the siting of the turbine will ensure that the rotor swept area of the blades will maintain a 50 metre buffer from the nearest bat foraging habitat.

Appropriate best practice measures are to be followed during construction with a suitably qualified ecologist to monitor construction works (paragraph 4.17). The PA's condition 6 appears to repeat this provision.

## **11.6 EIA - Screening**

As per Class 3(i) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, EIA is mandatory of windfarm projects of 5 or more turbines or where the total output is greater than 5 megawatts. The proposal for a single turbine with an output of 500kW falls materially short of these thresholds therefore EIA is not mandatory.

As set out in the observations received the test of inclusion within a class for EIS is not definitive and subthreshold development may require EIA where it would be likely to have significant effects on the environment.

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In this regard the site is located within an area which has been subject to commercial forestry that is not proximate to any designated site or area of visual importance and is not within a landscape of historical, cultural or archaeological significance. I also have regard to the nature of the proposed development. I consider that there is sufficient information on file addressing the environmental effects arising as to allow for a proper assessment of the proposal. Thus, having regard to Article 102 of the Planning and Development Regulations and to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Schedule 7, I submit that the proposal would not be likely to have a significant effect on the environment.

Reference is made to the O’Grianna judgement and the need to consider the environmental impacts of the subsequent grid connection. The case in question was subject of EIA and the thrust of the judgement is that as the grid connection was integral to the wind energy project the cumulative effect of both components must be assessed in order to comply with the EIA Directive.

Whilst the development is not subject of EIA and as such the requirement of O’Grianna case do not apply I note that due consideration and assessment of the potential grid connection was addressed by way of further information with a Grid Connection Report attached in Appendix 3. Connection to the 10kV medium voltage line located approx. 1.1 km to the east of the turbine location is anticipated. The lands to be traversed by the said line are flat, open and in agricultural use with no designations.

### **11.7 AA – Screening**

I consider that the material available to me in preparation of this report is sufficient to allow for a screening determination. A screening report accompanies the application with further details provided by way of further information. Due regard is had to the guidance published on Appropriate Assessment of Plans and Projects in Ireland Guidelines for Planning Authorities. (DoEHLG 2009), the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as inserted by Chapter 4 of the Planning and Development Regulations (Amendment) (No. 3) Regulations 2011 and my site inspection.

The following staged approach to screening for appropriate assessment is recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.



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3. Assessment of likely effects-direct, indirect and cumulative, undertaken on the basis of available information.
  4. Screening statement with conclusions.

### *Project Description and Site Characteristics*

A description of the general area and the proposed project are set out in sections 1 and 2 above.

### *Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives*

The European Sites within a 15km radius are:

- Lower River Shannon SAC (site code 002165) 4.2km
- Akeragh, Banna & Barrow Harbour SAC (site code 00332) 8.5km
- Magharee Island SAC (site code 002261) 13.7km
- Kerry Head SPA (site code 004189) 6.9km
- Tralee Bay Complex SPA (site code 004188) 8.5km
- Stacks to Mullaghareirk Mountains SPA (site code 004161) 8.9km

The qualifying interests and conservation objectives for each are available on the NPWS website. In some instances detailed conservation objectives for the site have been prepared with the overall objective for all being to maintain or restore the favourable conservation status of the habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation states of those habitats and species at a national level.

### *Assessment of likely effects*

As the project is not within any of the identified designated sites no direct impact is anticipated. However there is the potential for indirect impacts.

In terms of the SPA's the qualifying interests (hen harrier, fulmars, choughs and wintering populations of 23 species) are not known to occur in the area with no suitable habitat for same within the project site. As such I consider that the screening out of these sites to be acceptable due to the lack of any habitat, and the separation distances between the sites and the scheme.

In terms of SACs the nearest is the Lower River Shannon SAC the qualifying interests for same include both sea and fresh water habitats and species including atlantic salmon, lamprey species and crayfish. The nearest point of the designated site to the project site is 4.2km distant at the confluence of the Crompaun River and the Brick River, the latter forming part of the SAC. The nearest watercourse to the

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project site is the Aghabeg Stream c. 900 metres to the north which drains into the Crompaun River c. 500 metres further north-east and which in turn drains into the Brick River c. 5km further east again.

There is no hydrological connection between the project site and the Aghabeg Stream with any drainage channels associated with the commercial forestry activity at a remove. The nearest is approx. 200 metres to the north in proximity to the access track. Thus in view absence of any hydrological pathway I conclude that the proposed development could not result in any potential indirect effects.

In terms of cumulative impacts I am not aware of any other wind or commercial development in the vicinity of the site. The area is characterised by commercial forestry, agriculture and one off housing. I therefore consider that the potential for in combination effects would not arise.

#### *Screening Statement and Conclusions*

In conclusion having regard to the foregoing and on the basis of the information available, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular site number 002165 in view of the site's Conservation Objectives and, a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **12. CONCLUSIONS AND RECOMMENDATION**

In conclusion I submit that the current County Development is explicitly clear in terms of its wind energy strategy and that the proposed development, albeit for a single turbine, materially contravenes the provisions of objective EP-12. The proposal by itself and the precedent it could set for comparable development would prejudice the tenets of the objective and the need to allow for a proper assessment of the cumulative impact of wind farm developments in the Municipal Districts of Tralee and Listowel. Therefore having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations:

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## **REASONS AND CONSIDERATIONS**

In the absence of evidence that 80% of wind turbines with permission in the Tralee and Listowel Municipal Districts on the date of the adoption of the County Development Plan 2015, have either been erected or the relevant permission has expired or a combination of both and the cumulative effect of all permitted turbines in the vicinity of the proposal has been fully assessed and monitored, it is considered that the proposed development for a wind turbine not proposed to power a single use development within an area open to consideration for wind energy development within the Listowel Municipal District, would contravene materially development plan objective EP-12. It is also considered that the provision of a single wind turbine would represent a haphazard and uncoordinated approach to wind energy development and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Inspectorate**

**April, 2016**