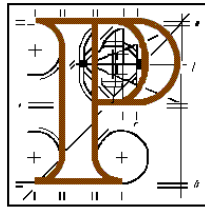


An Bord Pleanála



Inspector's Report

PL26.246321

DEVELOPMENT:-

Three wind turbines, an electricity substation and all associated site works at Tominearly and Killegney, Clonroche, Co. Wexford.

PLANNING APPLICATION

Planning Authority: Wexford County Council

Planning Authority Reg. No: 20151259

Applicant: Ballinclay Windfarms Ltd

Application Type: Permission

Planning Authority Decision: Refuse

APPEAL

Appellant: Ballinclay Windfarms Ltd

Type of Appeal: 1st-V-Refusal

Observers:

- (1) HSE
- (2) Patrick & Catherine Harris
- (3) Bernard & Marie Fay
- (4) Kevin Buckley
- (5) Brendan Casserly
- (6) Michael Larkin & Siobhan Stanbridge
- (7) James Brennan
- (8) Alan & Maria Nolan
- (9) Tom & Una Byrne

(10) Richard Kelly
(11) Peter Crossan/Planning Research Solutions
on behalf of local Clonroche residents.

DATE OF SITE INSPECTION: 22nd June 2016

Inspector: Colin McBride

Decision Quashed

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 9.85 hectares, is located to approximately 2.5m southwest of the settlement of Clonroche Co. Wexford and just north the N30. The appeal site is located in a rural area and on Ballinclay Hill, which is an elevated location relative to the surrounding landscape. The site is irregular in shape and consists of a number of existing fields (complete and partial) that are currently grassland or sown in crop and defined by boundary hedgerow. The site is accessed over an existing laneway that emanates from the L8017, a local road to the north of the site that forms a junction with the N30 a short distance to the north east of the site. The existing laneway serves the agricultural land at this location and an existing telecommunications structure at the top of Ballinclay Hill adjacent the site. The laneway also serves an existing track for off road vehicles at the top of Ballinclay Hill and adjacent the site. The adjoining lands are similar in nature and there is sporadic one of housing in the surrounding area with the closest to the appeal site being just over 500m to the north and adjacent the site entrance.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought to erect three wind turbines, an electricity substation, ancillary buildings and incidental site works, including site roads, temporary haul road entrance and temporary haul road. The tower heights in the description will not exceed 85m and the rotor diameters will not exceed 82m. The anticipated output from the three turbines will be approximately 6.9MW. The detail dimensions of the turbines are hub height of 85m and a rotor diameter of 71m and the type of turbine proposed are Enercon E70 turbines.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

- 3.1
- ▼ (a) HSE (25/01/16): A number of issues are raised including clarification of the type of turbines to be used and concerns regarding the construction of any dwelling with 500m of the turbines. It is noted there is a need for an Environmental Management Plan to include groundwater protection, a need to fit shadow flicker and noise control technology, a requirement for a health and safety plan, a mechanism for community interaction and an annual Environmental Report. It is also noted that a community gain clause should be part of the conditions.
 - (b) Development Applications Unit (28/01/16): Further information required regarding potential impact on migratory birds and clarification regarding

access and haul routes. A number of suggested conditions including mitigation measures are identified.

(c) Roads Department (No Date): Refusal recommended as proposed temporary access point is located off the N30 within the maximum speed limit. Required sightlines not attainable and proposal would constitute a traffic hazard.

(d) Transport Infrastructure Ireland (11/02/16): Proposal would adversely affect the operation and safety of the national road network.

(e) Planning Report (23/02/16): Concerns identified include the overall visual impact due to its location and topography of the area, and the scale of the turbines proposed with it concluded that the proposal would have an adverse visual impact. Concern was also expressed regarding impact of the proposal on residential amenity due to the number of dwellings in the vicinity of the site. It was also considered that the proposal for temporary access from the N30 would constitute a traffic hazard due to turning movement generated onto a national route where the maximum speed limit applies and where sightlines are inadequate. Refusal was recommended based on the reasons outlined below.

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission refused based on the following reasons.

1. *Having regard to the receiving landscape which form the backdrop to an expanse of low-lying lands, it is considered that the wind turbines of such height, would create a significant visual intrusion in this landscape and would be excessively dominant and visually obtrusive when viewed from the surrounding countryside and villages. The proposed wind turbines would, therefore, seriously injure the visual amenities of the area, would be contrary to the provisions of The Department of Environment Heritage and Local Government Planning Guidelines for Wind Energy (June 2006) and would be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the height of the proposed turbines, the proximity of the proposed turbines to a number of residential properties in the vicinity, it is considered that the proposed wind turbines, if permitted, would significantly and adversely impact upon the existing residential amenities of a number of houses in the vicinity by reason of visual impact and overbearing. The development therefore, would seriously injure the existing residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

3. *The proposed temporary access point located on a National Road (N30), would endanger public safety by reason of traffic hazard because it would give rise an unacceptable increase in traffic turning movements to and from a fast section of this heavily trafficked National Road, at a point where the maximum speed limit applies and would therefore endanger public safety by reason of traffic hazard.*
4. *It is considered that the proposed development would endanger public safety by reason of traffic hazard because it has not been shown that adequate sightlines are available at the junction of the proposed entrance and the national road.*

5. PLANNING HISTORY

- 5.1 No planning history on appeal site.

6. PLANNING POLICY

- 6.1 The relevant plan is the Wexford County development plan 2013-2019.

Under section 11.3.2 Wind Energy and Objective EN11

The promote and facilitate wind energy development in accordance with Guidelines for Planning Authorities on Wind Energy Development (Department of Environment, Heritage and Local Government, 2006) and the Wind Energy Strategy which forms part of this Plan,. Subject to compliance with normal planning and environment criteria and the development management standards contained in Chapter 18.

The Wind Energy Strategy is Volume 5 of the County Development Plan. Included in this strategy is map that indicates areas where wind energy development is 'not normally permissible', 'acceptable in principle' and 'open for consideration'. The site is in an area identified as 'acceptable in principle' for wind energy development.

7. NATIONAL GUIDELINES

- 7.1 Planning policy guidance is outlined in "Wind Farm Development: Guidelines for Planning Authorities", DoEHLG, 2006. The guidelines offer advice on planning for wind energy through the development plan process and in determining applications for planning permission and are intended to ensure consistency of approach in the identification of suitable locations for wind energy developments and acknowledge that locational considerations

are important. These considerations include ease of vehicular access and connection to the electricity grid. It is acknowledged that visual impact is amongst the more important issues to be taken into account when deciding a particular application.

Any wind farm proposal will require an assessment of the possible ecological effects. Consideration should also be given to sensitive habitats and species as well as possible risks to birds including migratory birds. Regard should be had to special areas of conservation and other designated sites. Conditions will generally be required to provide for the decommissioning of wind farms and ancillary developments on site.

Chapter 5 of the guidelines refers to other environmental considerations, including the impact on habitats and bird species, noise and electro-magnetic interference. Section 5.3 states that a planning application must be accompanied by information on such issues as slope stability and an assessment of whether the development could create a hazard of bog burst or landslide.

Chapter 6 of the guidelines refers to assessment of siting and location of development in terms of aesthetic considerations, landscape sensitivity, spatial extent and cumulative effect, with regard to landscape character types. The factors to be assessed comprise landscape sensitivity, visual presence of the wind farm, its aesthetic impact on the landscape and the significance of that impact.

8. GROUNDS OF APPEAL

8.1 A first party appeal has been lodged by Bob Gunkel Planning on behalf of the applicant Ballinclay Windfarms Ltd.

- A report has been submitted regarding landscape and visual assessment. The report includes five additional photomontages and an assessment of the proposal. It is concluded that the proposal would be satisfactory in regards to visual impact and would not at odds with the Development Plan Wind Energy Strategy and the National Guidelines.
- The appellant notes that the proposal is compliant with Development Plan policy being in a location identified as 'acceptable in principle' for wind energy developments. It is also noted that the proposal is compliant with the National Guidelines (Wind Energy Development Guidelines). There are no noise sensitive receptors (dwellings) within 500m of turbines, a shadow flicker assessment has been carried out and recommended limits are not exceeded, projected noise levels are within recommended limits.

- In regards to grid connection it is proposed to connect to the existing Clonroche sub station located just east of the village and such will require a 20KV line which will be underground and follow the existing road network.
- A detailed Landscape Impact Assessment was submitted and updated as part of the appeal submission.
- The appellant notes that the model of wind turbine to be erected is identified (Enercon E70 E4).
- As part of the appeal submission a report is included regarding impact on bird migration. The report concludes that the proposal would have minimal impact on bird species.
- The appeal submission includes a traffic report detailing the access arrangements and projected levels of traffic. It is noted that it is proposed to alter the access to provide sightlines of least 170m based on a 3m setback. It is noted that the proposed N30 Moneytucker to New Ross Road Scheme will mean that the site will no longer be on the N30 when it is constructed.
- The appellant also outlines proposals for the site access from N30 over the local road, the L4006.

9. RESPONSES

9.1 Response by Wexford County Council.

- The level of consultation carried out with the local community fell short of that required under section 5.22 of the County Development Plan (Wind Energy Strategy).
- The proposal would be out of scale and character with the landscape at this location and would have significant adverse impact on the visual amenities of the area and the residential amenities of existing dwellings.
- Local access roads are substandard, the road to the site is unsuitable in width for construction traffic. Refusal was recommended by the Road section on the grounds of traffic hazard and Transport Infrastructure Ireland noted that two major road projects (Gorey to Enniscorty M11 and the New Ross bypass) will generate construction traffic utilizing the N25 and N30 from where it is proposed to access the site.

9.2 Response by Bob Gunkel Planning on behalf of the applicant Ballinclay Windfarms Ltd.

- The response refutes the arguments raised in the observation and notes that the site is in area identified as 'acceptable in principle' for wind energy developments, that the distance between the turbines and dwellings in the area is sufficient based on the hub height of the turbines. It is also noted that

the report regarding impact on bird migrations demonstrates that the proposal would be acceptable in the context of protecting bird species.

- The applicant/appellant notes that there is an overemphasis on Ballinclay Hill being a prominent feature in the landscape and it is considered that criticisms of the visual impact assessment are not justified.
- In relation to noise impact the applicant/appellant has submitted a response to the critical review of noise impact in one of the observation (Peter Crossan/Planning Research Solutions on behalf of local Clonroche residents). This report notes that background noise levels were plotted against a standardised 10m height. It is noted that noise assessment carried out by the applicant is satisfactory and that predicted noises level fall with the recommended standard of the Wind Energy Guidelines.
- The response also clarifies that the nearest dwelling (H20) has part of its curtilage with the 500m distance, however such coincides mainly with the existing commercial garage within the curtilage of the dwelling.

10. OBSERVATIONS

10.1 Observations were submitted by the following....

HSE

Patrick & Catherine Harris, Tominearly, Clonroche, Enniscorthy. Co. Wexford

Bernard & Marie Fay, Tominearly, Clonroche, Enniscorthy. Co. Wexford

Kevin Buckley, Tominearly, Clonroche, Enniscorthy. Co. Wexford

Brendan Casserly, Killegney, Clonroche, Enniscorthy. Co. Wexford

Michael Larkin & Siobhan Stanbridge, Killegney, Clonroche, Enniscorthy, Co. Wexford.

James Brennan, Larkfield, Rathnure, Enniscorthy, Co. Wexford

Alan & Maria Nolan, House 2, Tominearly, Clonroche, Co. Wexford

Tom & Una Byrne, Rathturtin, Clonroche, Enniscorthy, Co. Wexford

Richard Kelly, Mountainview, Knoxtown, Clonroche, Enniscorthy, Co. Wexford

Peter Crossan/Planning Research Solutions on behalf of local Clonroche residents.

The nature and content of the observations are similar and shall issues raised can be summarised as follows...

- The observations note the lack of public consultation regarding the proposal.
- The proximity of the turbines to dwelling sis noted and the subsequent detrimental impact on residential amenity.

- The impact of noise, disturbance and dust generation on the residential amenities of dwellings in the vicinity is raised in regards to the construction phase.
- The impact of noise, shadow flicker and electromagnetic interference is raised in regards to dwellings in the vicinity of the site.
- The impact of traffic is noted with concerns regarding the standard of the local road network including the width and alignment of the local road and impact in regards to the N30.
- It is considered that the proposal by virtue of its height and scale and its location on an elevated site would have a detrimental impact on the visual amenities of the area.
- Concern is raised regarding devaluation of property as a result of the proposed development.
- Concern is raised regarding potential health implications of the proposed development on residents and livestock in the vicinity of the site.
- Concerns are raised regarding impact on water supplies in the area (dwellings dependent on private wells).
- There is insufficient detail regarding grid connection for the proposed development.
- The impact of the proposal on bird migration is questioned with insufficient information regarding such submitted.
- The observations note that the EIS and NIS are lacking in sufficient detail regarding the impacts and effect of the proposal.
- The validity of public notices is raised as a concern.
- The issue of flooding due to increased surface water is noted.
- It is noted landowner consents have been withdrawn for parts of the site.
- Concern is raised that permitting the proposal will lead to an increased intensity of wind energy development at this location in the future.
- The contents of the HSE submission are identical to the submission to their submission to the Planning Authority (summarised above).
- A review of the landscape and visual assessment concludes that such does not comply with best practice methods and does not refer to sensitivity of the visual receptors instead focusing on magnitude of visual effect. The review concludes that the proposal would be visually intrusive at this location.
- A review of the noise impact of the proposal was also submitted. The review notes that the baseline noise measurements are plotted against a 10m measured wind speed instead of hub height. The turbine noise levels are calculated incorrectly for comparison with limits based on background noise with a number of properties failing to meet the recommended daytime limits. It also noted that it is also noted that an adjustment to take into account the WHO criteria would result in a number of properties not meeting the nighttime limit.

11. ENVIRONMENT IMPACT ASSESSMENT

11.1 The proposal was accompanied by an Environmental Impact Statement (EIS). The EIS includes a non-technical summary, description of the development, details of alternatives considered and is split up into a number sections dealing with environmental impact and mitigation measures.

11.2 Human Beings

The proposal includes a shadow flicker assessment got all dwellings with 1100m of the nearest turbine. It is concluded that the impact of such would be satisfactory and can be controlled. The development is anticipated to have no significant impact on human beings with mitigation measures concerning health and safety during construction works.

11.3 Flora

Field studies were carried out of the appeal site to identify the type of species and habitats present. No protected species were found within the site area. The development is anticipated to have no significant impact on flora with mitigation measures proposed during construction works.

11.4 Fuana

Field studies were carried out of the appeal site to identify the type of species and habitats present. The development is anticipated to have no significant impact on fauna including bird migration patterns with mitigation measures proposed during construction works and afterwards including monitoring in relation potential bird strikes.

11.5 Soils and Geology

The geological characteristics of the site are described. It is considered that ground conditions are stable and suitable for the proposed development. A number of mitigation measures are proposed during construction including reuse of material on site and no work carried out at times of extreme precipitation. The development is anticipated to have no significant impact on soils and geology with mitigation measures

11.6 Water

Potential impacts identified are increased surface water runoff due to excavation and removal of vegetation and in turn cause an increased hydraulic loading of the existing drainage network. In regards to surface water quality there is potential for release of suspended solids due to excavation works. There is also potential of contamination of surface water from the release of hydrocarbons as a result of the use of machinery on site or the potential for wastewater leakage from temporary site office sanitary facilities. In relation to groundwater flow it is noted there is potential for seepage/inflows or groundwater contamination (hydrocarbons, wastewater). Mitigation

measures include silt fencing downslope of each turbine, controlled stockpiling of material on site during construction, no groundworks during prolonged periods of rain, storage of polluting material within a secure bunded compound and no fuel to be stored on site (machinery refueled off-site). In regards to mitigation during the operational phase the level of hard surface areas are minimal, materials for maintenance are to be stored off site and surface drainage is to be provided along the services road. The operational phase does not require on site wastewater facilities.

11.7 Noise

Noise impact was assessed on the basis of noise sensitive locations including existing dwellings within 1.11km of the proposal (51). A baseline study was carried out and then a predicted noise for different wind speeds levels generated using software. The predicted noise levels at the nearest noise sensitive receptors are within the recommended threshold levels set down under the Wind Energy Guidelines (45 dB(A)10 or a maximum increase of 5dB(A) above background noise at nearest noise sensitive locations). The impact of construction noise was also assessed. The development is anticipated to have no significant impact on in regards to noise with mitigation measures proposed including continuous monitoring and use of noise control systems.

11.8 Climate

No significant adverse impacts are anticipated in regards to climate and no mitigation measures are proposed.

11.9 Landscape

The EIS outlines the Development Plan Policy context of the site in regards to Landscape Character Assessment. The EIS includes a visual assessment included details of visual impact and photomontages from 10 viewpoints in the surrounding landscape including major routes, settlements and prominent locations. The visual assessment includes a Zone of Theoretical Visibility (ZTV) Visual outlining the level of visibility of the proposed development as well as the visibility of existing and planned turbines within the area to assess cumulative impact of such development in terms of visual amenity. The assessment concludes that the proposed development would have an acceptable visual impact and would not be contrary Development Plan policy in regards to landscape character.

11.10 Material Assets

It is noted that the proposal would not impact adversely on any material assets and no mitigation measures are proposed.

11.11 Cultural Heritage

In regards to archaeological material it is noted that there are no recorded monuments or national monuments within the site. It is noted that there are seven recorded monument within 2km of the site and that such will not be impacted by the proposed development.

11.12 Interaction of the foregoing

It is concluded that there are no significant impacts associated with the interaction of the foregoing.

12. ASSESSMENT

12.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development
Environmental Impact
Visual Impact and Landscape Character
Natura 2000 Areas/Appropriate Assessment
Traffic Impact
Other Issues

12.2 Principle of the proposed development:

12.2.1 Both Development Plan policy and National policy are supportive of the generation of renewable energy through wind energy developments as proposed in this case. The Council's Wind Energy Strategy is Volume 5 of the County Development Plan. In this strategy is a map that indicates areas where wind energy development is 'not normally permissible', 'acceptable in principle' and 'open for consideration'. The areas identified as being 'open for consideration' and 'acceptable in principle' are concentrated in one area to the south west of Enniscorthy with a buffer zone around the settlement of Clonroche, which is located within the confines of the defined area but not included within such. The appeal site is located within the extent designated as being 'acceptable in principle' for wind energy developments. Notwithstanding such the proposal must be acceptable in regards to environmental impact, visual impact and in the context of the proper planning and sustainable development of the area. The principle of the proposed development is acceptable subject to the proposed development being acceptable in the context of each of these aspects, which are to be explored in detail in the later sections of this assessment.

12.3 Environmental Impact:

12.3.1 It is appropriate for the Board to carry out an Environmental Impact Assessment of the proposed development in order to determine environmental impact and whether such is satisfactory. In doing so it is

appropriate to rely on the information submitted under the application including that contained within the applicant's Environmental Impact Statement, which is summarised earlier and other information submitted with the application. This will be carried out in accordance with the Guidelines for Planning Authorities and An Bord Pleanála for carrying out Environmental Impact Assessment (Department of Environment, Community and Local Government, March 2013). Section 171A of the Planning and Development Act, 2000 (as amended) sets out in detail, using wording similar to the EIA Directive, what the assessment must comprise. The assessment must include an examination, analysis and evaluation and it must identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the EIA Directive, the direct and indirect effects of a proposed development on the following:

- (a) human beings, flora and fauna,
- (b) soil, water, air, climate and the landscape
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c).

12.3.2 Human Beings

There are a number of dwellings in the vicinity of the site, the nearest dwelling is 519m away from the nearest turbine, the next nearest dwelling is 524m (third and fourth nearest are 536m and 540m away from the nearest turbine respectively). The potential impact in regards to human beings relates to noise impact, shadow flicker and electromagnetic interference. Noise impact was assessed on the basis of the nearest dwellings (51 noise sensitive receptors) with a baseline study carried out and then a predicted noise level for different wind speeds levels generated using software. The predicted noise levels at the nearest noise sensitive receptors are within the recommended threshold levels set down under the Wind Energy Guidelines (45 dB(A)¹⁰ or a maximum increase of 5dB(A) above background noise at nearest noise sensitive locations). The Wind Energy Guidelines recommend that shadow flicker at neighbouring offices and dwellings within 500m (no dwellings within 500m of turbines) should not exceed 30 hours per year or 30 minutes per day. The EIS submitted and outlined above provides details of a shadow flicker analysis carried out in respect of dwellings within 1100m of the turbines. This analysis was based on a worst case scenario of constant sunlight and indicated that the levels of shadow flicker would not be above the levels recommended under the guidelines (0-7.53 hours per annum). I would acknowledge that the analysis does not take into account vegetation or outbuildings that would lessen shadow flicker adjacent the subject houses and that there is unlikely to be constant sunlight levels. I would also acknowledge that turbines can be programmed to be shutdown to prevent shadow flicker

and that such is proposed by the applicant. I am satisfied that subject to an appropriate condition in line with such recommended by the Wind Energy Guidelines, that the issue of shadow flicker can be dealt with in a satisfactory manner. In regards to electromagnetic interference I am satisfied that this is not a major issue of concern and that a condition in this regard would be sufficient.

12.3.3 Flora and fauna

(a) This section should be read in conjunction with the section below regarding Natura 2000 Areas/Appropriate Assessment. The appeal site consists of agricultural (grasslands/crops) with field boundaries defined by existing trees/hedgerow. No part of the appeal site itself is located within a protected habitat or designated Natura 2000 site. The nature of wind farm development is such that they have a small footprint and therefore low impact in regards to alteration of the habitat they are located within. The most significant impact occurs during the construction phase due to excavation works. The excavation works proposed will result in some loss of existing habitat and vegetation. I would consider such to be minor and considering there would be no physical damage to any protected habitat/designated site and the proposal does not radically alter the nature and use of land, such would be acceptable. The applicants have also carried out surveys in regards to a number of species. No mammals were recorded on site during the field surveys with two species recorded of conservation concern (yellowhammer and swallow). I would consider that the level of habitat loss is limited due to the restricted footprint of development and that the main impact is through the disturbance caused during construction, which is a temporary impact. I consider that subject to implementation of the mitigation measures proposed in regards to surface water management including prevention of discharge of suspended solids, hydrocarbons, chemicals or wastewater, that the proposed development would not pose a risk to water quality and subsequent risk on species dependent on good quality aquatic environments.

(b) The issue of impact on bird species has arisen as a matter of concern with such identified by the Development Applications Unit in their submission. The appellant has submitted a report examining the impact of the proposed development on bird migration. The report notes that the closest SPA is the Wexford Harbour and Slobbs SPA with an assessment of impact on bird species of special conservation interests relative to the SPA. The report lists all species recorded during field studies in Tominearly (appeal site) and Castledockrell (wind farm 17km to the north). 33 species. 7 of these species are migratory with the rest being resident to the area. 5 species are identified of sufficient conservation concern. It is noted that none of these are birds of conservation interest identified in the qualifying interests for the Wexford Harbour and Slobbs SPA. In regards to migration routes a number of

vulnerable species (10) are listed that fly over the wind farm site as part of their migratory journey and it is noted that five of such have been observed in either Tominearly (appeal site) or Castledockrell (wind farm 17km to the north). It is noted based regular survey observation the species in question are adept at avoiding turbines or fly lower than the rotor sweep. In this regard it is concluded that the impact of the wind farm on the target species is likely to be minimal. I am satisfied that sufficient detail has been provided to assess the impact of the development on flora and fauna and that subject to implementation of mitigation measures proposed, the proposed development would have an acceptable environmental impact.

12.3.4 Soil

The main impact in regards to soil relates to excavation on site during the construction phase. The underlying geological characteristics of the site are buff siltstone and greywacke sandstone with no peat on site or in the vicinity. The characteristics of the site are stable and pose no risks in regards to slope stability. Monitoring is also proposed of excavation works and ground stability during the construction phase. I am satisfied that subject to the mitigation measures proposed and appropriate conditions to ensure such is the case, the impact of the proposed development on soil and slope stability would be acceptable.

12.3.5 Water

This section should be read in conjunction with the section below regarding Natura 2000 Areas/Appropriate Assessment. Details are provided regarding designated Natura 2000 site within 15km of the site and the screening report for Appropriate Assessment concludes that a Stage 2 Appropriate Assessment is required. One of the main potential impacts on water quality would be contamination through suspended solids due to surface water runoff during the excavation works or spillages of chemicals/hydrocarbons used for construction machinery. Such incidences would impact upon water quality. The applicant has outlined a host of mitigation measures to prevent such including silt traps/fencing, effective management of excavation and storage of material, no groundwork during prolonged rain, appropriate storage of polluting materials and refuelling of construction vehicles off-site). The mitigation measure proposed if implemented would be adequate to deal with these concerns.

12.3.6 Climate

In regards to climate the main issue would be air quality. The nature of the proposal is such that it features no emissions with only potential impact on air quality relating to dust generation at the construction phase. I am satisfied that the applicant is proposing suitable mitigation measures including wheel wash facilities and dust suppression to deal with this aspect of the proposal.

12.3.7 Landscape

I would refer to the separate section below relating to visual impact and landscape character.

12.3.8 Material Assets

The applicants have identified the haul route and access arrangements for construction traffic which will be along the N30, the L8017 and L4006. The predicted traffic levels and type are outlined with it noted that no significant alterations are required to the haul route or road network. I am satisfied that the alignment and width of the local network road serving the site is generally of a sufficient standard and subject to appropriate conditions, the traffic impact of the proposed development is satisfactory. The applicant has outlined their proposals for connection to the national grid.

12.3.9 Cultural Heritage

There are no recorded or national monuments within the curtilage of the site. The Development Applications Unit has noted no objection to the proposal on archaeological grounds subject to conditions. In this regard I am satisfied that the proposed would be satisfactory in relation to cultural heritage.

12.3.10 Interaction of the Foregoing

There is potential for interaction of the foregoing. I am satisfied that the mitigation measures proposed by applicant for each of the issues outlined above are sufficient to prevent adverse environmental impact in isolation or in conjunction with others.

12.4 Visual Impact and Landscape Character:

12.4.1 A Landscape and Visual Assessment of the proposed development was submitted as part of the part of the Environmental Impact Statement. This assessment outlines the visual impact including photomontages to illustrate visual impact from 10 viewpoints within the surrounding landscape. The viewpoints chosen are roads within the surrounding areas, settlements and points of note within the surrounding landscape. In regards to the Landscape Character Assessment county is split into for landscape character types (uplands, lowlands, river valleys and coastal. The site is located with the 'lowlands'. It is notable that the site is not within an area identified as a Landscape of Greater Sensitivity and the hill the site is on is not identified as one the prominent hills that punctuate the 'lowlands' area. As noted earlier the site is located within the area designated as being 'acceptable in principle' for wind energy development.

12.4.2 The assessment also includes the provision of a Zone of Theoretical Visibility (ZTV). This mapping is based on an assessment not including vegetation and

buildings. The assessment of each viewpoint gives a theoretical impact and an actual impact (includes vegetation, buildings etc). The theoretical visual impact of the proposal is identified as being slight in most cases and moderate in the case of viewpoint 5, 6 and 7. In most cases the actual impact is estimated as less than in the case of theoretical impact apart from viewpoint 4, 8 and 9 (actual impact moderate rather than slight in the case of theoretical impact). The Visual Impact Assessment also takes into account the cumulative visual impact of the proposal in conjunction with existing wind farms within 30km of the site (two wind farms within 20km of the site and a further three within 30km of the site. The existing windfarms only impact on three viewpoints (3, 5 and 10). In the case of these viewpoints the existing windfarms are not all visible and the visual impact is assessed as slight in the case of the windfarms that are visible from the viewpoints.

12.4.3 It is notable that with appeal submission in response to the first reason for refusal includes an additional five photomontages taken from viewpoints in closer proximity to the appeal site including at the N30 on outskirts of Clonroche, the N30 beside the proposed site entrance and at the local road at Knockstown, Polleasty and Tominreally. It is noted by the applicant/appellant that these illustrate that the landscape at this location is capable of assimilating the proposed development without it having an adverse impact on the visual amenities of the area.

12.4.4 The appeal site is located on Ballinclay Hill, which is an elevated location relative to the surrounding lands, which is lowland area. Having inspected the site and the surrounding area, I am satisfied with the level of detail included in the visual assessment including the accuracy of the photomontages and associated viewpoints. I consider that the overall visual impact of the proposed development would not be unduly prominent or negative at this location. Views of the turbines from surrounding areas and in particular the most prominent routes in the area are partial views and negated by the existing topography, vegetation and structures within the landscape. The proposed development does not have a significant or adverse impact in relation to any designated scenic routes or protected views and prospects. There are already established wind farms within the county with the nearest being 15.5km from the site (Bola More). The proposal is modest in scale in comparison to the existing developments and is not more or less prominent in terms of visual impact than the established development. I am also satisfied that cumulative visual impact of the proposed development and the existing wind turbines would not be unacceptable at this location and would be consistent with Development Plan policy in regards to landscape character.

12.5 Natura 2000 Areas/Appropriate Assessment:

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

12.5.2 In the context of the appeal site there are a number of Natura 2000 site within 15km of the appeal site, which are

Slaney River Valley SAC, Site Code 000781, 4km from the site.

Wexford Harbour and Slobs SPA, Site Code 00406, 15km from the site.

River Barrow and River Nore SAC, Site Code 002162, 9km from the site.

Blackstairs Mountains SAC, 00770, 12.5km from the site.

12.5.3 A Stage 1 Screening Assessment was carried out in regard to the potential for the proposed development to impact upon the integrity of each of the designated Natura 2000 sites identified within 15km of the site. The screening report outlines a description of the project and details of surface water protection measures. It is noted that the project may have possible linkages with two of the four sites. In the case of the Slaney River Valley SAC there is a probable sub-surface linkage between the site and an unmanned watercourse which originated at the now defunct Raheentask Well (north of the site). This watercourse joins the Boro River 4km northeast of the site. The other site is the Wexford Harbour and Slobs SPA which includes the River Slaney northward of Enniscorthy. The possible linkage is via the River Boro from Ballymackesy Bridge to the River Slaney. In the case of the other two sites (River Barrow and Nore SAC and Blackstairs Mountains SAC there is no linkage due to topography and distance. In the case of the Wexford Harbour and Slobs SPA it is noted that the distance between the site and watercourse in question (3km) is too big for there to be any meaningful linkage. The qualifying interests and conservation interests of the Slaney River Valley SAC are outlined including the likely effects on each (Annex 1 Habitats and Annex II Species). It is concluded that on the basis of proximity, topography, drainage characteristics and subject to mitigation measures/construction management the project is unlikely to have any significant effects on the designated Natura 2000 sites within 15km of the site.

12.5.4 The Board as a competent authority is obliged, as noted earlier in this section "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment. As noted earlier there are four Natura 2000 sites within 15km of and these are listed above. In the case of the River Barrow and River Nore SAC and the Blackstairs Mountains SAC and based on the concept of source-pathway-receptor, there is no pathway/linkage between these two sites and the appeal site/project. In the case of the Slaney River Valley SAC and Wexford Harbour and Slobs SPA the applicant has identified possible drainage linkages to both designated sites. In the case of the Slaney River Valley SAC there is a probable sub-surface linkage between the site and an unmanned watercourse which originated at the now defunct Raheentask Well (north of the site). This watercourse joins the Boro River 4km northeast of the site. The other site is the Wexford Harbour and Slobs SPA which includes the River Slaney northward of Enniscorthy. The possible linkage is via the River Boro from Ballymackesy Bridge to the River Slaney. I would agree with applicants screening report that the distance between the site and project and the watercourse that links into the Wexford Harbour and Slobs SPA is too great for the project to have any likely significant effects.

12.5.5 In the case of the Slaney River Valley SAC the qualifying interests are the existence of Annex 1 Habitats (including alluvial forests, Old Sessile oak woods, estuaries, mudflats and sandflats) and Annex II species (including sea lamprey, river lamprey, brook lamprey, freshwater pearl mussel, twaite shad, Atlantic salmon, otter and harbour seal). The conservation objectives are to maintain and restore the favourable conservation condition of the various Annex I habitats and Annex II species (full conservations objectives attached). The potential effects of project relate to contamination of surface and groundwater through release of suspended solids (excavation works) and hydrocarbons (accidental spillages/construction equipment). Such would have the potential to reduce the water quality in the designated site and potential be detrimental to the conservation status of such. I would consider that the linkages between the appeal site and drainage in regards to the designated SAC are weak due to the size and scale of the project and its remote location from the identified sub-surface drainage that joins the Boro River 4km to the northeast. It is notable that a number of measures are proposed to protect surface water and ground water including silt traps/fencing, effective management of excavation and storage of material, no groundwork during prolonged rain, appropriate storage of polluting materials and refuelling of construction vehicles off-site. I would consider these measures are intrinsic to project. I would also consider that the project would not have any effects in conjunction with other plans or projects on any designated Natura 2000 site.

In this regard it is reasonable to conclude that on the basis of information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated Natura 2000 and that a Stage 2 Appropriate Assessment is not therefore required.

12.6 Traffic impact:

12.6.1 The site is located to the south west of Enniscorthy and just north of the N30. The appeal site is accessed from a local road, the L8017, which runs to the east of the site and links the N30 to the south east of the site. There is an existing site access from the L8017, which currently serves the agricultural lands at this location, the existing off road vehicle track and telecommunications mast. According to the information on file the turbines are to be transported from Rosslare Harbour to New Ross via the N25 and from New Ross to the site via the N30. A temporary construction entrance directly off the N30 is to be used (existing agricultural entrance south of the site) and a temporary construction road (4m wide and 750m long) is to be used to access the site. A full route survey including alterations required to transport the turbines to the site (only minor alterations are required at a roundabout where the N25 joins the N30). The existing access from the N30 is to be winded to facilitate the works. A traffic impact assessment was submitted which outlines that trip generation at peak activity would be 60 trips (workforce) in the morning and evening (Monday to Saturday). The construction of the haul road will generate 30 trucks per day and the constructing the concrete bases will result in 20 trucks into and out of the site per day. It is proposed to install temporary traffic lights at the junction of the N30 to control traffic movements. Crane construction will result in 15 abnormal loads to the site and turbine construction 57 abnormal loads. Such will require supervision from the Council and Gardai. In terms of road impact it is noted that traffic volumes on the N30 are low for a National Route and there is adequate capacity to deal with the proposal. An additional report was submitted with appeal submission regarding wind farm access. This report notes that the access directly off the N30 is to be used for controlled delivery of wind turbine components only and specialist cranes used for construction of such. It is noted that such constitutes 59 loads. All other traffic, workers, building materials will use the entrance to site from the local road (L8017). It is noted that it is proposed to alter the access to provide sightlines of least 170m based on a 3m setback (215m is possible in one direction with removal of hedgerow).

12.6.2 Access using the local is over L8017 from the existing junction onto the N30. The local would be 3.5-4m in width. According to the information on file a one

way access system is to be implemented with traffic leaving the site turning left from existing access onto the L8017 and then left onto the L4006 (with 3.5-4.5m) and onto the N30 at a junction to the west of the site. It is notable that the reason for refusal relate to issues of traffic concern regarding direct access from the N30 and Transport Infrastructure Ireland have also indicated concerns regarding impact on a national route. In regards to traffic impact the proposal entails use of two access points with the existing site access from local road L8017 to be used for the majority of general construction traffic. The junction of the L8017 and the N30 is not the best in regards to visibility, particularly for traffic exiting onto the N30 with visibility curtailed in a northern direction (particularly cars due to height). The proposal only entails construction traffic turning off the N30 with construction traffic exiting the site to exit onto a junction of the N30 and L4006 further to the west that is better equipped for facilitating traffic movements onto the N30. The access directly off the N30 is a temporary construction access (currently a field access). I would consider given the temporary nature of the construction activities and the need for controlled supervision of loads through this access that the use of this access for a temporary period would be acceptable in the context of traffic safety and convenience. Loads using this access will require a significant level of supervision and traffic management and such will eliminate any concerns regarding potential traffic hazard. The use of the direct access is temporary and will not be used for ongoing access to the site. In regards to access on the local road, I am satisfied that the one way system for construction traffic provides for an acceptable level of access off and onto the N30 and that the construction works are temporary in nature. After construction and during operation ongoing maintenance will use the existing vehicular access from the L8017. Such traffic levels are likely to be of a very low level and have no adverse impact in regards to traffic safety. I would consider subject to appropriate conditions the proposal would be acceptable in regards to traffic safety and would not impact adversely on the carrying capacity of the national road network at this location.

12.7 Other issues:

12.7.1 In regards to grid connection the applicant/appellant has indicated details of such in the appeal submission. According to the information submitted it is proposed to connect to the existing Clonroche sub station located just east of the village and such will require a 20KV line which will be underground and follow the existing road network.

12.7.2 A number of the observations raise concerns regarding the fact that some the landowners that make up the site have since withdrawn consent for the project. This is not a planning matter and the onus is on the applicant to ensure that they have full control over the site.

CONCLUSION

The principle of the proposed development is acceptable based on the provision of the County Development Plan, which identifies the area as 'acceptable in principle' for wind energy developments. I am satisfied that the proposal is acceptable in the context of the recommendations of Wind Farm Development: Guidelines for Planning Authorities, (DoEHLG, 2006), which are the current applicable guidelines for wind energy development. The proposal conforms to recommendations in regards to separation distances, and I am satisfied that the applicant has demonstrated that the proposal would comply with threshold levels for noise and shadow flicker. In this regard I am satisfied that proposal would be acceptable in the context of the amenities of adjoining properties and land uses. I am satisfied that the information submitted has adequately demonstrated that the proposal would have no adverse environmental impacts at this location and that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated Natura. I am satisfied that the proposal is acceptable in regards to its siting, design and scale and the proposal would have no unacceptable adverse impact in regards to the visual amenities and landscape character of the area. I am satisfied that based on the temporary nature of construction and subject to adequate traffic management the proposal would be acceptable in the context of traffic safety and convenience and would not impact adversely on the carrying capacity or operation of the national road network. Having regard to the above, it is considered that the proposal would be acceptable in the context of the proper planning and sustainable development of the area.

RECOMMENDATION

I recommend a grant of permission subject to the following conditions.

REASON AND CONSIDERATIONS

Having regard to:-

- (a) the national policy with regard to the development of sustainable energy sources,
- (b) the Wind Energy Development Guidelines - Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the character of the landscape in the area and the topography surrounding the site,
- (d) the pattern of development in the area,
- (e) the provisions as set out in the current Wexford County Development Plan, including those regarding renewable energy development,

- (f) the distance to dwellings or other sensitive receptors from the proposed development,
- (g) the submissions from the appellant and observers,
- (h) the submissions made in connection with the planning application and the appeal, including the Environmental Impact Statement submitted with the planning application (including mitigation measures therein) and the further information submitted by the applicant in the course of the planning application and the appeal, and
- (i) the information submitted in relation to ecology by the applicant in the course of the planning application, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the landscape, would not seriously injure the visual or residential amenities of the area and would be acceptable in the context of traffic safety and convenience. Furthermore, it is considered that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on any European site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, 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. In particular, the mitigation measures described in the Environmental Impact Statement and other details submitted to the planning authority shall be implemented in full during the construction and operation of the development.

Reason: In the interest of clarity.

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

Reason: Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of validity of the permission in excess of five years.

3. The permission shall be for a period of 25 years from the date of the commissioning of the wind turbines. The wind turbines and related ancillary structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

Reason: To enable the planning authority to review its operations in the light of the circumstances then prevailing.

4. The wind turbines, including masts and blades 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.

5. (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.

Reason: In the interest of visual amenity.

6. Upon completion of the wind farm, details of 'as constructed' coordinates and elevations of the turbines shall be submitted to the Irish Aviation Authority. If required, warning lights shall be affixed to the turbines, at the developer's expense, in accordance with the requirements of the Irish Aviation Authority.

Reason: In the interest of aviation safety.

7. All oils and fuels shall be stored in bunded areas. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to avoid pollution of ground and surface waters.

8. Wind turbine noise arising from the proposed development, by itself or in combination with any other permitted wind energy development in the vicinity, shall not exceed the greater of:

(a) 5 dB(A) above background noise levels or,

(b) 43 dB(A) $L_{90,10min}$

when measured externally at dwellings or other sensitive receptors.

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. 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.

9.

(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) Within 12 months of commissioning of the proposed wind farm, a report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority and submitted to the planning authority for its written approval. The report shall indicate the level of compliance achieved with the above requirements. The developer shall outline proposed measures to address any recorded non-compliances, including control of turbine rotation if necessary. A similar report may be requested at reasonable intervals thereafter by the planning authority.

Reason: In the interest of residential amenity.

10. Prior to commencement of development, the developer shall agree a protocol for assessing any impact on radio or television or other telecommunication reception in the area. In the event of interference occurring, it shall be the responsibility of the developer to mitigate such interference according to a methodology to be agreed with the planning authority.

Reason: In the interest of residential amenity and orderly development.

11. Prior to the commencement of development, a detailed reinstatement programme providing for the removal of all turbines and ancillary structures shall be submitted to the planning authority for written agreement. On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the masts and turbines concerned, shall be dismantled and removed from the site. The site shall be reinstated in accordance with the said programme and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To ensure the satisfactory completion of the project.

12. Soil, rock and material excavated during construction shall not be left stockpiled on site following completion of works and shall be used as outlined in the Environmental Impact Statement and other documentation submitted in the course of the application.

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

13. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a comprehensive Construction Stage Management Plan and Construction Stage Drainage Report, incorporating the mitigation and monitoring proposals set out in the Environmental Impact Statement

and further information submitted to the planning authority at application stage and shall include:

- (a) Construction details of all drainage control measures, including details of settlement ponds and silt traps.
- (b) Construction stage details for the control of run-off from temporary spoil storage areas.
- (c) Details of storage proposals for hazardous materials, cement leachate and hydrocarbons, storage and filling areas, cement management areas and details of storage of other materials to be used during construction.
- (d) Details of proposals to ensure slope stability during construction of access and turbine bases based on the information submitted.
- (e) A detailed programme for the timing of works. The works shall be supervised by an engineer with appropriate professional indemnity insurance, who upon completion of the works shall certify the said works.

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

14. The developer shall review usage by birds of the wind farm site 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 following consultation with the Department of Arts, Heritage and the Gaeltacht and shall be repeated annually for a period of 3 years following completion of construction.

Reason: To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

15.

- a) The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930-1994) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of archaeologist without his/her express consent.
- b) The archaeologist is required to notify the Department of Arts, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparations. This will also the archaeologist sufficient time to obtain a licence to carry out the work.
- c) The archaeologist shall carry out the relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- d) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Arts, Heritage and the Gaeltacht for consideration.

e) Where archaeological material is shown to be present, avoidance, preservation *in situ*, preservation by record (excavation) and/or monitoring may be required and the Department of Arts, Heritage and the Gaeltacht will advise the Applicant/Developer with regard to these matters.

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

Reason: In the interest of traffic safety and of the proper planning and sustainable development of the area.

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

Reason: To ensure satisfactory reinstatement of the site.

18. 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to 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.

Colin McBride
27th June 2016

Decision Quashed