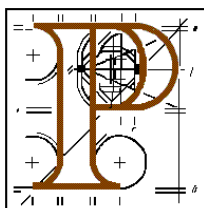


An Bord Pleanála



Inspector's Report

**Development:** Permission for the erection of 1 no 500KW Wind Turbine (Hub height 50.00m / Blade tip height 73.5m and the construction of a 14 sq.m control building / electrical substation, site entrance, site access track and hardstanding and all ancillary works.

**Location:** Cronavone, Borrisoleigh, Co Tipperary.

**Planning Application:**

Planning Authority:	Tipperary County Council
Planning Authority Reg. Ref.:	15/601087
Applicant:	Greenwind Energy Limited.
Type of Application:	Permission
Planning Authority Decision:	Grant Permission with conditions.

**Planning Appeal:**

Appellants:	Tanya & James Embleton, Paul & Edel Grace.
Type of Appeals:	3 <sup>rd</sup> party v Grant
Observers:	None
Date of inspection:	22 <sup>nd</sup> July 2016
Inspector:	Bríd Maxwell

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site which has a stated area of 0.57 hectares is located within a rural area of County Tipperary approximately 6.5km to the west of Borrisoleigh and 16.5km to the southeast of Nenagh. The site is accessed off the local road network which in turn leads onto the R498 Nenagh Thurles Regional Route.
- 1.2 The site is located on the northwestern flank of a SW-NE trending ridge within an upland area forming a ridge of hills running southwest to northeast from the Silvermines Mountains to the Devil's Bit Mountains. Elevations on site rise from 250mOD on the public road in the vicinity of the entrance to c270m OD at the location of the proposed turbine. The land in the vicinity is currently in use for a mix of pasture and forestry with a typical gradation of land uses with pasture focussed on the sheltered foothills and forestry mainly on the higher exposed grounds. Settlement in the area is sparse with residential development in the vicinity consisting of one off houses fronting onto the road network and farmsteads. Templederry village is circa 4km to the north of the site and Upperchurch is circa 5km to the south.
- 1.3 Small scale wind energy hillside projects are an established feature in the local and wider area with a number of established windfarms at Curraghgrague (5 turbines), and, Boherlody, Lisgarriiff West and Knockmeal known as Templederry Community Windfarm (2 turbines). Ballinlough (3 turbines) and Ballinveny (3 turbines).
- 1.3 The development site itself is not part of any designated site for nature conservation. The nearest Natura 2000 site is the Slievefeilim to Silvermines Mountains SPA which is located 3.2km to the west of the site.

## 2.0 PROPOSED DEVELOPMENT

2.1 The proposed development seeks permission for the erection of a single wind turbine of 500kw capacity, control building, electrical substation, site access track and hardstanding area. The proposed turbine is a Vestas V47, mid to light matt grey in colour. The tower comprises of a tapered hollow conical tubular structure with a hub height of 50m. Its width at base will be 3.5m and width at top 1.5m. Foundations are anticipated to be approximately 12m x 12m x 2m formed of approximately 288cu.m of concrete and 8 tonnes of reinforcement steel. The control building (14sq.m) is proposed to the north east of the turbine location and will house the electrical substation. Application details indicates that the control building will be surrounded by 2.5m high doublebeam 8mm wire mesh security fencing painted green.

2.2 Modifications to the existing agricultural entrance are proposed by widening and recessing to improve access and sightlines. I note that much of these works are located outside the appeal site boundary though within the identified landholding.

2.2 Application documentation asserts that cursory monitoring through the use of a small scale mobile monitoring system identified average wind speeds of 7.43m/s. SEA modelled wind speeds indicate that the site experiences average wind speeds of 7.50m/s – 7.75 m/s at a height of 50m above ground level.

2.3 The detail of the proposed development is set out in the accompanying documentation which includes:

- Maps and Drawings.
- Planning Report by Barnes Murray de Bháill.
- Appendix A Visual Impact Assessment
- Appendix B Noise Impact Assessment

- Appendix C Screening Statement Assessment
- Appendix D – Surface and Groundwater Pollution Assessment.

### **3.0 PLANNING POLICY**

#### **3.1 National Policy and Guidelines**

##### **3.1.1 Delivering a Sustainable Energy Future for Ireland – The Energy Policy Framework 2007-2020**

This is a Government White Paper. The overriding objective is to ensure that energy is consistently available at competitive prices, with minimal risk of supply disruption. It is an objective to achieve 15% of electricity consumption, on a national basis, from renewable energy sources by 2010, and 33% by 2020 (target increased to 40% in Government budget speech of 2009).

##### **3.1.2 National Renewable Energy Action Plan 2010**

This Plan implements EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources, which sets out agreed new climate and energy targets- 20-20-20 by 2020 – 20% reduction in greenhouse gas emissions; 20% energy efficiency, and 20% of the EU's energy consumption to be from renewable sources. In relation to the electricity sector, the plan has set a target of 40% electricity consumption from renewable sources by 2020.

##### **3.1.3 Strategy for Renewable Energy, 2012–2020**

The Strategy for Renewable Energy, 2012–2020 is the most recent policy statement on renewable energy. It reiterates the Government's view that the development of sources of renewable energy is critical to reducing dependency on fossil fuel imports, securing sustainable and competitive energy supplies and underpinning the move towards a low-carbon economy. The Strategy sets out specific actions the Government will take to accelerate the development of wind, ocean and bio-energy, R&D, sustainable transport energy, and supporting energy infrastructure. Strategic Goal 1 aims to achieve progressively

more renewable electricity from onshore and offshore wind power for the domestic and export markets.

#### **3.1.4 Ireland's Second National Energy Efficiency Action Plan to 2020 (March 2013)**

This Plan sets out strategy to reduce Ireland's dependence on imported fossil fuels, improve energy efficiency across a number of sectors and ensure a sustainable energy future.

#### **3.1.5 *Guidelines for Planning Authorities on Wind Farm Development & Wind Energy Development, 2006. Department of Environment Community and Local Government.***

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 when deciding a particular application. Whilst there is no set-back distance specified, it is indicated at section 5.6 that noise is likely to be a problem at less than 500m. In relation to shadow flicker, section 5.12 states that impact at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. It goes on to state that at distances greater than 10 rotor diameters, the potential for shadow flicker is very low. Section 5.13, dealing with 'windtake', states that distances between turbines will generally be 3 rotor diameters in the crosswind direction and 7 rotor diameters in the prevailing downwind direction. This section goes on to state- 'Bearing in mind the requirements for optimal performance, a distance of not less than two rotor blades from adjoining property boundaries will generally be acceptable, unless by written agreement of adjoining landowners to a lesser distance. However, where permission for wind energy

development has been granted on an adjacent site, the principle of the minimum separation distances between turbines in crosswind and downwind directions indicated above should be respected'.

**3.1.6 Proposed Revisions to Wind Energy Development Guidelines 2006. Targeted Review in relation to noise proximity and Shadow Flicker, December 11<sup>th</sup> 2013. Department of Environment Community and Local Government.**

These Draft Guidelines were introduced by the Department of Environment, Community and Local Government, in December 2013, to deal with limited aspects of wind farm developments. A consultation period was allowed – up to 21st February 2014. The revisions proposed are-

- A more stringent absolute outdoor noise limit (day and night) of 40 dB for future wind energy developments.
- A mandatory setback of 500m between a wind turbine and the curtilage of the nearest dwelling, for amenity considerations.
- A condition to be attached to all future planning permissions for wind farms to ensure that there will be no shadow flicker at any dwelling within 10 rotor diameters of a wind turbine. If shadow flicker does occur, the wind energy developer/operator should be required to take necessary measures, such as turbine shutdown for the period necessary to eliminate the shadow flicker. There is no indication to date as to proposed changes, if any, to the 2006 Guidelines.

**3.2 North Tipperary County Development Plan 2010-2016 as varied**

3.2.1 Within the North Tipperary County Development Plan 2010-2016 (as varied) Wind Energy is addressed at 8.4.2. It is outlined that the county has significant wind resources due to its upland areas as identified by ESB Ireland (ESBi) Wind Energy Resource Mapping. It is stated that “The Wind Energy Development Guidelines 2006 are the main statement of government policy on on-shore wind. The council has

prepared a Wind Energy Strategy in accordance with national guidelines, which provide a framework for the development of Wind Energy in the county. The Wind Energy Strategy is contained in Appendix 6.”

### **3.2.2 Policy CEF 4 Wind Energy Policy**

“It is the policy of the Council to facilitate wind energy development where it is demonstrated to the satisfaction of the Council that they comply with the Wind Energy Development Guidelines DEHLG 2006 (or any review thereof) and the Wind Energy Strategy set out in Appendix 6 and any review thereof.”

### **3.2.3 Access to the Electricity Supply Network**

*“The Council will facilitate the sustainable and appropriate development of additional electricity generation capacity throughout the region/county and support the sustainable expansion of the network”*

The site lies within an area of Secondary Amenity as depicted on Figure 7.1, Policy LH2: Protection of Visual Amenity and Character of Primary and Secondary Amenity Areas. “It is the policy of the Council to ensure the protection of the visual amenity, landscape quality and character of designated primary and secondary amenity areas.”

## **3.3 North Tipperary Landscape Character Assessment 2009.**

3.3.1 The map relating to landscape character types indicates that the appeal site is within Landscape Character Type 6; Farmed Foothills. As part of the assessment, commercial coniferous forestry, the potential for development of windfarms and development of visibly obtrusive single dwellings in the countryside are identified as a force for change within this area.

3.3.2 The area is referred to in more detail as Landscape Character Area 7; Upperchurch-Kilcommon Hills and indicated in figure 8. The Key Characteristics are indicated as highly scenic pastoral landscape with rolling hills and valleys; sparsely populated particularly in central area

with remote character and extensive views eastwards from elevated points. It is indicated that “this is a working landscape featuring pasture as the dominant landuse. It is in very good condition and indeed is highly scenic owing to the varied and interesting topography of rolling hills and valleys with vantage points that afford views. This high scenic quality renders this a significantly sensitive landscape. However, the nature of the varying topography is such that there is a capacity to accommodate development without undue deterioration in the scenic quality”.

In relation to principles for landscape management design guidance in respect of commercial forestry in upland areas should be provided in order to integrate this landuse into the landscape and criteria for the wind energy development and layout should be provided. No principles are outlined however in relation to wind farms.

### **3.4 North Tipperary Wind Capacity Strategy and Outline Landscape Strategy 2009.**

3.4.1 This strategy notes that subject area has suitable wind speeds for wind energy. The study rates landscapes based on their potential to accommodate wind farms having regard to landscape and visual criteria such as scale, openness, landform, landcover, complexity and pattern, settlement and infrastructure, perception of wilderness, perception of change, movement prominence, settings backdrops and horizons and Important skylines from main transport corridors. Figure A1 identifies areas in the county which have adequate wind resources for wind farm development which includes the current planning application site. The strategy also identifies criteria for assessment in the various landscape character areas.

## **4.0 PLANNING HISTORY**

### **4.1 On the appeal site.**

No planning history on the appeal site.



#### 4.2 The Board have a number of pending and recent appeals for wind energy and related proposals in the area including:

##### Pending

- **PL.92.243611 (14/10)** Application for two wind turbines, internal access roads, upgrading of existing access roads, underground cabling and associated works at Knockduff and Inchivara, Milestone, Co Tipperary.
- **PL92.245544 (15/600566)** Application for amendments and additions to electrical substation including change from 28kV to 38kv electrical substation changes to control building, fence, vehicular entrance. Knockcurraghbola Commons, Granera, Shevry, Co Tipperary.

##### Decided cases.

- **PL22.243470** Refusal of permission for 4 wind turbines, electrical substation, meteorological mast. Access tracks and ancillary works at Upper Ormand Kilnaneave. Refusal was on grounds of visual impact having regard to the scale of the turbines at the interface of upland and lowland areas.
- **PL.22.243040** Permission upheld following third party appeal to the Board for Erection of 22 number wind turbines, overall height of up to 126.6 metres, two number meteorological masts up to 80 metres in height with wind measuring equipment attached, access roads, electrical substation compound and control buildings and ancillary site works at Graniera / Shevry /Knockcurraghbola Commons/Knockmarow/Grousehall/Cummer/Foilnaman/Gleninchnavai gh/Coumnageeha/Coumbeg/Knocknamena Commons /Glenbeg / Seskin, Upperchurch, County Tipperary.
- **PL22.242852**Appeal withdrawn **12/51/0385** Permission for wind energy project comprising of 5 wind turbines each with a maximum tip height of 126 metres, construction of new access tracks and the upgrading of existing tracks, an electrical substation, a borrow pit and associated works. Application for a 10 year permission, an E.I.S. accompanies the application. Site at Knockcurraghbola Commons / Crownlands, Shevry.

- **PL22. 241924** (13/51/0035) Bunkimalta, Bauraglanna, Lackabrack, Keeper Hill, Co. Tipperary. 10 year permission for construction of a windfarm comprising 16 wind turbines and all associated site works above and below ground.

## **5.0 PLANNING AUTHORITY DELIBERATIONS AND DECISION**

### **5.1 Submissions**

5.1.1 Submission from the appellants is summarised as follows:

- The application needs to be considered in the context of wind energy permissions already granted within the area.
- Two close permissions, Milestone and Upperchurch have been granted without plans for grid connection. Logical route for connection of Upperchurch to the Nenagh Road will pass close to this appeal site.
- Note significant generation of Carbon Dioxide CO<sub>2</sub> and question the sustainability of the proposal having regard to the landfill disposal requirements end of life turbines.
- Issue of cumulative impact is not adequately addressed. Development will extend a development block which is already infringing on hen harrier foraging areas. Issue of wildlife is poorly assessed and no surveys were undertaken.
- Development is not economically viable.
- Location of 3 houses within a 500m setback is unacceptable.
- No community consultation and inadequate assessment of impact on dwellings within 1500m.
- Negative impact on Upperchurch village and its tourism potential.

5.1.2 **Departments of Arts Heritage and the Gaeltacht** submission recommends licensed archaeological monitoring of all ground works required for the development.

### **5.2 Internal Reports**

- Environment Section report asserts that based on submitted documentation there are no major environmental issues of concern. No objection subject to conditions.
- Planner's report notes location of the site in an area designated for such development under the Wind Capacity Strategy and Outline Landscape Strategy for North Tipperary 2006. The proposal will impact on the visual amenity of the area but this impact must be viewed relative to the designated of the area for wind energy development and absence of Natura 2000 sites or protected view designations. Potential for visual impact is diminished by the modest scale of the proposal. Report recommends permission subject to conditions.

### **5.3 Decision**

5.3.1 Tipperary County Council decided to grant permission subject to 18 no conditions which included the following:

- Condition 2. Permission shall not be construed as any form of consent to connection to national grid or to the routing or nature of such connection.
- Condition 3. Permission may be implemented within 5 years
- Condition 4. Life of permission for a period of 25 years.
- Condition 5. Prior agreement regarding haul routes, haul route survey and extent of strengthening / works to be carried out.
- Condition 6. Prior agreement on road / junction widening and pavement, bridge and culvert strengthening associated with the delivery of turbine components.
- Condition 7. Noise Compliance monitoring programme.
- Condition 8. Aeronautical obstacle warning lighting scheme to be agreed with Irish Aviation Authority, IAA.
- Condition 9. Boundary treatment details to be agreed.

- Condition 10. Reinstatement programme.
- Condition 11. Construction Management Plan.
- Condition 12. Archaeological monitoring.
- Condition 13. Treatment of stockpiled materials.
- Condition 14. Drainage at access. Track to be surfaced in hardcore.
- Condition 16. Construction warning signage.
- Condition 17. Remedial works in the event of interference with communication signals.
- Condition 18. Development Contribution €5,308.
- Condition 19. Bond for reinstatement of site.

## **6.0 GROUNDS OF APPEAL**

### **6.1 Third Party Appeal**

6.1.1 The Third Party Appeal is submitted by Paul & Edel Grace, Tanya and James Embleton, Grouse Hall, Milestone, Thurles, Co Tipperary. Grounds of Appeal are summarised as follows:

- Permission is invalid as no appropriate assessment screening was carried out by the planning authority.
- Having regard to the proximity of the proposed development to one 22 wind turbine development (Upperchurch 22.243040) a 5 turbine Development (Knockcurraghbola Commons 22.242852) and an additional 15 wind turbine development within the SPA (Keeper Hill 22.241924) the application cannot be viewed in isolation.
- The cumulative impacts have not been taken into account.
- Lands set aside for hen harrier as a mitigation measure as part of granted conditions for Upperchurch Wind farm 243040 are located a short distance from the proposed development.
- Proposal does not meet the test regarding stage 1 screening as set out in Kelly v An Bord Pleanála 2014/902 JR relating to the possibility of significant effect.

- In accordance with O Grianna and others v An Bord Pleanála, grid connection cannot be separated from the balance of the project and therefore grid connection must form part of the application.
- Only three houses were assessed with regard to noise and shadow flicker.
- Photomontages are of poor quality.
- No bird, bat or wild life studies were carried out, therefore it is impossible to assess potential impacts.
- A grant of permission could be taken to indicate that sub threshold developments could add infinite numbers of turbines to an area without regard to other developments in the area.

## **7.0 RESPONSES TO THE APPEAL**

### **7.1 First Party Response to Third Party Appeals**

7.1.1 The response submitted by Barnes Murray de Bháill, Consulting Engineers Planning Consultants seeks to refute the grounds of appeal as follows:

- Suggestion that appropriate assessment screening was not carried out is erroneous. A stage 1 screening assessment was undertaken and submitted as part of the application process. A stage 1 screening assessment also undertaken by the Council in its consideration of the application. Both assessments determined that the proposed development will not have a significant effect on any Natura 2000 site.
- Reference to the O Grianna judgement is misleading. As the development is sub threshold the EIA Directive does not apply in this instance and hence there is no requirement for cumulative assessment.
- Assessment modelled shadow flicker and noise within 500m of the turbine and noted that the occurrence of shadow flicker and noise at all

receptors will comply with the limits set out in the Wind Energy Development Guidelines

- ZVI map demonstrates that the turbine will not be visually prominent in the landscape. Photomontages prepared by Studio 2K, a visualisation studio with over 15 years experience in the preparation of photomontages for wind energy projects. Reject the assertion that the photomontages are of poor quality.
- As regards impact on wildlife, the area within which the site is located is not noted for any rare or protected species of flora or fauna and has not been designated as a Natural Heritage Area, Special Area of Conservation or Special Protection Area, or similar. Walkover survey identified no features of ecological significance.
- A suite of best practice measures will be implemented on the site to mitigate potential impacts.

## **7.2 Planning Authority Response.**

7.2.1 The Planning Authority response to the appeal asserts that the decision of the council was appropriate and in the interest of proper planning and sustainable development. Issues raised in the appeal were considered by the Council in its assessment of the proposal. Tipperary County Council respectfully submit that An Bord Pleanála should uphold the decision of the Council to grant permission.

## **9.0 ASSESSMENT**

9.1.1 Having examined the file, considered the prevailing local and national policies, the planning history on the site and having inspected the site and assessed the proposal and all submissions, I consider the key issues to be considered in the Board's assessment of the proposed development can be addressed under the following headings:

- Policy Compliance – Principle of Development
- Landscape and visual impact
- Impacts on the residential and other amenities of the area including archaeology and roads.
- Ecological Impact
- Cumulative Impact & Grid Connection
- Appropriate Assessment.
- Environmental Impact Assessment

## **9.2 Policy Compliance. – Principle of Development.**

9.2.1 The proposed development is in accordance with national and EU policies which seek to promote the reduction of greenhouse gases and the advancement of renewable energy resources. The Planning Guidelines emphasise the importance of wind energy as a renewable energy resource and in general there is a presumption in favour of wind farm development in suitable circumstances. In relation to the North Tipperary County Development Plan 2010 as varied it is the policy of the Council CEF4: “to facilitate wind energy developments where it is demonstrated to the satisfaction of the Council that they comply with the Wind Energy Development Guidelines, DEHLG 2006 (and any review thereof) and the Wind Energy Strategy set out in Appendix 6, and any review thereof”.

9.2.2 The Wind Energy Strategy 2009, categorises the county into two classes those which have adequate wind resources and deemed eminently suitable for wind farm development subject to normal planning considerations and areas which have adequate wind resources but are deemed unsuitable due to their scenic, ecological, historic or tourism values. The appeal site falls within the former area as an area deemed eminently suitable for wind farm development subject to normal planning considerations. It is noted within the development plan that specific proposals for any wind energy

development in the County will require a detailed visual and environmental assessment to determine the capacity of the landscape and environment to accommodate it.

9.2.3 Policy LH2 relates to the protection of visual amenity and Character of Primary and Secondary Amenity Areas and provides that developments which would have an adverse material impact on the visual amenities of the area will not be permitted. The North Tipperary Landscape Character Assessment Evaluation indicates that the appeal site is within Landscape Character Type 6; Farmed Foothills and the assessment notes that windfarms are a force for change within this area. The area is further detailed as Landscape Character Area 7; Upperchurch-Kilcommon Hills. The Key Characteristics are indicated as highly scenic pastoral landscape with rolling hills and valleys; sparsely populated particularly in central area with remote character and extensive views eastwards from elevated points. The sensitivity and scenic qualities of the area are acknowledged having regard to the varied and interesting topography of rolling hills and valleys with vantage points that afford views. However, it is further noted that the varied nature of the topography is such that there is a capacity to accommodate development without undue deterioration in the scenic quality.

9.2.4 Thus as regards the landscape character designation, detailed matters determine the acceptability or not of a proposal and the range of designations applicable in the case of the appeal site does not preclude the development of a wind farm on the site in principle. I would highlight the recognition within the scenic landscape characterisation and evaluation of the ability of the landscape to accept or absorb development. On the basis of the foregoing in overall terms the principle of location of windfarm development in the area is reasonable subject to the appropriateness of the proposal to the particular site and the nature and scale of the development.



9.2.5 Having reviewed the relevant policies pertaining to the site and the area I consider that the planning policy context does not preclude the principle of development of a windfarm on the appeal site. I conclude therefore that on the question of the principle of development, it is acceptable having regard to EU, National and local policy considerations.

### **9.3 Landscape and Visual Impact.**

9.3.1 In terms of visual impact the first party asserts that the visual impact will be limited and the visual character of the area will not be significantly affected. Views in the area tend to be intermittent by virtue of the undulating nature of the topography and the extensive areas of mature forestry. However medium and long distance views of the site are obtainable from the east. The application includes a zone of visual influence (ZVI) map prepared to show the theoretical visibility of the turbine based on the area within 15km of the site. The ZVI indicates that the extent of theoretical visibility of the turbine in its entirety is largely restricted to the immediate area to the north of the site and beyond 5km to upland areas to the north and east of the site. The turbine will not be visible from the villages of Borrisoleigh, Templederry or Upperchurch due to intervening topographical highs. There will be intermittent visibility from R498 and local roads in the vicinity.

9.3.2 I note that the third party appellant party is critical of the quality of the photomontage assessment submitted. I consider the quality to be adequate however I would consider that additional viewpoint representations would be useful. As regards the zone of visual impact map, I note that a more appropriate scale would facilitate more ready interpretation however I consider it to be adequate, to demonstrate the potential range of visibility.

9.3.3 The most significant visual impact arising will be in the immediate area to the north of the site whereby the provision of the single turbine on elevated ground will represent a significant new feature. However I note that as acknowledged within the North Tipperary County Development Plan 2010 and the landscape character assessment, the varying nature of the rolling topography is such as to increase the capacity of the landscape to accommodate development (as illustrated in the zone of visual influence map demonstrating bare ground landscape therefore worst case scenario). On balance I consider that on the basis of its scale and limited extent the proposed single turbine and the character of the existing landscape the proposed development of a wind turbine on the site could be accommodated without undue detrimental impact on visual amenity. I would have some concerns regarding the siting of the proposed control building and electrical substation and failure to address the visual impact of these elements. I also consider that mitigation would be required in respect of the access track. As regards local visual impact in the immediate vicinity, I have some concerns that the potential for visual obtrusion on nearby dwellings is not addressed.

9.3.4 As regards the cumulative visual impact, having regard to existing and permitted wind energy developments in the area, I note that this issue is not addressed by the First Party. However I consider that in light of the limited zone of visual influence the limited scale and nature of the development proposed and the complex nature of the topography and landscape the issue of cumulative visual impact of windfarms in the area is not a significant issue.

9.3.5 Having regard to the nature of the proposed development and the character of the landscape I would accept that generally landscape and visual effect is not a significant issue. However I consider that the local impact and impact on residential amenity in particular is not sufficiently addressed within the application. This is addressed further below.

## **9.4 Impact on Residential and other amenities of the area including Archaeology and Roads**

9.4.1 There are a number of dwellings (approximately 8) within 1km of the proposed turbine, three of these being within 500m of the proposed turbine. The closest dwelling which is referenced as receptor 1 within the application documentation is 438m to the southeast of the proposed turbine whilst dwellings 2 and 3 are 438m and 484m respectively to the southeast of the proposed turbine. I note that the recommendation within the targeted review<sup>1</sup> is for a minimum 500m setback between any commercial scale wind turbine and the nearest point of the curtilage of any property in the vicinity in order to provide for amenity considerations eg. visual obtrusion. Notably an exception may be provided to the minimum setback where the owner of the relevant property is content for the proximity of turbines to be less than the minimum setback. Written confirmation to demonstrate agreement to the reduced setback is recommended in such cases. In light of the proximity of the proposed turbine to three dwellings and in view of best practice I consider that additional detail would be required to demonstrate the visual impact of the development from these properties and to inform assessment of impact and demonstrate that the proposed development would not have a negative impact on established residential amenity.

9.4.2 I note in relation to shadow flicker that the current guidelines<sup>2</sup> assert that at distances of 10 rotor diameters from a turbine the potential for significant impact is low. In the case of the proposed development 10 rotor diameters equates to 470metres. The first party asserts that a modelling of study of shadow flicker effects on the three receptors

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<sup>1</sup> Proposed Revisions to Wind Energy Development Guidelines 2006, Targeted Review in relation to Noise, Proximity, and Shadow Flicker, December 11<sup>th</sup> 2013. Department of Environment Community and Local Government.

<sup>2</sup> Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development, 2006. Department of Environment Heritage and Local Government.

located within 500m of the proposed turbine using the *ReSoft WindFarm Release 4.2* modelling package finds that shadow flicker will occur at 1 no receptor for a total period of 7.2minutes on 3 days of the year that is a total period of 0.12 hours per year significantly below the guideline limit levels of 30 hours per year or 30 minutes per day. The basis for the findings in relation to shadow flicker, the detail of the computational model and detailed analysis of same is not provided within the application documentation to enable full and complete evaluation of these findings. I note that the proposed revisions to wind energy development guidelines targeted review,<sup>3</sup> recommend that there be no shadow flicker at any dwelling within 10 rotor diameters of a wind turbine and further recommend that a detailed shadow flicker study for the purpose of modelling the impact of potential shadow flicker should accompany all applications for wind energy developments. This is in accordance with best practice and I consider that the information on the appeal file is insufficient in regard to shadow flicker.

9.4.3 As regards noise impact, it is asserted that modelling using the ReSoft WindFarm Release 4.2 Package identified that noise levels generated by the development will comply with current guideline limits. I note that the level of information submitted is insufficient in terms of detail of background noise levels. I also note that no information is provided in respect of the sound prediction methodology employed to enable verification of the assertions made. The application further makes no reference to current best practice assessment methodologies.

9.4.4 On the issue of windtake the layout achieves the minimum two rotor blade distance from the landholding boundary as required by the current guidelines.

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<sup>3</sup> Proposed Revisions to Wind Energy Development Guidelines 2006, Targeted Review in relation to noise, proximity, and Shadow Flicker, December 11<sup>th</sup> 2013. Department of Environment Community and Local Government.

- 9.4.5 As regards archaeological Impacts, no significant implications in terms of archaeological aspects are predicted. Mitigation measures provide for archaeological monitoring of topsoil removal and I consider that this is appropriate. Notably the submission from the Department Arts Heritage and the Gaeltacht indicated satisfaction with this approach.
- 9.4.6 As regards traffic and roads impact of the development, I note that the local road network in the vicinity of the site is characterised by extremely narrow roads. The construction works for the proposed development are predicted to take 24 working days. It is asserted that the number of construction traffic movements will be relatively minor (approximately 5.3 loads per day). The detailed breakdown of this calculation is not provided. The turbine will be delivered by road and ferry from mainland Europe to Dublin port and travelling in segmented sections on 6 no standard size 16.5 articulated lorries from Dublin utilising the M50, N7 to Junction 25 Nenagh and travelling along the R498 and local road network. The application indicates that the access road was identified using Autotrack Swept Path Analysis software which concluded that the route is of suitable width and alignment to accommodate the proposed delivery without the need for alteration or modification. The exact route of the local network is not clarified to assess this issue and I note that the Council imposed conditions 5 and 6 requiring prior agreement on protocol for survey of haul routes and agreement in respect of road junction widening and pavement, bridge and culvert strengthening works associated with the delivery of turbine components. I consider that these matters are not sufficiently detailed within the application.
- 9.4.7 As regards the proposed works to provide for improved sightlines at the entrance, this involves significant hedgerow removal and works outside the boundary of the site though within the identified landholding. I would be concerned that such hedgerow removal will have a significant local visual and ecological impact and I note that the application and confines of the appeal site do not provide for mitigation in this regard. I

consider overall that the level of detail provided on the appeal file is insufficient to appropriately assess these matters.

## **9.5 Ecological Impact**

9.5.1 The Surface and Groundwater Pollution Assessment submitted as part of the application notes that there are no hydrological /surface water features on site and neither the construction nor operational phase of the development has the potential to impact on the existing hydrological / surface water regime. The works do not entail the formation of any areas of impermeable hardstanding and all access tracks craneage areas will be overlain with permeable material. Consequently, all surface water will be allowed to percolate into hydrogeological / groundwater in accordance with the principles of SUDS. As regards impacts on hydrogeological regime, the site is underlain by a poor aquifer. Groundwater is classified as extremely vulnerable due to the shallow depth of soil covering. It is noted that the construction phase of the development has the potential to impact on the existing hydrogeological / groundwater regime through the release of pollutants in the form of suspended solids, cement, hydrocarbons and other miscellaneous wastes. To mitigate potential for impact it is proposed to limit release of pollutants through the adoption of best practice techniques including construction of bund and ring drain to capture and collect run off with treatment system to treat run off.

9.5.2 As regards ecological impact the first party notes that there is potential for minor displacement and with regard to fauna there is potential for disturbance of animals and particularly birdlife. Mitigation measures are listed, however I consider that such measures are not site specific and are highly generic in nature. Whilst I concur that the site which is in use as pasturelands is not ecologically sensitive in itself, I am not satisfied that the issue of ecological impact and impact on biodiversity is appropriately addressed within the application. I have noted above concerns regarding the significant ecological and biodiversity impact

arising from the tree and hedgerow removal proposed to facilitate the provision of the entrance and consider that mitigation measures are not provided for. The application provides no detailed assessment of baseline ecological features and therefore no detailed assessment.

## **9.6 Cumulative Impact, Grid Connection.**

9.6.1 The Third party submissions assert that a piecemeal approach to wind energy development in this part of Tipperary is contrary to the spirit of the EU Habitats and EIA Directives particularly in regard to the obligations to address cumulative impact and provide for thorough and comprehensive analysis of environmental impact. Whilst I would accept third party frustrations I note that it is reasonable that an individual application can be considered on its merit based on detailed site investigation and comprehensive information in respect of the site context. I note the significant relevance of cumulative consideration having regard to the unique characteristics of wind energy development proposals. On this basis I would concur with the third parties that further information on the wider context is necessary to enable a more comprehensive assessment of environmental impacts.

9.6.2 I note *O’Grianna and Others v An Bord Pleanála*, Judicial Review decision [HC 2014/19 JR] which clarified that a wind farm and its connection are one project, neither being independent of the other and therefore the impacts of grid connection need to be considered as part of the EIA. The application does not provide information in relation to grid connection. I note that the first party asserts that the sub threshold nature of the development in the context of the prescribed classes of development for the purposes of Section 176 of the Planning and Development Act requiring EIA, would negate the relevance of the *O Grianna* judgement to the appeal case. I do not accept this argument and consider that adherence to this holistic approach in terms of enabling a thorough assessment of the environmental impact of the development is necessary in the interest

of proper planning and sustainable development particularly having regard to the obligations to undertake appropriate assessment screening. I conclude therefore that in light of the High Court ruling of O Grianna v An Bord Pleanála, further detail is required to address the issues raised in relation to grid connection and cumulative impact.

## **9.7 Appropriate Assessment Screening.**

9.7.1 The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

9.7.2 The site is not within any Natura site and the the AA Screening Report prepared by Barnes Murray de Bháill considers the development in the context of 8 no special Areas of Conservation and 1 Special Protection Area within 15km of the site namely:

- Slievefeilim to Silvermines Mountain (SPA 004165)
- Kilduff Devils Bit Mountain (SAC 000934)
- Silvermines Mountain (SCA 000939)
- Keeper Hill (SAC 001197)
- Bollingbrook Hill (SAC 002124)
- Anglesey Road (SAC 002125)
- Lower River Suir (SAC 002137)



- Lower River Shannon (SAC 002165)
- Silvermines West (SAC 002258)

9.7.3 As regards elements of the project which could give rise to impact on Natura 2000 sites it is noted that during the construction phase indirect impacts could arise through the release of pollutants in the form of suspended solids, cement, hydrocarbons etc. However there are no watercourses on site and no direct hydrological connection between the site and any Natura site. Good practices and mitigation measures will be put in place to prevent sediment release. It is noted that works are limited in scale and restricted to a total site area of 0.57 ha.

9.7.4 The closest Natura 2000 site is the Slievefeilim to Silvermines Mountains SPA (SPA 004165) which is located 3.2km west of the site. The qualifying interest for the SPA is Hen harrier and the conservation objective is to maintain or restore the favourable conservation condition of the hen harrier. The site also supports Merlin and Peregrine both Annex 1 species. Notwithstanding the limited scale and extent of the proposed development, in light of the lack of information in relation baseline ecological conditions and features of the appeal site I consider that there is insufficient information to address the potential for significant effect. I note that the third party appellants refer to mitigation measures proposed as part of PL243040<sup>4</sup> which provide for alternative habitat suitable for foraging hen harrier based on measures set down in the NPWS Hen Harrier Scheme for farmers. I note that the first party does not address this issue. As noted above no information is provided in respect of grid connection and this element of the project would have to be assessed.

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<sup>4</sup> **PL.22.243040** Permission upheld following third party appeal to the Board for Erection of 22 number wind turbines of up to 126.6 metres, two number meteorological masts up to 80 metres in height with wind measuring equipment attached, access roads, electrical substation compound and control buildings and ancillary site works at Upperchurch, County Tipperary.

9.7.5 On the basis of the lack of detailed information provided on the appeal file I consider that it cannot be definitively concluded that the proposed development and associated activities will not impact on any Natura sites, and that there will be no cumulative and or in-combination effects with other plans or projects. On this basis I consider that an Appropriate Assessment Screening cannot be undertaken.

## **9.8 Environmental Impact Assessment**

9.8.1 I note that the proposal involves the provision of 1 no 500kW wind turbine (hub height 40m / blade tip height 73.5m). The relevant threshold in terms of the prescribed development for the purposes of part 10 provides that EIA is required for “Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts” as set out in Category 3(1) of Part 2 Schedule 5 -Development for the purposes of Part 10 (Environmental Impact Assessment) of the Planning and Development Regulations 2000. On this basis I note that the development falls below the threshold therefore does not require a mandatory EIS. Having regard to the characteristics of the proposed development and to the location of the proposed development and to the characteristics of the potential impacts, I consider that an Environmental Impact Assessment of the development is not required by reference to the significant criteria in Annex III of the Environmental Impact Assessment Directive as transposed in Schedule 7 of the Planning and Development Regulations, 2001.

## **10.0 Recommendation**

10.1 Having considered the file, the planning history and all submissions and having visited the site, I consider that the principle of development

of a wind turbine on the appeal site is acceptable in principle in the context of the national and local policy context pertaining. I consider that based on analysis of the site location the landscape has significant capacity to absorb development of this nature and I note the limited nature and scale of the proposal. However I am not satisfied that the application provides a sufficient level of detail to enable a thorough assessment of the environmental impacts arising from the proposed development and to provide for appropriate mitigation measures accordingly. The Board may seek further information to address these deficiencies. On the basis of the deficiencies in the appeal documentation I recommend refusal for the following reasons:

1. Having regard to the nature of the receiving environment and proximity to a number of dwellings in the immediate vicinity it is considered that the level of information provided within the application is insufficient to enable a thorough assessment of the environmental impacts arising from the proposed development with particular reference to noise, shadow flicker and visual intrusion, ecological impacts and impacts on traffic and roads and to provide for appropriate mitigation measures accordingly. The proposed wind energy development would, therefore, be contrary to the provisions of the Wind Energy Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in June, 2006 and would be contrary to the proper planning and sustainable development of the area.
2. Notwithstanding the sub threshold nature of the application in the context of the prescribed classes of development for the purposes of Section 176 of the Act requiring Environmental Impact Assessment, on the basis of the limited information lodged with the appeal and having regard to the ruling *O Grianna and Others v An Bord Pleanála*, Judicial Review decision [HC 2014/19 JR], as the proposed development does not include as part of the application a proposed connection to the national grid, the proposal would constitute project splitting and the

level of information lodged with the application is inadequate. On this basis an Appropriate Assessment screening cannot be undertaken. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell,  
Planning Inspector.  
30<sup>th</sup> July 2016