



An
Bord
Pleanála

Inspector's Report PL07.246553

Development	Permission sought for wind anemometer mast of up to 100m and all associated works.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	16/168
Applicant(s)	Franks O'Domhnaill & Richard Bourns
Type of Appeal	Third party.
Planning Authority Decision	GRANT with conditions.
Appellant(s)	1. Jarlath McEvoy, John McDermott, Lilly McDonagh, Joe MacDonagh, Joe Casey and Kitty McEvoy
Observer(s)	1. Brian & Margaret Hanrahan
Date of Site Inspection	30/06/16
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located in east County Galway, c.4km southwest of the R357 at Shannonbridge, c.11km southeast of Ballinasloe and 13km west-northwest of Cloghan.
- 1.2. The immediate area is rural in character, with apparently good agricultural land but with significant one off rural housing dispersed along the road network. The area is generally flat to gently undulating. The application site is agricultural in nature, but there are extensive harvested peatlands commencing c.300-400m to the north and some localised woodlands. The River Shannon runs within c.4km to the east, with a tributary (River Suck) c.2.5km to the north.
- 1.3. The site has a stated area of 0.9775ha, but forms part of a larger hold (outlined in blue on drawing no.0140-02) of c.430ha. The site contains an existing 80m high wind anemometer structure.
- 1.4. The site is accessed off a cul-de-sac access track of 2.5km and c.280m of public road, which connects to the local road network c.2km to the southwest of the site. The lands on all sides of the application site are agricultural in use. The site is c.1.4km from nearest county road, with the nearest dwelling c.1.3km to the southeast situated on an unclassified road.

2.0 Proposed Development

- 2.1. The proposed development comprises a 100m anemometer and all associated works to be used for the purposes of measuring wind speed and wind characteristics for a period of 24 months.
- 2.2. The cover letter attaching to the application states 'the mast will be either a free-standing structure or could be supported by guyed wires radiating out 66m in three directions from the tower. It will be constructed on a hard standing area sufficiently large to accommodate the crane to be used to construct the mast.

2.3. The proposed mast is located in the same location at that proposed under reg.ref.1571 currently under consideration by Galway County Council, but only one mast is proposed to be erected on site. Planning Authority Decision

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant subject to six conditions. Note, the conditions are numbered 1-5, but there are two separate conditions under no.2, which I shall refer to as 2(a) and 2(b) for ease

Condition no.2(a) limits the period of the permission to 24 months.

Condition no.2(b) requires the installation of facilities to be installed at the developer's expense where the permitted development causes interference with radio/television/aviation transmissions.

Condition no.3 requires maintenance of sight distance triangles.

Condition no.5 delivery of mast to be agreed with the planning authority.

3.2. **Planning Authority Reports**

The Area Planner's report of 11/04/16 is consistent with the decision of the Planning Authority to grant permission subject to five conditions. The recommendations of the Area Engineer (31/03/16) are not referred to in the report of the Council's Planning Officer.

3.3. **Other Technical Reports**

The Area Engineer's Report of 31/03/16 indicates that the recommendations described under file ref.15/1571 also apply to this proposed development. The recommendations are not restated in this subject report.

3.4. **Third Party Observations**

Observations were received from Jarlath McEvoy, Kitty McEvoy, John McDermott, Lily McDonagh and Joe Casey (18/03/16) and from Paul Hanrahan and Anna

Hanrahan (21/03/16). The main points of the observations of the Hanrahans are repeated in observations submitted on the appeal and are summarised in the appropriate section below. The main points of the observations by the other 3rd party group (the third party appellant) do not constitute the grounds of appeal and may be summarised as follows:

- Visual impact not properly assessed.
- The site is not viable for wind energy development according to the Galway County Wind Energy Strategy.
- Impact on birds associated with surrounding Natura 2000 sites including migrating birds, daily flight patterns or birds displaced during flooding to the surrounding lands.

4.0 **Planning History**

4.1. On site –

Reg.ref.15/1571: CURRENT APPLICATION to Galway County Council for a ten-year permission to construct a wind farm comprising 5no. wind turbines to maximum blade tip height of 169m, new internal access roads, upgrading of existing roads, wind anemometry mast (up to 100m in height), 1 no. borrow pit, 1 no. electricity sub-station with control buildings and associated equipment, underground electricity connection cabling, 1 no. temporary construction compound, upgrading of the existing site access junction and all ancillary site works including underground cable connection to the national grid. Application is accompanied by an EIS and NIS. FURTHER INFORMATION sought 23/02/16. No record of receipt of further information on the Council's online system but indicated as 'on hold'.

5.0 **Policy Context**

5.1. **Galway County Development Plan 2015-2021**

Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment

Energy and Renewable Energy Objectives – ER 3 Low Carbon County, ER 4 Renewable Energy, ER 5 Wind Energy Development and ER 6 Wind Energy Strategy.

DM Standard 30: Wind Farm Developments

6.0 Natural Heritage Designations

Site No.004097 River Suck Callows SPA is within 2.6km at its nearest point (to the northwest);

Site No.004096 Middle Shannon Callows SPA within c.3.4km to the east;

Site No.002356 Ardgraique Bog SAC within 12.25km to the southwest;

Site No.002213 Glenloughan Esker SAC c.12.3km to the west-northwest;

Site No.000576 Fin Lough SAC c.11.1km to the northeast.

7.0 The Appeal

7.1. Grounds of Appeal

Jarlath McEvoy, Lilly McDonagh, Joe McDonagh, Joe Casey, Kitty McEvoy c/o Peter Sweetman & Associates (05/05/16) – The single grounds of appeal may be summarised as follows:

- Having regard to the judgement of Peart J. in O’Grianna & ors -v- An Bord Pleanála [2015]IEHC 248, para.32, concerning project splitting, the erection of the wind anemometer and associated works and the proposed wind farm reg.ref.15/1571 are one project and therefore to grant permission without EIA is contrary to the Directive.

7.2. Planning Authority Response

None received to date.

7.3. Other Party Responses

7.3.1. First Party response

The main points of the response from Frank Ó'Domhnaill and Richard Bourns c/o McCarthy Keville O'Sullivan (03/06/16) may be summarised as follows:

- The proposed mast is located in the same location as the mast forming part of wind farm application currently consideration under reg.ref.15/1571. Only one mast is proposed to be erected.
- The erection of a mast for mapping meteorological conditions is not listed as a type of project falling within Annex I or Annex II of EIA Directive.
- Schedule 5 of the Planning and Development Regulations, 2001, as amended, sets out development types and thresholds for which EIA is mandatory and includes (under section 3(i)) wind energy of more than 5 turbines or greater than 5MW output. The erection of mast for mapping meteorological conditions does not require EIA.
- Having regard to judgement in O'Grianna v An Bord Pleanála, project splitting does not arise as the proposed mast is temporary (for period of up to 24 months) and constitutes a standalone application which is not dependent on the approval of the wind farm.
- The proposed met mast is not intrinsic to the proposed wind farm and the proposed wind farm is not dependent on the provision of the proposed met mast.
- A permanent wind anemometer mast for monitoring operations of the wind farm is included in the application for the proposed wind farm, which is considered in full in the documentation and associated EIS and will be considered fully within the EIA as part of the decision making process.
- The proposal is not project splitting as the met mast is not a class of development that requires EIA, it is not dependent on the wind farm application

and is not dependent on permission being granted for the wind farm and the wind farm is not dependent on the outcome of the met mast application.

- A temporary mast of less than 80m for mapping meteorological conditions was erected on site in April 2016, as provided for under exempted development under Schedule 2: Part 1, Class 20A of the Planning and Development Regulations, 2001, as amended.
- As the wind turbines proposed under reg.ref.15/1571 are 169m, the proposed temporary 100m mast is to facilitate the compilation of additional wind speed data at a greater height than is allowed for under the exemptions Class 20A.

7.4. **Observations**

Brian Hanrahan and Margaret Hanrahan (04/05/16) – the main points raised may be summarised as follows:

- Existing mast - Questions the need for a 100m high mast when an 80m mast has already been erected on site and also questions the independence of the resulting data.
- Site entrance and traffic – no access identified. If it is the same as proposed under reg.ref.15/1571, an alternative will have to be used.
- Traffic hazard - The existing entrance is on an extremely dangerous bend where many serious accidents have occurred. No RSA or TTA has been carried out
- Visual impact – negative on natural rural environment and from family home.
- Property and farm devaluation – cumulatively negative impact on sale of observers' home, farm and any future sale of sites or land parcels.
- Residential amenity – negative impact on future residential sites for family or for sale.
- Disruption – no information on duration of construction period.

- Security – concern about security risk. Additional traffic at day and night could lead to criminal opportunists taking advantage of a busy development and going unnoticed.
- Location – should be moved further from observers' home.
- Uncertainty – does not detail what will happen to mast after 24 months. Concern for health implications.
- Communications – may have damaging impact on communications, media, satellite devices. Wants guarantee that the mast will not result in interference.
- Natura impact on migratory species – wild geese at Clonfert / Lisbeg. No assessment of impact.
- Appendices – i) photographs of entrance, ii) information letter from Richard Bourns (applicant).

8.0 **Assessment**

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Project splitting
- Other issues
- Appropriate Assessment

8.2. **Project splitting**

8.2.1. It is the third party's contention that the wind anemometer subject of the application under appeal and the wind farm and all associated works proposed under concurrent application (reg.ref.15/1571) constitute a single project and that the making of two separate applications constitute project splitting and the decision to grant permission for the anemometer without EIA is contrary to the EIA Directive. In this regard the

appellant has specific regard the judgement of Peart J. in O’Grianna & others v An Bord Pleanála [2015] IEHC 248 (para.32).

- 8.2.2. Application reg.ref.15/1571 is for 5no. turbines. It was accompanied by an EIS and a NIS. As this application is current, that is it is undecided by the planning authority, I have not viewed same. The Planning and Development Regulations, 2001, as amended, provide under Schedule 5 Part 2(3)(i) that the following is development for the purposes of Part 10:

Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.

The wind farm does not have more than 5 turbines and is subthreshold in this regard. I could not locate the energy production capacity of the proposed wind farm, however given that the largest wind turbines can produce up to 6MW¹ per annum and that the applicant submitted an EIS, it can be assumed that the proposed wind farm exceeds the 5MW limit.

- 8.2.3. The applicant indicates that a proposed permanent wind anemometer is subject of the planning application under reg.ref.15/1571 currently being considered by the planning authority, but that only one such anemometer will be in place on the site. To expedite the erection of the anemometer for the purpose of measuring and recording wind speed and wind characteristics on site, the decision was taken to apply for planning permission for an anemometer mast in the same location for a period of 24 months.
- 8.2.4. Having regard to the points made by the applicant in response to the appeal and having reviewed the judgement of Peart J. in O’Grianna -v- An Bord Pleanála, I do not consider the making of an application for a 100m met mast for a temporary period of 24 months to constitute project splitting for the purposes of the EIA Directive. Unlike the O’Grianna case, I would accept that the proposed wind

¹ <http://www.iwea.com/index.cfm/page/technicalfags?#q25> (accessed 12/09/16).

anemometer is not dependent on the carrying out of the proposed wind farm, notwithstanding that it may be intended to inform the operating of a proposed future wind farm.

8.2.5. I also do not consider that the granting of permission for the proposed wind anemometer would prejudice the decision of the planning authority (or the Board on appeal) for the wind farm proposed under reg.ref.15/1571, in the way that Peart J. considered the granting of permission for a wind farm could risk prejudicing a future decision by the planning authority for a proposed a grid connection.

8.2.6. Finally, as a permanent 100m met mast is proposed as part of the wind farm development applied for under reg.ref.15/1571 and is purported to have been considered in full as part of the EIS and documentation submitted with same, it is reasonable to assume that the totality of that development will be subject of the environmental impact assessment carried out by the planning authority deciding on the application (or on appeal, by the Board).

8.2.7. Therefore, in my professional opinion the making of a separate application for a temporary 100m meteorological mast does not constitute project splitting in the context of the EIA Directive in this particular instance.

8.3. **Other issues:**

8.3.1. I am satisfied that the erection and operation of the proposed 100m wind anemometer, in itself, would not seriously injure the amenities of the area, will not have any significant adverse visual impact, or have any other significant adverse impacts on the environment.

8.3.2. The report of the Area Engineer advised that the recommendations of the report of reg.ref.15/1571 applied, but did not repeat the contents and a copy of the report is not attached to file. Condition no.3 of the Council's decision requires sight distance triangles to be maintained and kept free of vegetation and other obstructions that would reduce visibility to below minimum required. Based on OS maps, the access to the landholding is located at the end of the of a cul-de-sac which is a local county

road. There would appear to be no issue with sightlines at the entrance as forward visibility is unimpeded along the said public road. The condition is unnecessary and contrary to the Development Management Guidelines and should therefore be omitted. Although it is possible that the condition is intended to address sightlines at the junction between the local road cul-de-sac and the main road to the south, condition has no effect in this regard.

- 8.3.3. The application site is located within an area identified as of low landscape value rating under the Galway County Wind Energy Strategy and there are no landscape or other designations pertaining to the application site. The Strategy does not contain any specific policies concerning anemometers and it would be inappropriate for the Board to otherwise consider the policy merits of the proposed wind anemometer in the context of the Galway Wind Energy Strategy given that there is a concurrent application with the planning authority for a wind farm on these the associated landholding.

8.4. **Appropriate assessment:**

- 8.4.1. Having regard to the small scale of the proposed development, comprising the temporary erection of a 100m wind anemometer for a period of two years outside and at a distance from any Natura 2000 site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

- 9.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

10.0 Reasons and Considerations/ Reasons

Having regard to the nature of the proposed development and its location of the site within an expansive agricultural landholding on lands of low landscape value rating in the Galway County Wind Energy Strategy, forming part of the Galway County Development Plan 2015-2021, it is considered that the proposed wind anemometer would not seriously injure the amenities of the area, including amenities of residential properties in the vicinity and would be consistent with proper planning and sustainable development of the area, subject to the conditions below.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) This permission shall apply for a period of two years from the date of this order. The anemometer structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.
(b) The site shall be reinstated on removal of the anemometer structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this permission.

Reason: In the interest of proper planning and development.

- 4 Full details of delivery of the proposed mast to the site shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

- .5 . In the event that the proposed development causes interference with radio / television / aviation transmission, the developer shall install facilities at their own expense to rectify same, the details of which shall be submitted to and agreed in writing with the planning authority prior to commissioning of the anemometer.

. Reason: To prevent interference with transmission signals in the interest of protecting amenities.

. John Desmond
Senior Planning Inspector

12th September 2016