



An  
Bord  
Pleanála

## Inspector's Report PL05.246871

### Development

11 no. crane hardstand and assembly areas and 5 no. turning heads to serve windfarm permitted under 08/31039 and 14/50070 and all associated works at Loughderryduff and Maas, Ardara, Donegal P.O., Co. Donegal

### Planning Authority

Donegal County Council

### Planning Authority Reg. Ref.

16/50564

### Applicant(s)

Maas Wind Ltd

### Type of Application

Permission

### Planning Authority Decision

Grant

### Appellant(s)

Louis and Joan Hanlon  
Anne Murphy & Family and Joseph Brennan

### Observer(s)

Glenties Windfarm Info Group

### Date of Site Inspection

15<sup>th</sup> September 2016

### Inspector

Lorraine Dockery

## 1.0 Site Location and Description

- 1.1. The subject site is located within the townlands of Loughderryduff and Maas, south-west County Donegal. The general area could be described as being an undulating blanket bog landscape, isolated and remote. An existing windfarm and sub-station is evident on the landscape at this location.
- 1.2. Section 1.2 of the submitted Environmental Report gives an accurate description of the site and its setting.

## 2.0 Proposed Development

- 2.1. The proposal as per the submitted public notices comprises:
- 11 no. crane hardstand and assembly areas and 5 no. turning heads to serve the windfarm permitted under Ref 08/31039 and 14/50070 and all associated ancillary site development works at Loughderryduff and Maas townlands, Ardara, County Donegal.
- 2.2. An Environmental Report and Natura Impact Statement were submitted with the application. The Environmental Report is set out under the following headings
- Executive Summary
  - Introduction
  - Soils, Geology and Hydrogeology
  - Surface Water and Hydrology
  - Ecology
  - Archaeology
- 2.3. The **Executive Summary** concludes that the construction of the proposed development can be carried out with minimal environmental impact.

- 2.4. The **Introduction** states that the installation of the selected turbines requires slightly different craneage and assembly areas to those permitted under 08/31039. It also requires turning heads at the approach to 5 of the craneage areas and associated ancillary works. The proposed craneage and assembly area for the selected turbines has overall dimensions of 35m wide x 30m long, setback 9.5 metres from the turbine centre point. This gives an overall footprint of 1050m<sup>2</sup>. It is stated within the document that the 5 no. turning heads will each have an area of approximately 100m<sup>2</sup>. The permitted craneage and turbine assembly areas, as permitted in 08/31039 are each 500m<sup>2</sup> with overall dimensions of 25m long x 20m wide.
- 2.5. Chapter 2 deals with **Soils, Geology and Hydrogeology**. The site is stated to be located largely on a relatively low-lying undulating terrain, with varying slope and ground conditions. The terrain is a mixture of bedrock outcrop with blanket bog. The site is currently used for turbary, particularly on the eastern side of the public road, grazing and an existing wind farm. Peat harvesting is ongoing on the eastern side of the L-2563-3. In terms of hydrogeology, the Ardara Granite is classified as a poor aquifer. There are no source protection zones (SPZ) in the immediate vicinity of the site, with the closest located near Ballyshannon. The potential impacts of the proposed development on geology, hydrogeology and slope stability are associated with the construction phase of the craneage areas. Risk of slope instability and impacts on geology and hydrogeology during operation is imperceptible. It is stated that the total estimated peat excavation is approximately 27,265m<sup>3</sup>. In terms of peat stability, there have been no landslides recorded at the Maas site or wider areas. In terms of Peat Slide Risk Assessment, the Maas site would be a low-medium risk of peat instability. Mitigation measures have been proposed, together with monitoring.
- 2.6. Chapter 3 deals with **Surface Water and Hydrology**. The landholding is located within the North Western River Basin Management District and within Hydrometric Area No. 38- Gweebarra-Sheephaven. Drainage of the site is outlined in Table 3.1. Surface water sample results shown that the three streams at the site have 'good' water quality at the sampling points. The site is not within the catchment of any lake

serving the region for drinking water. The main hydrological impact is an increase in runoff from a rainstorm event, increasing the peak flow to the streams draining the site. Unmitigated, the proposed works present a risk to surface water quality, in particular during the construction phase. The change in surface water runoff and water storage capacity at the development leading to an increase in the risk to down gradient flooding is concluded to be imperceptible. However appropriate mitigation measures are detailed to ensure silt-laden runoff doesn't reach the receiving waters.

2.7. Chapter 4 deals with **Ecology**. The proposed development is partially located within the West of Ardara/Maas Road SAC (Site Code 00197), which is the only Natura 2000 site within a 5km radius. Sheskinmore Lough SPA (Site Code 4090) is located approximately 5km west of the subject site. The main foreseen impact is the removal of vegetation cover for the construction of the craneage areas. The impacts will be reduced by limiting land take as much as possible and by adequately siting the turbines within degraded habitats. Potential impacts during the operational phase are deemed minimal and insignificant due to the small scale of the development. Impacts are examined and mitigation measures outlined. The chapter concludes by stating that based on the employment of good management practices throughout the construction and decommissioning phases of the craneage areas, it can be concluded that the proposed development presents little hazard to the ecological quality of the site and the area in general.

2.8. Chapter 5 deals with **Archaeology**. There are stated to be no recorded archaeological monuments within the landholding of the proposed development and two monuments within 2km of its boundary. There are also no Protected Structures within the proposed development site or in adjacent townlands. No potential features of archaeological or architectural importance were noted during a field inspection. Potential impacts and mitigation measures are examined and the chapter concludes that the construction and operation of the proposed development at the subject site will not result in any direct impact on recorded archaeological, architectural and cultural heritage resource.

2.9. A **Natura Impact Statement** was submitted with the application, prepared by Dr. Florence Renou-Wilson of Earthly Matters Environmental Consultants. The Statement identifies that the proposed development is partially located within the West of Ardara/Maas Road SAC (Site Code 00197), which is the only Natura 2000 site within a 5km radius. Sheskinmore Lough SPA (Site Code 4090) is located approximately 5km west of the subject site. The conservation objectives for the West of Ardara/Maas Road SAC have been cited, as have the qualifying habitats. The conclusion of the Screening Process was that of the Natura 2000 sites identified within 15km radius, the proposed development will not impact of the Sheshkinmore Lough SPA but has the potential to impact on part of the West of Ardara/Maas Road SAC. It is therefore recommended that a full Stage 2 Appropriate Assessment be undertaken. The Stage 2 Appropriate Assessment concludes that once mitigation measures and recommendations have been implemented, the conservation objectives of this Natura 2000 site would not be compromised by the proposed development, nor would the proposed activities have any significant impact on the habitats and species for which it has been designated. It therefore concludes that there would be no significant adverse effects on the integrity of any Natura 2000 sites, as a result of the craneage/assembly area construction for the permitted Maas Wind farm or as a result of combination or cumulative effects.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Permission GRANTED subject to 8 conditions

#### 3.2. **Planning Authority Reports**

The report of the area planner reflects the decision of the planning authority.

An Appropriate Assessment for the purposes of Article 6 of the Habitats Directive was undertaken by the planning authority which concluded that the proposed

development will not adversely affect the integrity of a European site namely the West of Ardara/Maas Road Special Area of Conservation (Site Code 000197 refers).

### **3.3 Other Technical Reports**

#### **3.3. Department of Arts, Heritage and the Gaeltacht**

Conditions attached in relation to archaeological monitoring

### **3.4. Third Party Observations**

3.5. Three observations were received by the planning authority

### **4.0 Planning History**

#### **4.1. 08/31039**

Permission GRANTED for the extension of an existing windfarm consisting of 11 wind turbines, access tracks, stone quarry and associated works on this site

14//50070

Extension of duration of above grant of permission

14/50553

Permission GRANTED for a control building/sub-station and associated compound

By letter dated 29/10/2015, Donegal County Council considered a proposed amendment (amendment not specified) to the wind turbines to represent a non-material deviation from the approved plans of Reg. Ref. 08/31039 and have no objections to same, provided that there is no increase of the megawatt capacity of the turbines from that approved under the aforementioned permission. It is stated within the file that the non-material amendment related to a reduction in the height of the turbines from a permitted 81 metres to 79.6 metres.

## **5.0 Policy Context**

5.1. DoEHLG Wind Energy Guidelines 2006

5.2. Border Regional Authority Regional Planning Guidelines (BRA) 2010-2022

## **6.0 Development Plan**

The Donegal County Development Plan 2012-2018 applies

Section 7.2.1 applies to wind energy policies

The development falls within an area designated as 'Not Favoured Area for Wind Energy Proposal'

Policy NH-P-1; NH-P-2; NH-P-5; NH-P-10; NH-P-14 and NH-P-15 relate to natural and built heritage policies

## **7.0 Natural Heritage Designations**

A significant portion of the site is located within the West of Ardara/Maas Road Special Area of Conservation (Site Code: 000197).

## **8.0 The Appeal**

### **8.1. Grounds of Appeal**

The grounds of the two third party appeals can be summarised as follows:

- Permission for windfarm granted to a different company to that of this current application
- Considers proposal to be a material change to permitted development- entire application needs to be resubmitted in full to planning authority
- Raises issues in relation to previous permissions on the site

- This is the first time an NIS was submitted for development
- Inadequacy of NIS
- Concerns regarding impacts on designated sites- AA fails to assess all sites within 15km radius
- Raises the issue of project splitting
- Development taking place in an area 'Not Favoured for Wind Energy' in the operative Donegal County Development Plan
- Validity of application- land ownership
- Queries details of immaterial amendment
- Contends that ecologist should be appointed by ABP to assess NIS and EIS submitted
- Deficiencies in application detail
- Site located within West of Ardara/Maas Road SAC- number of SACs and SPAs located within 15km radius of site
- Expresses concerns regarding reinstatement of land
- Traffic safety
- Archaeological concerns
- Concerns regarding flooding
- Queries extent of proposed hardstand areas
- Lack of public consultation
- Concerns regarding noise and nuisance
- Health and property impacts



- Fire safety
- Impacts on archaeological sites
- Visual impacts and impacts on tourism/farming/economy
- Risk of peatslides/bog bursts

## 8.2. Planning Authority Response

A response from the planning authority may be summarised as follows:

- Assessment based on development applied for namely crane hardstands, assembly areas and turning heads
- Comments related to previously permitted windfarm are not directly relevant to the assessment of the proposed development
- Conservation Objectives of Ardara/Maas Road SAC do not include any of the above mentioned species and that the nearest SPA namely Sheskinmore Lough SPA whose conservation objective does include one of said species, namely the Greenland White Fronted Goose is located approximately 5km from the development site
- Planning authority carried out an appropriate assessment of the Ardara/Maas Road SAC which assessed the impacts of the development on the specific habitats which are listed as qualifying interests and which are actually present on the site or which are likely to be impacted by the proposed development. On the basis of the poor quality and fragmented nature of the said habitats, the detailed surface water drainage management proposal and the peat slide risk assessment contained within the application, and the fact that it has already been determined that the parent windfarm will not have an adverse impact on the host Natura 2000 site, the appropriate assessment determined that the development will not adversely affect the integrity of the European site

- Has already been determined that the parent windfarm will not have a significant impact on the environment- on the basis of the nature and scale of the development, the fact that the development will not produce any wastes or emissions and the fact that it had been determined that the development will not have an impact on the host Natura 2000 site, the planning authority has also determined that a sub-threshold EIA was not required in respect of the development. Consequently, it was not considered that the development necessitates the submission of a fresh EIS which considers the cumulative impact of both it and the parent windfarm. It is therefore considered that the issue of 'project splitting' in respect of the development and EIS does not arise
- On the basis of the low lying nature of the development with no structures above ground and its location within an undulating blanket bog landscape it is not considered that the development will have a negative impact on the visual and scenic amenities of the area

### 8.3. Other Party Responses

A first party response to the appeals was submitted and may be summarised as follows:

- Requests dismissal of appeal under Section 138 of Planning and Development Act 2000
- Installation of approved amended turbine requires a slightly different craneage area and turbine assembly area/layout from those permitted under 08/31039 and 14/50070- this application was submitted to allow for the construction of the turbines as permitted
- Application accompanied by an Environmental Report which finds that there is (i) low peat landslide risk with appropriate mitigation (ii) appropriate mitigation will be carried out during construction to ensure silt laden runoff doesn't reach

receiving waters (iii) site for proposed crane areas is within degraded blanket bog which is actively being cut- based on good management practices, concludes that proposal presents little hazard to the ecological quality of the site and area in general (iv) no known archaeological sites within the site- archaeological monitoring will take place

- Application also accompanied by NIS which concludes that with the mitigation measures set out, there would be no significant adverse effects on the integrity of any Natura 2000 sites as a result of the proposal or as a result of combination or cumulative effects
- Development ancillary to a permitted windfarm which an AA determination has concluded would not have an adverse impact on the particular Natura 2000 site and which all other assessments have concluded would not have any significant adverse environmental, visual or traffic impacts
- No turbines applied for, merely crane hardstand areas to serve a permitted windfarm- EIS was submitted with original application 08/31039 and as such the overall development was the

#### **8.4. Observations**

8.5. The submitted observation from Glenties Wind Farm Information Group may be summarised as follows:

- Summarises/reiterates many of the issues raised in the appeal submissions
- Contends that assessment must have regard to the extent of the impact associated with permitted development when assessed in combination with the likely significance of impacts associated with what is currently applied for
- Considers there to be a deficit of information on which to base an EIA and an AA- AA has not been adequately undertaken in respect of the proposed development

- Scientific evidence has not been submitted to establish that no direct or indirect affects as a result of permitting the is development will occur on the integrity and conservation values of any Natura 2000 site
- Lack of details on amendments to turbines that were made in 2015 that necessitate the changes to hardstand areas
- Project splitting
- Considers there to be direct encroachment on the integrity of the Maas SAC
- Concerns regarding lack of public consultation ibn 2014 application for extension of duration of permission

8.6. The submitted observation from L & J Hanlon reiterates many of the points made in their appeal submission and that of Brennan & Murphy.

8.7. The submitted observation from Joseph Brennan reiterates many of the points made in his appeal submission and that of L & J Hanlon.

#### 8.8. **Further Responses**

8.9. A further response was received from L & J Hanlon in which no new substantive issues were raised.

8.10. A further response was received from the planning authority in which no new issues were raised

8.11. A further response was received from J. Brennan and A. Murphy which focusses on the submission of an NIS and further reiterates many of the points made in their original submission. A number of email correspondence have been submitted as an appendix to this submission.

## 9.0 Assessment

9.1. I consider the key issues in determining this appeal are as follows:

- Impacts on the visual amenity of the area
- Project splitting and Environmental Assessment
- Appropriate Assessment
- Other issues

9.2 At the outset, I note that a substantial amount of the issues raised within the third party submissions received relate to the previously permitted windfarm on this site, the extension of duration of permission and the non-material amendment agreed with the planning authority relating to a marginal reduction in height of the turbines. None of these issues are considered to be of relevance to this appeal and I must deal only with the development proposed in this current application, as described in the submitted public notices.

### 9.3 Impacts on the visual amenity of the area

9.4 It is stated in the submitted documentation that a non-material amendment to the permitted development was agreed with the planning authority in October 2015 to reduce the height of the turbines from 81 metres as permitted to 79.6 metres proposed. This results in an overall height reduction of 1.4 metres. This point is not disputed in any of the documentation. As a result of the agreed reduction in height, increased crane and assembly areas are required for each turbine, together with 5 turning areas. The previously permitted assembly/crane areas comprised an area 25m long x 20m wide, each measuring 500m<sup>2</sup>. The proposed areas have a measurement of 35m wide x 30m long, giving an area of 1050m<sup>2</sup>. It is stated in the documentation that this figure is actually nearer to 1200m<sup>2</sup> when all ancillary areas are calculated. This figure does not include 5 no. additional turning areas, each having a measurement of 100m<sup>2</sup>. A conservative figure gives an area of hardcore for these elements of the development now proposed of  $1050 \times 11 = 11,550 + 500 =$

**12,050m<sup>2</sup>** as opposed to **5,500m<sup>2</sup>** previously permitted. This is more than a doubling of what was previously permitted. I question why such an increased area is required to cater for a smaller turbine. No adequate justification for this has been given in the file, except to say that the proposed orientation is preferable. It raises the issue was a reduced assembly/cranage area shown in the original application, insufficient for the development proposed or why is such a larger area required in this instance, considering the fact that a smaller turbine is being used. I would have anticipated a report from a suitably qualified engineer in this regard detailing the need for such an increased area, over and above what has previously been permitted. No such justification appears on file. Given the extent of the proposal, over and above that previously permitted I consider this to be a substantial omission in the file.

- 9.5 The overall height of the proposed turbines was reduced by agreement with the planning authority by 1.4 metres. This was considered a non-material amendment. In principle, I would concur with this. I would also be of the opinion that considering the overall height of the permitted turbines is 81 metres, that a reduction of 1.4 metres would not be significant in terms of the lessening of their visual impacts on the wider landscape. The reduction is considered negligible in terms of visual impacts and it is anticipated that this reduction would be imperceptible to the eye when viewed from the wider area. However, the increase in hardcore areas on the landscape to justify this negligible reduction is much greater. The amount of additional hardstanding required to facilitate this non-material amendment does not weigh up. I consider that the impacts on the landscape would be far greater as a result of this proposed alteration than what was previously permitted. This is considered especially pertinent considering much of the site is located within a Special Area of Conservation in an exposed rural area with little in the way of screening. This is an open landscape where such large areas of hardcore would be highly visible. It is my opinion that, once this sizeable area of hardstanding is in place, it may be difficult to remove at a later date. If a strong justification had been given by the applicants as to need for such an increase area, then the benefits may

outweigh any possible impacts. However, it is my opinion that an inadequate justification was given as to the need for this increased area. I also consider the report of the applicants, dated 21/04/2016, submitted to the planning authority stating that ‘the installation of the approved amended turbine for the site requires *slightly different* crane area and turbine assembly area...’ (my highlighting) to be misleading. I consider this to be a relatively large increase in turbine and crane areas, not including for the 5 no. new turning heads.

9.6 Therefore, to conclude this point I consider in the absence of adequate justification for the proposed increased areas, the proposed development would form an obtrusive feature of the landscape at this location, and that the impacts of the minimal reduction in height of the turbines, as agreed with the planning authority are not adequate justification for such a large increase in hardstanding areas in this sensitive rural area.

#### 9.7 Project Splitting and Environmental Assessment

9.8 I note that the issue of project splitting was raised in some of the submissions received. My understanding of project splitting is, namely a development which is made in a piece-meal manner over a period of time in order to avoid subjecting the entire project to an Environmental Impact Assessment. I do not consider this to be the case in this instance. Permission was granted by the competent authority, Donegal County Council under Reg. Ref. 08/31039 for an extension of a windfarm consisting of 11 turbines, access track, stone quarry and associated works. An EIS was submitted with that application. The grid connection did not appear to form part of this application. With the O’Grianna case, it is now acknowledged that the wind farm and its grid connection are in reality one project and should be assessed as such. This case was however pre- O’Grianna. Hardstand areas were demarcated on the submitted drawings for that original application, albeit smaller in size than that currently proposed. The windfarm with its associated turbines and ancillary works has been permitted previously and extended, and this current application is being submitted in order to allow for its construction as modified in the non-material

amendment agreed with the planning authority in October 2015. This non-material amendment is stated to relate to a reduction in overall height of the turbines from 81 metres to 79.6 metres. Having regard to all of the above, I consider that the proposed development could not be described as project splitting.

- 9.9 The proposed development, the subject of this appeal namely the provision of hardstand and assembly area, together with turning heads to serve a permitted windfarm development, in itself is not a class of development, as set out in Schedule 5 of the Planning and Development Regulations 2001 and therefore EIA is not required. The issue of sub-threshold development does not apply. The proposal has not been described in the public notices as an amendment to a previously permitted windfarm development. However, if the Bord decided to assess it as such, it is recognised that a windfarm development of the size permitted is a class of development within the Planning and Development Regulations 2001 (Class 3(a)(i)). In this regard an EIS was submitted with the original application Reg. Ref. 08/31039. An Environmental Report was submitted with this current application. To that extent, it could perhaps be argued that Class 13, Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended should be considered. This class refers to extensions to developments, including those that would already have been subject to EIA. Class 13(a)(ii) refers to any change or extension of development which would result in an increase in size greater than 25% or an amount equal to 50% of the appropriate threshold, whichever is greater. I note that the increase in area involved in this application is in excess of double the permitted hardstand areas. However, I draw the attention of the Bord to the fact that these hardstand areas only comprise an element of a larger permitted windfarm development. While it is very difficult to place or measure the proposed increase in hard standing/assembly/turning areas within the terms of this class as would apply in this case, it would appear, in my view, that the subject increase would represent only a minor extension/alteration to the overall development of 11 turbines and associated works and would be removed from any trigger for EIA. It then follows as to whether



the likelihood of significant effects on the environment be excluded. By reference to Article 109(2) of the Planning and Development Regulations 2001, I consider that the nature and scale of the subject alterations to the previously assessed development are such that they are not likely to have significant effects on the environment over and above what has previously been assessed.

9.10 I would conclude that the alterations proposed are not so significant as to fall outside of the assessment that was undertaken in this regard under 08/31039.

9.11 In the interests of clarity, I am only assessing the application as described in the public notices and not the entire windfarm development itself. An Environmental Report, which follows a similar structure to an EIS, was submitted with the application. In terms of identifying any potential cumulative impacts of the proposed development together with the previously assessed and permitted scheme, I note that the submitted Environmental Report recognises landslide risk, rock toppling concerns and risks to surface water quality as the main possible issues. Having regard to the information supplied, I am of the opinion that the works will present a low peat landslide risk and that with appropriate mitigation and monitoring, this risk can be managed. This was raised as an issue of concern in the appeals submitted. I note the information contained within the submitted Environmental Report in this regard, including the Peat Slide Risk Assessment and am satisfied with this information. Turbine T18 would appear to be the turbine of greatest concern in terms of rock toppling concerns. However, it is stated that the distance of this turbine from the rocky slope is considered to be set far enough back as to avoid rock toppling concerns. Unmitigated the proposed works present a risk to surface water quality. Appropriate mitigations will be carried out during construction to ensure silt-laden runoff doesn't reach any receiving waters. The sites for the proposed craneage areas are within degraded bog that is actively being cut and the Environmental Report concludes that the development represents little hazard to the ecological quality of the site and the area in general. Archaeological monitoring will be undertaken. Having regard to all of the information before me, I am satisfied that the

construction of the proposed development can be carried out with minimal cumulative environmental impact.

9.12 To conclude, I consider that the issue of project splitting does not arise in this instance due to the assessment of the environmental matters that was undertaken under 08/31039 for the windfarm. I have no information before me to believe that there have been any changes in circumstances that would render the previous assessment invalid or out of date. Having regard to the decision of the competent authority, namely Donegal County Council, I am satisfied that the proposed development, would be likely not to have significant effects on the environment, either individually or cumulatively, and the proposed development is considered, in this regard to be consistent with the proper planning and sustainable development of the area.

9.13 Appropriate Assessment

9.14 A Natura Impact Statement has been submitted with the application in this current case. I accept the point made in the submissions that it would appear that no NIS was submitted with the original application, Reg. Ref. 08/31039. However, I do note that the issue of flora and fauna was dealt with in Chapter 5 of the EIS submitted under Reg. Ref. 08/31039. In addition, as I have previously stated any assessment of that parent permission is outside the remit of this current appeal. The Statement submitted with this current application identifies that the proposed development is partially located within the West of Ardara/Maas Road SAC (Site Code 00197), which is the only Natura 2000 site within a 5km radius. Sheshkinmore Lough SPA (Site Code 4090) is located approximately 5km west of the subject site. A Screening for Appropriate Assessment for the proposed development was undertaken, which concluded that the proposed development will not impact on the Sheshkinmore Lough SPA but has the potential to impact on part of the West of Ardara/Maas Road SAC. As a result of this, a Stage Two Appropriate Assessment was undertaken. This assessment concludes that once mitigation measures and recommendations have been implemented, the conservation objectives of this Natura 2000 site would

not be compromised by the proposed development, nor would the proposed activities have any significant impact on the habitats and species for which it has been designated. It therefore concludes that there would be no significant adverse effects on the integrity of any Natura 2000 sites, as a result of the craneage/assembly areas construction for the permitted Maas Wind farm or as a result of combination or cumulative effects.

- 9.15 An Appropriate Assessment for the Purposes of Article 6 of the Habitats Directive was undertaken by the planning authority. This acknowledges that the West of Ardara/Maas Road SAC is of great ecological interest with at least 23 habitats which are listed on Annex I of the EU Habitats Directive. The site also exhibits a highly diverse range of both coastal and terrestrial habitats while the blanket bog in the east of the site is one of the most extensive lowland and coastal bogs remaining in Donegal. The Conservation Objective seeks to maintain or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for the which the SAC has been selected. The following is noted (i) the poor quality and fragmented nature of the host blanket bog and West and Dry Heath habitat (ii) the NIS did not find any evidence of *Petalophyllum ralfsii* or *Najas flexilis* within the proposed site (iii) the development will not occur in any of the coastal habitats listed as qualifying interests (iv) detailed surface water management proposals and mitigation measures submitted (v) detailed Peat Slide Risk Assessment which includes for mitigation measures (vi) the nature of the development (vii) planning authority previously concluded in its assessment of the application for the parent wind farm, permitted under 08/31039 that it will not have a significant impact on the said Natura 2000 site and there is a high probability that the development will not in combination with other plans and projects in the vicinity have an adverse impact on the said Natura 2000 site. Having regard to the above, the planning authority determined that the proposed development will not adversely affect the integrity of a European Site namely the West of Ardara/Maas Road Special Area of Conservation (Site Code 000197).

- 9.16 Having regard to all of the above, I am satisfied that it may be concluded that the proposed development, either individually or in combination with other plans and projects would not adversely effect the integrity of the European site West of Ardara/Maas Road Special Protection Area (Site Code 000197) in view of the site's conservation objectives, during either the construction or operation phase of development.
- 9.17 Other Issues
- 9.18 The assessment of the windfarm development was undertaken under Reg. Ref. 08/31039 and subsequent permission. The issues raised in the submissions in relation to the merits of this case are outside the remit of this appeal.
- 9.19 I do not anticipate there to be excessive noise as a result of the proposed development. Any noise will be during the construction phase of development and will be short-lived in nature. In addition, any increased traffic movements associated with the proposal will be during the construction phase and also short-lived in nature. The issue of traffic was dealt with in the original EIS submitted under Reg. Ref. 08/31039.
- 9.20 Issues raised in the observation in relation to land ownership and legal title are outside the remit of this planning appeal. It would appear that the applicants have sufficient legal title in which to make this application.
- 9.21 Under the planning legislation, An Bord Pleanála is the competent authority to assess appeals of this nature.
- 9.22 I have no information to believe that due process was not adhered to in relation to third party participation, in accordance with the Planning and Development legislation.
- 10.0 **Recommendation**
- 10.1 I recommend that planning permission should be refused, for the reasons set out below.

## 11.0 Reasons

1. Having regard to the nature and scale of the proposed development over and above that previously permitted under Reg. Ref. 08/31039, the Bord is not satisfied that adequate justification has been put forward by the applicants to justify the need for significantly increased areas of hardstanding and turning areas. In the absence of such justification, it is considered that the amount of hardstanding/assembly/turning areas proposed is considered excessive; would be visually obtrusive on this sensitive, exposed rural landscape and would be inconsistent with the proper planning and sustainable development of the area.

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Lorraine Dockery  
Planning Inspector

13<sup>th</sup> October 2016