

---

# An Bord Pleanála



## Inspector's Report

Ref.: PL88. 246915

Development: A ten year planning permission to construct an underground electricity cable in the townlands of Cloghboola, Cornery, Garryantornora, Tooreenalour, Gortnacarriga, Gortaknockane, Cooragreenane, Coolroe West, Curraheen (ED Bealock), Cappanclare, Coorolagh, Carrignacurra, Dromnagapple, Teeranassig, Clonmoyle, Dromleigh, Coolaclevane, Carrigboy, Cooldorragha, Deshure, Teerelton, Lisnacuddy, Reanacaheragh, Barnadivane, Barnadivane (Kneeves) and Garranareagh, Co. Cork. The proposed underground electricity cable will be 38kV, will run predominantly within the public road corridor and is intended to connect the proposed Shehy More Wind Farm (Pl. Ref. 13/551, An Bord Pleanala PL04.243486) to the National Grid via either the permitted substation at Garranareagh (Pl. Ref. 11/6605, An Bord Pleanala PL04.219620) or the currently proposed substation at Barnadivane (Kneeves) (Pl. Ref. 14/557, An Bord Pleanala PL04.244439). At the time of lodging this application the proposed Shehy More Wind Farm and the proposed substation at Barnadivane (Kneeves) remain under appeal with An Bord Pleanala.

---

## **PLANNING APPLICATION**

Planning Authority: Cork County Council

Planning Authority Ref.: 16/256

Applicant: Shehy More Windfarm Ltd.

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

## **APPEAL**

Type of Appeal: Third Party v. Decision

Appellant(s): Ian Collins & Nigel de Haas  
Stephanie Larkin & Others  
Dan Kelleher & Others

Observers: Deirdre Murphy O'Brien & Others

INSPECTOR: Robert Speer

Date of Site Inspection: 25<sup>th</sup> October, 2016

---

## **1.0 INTRODUCTION**

1.1 The Board is advised to determine this appeal in conjunction with ABP Ref. No. PL04. 243486 on the basis of the inter-relationship between the respective development projects i.e. the proposed development of the Shehy More Wind Farm and the associated connection to the national grid. Consideration should also be given to the parallel assessment of the foregoing applications with PA Ref. No. 14557 / ABP Ref. No. PL04.244439 as it is my understanding that the decision issued in respect of same was the subject of judicial review proceedings [2016 614 HR] and that the Board subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration.

## **2.0 SITE LOCATION AND DESCRIPTION**

2.1 The proposed development site is located between the townlands of Cloghboola and Garranareagh, Co. Cork, approximately 7.4km south of Macroom and 11.3km northwest of Dunmanway, and extends in an easterly direction across a total of 26 No. townlands as referenced in the public notices and as set out in Table 2.1 of the accompanying Environmental Impact Statement. Whilst the application site has a stated site area of 21.98 hectares, the total length of the proposed grid connection is 26.27km, of which approximately 2.81km will be located within the internal access roadways serving the proposed Shehy More Wind Farm, with the remaining 23.46km located along the public road corridor. The cable route will generally follow the corridor of various local roadways although it will also extend along a short section of the R587 Regional Road (c. 0.22km) within the village of Kilmichael before subsequently continuing along the local road network through the small village of Teerelton and onto the Barnadivane substation. The westernmost extent of the proposed grid connection originates at the proposed Shehy More Wind Farm on the north / north-eastern slopes of Shehy More on the eastern fringe of the Shehy Mountains whereupon the route passes through the upland area to the east, which is bounded to the north by the Upper Lee River Valley, before ultimately terminating at the site of the connecting Barnadivane substation. The principle land use on site is transportation in that it predominantly comprises the public road with the proposed works to be restricted to existing road infrastructure and grass margins, however, the wider area is primarily used for agriculture and commercial forestry although intermittent instances and localised concentrations of individual farmsteads and one-off rural housing are also prevalent.

---

### **3.0 DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1 The proposed development consists of the construction of a 38kV underground electricity cable through 26 No. townlands in Co. Cork which is intended to connect the proposed Shehy More Wind Farm (PA. Ref. No. 13/551 / ABP Ref. No. PL04.243486) (decision pending) to the National Grid via either the permitted substation at Garranareagh (PA. Ref. No. 11/6605 / ABP Ref. No. PL04.219620) or the 'proposed' substation at Barnadivane (Kneeves) (PA Ref. No. 14/557 / ABP Ref. No. PL04.244439) (*N.B.* Whilst the latter substation was recently granted permission on appeal, this decision was the subject of judicial review proceedings [2016 614 HR] and the Board subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration).

3.2 The cable route will extend from the south-western cluster of 4 No. wind turbines within the proposed Shehy More Wind Farm in the townland of Cloghboola along the public road corridor within an excavated cable trench whereupon it will re-enter the site of the proposed Shehy More Wind Farm in order to connect to the on-site substation in the townland of Tooreenalour. From the proposed substation, the cable route will extend along existing forestry / site roads within the Shehy More Wind Farm before subsequently emerging back onto the public road in the townland of Gortnacarriga where it will continue in a generally easterly direction along the public road corridor within an excavated cable trench (through the villages of Kilmichael and Teerelton) before terminating at Barnadivane Substation (*N.B.* For ease of reference, both of the substations either permitted under ABP Ref. No. PL04.219620 & or proposed under ABP Ref. No. PL04.244439 have been referred to as the "*Barnadivane Substation*". In this respect the Board is advised that the total length of the proposed underground grid connection will depend on whether it connects into the either of the aforementioned substations, however, it has been clarified by the applicant that any connection to the substation permitted under ABP Ref. No. PL04.219620 will necessitate the provision of approximately 850m of additional cable length and that this has been included in the Study Area detailed in the submitted Environmental Impact Statement).

3.3 The total length of the proposed grid connection cable route is 26.27km, of which approximately 2.81km will be located within the internal access roadways serving the proposed Shehy More Wind Farm, with the remaining 23.46km located along the public road corridor. Outside of the proposed Shehy More Wind

---

Farm site, all works and construction machinery will operate within the curtilage of the public road.

3.4 The proposed works will involve the excavation of a trench to the minimum depth required to safely accommodate the insulated power cables; approximately 1.3m. Following the laying of the cable ducting, the trench will then be backfilled and re-surfaced. The active construction area will generally only extend to a 300m stretch of roadway at any one time whilst in instances where separate crews are installing ducting along the route they will generally be located two to three kilometres apart.

3.5 Any underground services encountered along the cable route will be surveyed for level and the ducting will pass over the service provided adequate cover is available. If the required minimum clearance of 300mm between the bottom of the ducts and the service cannot be achieved the ducting will pass under the service and again 300mm clearance will be achieved between the top of the communications duct and the bottom of the service. If the required separation distances cannot be achieved then a number of alternative options are available such as using steel plates laid across the width of the trench and using 35N concrete surrounding the ESB ducts where adjacent services are within 600mm.

3.6 Pre-cast concrete chambers known as joint bays will be used to join individual lengths of cable and these will be located at various points along the ducting route approximately every 800-1,200m (*N.B.* It is proposed to install 27 No. joint bays along the cable route). Where possible, these joint bays will be located in areas where there is a natural widening / wide grass margin in the road in order to accommodate easier construction, cable installation and less traffic congestion.

3.7 The proposed grid connection route will necessitate a total of 41 No. watercourse / culvert crossings which will employ either of the following methodologies: Piped culvert crossings, flatbed formation over culverts or at road level, or directional drilling. No in-stream works are required at any of the watercourse crossings.

3.8 The proposed grid connection will become a permanent part of the electricity transmission network and therefore no requirement for decommissioning is foreseen, however, any future decommissioning works would only involve the

---

removal of the cables which can be carried out via the joint bays with minimal excavation and earth-moving works and the use of cable pulling equipment.

#### **4.0 ENVIRONMENTAL IMPACT STATEMENT:**

4.1 An Environmental Impact Statement has accompanied the subject application and this provides a generally satisfactory description of the receiving environment, the proposed development, its impacts and proposed mitigation measures. It has been accompanied by a non-technical summary and includes the information required by Schedule 6 of the Planning and Development Regulations, 2001, as amended, and complies with Section 172 of the Planning and Development Act, 2000 and Article 94 of the Regulations.

4.2 In this respect I would advise the Board that the proposed development involves the laying of a 38kV underground electricity cable to facilitate the connection of the proposed Shehy More Wind Farm (PA Ref. No. 13/551 / ABP Ref. No. PL04.243486) to the National Grid via either the permitted substation at Garranareagh (PA Ref. No. 11/6605 / ABP Ref. No. PL04.219620) or the currently proposed substation at Barnadivane (Kneeves) (PA Ref. 14/557 / ABP Ref. No. PL04.244439). Accordingly, whilst the submitted proposal is not in itself a class of development prescribed for the purposes of Part 10 of the Planning and Development Act, 2000, as amended, having regard to the ruling of Mr. Justice Michael Peart in the case of *O’Grianna & Ors. v. An Bord Pleanala [2014] IEHC 632* wherein it was held that a wind farm and its connection in due course to the national grid amounted to a single project which necessitated the completion and submission of an Environmental Impact Statement so that a cumulative assessment of the likely impact on the environment could be carried out in order to comply with both the letter and spirit of the EIA Directive, I would advise the Board that the subject appeal should be considered in combination with ABP Ref. No. PL04.243486, which concerns the construction of a 36MW wind farm comprising the erection of 12 No. (2.0-3.0MW) wind turbines and associated works, and that Paragraph 3(i) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, prescribes *‘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’* for the purposes of Part X of the Act.

---

## **5.0 RELEVANT PLANNING HISTORY**

### **5.1 On Site:**

PA Ref. No. 13/551 / ABP Ref. No. PL04.243486. Application by Shehy More Windfarm Ltd. for a ten-year permission to construct a wind farm and all associated infrastructure. The proposed wind farm will comprise the provision of a total of 12 No. wind turbines, with a maximum overall blade tip height of up to 131m, upgrading of existing and provision of new internal access roads, provision of a wind anemometry mast (height up to 90 metres), 4 No. borrow pits, underground electricity connection cabling, upgrading of site access junctions, an electricity sub-station with control room and associated equipment, temporary construction compound and all ancillary site and ground works. The planning application is accompanied by an Environmental Impact Statement (EIS) and a Natura Impact Statement (NIS). All at Cloghboola, Gortnacarriga, Tooreenalour, Garryantorna and Shehy More, Dunmanway, Co. Cork. This application is presently on appeal and a decision is pending with the Board.

PA Ref. No. 055907 / ABP Ref. No. PL04.219620. Was granted on appeal on 14<sup>th</sup> February, 2007 permitting Barna Wind Energy Limited permission for the construction of 14 No. wind turbines (70 metres hub height and 70 metres blade diameter, with a total height not exceeding 105 metres), 18 transformers, a 110 kV substation, a 110kV switch station, one 70 metres high wind monitoring mast, construction and upgrading of site entrances, site tracks, and associated works at Barnadivane (Kneeves), Knockboy, Garranereagh, Lackareagh and Reanacaheeragh, Teerelton, Co. Cork (as revised by further public notice received by the planning authority on the 14<sup>th</sup> day of July, 2006).

- PA Ref. No. 11/6605 - Was granted on 9<sup>th</sup> February, 2012 permitting Barna Wind Energy Ltd. an 'Extension of Duration' of PA Ref. No. 055907 / ABP Ref. No. PL04.219620.

PA Ref. No. 14557 / ABP Ref. No. PL04.244439. Was granted on appeal on 11<sup>th</sup> July, 2016 permitting Arran Windfarm Limited permission for the construction of an electricity substation compound to replace the substation already granted permission under appeal reference number PL04.219620 (planning register reference number 05/5907) and subsequently extended under planning register reference number 11/6605. The electricity substation layout includes three number control buildings, associated electrical plant and equipment, security fencing and ancillary works, all at Barnadivane (Kneeves), Tarelton, Co. Cork.

---

(N.B. It is my understanding that this decision was the subject of judicial review proceedings [2016 614 HR] and that the Board subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration).

PA Ref. No. 146760 / ABP Ref. No. PL04. 245824. Was granted on appeal on 8<sup>th</sup> July, 2016 permitting Barna Wind Energy (BWE) Limited permission for the construction of 6 No. wind turbines, with a maximum tip height of 131 metres and associated turbine foundations and hardstanding areas, one number permanent meteorological mast up to 90 metres in height, upgrade of existing and provision of new site tracks and associated drainage, new access junction and improvements to public road to facilitate turbine delivery, one number borrow pit, underground electrical and communications cables, permanent signage and other associated ancillary infrastructure at Lackareagh and Garranereagh, Lissarda and Barnadivane (Kneeves), Teerelton, Co. Cork. This application is intended to replace the development already granted permission under PL04.219620 (planning register reference number 05/5907) and subsequently extended under planning register reference number 11/6605. This application is seeking a 10 year planning permission. (As amended by the further public notice received by the planning authority on the 5<sup>th</sup> day of June, 2015).

(N.B. It is my understanding that this decision was the subject of judicial review proceedings [2016 614 HR] and that the Board subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration).

PA Ref. No. 14/06803. Was granted on 27<sup>th</sup> July, 2015 permitting Barna Wind Energy (B.W.E.) Ltd. permission for the construction of a private roadway, approximately 150m long, from the R585 to the L6008 and all associated works. This will facilitate the delivery of abnormal loads to a wind farm located in the townlands of Barnavidane (Kneeves), Lackareagh & Garranereagh. All at Bengour West, Newcestown, Co. Cork.

PA Ref. No. 15730 / ABP Ref. No. PL04. 246353. Was granted on appeal on 28<sup>th</sup> October, 2016 permitting Keel Energy Ltd. a ten year planning permission for the construction of a wind farm of up to 5 No. wind turbines, with a maximum ground to blade tip height of up to 140m, upgrading of existing and provision of new internal access roads, provision of a wind anemometry mast (height up to 90 metres), 2 no. borrow pits, underground electricity cabling, underground grid connection electrical cabling including all associated infrastructure, junction



---

accommodation works for the proposed delivery route, 1 no. electricity sub-station with control building and associated equipment, 1 no. construction compound, upgrading of the existing site access junction, permanent signage and all ancillary site works. All at Gurteen, Clogher, Derryleigh, Gortatanavally, Carrigdangan, Inchincurka, Johnstown, Haremont, Gorteenadrolane, Teeranassig, Clonmoyle, Dromleigh, Coolaclevane, Carrigboy, Cooldorragha, Deshure, Teerelton, Reanacaheragh, Barnadivane, Barnadivane (Kneeves) & Garranereagh, Co. Cork.

### 5.2 On Adjacent Sites:

An overview of the planning history along the proposed grid connection route is set out in Appendix 2.1 of the Environmental Impact Statement and in this regard it is evident that most of these applications relate to the provision and / or alteration of one-off rural housing and agricultural-related structures.

### 5.3 Other Relevant Files:

PA Ref. No. 00/6590 / ABP Ref. No. PL04.127297. Was granted on appeal on 30<sup>th</sup> May, 2002 permitting South Western Services Co-Op Limited permission for a development comprising the construction of a wind farm consisting of 10 wind turbines (hub height 50 metres), an electrical substation with control building, two 40 metre high meteorological masts, upgrading of site access, construction and extension of existing internal site tracks and associated works at Cappyboy Beg, Curraglass, Coomacroobeg and Maugha, Kealkill, Co. Cork.

PA Ref. No. 05/9688 / ABP Ref. No. PL04.219277. Was refused on appeal on 8<sup>th</sup> January, 2007 refusing Ecopower Developments Limited permission for the erection of eight number wind turbines, overall height up to 107 metres, access roads, control building and sub-station compound and ancillary site works at Derryvacorneen and Carraignamuck, Co. Cork, for the following reason:

- Objectives ENV 3-2 to ENV 3-5 inclusive, of the Cork County Development Plan, 2003, seek to protect the visual and scenic amenities of designated scenic landscapes and preserve the character of all important views and prospects, including those obtainable from designated scenic routes. These objectives are considered to be reasonable. The proposed development, by reason of its scale, height and prominent elevated location and lack of natural screening, would give rise to unduly prominent and obtrusive development when viewed from a number of Scenic Routes, in particular routes A34, A82 and A83 which are located within designated Scenic Landscapes, would be detrimental to the

---

preservation of views obtainable from those routes and would seriously injure the visual amenities of the area. The proposed development, which is not located within a Strategic Search Area for Windfarms, as designated in the Cork County Development Plan, 2003, would, therefore, materially contravene the objectives of the Development Plan and be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 08/2119. Was granted on 12<sup>th</sup> March, 2009 permitting George O'Mahoney permission for the erection of a wind farm comprising 5 wind turbines with towers up to 46m in height and rotor diameter up to 62m and ancillary equipment for generation of electricity with control building and substation and 40m wind monitoring mast at Goulacullin, Dunmanway, Co. Cork.

PA Ref. No. 09/63. Was granted on 23<sup>rd</sup> December, 2009 permitting Organic Power Ltd. a ten year permission to erect 11 no. wind turbines on single site, of which 5 no. wind turbines with ancillary hardstand and assembly areas are in townland of Dromleena, 3 no. wind turbines with ancillary hardstand and assembly areas and 1 no. borrow pit are in townland of Inchanadreen, 3 no. wind turbines with ancillary hardstand and assembly areas and 1 no. electrical substation are in townland of Derrynasafagh; install underground fibre optic and electrical cables and ancillary works in townlands of Dromleena, Inchanadreen and Derrynasafagh, Dunmanway, Co. Cork; Install underground fibre optic and electrical cables and ancillary works along public road to 110kV Electrical Substation 1km east of Dunmanway town adjacent to the R586 and all ancillary associated site works including internal roadways and wheelwash facilities. All at Dromleena, Inchanadreen & Derrynasafagh, Dunmanway, Co. Cork.

PA Ref. No. 09/849 / ABP Ref. No. PL88.235028. Was granted on appeal on 5<sup>th</sup> August, 2010 permitting Ballybane Windfarms Limited a ten year planning permission for the construction of a wind farm extension consisting of up to six number wind turbines (hub height 64 metres and rotor diameter 71 metres – tip height of 99.5 metres), access roads, hard standings, underground cabling, rock borrow pit and ancillary site works – forming an extension to the existing Glanta Commons Wind Farm, all at Dromourneen, Lognagappul and Barryroe townlands, Bantry, Co. Cork.

PA Ref. No. 11/00050. Was granted on 9<sup>th</sup> December, 2011 permitting Environ Renewables Ltd. a ten year permission for a wind farm of up to 8 no. turbines with tip height of up to 110m, site substation with compound (to include grid transformer, end mast and electrical equipment), upgrade of existing entrance

---

and existing forestry road, construction of new access roads, hardstandings, rock borrow pit, meteorological mast (74.5m high), underground cabling and all ancillary site works, at Killaveenoge East, Killaveenoge West, Curranashing, Derreenaspeeg, Kilnahera East, Garranes, Drinagh, Co. Cork.

PA Ref. No. 11/00059 / ABP Ref. No. PL88.240070. Was granted on appeal on 24<sup>th</sup> August, 2012 permitting James O'Regan permission for a development comprising 7 No. electricity generating wind turbines with a hub height of up to 70m and a rotor diameter of up to 71m, an electrical compound, substation building, a 70 m high permanent meteorological mast, 4 No. car parking spaces and associated site roads and site works. It is proposed to source stone from an on-site borrow pit, all in the townlands of Cashloura, Kilronane West and Knockeenboy, Dunmanway, Co. Cork, as amended by the revised public notices received by the planning authority on the 24<sup>th</sup> October, 2011.

PA Ref. No. 11/318 / ABP Ref. No. PL04.240461. Was refused on appeal on 8<sup>th</sup> July, 2014 refusing Ardrah Wind Farm Limited permission for a development comprising a wind farm of five (5) number electricity generating wind turbines with a hub height of 64 metres and a rotor diameter of 71 metres, an electrical tail station compound and substation building, car parking space, access roadway and a temporary roadway to be used during the construction process, borrow pit, peat storage areas and all associated site works in the townland of Ardrah, Bantry, Co. Cork, with access roads in the townlands of Laharanshermeen and Maughanaclea, Bantry, Co. Cork, for the following reason:

- The Cork County Development Plan 2009 sets out policies and objectives in relation to wind energy development and identifies areas in broad strategic terms for the location and siting of such development, identifying “Strategic Search Areas” and “Strategically Unsuitable Areas”. The overall strategic approach as set out in the said Development Plan is considered to be reasonable. The proposed development, which is not located within a “Strategic Search Area”, is located immediately adjacent to areas designated as “Strategically Unsuitable Areas”, would be unsuitable for wind energy projects and where such projects would normally be discouraged.

The proposed development, which would by itself be visible over a wide area, would in conjunction with permitted and proposed development in the area, give rise to an undue concentration of wind energy development with significant negative impacts on the landscape character and visual

---

amenities of the area, and in particular the Mealagh Valley, and its amenity, tourism and recreational potential. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 11/5245 / ABP Ref. No. PL04.240801. Was granted on appeal on 29<sup>th</sup> April, 2013 permitting Cleanrath Windfarm Limited a ten year planning permission for the development of a site in the townlands of Cleanrath South, Cleanrath North and Derrineanig, Co. Cork. The development will consist of a windfarm consisting of 11 number wind turbines with a maximum ground to top blade tip height of up to 126 metres with ancillary structures, one number permanent 85 metre meteorological mast, one number substation compound with control house, internal road network and associated drainage features, one number wind turbine delivery entrance, one number light vehicle access entrance, two number borrow pits, underground cabling, temporary construction site compound and associated works.

PA Ref. No. 12/5270 / ABP Ref. No. PL04.242223. This application by Framore Limited sought a ten year planning permission to construct a wind farm consisting of six number turbines (each with a minimum hub height of 100 metres, maximum rotor diameter of 100 metres and with a total tip height of 150 metres), a substation including one control building and associated internal equipment, one borrow pit, new internal access roads, upgrading of existing internal access roads, underground cables and ancillary works in the townlands of Derragh, Rathgaskig and Lack Beg, Ballingeary, Co. Cork.

- Whilst permission was granted on appeal on 15<sup>th</sup> November, 2013, this decision was the subject of Judicial Review by *Pól Ó Grianna & Others* and was subsequently quashed by the High Court in its ruling issued on 5<sup>th</sup> June 2015 wherein it was directed that the case was to be remitted to the Board for reconsideration in accordance with the findings of the Court

The findings of the Court were, inter alia, that the connection of the wind farm to the national grid forms an integral part of the overall development of which the construction of the turbines is the first part; and that the cumulative effects of the construction of the turbines and the connection to the national grid must be assessed in order to comply with the EIA Directive.

---

The Board, therefore, assigned a new reference number (PL04.245082) to the original appeal reference number (PL04.242223).

PA Ref. No. 12/5270 / ABP Ref. No. PL04.245082. Was granted on appeal on 15<sup>th</sup> June, 2016 permitting Framore Limited permission for the development of a wind farm consisting of six turbines (each with a maximum hub height of 100 metres, maximum rotor diameter of 100 metres, and with a total tip height of 150 metres), a sub-station including one control building and associated internal equipment, one borrow pit, new internal access roads, upgrading of existing internal access roads, underground cables, and ancillary works in the townlands of Derragh, Rathgaskig and Lack Beg near Ballingearry, County Cork, as amended by the revised public notice received by An Bord Pleanála on the 5<sup>th</sup> day of November, 2015 consisting of (1) the relocation of Turbine T1 a distance of 50 metres to the south of its previous proposed location with consequent minor alterations to the internal access track and associated underground cable, (2) the provision of approximately 11.5 kilometres (of which approximately seven kilometres are within the public road) of 38 kV underground cabling and associated underground communication cables between the proposed on-site 38 kV substation and the national electricity grid at the permitted Coomataggart 110 kV substation at Grousemount, Kilgarvan, Co. Kerry. The development, including the proposed grid connection, would be located at the following townlands in Co. Cork: Rathgaskig, Gorteennakilla, Derragh, Lackabaun, Carrignadoura, Gurteenflugh, Augeris, Gortnabinna, Gurteenowen, Lack Beg and Lyrenageeh and the following townlands in Co. Kerry: Grousemount and Sillahertane.

PA Ref. No. 13/635 / ABP Ref. No. PL88.242998. Was granted on appeal on 17<sup>th</sup> June, 2014 permitting Environ Renewables Limited a ten-year planning permission to construct a wind farm. The proposed wind farm will comprise the provision of a total of up to 10 number wind turbines, with a maximum overall blade tip height of up to 131 metres, upgrading of existing and provision of new internal access roads (including the upgrading of site access junction), provision of a wind anemometry mast (height up to 90 metres), three number borrow pits, an electricity sub-station with control room and associated equipment, underground electricity connection cabling, temporary construction compound and all ancillary site works and associated infrastructure in the townlands of Killaveenogue West, Derreenaspeeg, Kilaveenoge East, Curranshingane, and Garranes, Drinagh, Co. Cork.

PA Ref. No. 156966 / ABP Ref. No. PL04.246742. Application by Cleanrath Windfarm Ltd. for permission for the provision of a total of 11 No. wind turbines

---

with a maximum ground to blade tip height of up to 150m, upgrading of existing and provision of new internal access roads, provision of a wind anemometry mast (height up to 100 metres), 2 no. borrow pits, underground electrical cabling, underground grid connection electrical cabling including all associated infrastructure, junction accommodation works for the proposed turbine delivery route and provision of a temporary roadway to facilitate turbine component deliveries, 1 no. electricity sub-station with control building and associated equipment, 1 no. construction compound, upgrading of the existing site access junctions, permanent signage, and all ancillary site works. The proposed development comprises the redesign of a wind farm at this location previously considered by Cork County Council and An Bord Pleanala under pl. ref: 11/5245, and PL 04.240801 respectively. All at Cloontycarthy, Cleanrath North, Cleanrath South, Derreennacarton, Derrineanig, Turnaspidogy, Milmorane, Coomlibane, Rathgaskig, Derragh, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen, Gurteenflugh, Lyrenageeha and Lackabaun Co. Cork. This application is presently on appeal and a decision is pending with the Board.

## **6.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION**

### **6.1 Decision:**

On 22<sup>nd</sup> June, 2016 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 19 No. conditions which can be summarised as follows:

- Condition No. 1 – Refers to the submitted plans and particulars.
- Condition No. 2 – States that the grant of permission is for a duration of 10 No. years.
- Condition No. 3 – States that the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement and associated documentation are to be implemented in full, unless otherwise agreed in writing with the Planning Authority.
- Condition No. 4 – Refers to the submission of a Construction and Environmental Management Plan, for the written approval of the Planning Authority, prior to the commencement of development.
- Condition No. 5 – Refers to the treatment and removal of invasive plant species.
- Condition No. 6 – Limits the operating times of plant and machinery.

- 
- Condition No. 7 – Refers to the archaeological monitoring of all groundworks / excavations.
- Condition No. 8 – Prohibits any interference with bridging, draining or culverting of any watercourse, its banks, or bankside vegetation, without the prior approval of Inland Fisheries Ireland.
- Condition No. 9 – Requires all site operations to be carried out in such a manner as to avoid polluting matter from entering any watercourse either on site or within its surrounds.
- Condition No. 10 – Refers to construction and demolition waste management.
- Condition No. 11 – Prohibits the accumulation of end-of life equipment on site and states that any such materials exported from the site for recovery, recycling or disposal are to be managed at an approved facility.
- Condition No. 12 – Refers to the recycling / disposal of any hazardous or contaminated waste arising on site.
- Condition No. 13 – Refers to noise levels during construction works.
- Condition No. 14 – Requires all site operations to be carried out in such a manner as to ensure that no odour or dust nuisance occurs off site.
- Condition No. 15 – Refers to the provision of suitably bunded storage facilities for any overground tanks.
- Condition No. 16 – Requires the submission of a Waste Management Plan, for the written approval of the Planning Authority, prior to the commencement of any site clearance works.
- Condition No. 17 – Refers to the requirement for the developer to obtain a Road Opening Licence (which is to include details for the reinstatement of the entire width of the roadway within the villages of Kilmichael and Teerelton), prior to the commencement of development, in addition to the submission of a detailed traffic management plan for the construction stage.
- Condition No. 18 – Refers to the maintenance of existing roadside drainage.
- Condition No. 19 – Requires the compilation of an otter survey in accordance with the procedures set out in the EIS prior to the commencement of any construction works at stream crossings within the site.

---

## 6.2 Objections / Observations:

A total of 59 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The subject proposal will facilitate the proposed construction of the already objectionable and unacceptable Shehy More Wind Farm.
- The route of the proposed grid connection differs from that previously detailed in PA Ref. No. 13/551 / ABP Ref. No. PL04.243486 (i.e. the proposed development of the Shehy More Wind Farm).
- Inadequate consideration of the impact on the villages of Kilmichael and Teerelton.
- The description of the proposed development is misleading.
- The proposed development amounts to 'project-splitting' and there is a need for the cumulative assessment of projects.
- The alternative proposed turbine delivery route has not been formally submitted to the Planning Authority for consideration.
- Concerns regarding the health implications of the proposed grid connection, including the emission of electro-magnetic radiation.
- The traffic disruption and road closures associated with construction of the proposed development.
- Detrimental impact on local amenities, services, tourism etc.
- Devaluation of property
- Detrimental impact on water quality / private water supplies / wells.
- Difficulties in obtaining planning permission for the future development of third party lands.
- Lack of public consultation
- The potential for adverse impacts on wildlife, ecological considerations, and protected sites etc.
- Fire risk
- Potential exacerbation of localised flooding
- Likely constructional difficulties given the depth to bedrock
- Interference with third party property / land boundaries, fencing and drainage etc.
- The planning application is invalid as the proposed grid connection is already the subject of appeal under ABP Ref. No. PL04.243486.
- There was inadequate scoping undertaken for the EIS.
- Detrimental impact on rural and visual amenity.
- No rational basis has been provided for the ten-year grant of planning permission which has been sought by the applicant.



- 
- There is a considerable level of uncertainty in the subject application as regards the substation to which the grid connection will ultimately connect and also whether or not the Shehy More Wind Farm will receive planning permission.

### **6.3 Internal Reports:**

*Area Engineer:* States that there are concerns with regard to the proposed routing of the underground grid connection due to its impact on road surfacing works carried out in recent years within the villages of Dromleigh and Teerelton. Accordingly, it is recommended that a decision on the application be deferred with an alternative route to be investigated in consultation with the Area Engineer.

*Environment:* No objection subject to conditions.

*Engineering:* No objection subject to conditions.

*Ecologist:* No objection subject to conditions.

### **6.4 Prescribed Bodies / Other Consultees:**

*Inland Fisheries Ireland:* States that whilst the planning application has indicated that '*Instream works are not required at any watercourse crossing along the proposed cable route*', conditions should be attached to any grant of permission to ensure that there is no interference with bridging, draining, or culverting of any watercourse, its banks or bankside vegetation, in order to facilitate the proposed development without the prior approval of Inland Fisheries Ireland. In addition, it is also recommended that conditions should be imposed to ensure that adequate measures are put in place in order to prevent the discharge of suspended solids, contaminants, or any other polluting matter to waters.

*Health Service Executive (Environmental Health Service):* States the following:

- There does not appear to be any demonstration in the EIS as to how the information obtained from the public consultation process influenced the project design or any of the mitigation measures required.
- It would appear that no consideration has been given as to whether any retail food premises along the route might have service breaks (particularly electricity and water) and, if so, how they will be notified and how long any possible breaks will last.

- 
- Section 7: 'Hydrology and Hydrogeology' of the EIS states that 'measures to protect groundwater quality along the proposed route are described in Section 7.5 below'. Section 7.5 is absent from the report and therefore it was not possible to determine what measures would be required in order to protect groundwater. It is noted that several appeals to the application have noted concerns in relation to contamination of groundwater sources, including a food business.
  - The hours of operation during the construction phase should be limited to between 08:00 to 19:00 Monday to Friday, and to 10:00 to 17:00 on Saturdays.
  - It would appear that no details have been provided of any site facilities for construction staff, including drinking water sources.
  - All works should be subject to an approved construction management plan to minimise dust and noise during construction and to protect any groundwater from silting and potential contamination with petrochemicals.

*Irish Water:* No objection subject to conditions.

## **7.0 GROUNDS OF APPEAL**

The grounds of appeal are summarised as follows:

### **7.1 Ian Collins & Nigel de Haas:**

- The proposed development effectively involves the provision of a forked cable connection to what are two component parts of a much larger wind farm and as such it should be the subject of a single planning application and a single overall Environmental Impact Assessment.

In support of the foregoing, the Board is referred to Sections 2.2.2.1, 6.4.5 & 9.4.5 of the EIS, including the following statement:

*'The proposed Shehy More grid connection cable route is partially located along the same roads as the proposed Carrigarierk cable route. From the point where the grid connection routes would meet in the townland of Teeranassig, the cable connections for both projects will be facilitated within the same trench between here and Barnadivane substation. In the event of favourable consideration of both the Shehy More and Carrigarierk wind farm projects, the grid connection for each wind farm will be facilitated within the single trefoil formation connection to Barnadivane substation, thereby minimising the potential for cumulative impacts.'*

---

In addition, it is apparent from a review of the cable trench detail shown on Drg. No. 0234-38 that ducting is to be provided for a single three-phase power circuit and, as a consequence of same, the connection to the Shehy More Wind Farm will be directly spliced into the connection to the Carrigarierk Wind Farm.

No provision has been made in any documentation furnished by the applicant for a second set of ducts to facilitate two independent power circuits in the single excavation. Therefore, it is reiterated that the development proposed is effectively a forked cable connection for what are two component parts of a much larger wind farm and as such it should be the subject of a single planning application and a single overall Environmental Impact Assessment.

- Section 1.3 of the EIS states that:

*'The proposed development comprises the laying of an underground 38kV cable to facilitate the connection of the proposed Shehy More Wind Farm to the national electricity grid. The cable will connect to either the 110kV electricity substation in the townland of Garranereagh, Co. Cork, permitted as part of the Barnadivane wind farm development (Pl. Ref. 05/5907 and extension of duration Pl. Ref. 11/06605) or the proposed 110kV electricity substation in the townland of Barnadivane (Kneeves) (Pl. Ref. 14/557 and PL04.244439). This proposed substation is intended to replace the previously permitted substation and is currently under consideration by An Bord Pleanala'.*

Whilst the EIS subsequently states that the permitted and proposed substations are referred to as the 'Barnadivane substation' for ease of reference, it is considered that this is a disingenuous statement given that the respective planning applications are as follows:

- PI. Ref. 11/06605 (Extension of Duration: PI. Ref. 11/06605):  
*Applicant:* Barna Wind Energy Ltd.  
*Development:* Barnadivane Wind Farm: 18 No. wind turbines, 18 No. transformers, 110kV substation, 110kV switch station, 1 No. 70m high wind monitoring mast, construction and upgrading of site entrances, site tracks and associated works.

- 
- PI. Ref. 14/557 / ABP Ref. No. PL04.244439:
    - Applicant:* Arran Windfarm Ltd.
    - Development:* Construction of an electricity substation compound, this application is intended to replace the substation already granted permission under PL04.219620 (05/5907) and subsequently extended under 11/6605. The electricity substation layout includes 3 No. control buildings, associated electrical plant and equipment, security fencing and ancillary works.

Therefore, the use of the term '*Barnadivane substation*' is considered to be misleading, particularly as the two substations are seemingly in the ownership of separate wind farm companies.

- The statement in the EIS that '*The cable will connect to either the 110kV electricity substation in the townland of Garranereagh, Co. Cork, permitted as part of the Barnadivane wind farm development (PI. Ref. 05/5907 and extension of duration PI. Ref. 11/06605)*' is contradicted by the Environmental Report prepared in respect of the Arran Wind Farm substation (PI. Ref. 14/557 / ABP Ref. No. PL04.244439) which states the following:

*'The original wind farm planning application included for a substation, however, since receiving the original planning consent new Eirgrid standards have been adopted which require 110kV substations to have a larger development footprint which includes available land for potential future expansion. As a consequence, a new planning application is required for this substation'* (Section 1.1).

*'The original wind farm planning application included for a substation but, since receiving the original planning consent, new Eirgrid standards require 110kV substations to have a standard layout and have available land to facilitate future expansion. Any wind farm electricity substation must meet the design, electrical and layout requirements of Eirgrid and / or ESB Networks, as the substation will form part of the national electricity grid and will be taken in charge by Eirgrid or ESB Networks'* (Section 1.3).

*'Under this option, it would not be possible to connect the permitted wind farm to the national grid and accordingly, it would not be possible to*

---

*construct the wind farm. This would have a negative impact on the achievement of binding renewable energy generation targets. None of the indirect positive impacts associated with the proposed wind farm, i.e. displacement of carbon fuel burning generating plant and associated greenhouse gas emissions and health and climate impacts, would be achieved. There would be no direct negative impacts on the immediate environment in relation to any of the topics considered in this assessment'* (Section 3.5.3: 'Do Nothing Scenario').

On the basis of the foregoing, it is readily apparent that if the Arran Wind Farm 110kV substation is not approved, then the permitted Barna Wind Energy Wind Farm cannot be constructed as there would be no possibility of connecting to the national grid.

- The imperative to approve a new substation on the basis that the previously permitted substation was no longer acceptable would appear to have outweighed the case planner's concerns that:

*'The previous site if developed would have less of a visual impact due to the location and general topography of the site, with some existing natural screening in the vicinity. I note the third party submissions on file which refer to the overall visual impact and agree somewhat that the overall effect including the new revised scale of the proposals will increase the visibility of the development from the surrounding landscape'.*

- It is of further relevance to consider the following planning application and its interaction with the permitted Barna Wind Energy substation and the proposed grid connection cable:

- PI. Ref. 14/6760 (ABP Ref. No. PL04. 245824)

*Applicant:* Barna Wind Energy Ltd.

*Development:* The construction of 6 No. wind turbines to replace the 14 No. turbines previously approved under PI. Ref. 11/06605.

Section 1.6 of the EIS submitted in respect of the aforementioned application states that the development will replace part of the wind farm and substation previously permitted under PI. Ref. 05/5907 / ABP Ref. No. PL04.219620 (and extension of duration PI. Ref. 11/06605). Section 2.3.9 of the same EIS proceeds to further state:

---

*'A new 110kV grid connection substation that meets current Eirgrid standards is required in place of the 110kV substation and switch station permitted under the original planning application for the wind farm. The developer has recently applied for planning permission for this substation as a stand alone application (planning reference 14/00557). The substation has a defined planning boundary which will include a 110kV grid connection substation compound with associated control buildings and electrical equipment as well as ancillary infrastructure such as internal access roads and security fencing'.*

Therefore, on the basis of the various contradictions in the aforementioned planning applications, it would appear that the Planning Authority was misinformed either by the documentation which accompanied the applications for the Arran Wind Farm substation or by the EIS submitted in respect of the subject application. In this respect it is submitted that the two diametrically opposed statements cannot be reconciled.

- Having regard to the ruling of the High Court in respect of *O’Grianna v. An Bord Pleanala*, it is submitted that the subject application is invalid on the basis that an application for a grid connection in the absence of a wind farm must be held to be incomplete just an application for a wind farm which does not include for a grid connection would also be held to be invalid. Each aspect of such a development cannot exist in isolation as has been established in *O’Grianna v. An Bord Pleanala*.
- Contrary to the position held by the applicant and the Planning Authority, there is presently an appeal before the Board (i.e. ABP Ref. No. PL04.243486) which also concerns a grid connection for the Shehy More Wind Farm in respect of the subject application site as outlined in red and the development of an underground cable. The subject application should thus be held to be invalid.
- The unsolicited further information received by the Planning Authority on 15<sup>th</sup> June, 2016 is considered to be materially significant as it includes details which were absent from the original application documentation and a rebuttal of the various grounds of objection lodged by third parties. In this respect it is submitted that the submission of additional information by the applicant subsequent to the closing date for third party submissions / observations and its acceptance by the Planning Authority does not accord with the relevant provisions of the Planning and Development Act, 2000, as amended, or the Planning and Development Regulations, 2001,

- 
- as amended. Furthermore, the general public / interested third parties have been denied the opportunity to make any further submissions with regard to this unsolicited further information.
- It is clear that the assessment of the subject application by the Planning Authority included consideration of the unsolicited further information submitted by the applicant on 15<sup>th</sup> June, 2016 which in turn informed the Environmental Impact Assessment of the proposed development. In this respect it is submitted that the failure of the Planning Authority to allow interested third parties an opportunity to respond to the aforementioned unsolicited further information serves to fatally undermine the Environmental Impact Assessment undertaken by the Planning Authority.
  - The various existing, permitted and proposed wind energy-related developments in the vicinity of the proposed development site are interdependent and cannot be viewed as anything other than a single large wind farm development that should be subject to a single Environmental Impact Assessment pursuant to the requirements of the EIA Directive as has been established in *O’Grianna v. An Bord Pleanala*. The progression of individual planning applications in respect of these developments (including the subject proposal) amounts to ‘project-splitting’ contrary to the requirements of the EIA Directive which requires an assessment of the cumulative impact of development.

The subject application has the effect of circumventing the provisions of the EIA Directive and is contrary to the judgement in the case of *O’Grianna v. An Bord Pleanala*. Accordingly, it is submitted that the Shehy More wind farm should have been refused permission on the basis that no details had been provided of the grid connection.

The subject application gives rise to serious and substantial concerns as regards ‘project-splitting’ and it is considered that the failure to submit an inclusive EIS for the totality of the development proposed is a fatal defect which is contrary to the mandatory requirements of the EIA Directive.

- An ‘Appropriate Assessment’ of the proposed development pursuant to the requirements of the Habitats Directive is inextricably linked to an ‘Appropriate Assessment’ of the Shehy More Wind Farm. In this regard it would appear that the Planning Authority did not evaluate the documentation supplied in relation to the appropriate assessment of the Shehy More Wind Farm before reaching the conclusion that the ‘*Appropriate Assessment Screening Report*’ submitted in respect of the

- 
- subject application had given adequate consideration to all potential impacts related to the proposed development.
- The Revised Natura Impact Statement submitted in response to a Section 132 Notice issued by the Board in respect of its assessment of the proposed Shehy More Wind Farm, inclusive of the proposed cable connection, under ABP Ref. No. PL04.243486, provides for substantial additional information as regards the impact of the cable connection when taken in conjunction with the wind farm development. Section 7.2 of the aforementioned Revised Natura Impact Statement includes consideration of the 'Potential Cumulative Impacts' and it is considered that the contents of same contrast with those of Section 6.2.2 of the 'Appropriate Assessment Screening Report' prepared in respect of the subject proposal.
  - The reports furnished by Cork County Council do not demonstrate that all relevant documentation necessary for the screening of the proposal for the purposes of appropriate assessment were evaluated by the Planning Authority in reaching its decision to grant conditional permission for the proposed development.
  - It is unclear whether or not the Local Authority retains ownership of the public road under which the proposed cable connection will pass or if it simply maintains the carriageway for the benefit of public traffic as is the case with many minor rural roads. In any event, the subject application has not been accompanied by the necessary consent for a private utility to use the roadway for the laying of a grid connection and thus the planning application does not comply with the necessary legislative requirements with specific reference to Article 22(1)(d) of the Planning and Development Regulations, 2001, as amended,

### 7.2 Stephanie Larkin & Others:

- The proposed development is stated to be consistent with the National Renewable Energy Action Plan which was in turn used to inform the preparation of local renewable energy strategies throughout the country, including in County Cork. That process subsequently fed into the Cork County Development Plan and its designation of certain areas of the county as regards their suitability or otherwise for the development of wind farms, although the Plan does acknowledge that individual development proposals must be assessed on their merits in accordance with normal planning principles.



---

It is submitted that the National Renewable Energy Action Plan (NREAP) was unlawfully adopted and that the Board is obliged to have regard to this fact in its assessment of the subject appeal. In this respect the Board is referred to the findings of the UN ECE Aarhus Convention Compliance Committee, which adjudicated on a complaint brought against the European Union on the issue (Compliance Case ACCC/C/2010/54 European Union, June 2012) as follows:

*‘Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee at its thirty-seventh meeting (26-29 June 2012), found that the Party concerned:*

- a) By not having in place a proper regulatory framework and / or clear instructions to implement article 7 of the Convention with respect to the adoption of NREAPs by its Member States on the basis of Directive 2009/28/EC, had failed to comply with article 7 of the Convention;*
- b) By not having properly monitored the implementation by Ireland of article 7 of the Convention in the adoption of Ireland’s NREAP, had also failed to comply with article 7 of the Convention;*
- c) By not having in place a proper regulatory framework and / or clear instructions to implement and proper measures to enforce article 7 of the Convention with respect to the adoption of NREAPs by its Member States on the basis of Directive 2009/28/EC, had failed to comply also with article 3, paragraph 1 of the Convention’.*

This is the legal position and the Board is bound by it. Accordingly, the Board is precluded from simply reciting that it has had regard to the NREAP in making its decision. If it purports to rely on an unlawfully adopted policy as a basis for a grant of permission for the subject application then it must say so and explain its rationale for doing so.

- The National Renewable Energy Action Plan cannot be used as a legally secure basis for decision-making by the Board as it was adopted without the mandatory prior assessment of its strategic impacts. In this respect the Board is advised that Ireland failed to carry out a Strategic Environmental Assessment of the NREAP and is only now in the process of conducting a ‘scoping’ exercise for the purposes of same as evidenced by the following

---

information presently available from the Department of Communications, Energy and Natural Resources:

*'The Draft Strategic Environmental Assessment Scoping Report for a Renewable Electricity Policy and Development Framework has been published for consultation. Following the consultation process, which closed on 22 April 2016, it will be finalised to provide guidance to citizens, industry, An Bord Pleanala, and other public authorities, for use in conjunction with the Planning Guidelines on Wind Energy Development and other more general planning guidance'.*

It is premature to permit the intensive plantation of quiet rural areas of Co. Cork with renewable energy infrastructure on an industrial scale in advance of the completion of a Strategic Environmental Assessment.

- The failure by the State to abide by legally binding procedures imposes significant costs on public funds and also places intolerable social costs on local communities in addition to further costs on the receiving environments that host the individual developments, none of which have been disclosed by the developer in the context of the subject application.
- The Board cannot rely on unlawfully adopted policies as to do so would be wholly irrational and to the negation of proper planning.
- Due to the unlawful adoption of the NREAP, Cork County Council has felt obliged to identify areas of the county wherein the development of wind farms will be encouraged. Accordingly, as a result of the increased development pressure for wind farms due to the availability of subsidies, it is submitted that normal planning principles are being disregarded with no responsible planning authority having assessed the wider strategic planning and environmental impacts within the affected areas.
- It is considered that the Lee Valley is a case study in project-splitting with only minimal consideration having been given to the cumulative impacts of nearby wind farms. Indeed, previous assessments have been confined to developments located on the southern side of the Lee Valley. In respect of the subject proposal, the applicant has requested the Board to review the application on the basis that the River Lee and The Gearagh candidate Special Area of Conservation can only be affected by development along the southern uplands, however, such an approach is patently irrational both in planning and environmental terms.

---

The Board is also requested to note that it has recently purported to grant permission for two other elements of the wider project of which the subject application forms part in reference to ABP Ref. Nos. PL04.245824 (6 No. wind turbines) & PL04.244439 (a substation).

- No justification has been provided for a ten year grant of permission and neither are there any exceptional circumstances with regard to the proposed development that would warrant a deviation from the five-year limit set out in the legislation. Furthermore, insofar as the project has been presented as meeting an urgent national policy need, a 10-year permission is plainly inconsistent with any such urgency.
- The subject application is beset with uncertainty given that the applicant does not know to which substation the proposal actually relates to and as it is also unclear whether or not the Shehy More or Carrigareirk wind farms (both of which are presently on appeal and supposedly necessitate the provision of the proposed cable) will ever secure planning permission. Therefore, the application is premature, incoherent, speculative and uncertain.
- The subject application involves project-splitting as it forms part of a larger development that includes the erection of a number of wind turbines as well as the construction of a substation. It would also appear that the proposed development forms part of a further larger project which involves the construction of multiple wind farms across a broad swathe of Co. Cork, many of which (if not all) appear to be ultimately under the common ownership or effective control of a single corporate entity and / or individuals.

By splitting the overall large-scale project into a series of planning applications, it is not possible for the Board to undertake a coherent assessment of the wider development as required by the EIA Directive. Similarly, this project-splitting makes it impossible for the Board to complete an 'Appropriate Assessment' pursuant to the requirements of the Habitats Directive.

More specifically, the Board is unable to fulfil its obligations in relation to AA and EIA in the manner set out in the judgements of *O'Grianna v. An Bord Pleanala* and *Balz & Heubach v. An Bord Pleanala*.

- With regard to the map contained in the EIS entitled '*Wind Farm Projects and Associated Infrastructure*' (copy attached), it is submitted that this only

---

partially reflects the true scale of the 12 No. pending or permitted wind farm projects and associated infrastructure that fall to be considered in the assessment of the subject application. This is because the mapping is limited to those proposed or approved developments located to the south of the Lee Valley and fails to refer to those further wind farms located to the north of the Lee. No reference has been made to the proposed development of 11 No. wind turbines at Cleanrath, in the vicinity of Inchigeelagh (ABP Ref. No. PL04.246742), or the 6 No. turbines, substation and associated works at Derragh, Rathgaskig, Derrineanig, to the west of the Cleanrath site. Both of these wind farms also include for substantial underground cabling works along several kilometres to the west of a substation site at Coomataggart close to the Cork – Kerry border.

The Board is also referred to further mapping (copy attached) prepared by a third party appellant in respect of ABP Ref. No. PL04.246353 (decision pending) which identifies additional wind farm developments in the area to the south of the R585 Regional Road as well as the operational wind farm at Cappaboy to the west and Garranereagh to the east, adjacent to Barnadivane.

On the basis of the aforementioned mapping, the overall scale and extent of wind farm development along both sides of the River Lee catchment (and the catchment of the River Bandon to the south) can be appreciated and in this respect it is submitted that it is readily apparent that this highly sensitive river valley and ecosystem is being threatened on both sides by said developments.

- The accompanying report prepared by Mr. Kevin Corcoran (which has already been submitted to the Board in respect of ABP Ref. No. PL04.246742) provides a detailed account of the threat posed to the Lee Valley and The Gearagh by the development in contrast to the scientifically unsupported assurances offered by the developer that there will be ‘negligible’ effects on the cSACs and other protected areas.

Furthermore, whilst the submitted Appropriate Assessment Screening Report has referenced some (but not all) of the wind farm developments proposed in the area, it has concluded that:

---

*'There will be no adverse effect as a result of the proposed development, in view of best scientific knowledge and on the basis of objective information, either individually or in combination with other plans or projects on the conservation objectives or overall integrity of any European Site'.*

The Department of Arts, Heritage and the Gaeltacht has previously highlighted the need for precise and specific data in a submission with regard to ABP Ref. No. PL04.245082 (the Derragh Wind Farm) and it is considered that the contents of that report are also relevant to the subject appeal in that it recommended that further information should be sought in relation to the *'in-combination effects of increased surface water runoff on the conservation objectives of The Gearagh SAC'*. The submission also required *'a reasoned precise and definitive assessment as to what and how mitigation measures proposed will reduce the expected minor (0.25%) contribution to catchment surface water runoff to a negligible level. This should include what 'negligible' means quantitatively'*. In addition, the Department noted the following:

*'As 'in-combination' (appropriate assessment) can be interpreted differently (all other sources of drainage) from 'cumulatively' (environmental impact assessment) (taken together with all other wind farms), there should be an understanding of the catchment to take any further acceleration of runoff taking account of all sources of drainage. This should also involve an understanding of whether the Toon River part of the Gearagh cSAC is becoming impacted by any canalisation or erosion due to more recent flood events'.*

The need for precise and specific data is clearly evident from the aforementioned submission and it should also be noted that the Department has indicated that undefined terms such as *'negligible'* are unacceptable i.e. they must be defined. This necessity is magnified where multiple wind farms are proposed along both sides of the Lee Valley with each individual development being submitted for planning and environmental assessment in isolation with what are termed to be *'negligible'* impacts in each case. Accordingly, the question arises as to how many instances of *'negligible impacts'* can be cumulatively considered before giving rise to a non-negligible impact and in this respect it is submitted that insufficient information has been submitted to the Board to permit a determination of same.

- 
- The lodgement of multiple planning applications has infringed the public's right to effective affordable participation and consultation - rights which must be capable of being exercised by any member of the public in a meaningful way without incurring undue expense. By making several applications for individual elements of a single overall project, the applicant has imposed a financial and time burden on the concerned public.
  - The Board is requested to take cognisance of the supporting documentation which has accompanied the grounds of appeal, including the correspondence from the Board of Management of Dromleigh National School. In this respect it is specifically submitted that the school was not adequately consulted with regard to the development proposed nor was it included in the 'leaflet' drop undertaken by the developer.
  - The correspondence from Cork County Council dated 12<sup>th</sup> April, 2016 cannot be construed as a letter of consent for works on / under the public road given that it expressly states that the author has no authority to bind the Council and as it is also headed '*Without Prejudice*' and '*Subject to Contract / Contract Denied*'.
  - It would be appropriate for the Board to refuse permission for the subject proposal by reference to the following reasons:
    - The endangerment of public safety by reason of traffic hazard or the obstruction of road users;
    - The proposal forms an indivisible part of a larger project that concerns the construction of multiple wind farms which is in conflict with Objective GI 7-1 of the County Development Plan, 2014. It would also interfere with the character of a high value landscape, or with a view or prospect of special amenity value or natural interest / beauty, which it is necessary to preserve.
    - The proposed development would:
      - Require significant works under a public road;
      - Seriously injure the amenities, or depreciate the value, of property in the vicinity;
      - Tend to create serious traffic congestion;
      - Endanger the health or safety of persons occupying or employed in the structure or adjoining structures; or
      - Be prejudicial to public health.

- 
- The material contravention of an objective in the Development Plan pertaining to the conservation and preservation of a European Site.
  - The inadequacy of the submitted Environmental Impact Statement, with particular reference to the lack of sufficient data necessary to identify and assess the main effects of the proposed development and the inadequate consideration of interactions between factors.
  - Detrimental visual impact when taken in conjunction with other wind turbine developments.
  - The fundamental unsuitability of the application site for the development proposed by reason of its topography, climatic conditions, the geological and hydrogeological characteristics, and the risk of erosion and flooding from parts of the site.
  - Detrimental impact on residential amenity by reason of noise and disturbance with an associated devaluation of property.
  - The proposal would be contrary to the proper planning and sustainable development of the area having regard to the limitations of the emergency infrastructure in the area and the remote site location with limited road access.
  - The proposed development is unacceptable on environmental grounds.
  - The proposed development would materially conflict with the appellants' family and property rights in a manner not required by the common good and thus would be in breach of their Constitutional rights.
  - Prematurity pending the Strategic Environmental Assessment of any underpinning energy policy given the absence of a lawfully adopted EU energy policy framework.

### 7.3 Dan Kelleher & Others:

- The Board is advised that the appellants have also appealed against the proposed Shehy More Wind Farm pursuant to ABP Ref. No. PL04.243486 which is presently awaiting a determination. In this respect it should be noted that the Board previously invited comments on an addendum to the original EIS for the Shehy More wind farm with regard to the route for a proposed connection between that wind farm and the national grid. Furthermore, the appellants have already questioned the validity of the original planning application for the Shehy More Wind Farm given that it did not include details of the proposed grid connection and as the submitted EIS did not provide for an assessment under the EIA Directive.

- 
- The judgement in the case of *‘O’Grianna v An Bord Pleanála* has established in law the requirement of the EIA Directive that the entirety of a development be included in a planning application so as to allow the cumulative impact of the proposal to be assessed in full. It remains the contention of the appellants that the subject proposal amounts to project-splitting which is contrary to the aforementioned judgement and thus renders the application invalid.
  - Cork County Council was not entitled to validate the subject application and should not have proceeded to assess same as it does not comply with the EIA Directive.
  - The proposed development for which permission has been sought is already the subject of a live appeal before the Board.
  - On the basis of evidence previously presented by the Board with regard to another case in the High Court, it is the appellants’ understanding that the Board will not consider the question of validation until it reaches the end of its assessment process and the appeal has come to the Board for a final determination. Accordingly, it is acknowledged that it may be some time before a final decision on the validity of the subject application is made by the Board.
  - Given that the subject application is not considered to be valid on the basis that an application for the same development is already under appeal, and in light of the circumstances of the ‘parent’ application, it is not proposed to provide a detailed consideration of the EIS which has accompanied the subject application. Nevertheless, it is important to note that the route of the proposed grid connection will extend along a 26.27km length of roadway and that it lies entirely within the catchment of the River Lee with a total of 41 No. watercourse crossings. In addition, it is submitted that the proposal to dispose of excess excavated material within the borrow pits of the Shehy More wind farm, as well as at licensed waste facilities off site, involves the additional usage of lands within the confines of the wind farm that did not form part of the original planning application. In effect, the subject proposal will involve the importation of materials to the Shehy More site for disposal where environmental concerns have already been raised under ABP Ref. No. PL04.243486 and serves to confirm the appellants’ concerns as regards project-splitting and the failure to assess the cumulative impact of the entirety of the development proposed.
  - There are concerns locally as regards the extent of disruption that will arise during the laying of the proposed cabling. The applicant’s closure of roadways will result in a considerable number of local residents being



---

confined to their homes and also has implications as regards access to emergency services. The applicant has not considered how an adequate level of cover will be maintained and the appellants are not aware of the legal basis upon which the Planning Authority has concluded that it is entitled to grant permission in an instance where so many people would be cut off from accessing the wider area.

- Notwithstanding the applicant's assertions that it can progress the development by laying cabling at a rate of 150m per day, there has been no assessment or analysis of the local geology which will be encountered along the proposed route and how this will affect trench-opening and cable laying.

## **8.0 RESPONSE TO GROUNDS OF APPEAL**

### **8.1 Response of the Planning Authority:**

- The Planning Authority has no further comments or observations to make as regards the subject application other than to refer the Board to the rationale for its decision as set out in the comprehensive reports which have already been forwarded to the Board for consideration.

### **8.2 Response of the Applicant (to Third Party Appeal of Ian Collins & Nigel de Haas):**

- The planning application and the supporting documentation is comprehensive in scope and has given full consideration to all relevant matters, including environmental issues and those concerns raised by the appellants. In this regard, it is submitted that the potential impacts of the proposed grid connection have been thoroughly assessed and appropriate mitigation has been proposed throughout the application process.
- With regard to the assertion in the grounds of appeal that the proposed grid connection cable route effectively forms a component part of a much larger wind farm comprising the proposed Shehy More and Carrigarierk Wind Farm developments, and that these developments should be the subject of a single planning application and assessed under a single Environmental Impact Assessment, it would appear that the basis for this claim relates to the provision of one set of ducts to facilitate two grid connections in a single excavation.

In response to the foregoing, it should be noted that the proposed grid connection points for both the proposed Shehy More and Carrigarierk wind farms will be either the permitted substation at Garranareagh (ABP

---

Ref. No. PL04.219620) or the more recently permitted substation at Barnadivane (Kneeves) (ABP Ref. No. PL04.244439). Section 6.4.5 of the EIS has assessed the cumulative impacts of the proposed cable construction with the other relevant projects outlined in Section 2.3.2 of that document and acknowledges that the cable route is partially located along the same roads as the proposed Carrigarierk wind farm cable route before stating the following:

*'In the event of favourable consideration of both the Shehy More and Carrigarierk wind farm projects, the grid connection for each wind farm will be facilitated within the single trefoil formation connection to Barnadivane substation, thereby minimising the potential for cumulative impacts.'*

A common grid connection point for different wind farm developments is not an uncommon feature and accessibility to the National Grid was one of the key policy considerations which influenced the Planning Authority's development of its Wind Energy Strategy Map. Therefore, there are (and will be) wind energy developments which share common grid connection points.

Accordingly, in the event of a favourable consideration for both the Shehy More and Carrigarierk wind farm projects, it is considered prudent to facilitate the grid connection for both schemes within a single trefoil formation to the Barnadivane substation where the cable routes of each project coincide in order to minimise the potential for cumulative impacts arising from the proposed developments. In no way does this proposed measure constitute the amalgamation of each individual project as has been claimed by the applicant.

- In response to the suggestion that the subject application should be invalidated on the basis that the proposed development site is the subject of an appeal in respect of a similar development in reference to the proposed Shehy More Wind Farm presently on appeal under ABP Ref. No. PL04.243486, the Board is advised that the subject proposal involves the construction of a grid connection whereas ABP Ref. No. PL04.243486 concerns the development of a wind farm. The development descriptions of both applications are clearly different (as are the extent of the planning application boundaries) and, therefore, the proposed development site is not the subject of a current appeal in respect of a similar development.

- 
- In relation to the appellants' reference to the judgement in the case of *O'Grianna & Ors. v. An Bord Pleanala* and the assertion that an application for a wind farm and an application for a grid connection cannot exist in isolation from one another, it is submitted that the aforementioned ruling specifically examined the assessment of a proposed wind farm project and its constituent parts with respect to the EIA Directive in addition to the interpretation of "project-splitting" as regards the assessment of the potential environmental impacts of the proposed wind farm and grid connection. The '*O'Grianna*' case did not examine the procedural implications of the development management process in terms of planning applications and therefore has no bearing in reference to the issue raised by the appellants.
  - The suggestion that the brief description of the proposed development as set out in Section 1.3 of the EIS is misleading is rejected. The public notices clearly state that the proposed development may connect to either the permitted (ABP Ref. No. PL04.219620) or the proposed (ABP Ref. No. PL04.244439) substations. Section 1.3 of the EIS establishes that both the permitted and proposed substations are referred to as the 'Barnadivane Substation' for ease of reference.
  - There is no basis to the appellants' claim that those projects outlined in Section 2.3.2 of the submitted EIS are interdependent to the extent that they constitute a single large wind farm development or to the inference that the subject proposal amounts to 'project splitting' with respect to the EIA Directive. Each of the projects outlined in Section 2.3.2 of the EIS are the subject of separate planning applications which are assessed on their own merits. In addition, the majority of those projects are also subject to additional assessment processes, including Environmental Impact Assessment which examines what influence each development proposal will have on the surrounding environment as well as considering the cumulative and in-combination effects with other relevant permitted, proposed and existing projects in the vicinity of the development proposal site.
  - With regard to the proposed development of the Shehy More Wind Farm, further information was submitted to the Board on 18<sup>th</sup> September, 2015, which included an Addendum to the EIS detailing an assessment of the grid connection cable route for the proposed Shehy More Wind Farm, thereby enabling the Board to fulfil its assessment of the development under the EIA Directive in conformance with the '*O'Grianna*' ruling.
  - The EIS which has accompanied the subject application considers all potential '*in-combination effects*'. Therefore, as both the subject proposal

---

and the application for the Shehy More Wind Farm are supported by an EIS, both of which fully consider all potential in-combination effects, there is no issue in relation to project-splitting.

- The unsolicited further information submitted by the applicant on 14<sup>th</sup> June, 2016 consisted of a letter which sought to highlight where the main issues raised in the total of 59 No. submissions received by the Planning Authority in relation to the proposed grid connection had already been addressed in the submitted documentation. Therefore, the unsolicited further information as submitted served to clarify details that had already been provided and accords with the guidance set out in Section 5.10 of the *'Development Management, Guidelines for Planning Authorities, 2007'*.
- With regard to the appellants' reference to road reinstatement works where the proposed grid connection will pass through recently resurfaced sections of roadway in Dromleigh and Terelton, the unsolicited further information as submitted does not include any material additional detail regarding the reinstatement works to that already provided in the EIS. Instead, the additional information simply serves to clarify that following further discussions with the Area Engineer, the applicant is amenable to the imposition of a condition in any grant of permission which will require the full reinstatement of those recently resurfaced sections of roadway in Dromleigh and Terelton to the satisfaction of the Local Authority.
- The subject application was accompanied by an Appropriate Assessment Screening Report in accordance with Article 6(3) of the Habitats Directive 92/43/EEC to examine the potential effects of the projects or plans, either alone or in-combination with other projects or plans, upon the conservation objectives of European Sites. In addition, the application was also accompanied by an EIS which provided an assessment of the potential ecological impacts arising from the proposed grid connection individually or in-combination with other relevant projects as outlined in Section 2.3.2 of the EIS. A Construction and Environmental Management Plan (CEMP) was also submitted which provides a description of those measures to be implemented on site to minimise the risk of environmental impacts, including impacts on water quality and the spread of invasive species.

The Appropriate Assessment Screening Report screened out any requirement for the preparation of a Natura Impact Statement and that view was endorsed by the Local Authority Ecologist who acknowledged

---

that the proposed works would be undertaken within the carriageway of the public road and along private roads before stating that:

*'the proposed works do not pose any threat of impact on terrestrial habitats of high biodiversity value or on protected plant species'.*

- In reference to the potential for the development to impact on water quality and freshwater habitats and species, the Local Authority Ecologist has acknowledged that no in-stream works are proposed and that no issues of concern have been identified by either the Environment Section or the Area Engineer as regards the protection of water quality. Accordingly, the Local Authority Ecologist considered:

*'the mechanisms and procedures which have been set out in the EIS, [the] Habitats Directive Screening document and in the draft CEMP to be sufficient to ensure the protection of water quality and I concur with the conclusions contained in the EIS and the Screening Report as they relate to impacts on freshwater ecological receptors'.*

- All relevant documentation necessary to comply with Article 6(3) of the Habitats Directive has been made available to the Planning Authority in order to enable it to examine the potential effects of the project, either alone or in combination with other projects or plans, upon the conservation objectives of European Sites. The reports furnished by the Planning Authority, with particular reference to that of the Ecologist, serve to demonstrate the foregoing position.
- In relation to the suggestion in the grounds of appeal that the Local Authority has not sanctioned those works proposed to be undertaken within the public road corridor, it is submitted that the subject application was accompanied by the appropriate letters of consent, including correspondence from the Local Authority dated 12<sup>th</sup> April, 2016 which confirmed its consent to the making of the planning application and also stated that a road opening licence would be required in the event of a grant of permission.

The subject application benefits from consents from Cork County Council in respect of the submission of the application (from the Roads Authority) and also in respect of the planning approval of the application (from the Planning Authority). Accordingly, the application has been appropriately sanctioned by the Local Authority.

---

8.3 Response of the Applicant (to Third Party Appeals of Stephanie Larkin & Others and Dan Kelleher & Others):

- The proposed development is compliant with all relevant national, regional and local planning policy documents.
- The National Renewable Energy Action Plan (NREAP) is a policy document which sets out Government policy and objectives in the area of renewable energy and cannot be considered to comprise a '*plan or programme*' for the purposes of the Strategic Environmental Assessment (SEA) Directive as it is not required by legislative, regulatory or administrative provisions. Furthermore, the NREAP does not set '*the framework for future development consents*' unlike, for example, a County Development Plan or a Local Area Plan, and, therefore, it does not require SEA.
- With regard to the reference in the grounds of appeal that the NREAP is the subject of an adverse finding by the UN-ECE Aarhus Convention Compliance Committee (ACCC) against the European Union regarding Article 7 of the Aarhus Convention, which requires provision for public participation during the preparation of plans and programmes relating to the environment, it must be noted that the findings of the ACCC in this matter relate to the lack of a proper regulatory framework and clear instructions by the European Union for the implementation and monitoring of Article 7 of the Convention with respect to the adoption of NREAPs by its Member States. It is submitted that the foregoing is beyond the scope of consideration of the subject planning application and, therefore, it is not proposed to evaluate submissions unrelated to the proposal other than to reiterate that the proposed development conforms with the framework of existing and adopted local, national and European policies and legislation in contributing to the achievement of internationally agreed energy targets.
- In response to the suggestion that the subject application should be invalidated on the basis that the proposed development site is the subject of an appeal in respect of a similar development in reference to the proposed Shehy More Wind Farm presently on appeal under ABP Ref. No. PL04.243486, the Board is advised that the subject proposal involves the construction of a grid connection whereas ABP Ref. No. PL04.243486 concerns the development of a wind farm. The development descriptions of both applications are clearly different (as are the extent of the planning application boundaries) and, therefore, the proposed development site is not the subject of a current appeal in respect of a similar development.

- 
- In relation to the duration of the ten-year permission which has been sought in the subject application, Section 41 of the Planning and Development Act, 2000, as amended, states that a Planning Authority or the Board may specify a period of more than 5 No. years during which the permission is to have effect, having regard to the nature and extent of the relevant development. The subject proposal will facilitate the connection of the proposed Shehy More Wind Farm to the national grid and it is notable that a ten-year permission has also been sought in respect of that development. Therefore, it would be logical to seek a planning permission of the same duration as that sought for the proposed Shehy More Wind Farm and thus the duration of the permission sought is clearly justified on that basis. Furthermore, it should be noted that the report of the case planner supports the foregoing rationale as follows:

*‘To this end the request for a 10 year permission is simply consent [sic] with all such recent decisions given the normal problems and time delay in implementing windfarms and the connection to the national grid. Ten year permission should be imposed on the cable development in the event of any grant of permission’.*

- With regard to the suggested prematurity of the proposed grid connection on account of the proposed Barnadivane substation (PA Ref. No. / ABP Ref. No. PL04.244439), the Board are directed to the report of the case planner wherein it is acknowledged that:

*‘there are sufficient delays in place in association with windfarm development generally and to refuse the application on the grounds of prematurity alone would appear to conflict with national advice not least the ‘Wind Energy Development Guidelines 2006’, Circular PD 3/08, the ‘Proposed Revisions to Wind Energy Development Guidelines 2006’ and the very recent White Paper ‘Ireland’s Transition to a Low Carbon Energy Future’.*

Furthermore, the subject proposal has considered two potential grid connection points via either of the permitted Barnadivane substations. Therefore, regardless of the outcome of the more recent application for the Barnadivane substation, the grid connection as proposed can connect to the national grid. Accordingly, the submitted proposal cannot be considered premature.

- 
- In relation to the appellants' assertion that the proposed grid connection is an example of 'project splitting' and the subsequent reference to the judgement in the case of *O'Grianna & Ors. v. An Bord Pleanala*, it is submitted that the aforementioned ruling specifically examined the assessment of a proposed wind farm project and its constituent parts with respect to the EIA Directive in addition to the interpretation of "project splitting" as regards the assessment of the potential environmental impacts of the proposed wind farm and grid connection. The '*O'Grianna*' case determined that the grid connection and the proposed wind farm were to be cumulatively assessed as one project in terms of its potential environmental impacts.

With regard to the proposed development of the Shehy More Wind Farm, further information was submitted to the Board on 18<sup>th</sup> September, 2015, which included an Addendum to the EIS detailing an assessment of the grid connection cable route for the proposed Shehy More Wind Farm, thereby enabling the Board to fulfil its assessment of the development under the EIA Directive in conformance with the '*O'Grianna*' ruling. This information was provided to allow the Board to complete its EIA in relation to the proposed wind farm development in its entirety.

- In respect of the assertion that the proposed grid connection effectively forms one component part of a larger wind farm development and the further inference that the subject proposal amounts to 'project splitting' with respect to the EIA Directive and the '*O'Grianna*' ruling, it is submitted that there is no basis to the appellants' claim that those projects illustrated in Figure 2.3 of the submitted EIS, or any other wind farm project in the wider area, constitute a single, large wind farm development. Section 2.3.2 of the EIS provides an overview of the relevant projects considered in the cumulative impact assessment and each of these projects is or has been the subject of separate planning applications which are assessed on their own merits. In addition, the identified projects are also subject to additional assessment processes, including Environmental Impact Assessment which examines what influence each development proposal will have on the surrounding environment as well as considering the cumulative and in-combination effects with other relevant permitted, proposed and existing projects in the vicinity of the development proposal site. Accordingly, there is no issue with regard to 'project splitting' in relation to the subject proposal.



- 
- The proposed development has not been considered in isolation from other wind farm projects (or other developments) in the area and was assessed on this basis in both the AA Screening Report and in the Local Authority Ecologist's Report. Cumulative impacts, including those associated with other elements of the proposed Shehy More Wind Farm, are presented in the AA Screening Report and the EIS, with all these documents having been considered in the Planning Authority's subsequent screening of the proposal.
  - The works associated with the proposed grid connection will not negatively impact on the ecology or biodiversity of the Lee Valley. The cable route will be located entirely within the public and wind farm road network and will be constructed in such a manner as to avoid all potential for significant impacts on any sensitive ecological receptors (The CEMP details exactly how the works will be undertaken to avoid impacts on the receiving environment). Accordingly, as the proposal will not result in any significant ecological impact on the ecology of the Lee catchment, it cannot therefore contribute to any cumulative impact on the ecology of the Lee Valley.
  - Full consideration has been given to the impacts (of lack thereof) of the proposed grid connection in the context of cumulative impacts from other developments in the wider environment.
  - The AA Screening Report has considered in full the potential for impacts on European Sites, including The Gearagh SAC and SPA. That report includes a comprehensive ecological impact assessment of the cable laying works and has concluded as follows:

*'There will be no adverse effect as a result of the proposed development, in view of best scientific knowledge and on the basis of objective information, either individually or in combination with other plans or projects on the conservation objectives or overall integrity of any European Sites'.*

- The EIS has found that there is no potential for any impacts on ecology as a result of the discharge of pollutants to surface water (the only potential pathway for impacts on downstream designated sites) and that there will only be an imperceptible impact on water quality. These findings are supported by the conclusions of the Local Authority Ecologist as follows:

*'I consider that the mechanisms and procedures which have been set out in the EIS, [the] Habitats Directive Screening document and in the draft*

---

*CEMP to be sufficient to ensure the protection of water quality and I concur with the conclusions contained in the EIS and the Screening Report as they relate to impacts on freshwater ecological receptors’.*

These conclusions are based on a thorough scientific analysis of the potential effects of the proposed works following the application of best practice measures to avoid all significant ecological impacts.

- The EIS and the AA Screening Report provide all the necessary and relevant data to reach the conclusion that the proposed development will not result in any significant impact on the ecology of the area. Furthermore, both of these assessments have been conducted following recognised best practice and to a level of detail that is entirely appropriate given the small scale nature of the works proposed and the low potential for significant impacts on the environment.
- The proposed grid connection has been assessed in its own right and in combination with other developments / activities with the potential to result in cumulative impacts. The small scale works proposed will not result in any significant impacts on the ecology of the area either alone or when taken in combination with other developments / activities.
- The EIS does not identify any changes to the hydrological functioning of the catchment as a result of the proposed works and no changes to runoff rates or volumes are predicted.
- No in-stream works are proposed and no operational impacts are predicted as regards either ecological or hydrological receptors.
- The proposed works will be undertaken within habitats of very low ecological sensitivity and have the potential for only imperceptible impacts on surface water quality.
- The proposed grid connection is located in areas designated as either *‘Acceptable in Principle’* or *‘Open for Consideration’* for wind energy development and complies with the relevant policies of the County Development Plan.
- In terms of compliance with Objective WS 5-3 of the County Development Plan, the submitted proposal provides for the implementation of a full suite of mitigation measures designed to minimise the potential for impacts on surface water and groundwater quality.
- With regard to the suggestion that the lodging of multiple planning applications infringes upon the public’s rights to effective and affordable participation and consultation, there has been no previous application for a grid connection of the nature proposed lodged with the Planning Authority

---

whilst the application for the proposed Shehy More Wind Farm was initially lodged on 30<sup>th</sup> September, 2013 and remains on appeal before the Board. These are the only applications of note with regard to the types of development proposed and as such cannot be deemed to be multiple applications given the time period between each application.

- All planning applications are the subject of statutory public notification and a period whereby submissions may be made by interested parties for a prescribed fee. These measures are provided for under existing legislation and, therefore, it is not proposed to respond to matters which are beyond the remit of the submitted proposal.
- Section 2.5.3 of the EIS provides a summary of the public consultation measures undertaken by the applicant which included the delivery of information leaflets to all houses within 100m of the proposed grid connection cable route. With regard to the display of public notices as per the requirements of the Planning and Development Regulations, 2001, as amended, the proposed development was substantially advertised via the erection of 15 No. site notices along the entirety of the cable route with the application having also been advertised in *'The Southern Star'* newspaper. Therefore, it is contended that appropriate public consultation was conducted by the applicant and that any assertion to the contrary is misplaced.
- The accompanying Technical Note prepared by Hydro Environmental Services addresses those issues raised in the grounds of appeal in relation to hydrology. It states that due to the shallow nature of the proposed cable trench, along with the location of the route within the carriageway of existing roads, there will be no significant interactions with the local hydrogeological regime during the cable installation works. Accordingly, the potential for impacts along the route is very low overall, with impacts on water supply wells not anticipated. The HES Technical Note also reiterates that the mitigation measures to be implemented on site will ensure that the proposed development does not impact on The Gearagh SAC.
- The submitted application documentation has already addressed in full the concerns raised with regard to the perceived health impacts of the proposed underground grid connection. The proposal involves the laying of a 38kV cable which is of a much lower voltage and carrying capacity than the larger 100kV, 220kV and 400kV lines around which the majority of public discussion on Electromagnetic Fields is centred. In addition, the proposed grid connection will run entirely underground with the vast majority of the route within the public road corridor.

- 
- The international scientific consensus at present is that there is no evidence to confirm any adverse health effects from EMF exposure. Furthermore, there are no adverse effects on the health, behaviour or productivity of animals, including livestock, arising from EMF based on current research.
  - The proposed grid connection will be installed to Eirgrid / ESB Networks specifications and in line with all relevant health and safety requirements. It will also comply with the guidelines established by the International Commission on Non-Ionising Radiation Protection and relevant EU guidance.
  - There is no evidence to substantiate the claim that the proposed grid connection will act as an impediment to the future development of lands along the cable route. By virtue of its location predominantly within the public road corridor, the underground connection will not be a constraint to future development along the route. Moreover, the planning merits of any future development on lands outside of the application site are beyond the scope of the subject application. Notwithstanding, the assessment of any future planning applications is a matter for the Planning Authority to consider on a case-by-case basis and is not to be founded on the considerations of speculative or potential development in the area.
  - There is no basis provided in the grounds of appeal to support the claim that the proposed development forms part of a larger scheme of multiple wind farm projects which is in conflict with Objective GI 7-1 of the County Development Plan by reason of the impact of same on the character of the landscape, aside from the attempt to link the subject proposal to the perceived visual impacts arising from other wind farm developments.
  - The Planner's Report has referred to the lack of landscape or visual impact as follows:

*'The development works must be considered temporary in nature and once operational the landscape impact, if any, would be none with the exception of potential scarring of the local roads. The view that the development will have no impact on the landscape when considered on a cumulative basis is accepted'.*

- An EIS Addendum assessing the cumulative impact of the cable route along with the proposed Shehy More Wind Farm has been submitted to the Board in order to enable it to complete an assessment of that application.

- 
- Property values will not be affected by the proposed underground grid connection due to the temporary nature of the works and the reinstatement of the road surface to its original condition.
  - All material excavated during the proposed works will be removed to a licensed recovery facility or reinstated where appropriate. These measures will ensure that there are no adverse impacts regarding soil arising from the proposed development.
  - The subject application has been accompanied by the appropriate letters of consent, including correspondence from the Local Authority confirming its consent to the making of the planning application.
  - Cork County Council has a dual role with respect to the subject application given the site location within a public road. Firstly, in its role as the appropriate Roads Authority, which has responsibility for the public road in question, and secondly as the Planning Authority which assesses the proposed development in accordance with the proper planning and sustainable development of the area.

The planning application benefits from consents from Cork County Council in respect of the submission of the application and in respect of the planning approval of the application (from the Planning Authority). Accordingly, the application has been appropriately sanctioned by Cork County Council.

- Given that the vast majority of the proposed grid connection route will be within the public road corridor, it is accepted that there will be some impacts to traffic on the local road network arising from the construction phase of the proposed development, however, the traffic assessment contained in Section 12 of the EIS has determined that any potential traffic impacts will be limited to isolated sections of the route and will be slight in nature. Nevertheless, every effort will be made to minimise the impact of the proposed works on local residents and traffic.
  - Signage will be erected prior to any works commencing along and on adjacent roads to the proposed route notifying the public of the forthcoming construction.
  - Contact details for the contractor and details for licensing will be posted along the proposed route during construction works.
  - All works will be carried out in a safe manner and members of the public will be informed through the provision of advance notification

---

and advised in relation to any temporary localised traffic management protocols.

- A detailed traffic management plan allowing local access will be maintained during the construction works.
  - Where road closures are required to facilitate the cable route works along narrow stretches of the public road, appropriate diversions and alternative routes for through traffic will be put in place.
  - All affected parties will be kept up to date and informed both shortly prior to and during the construction period at all times. Two to three weeks before any works commences, all reasonable efforts will be made to inform all affected parties of the oncoming works.
- 
- The assumption in the traffic assessment that 150m of cabling works will be completed per day is based on previous experience of other grid connection cabling works and reflects the local geological conditions.
  - With regard to the concerns raised in the grounds of appeal in respect of access for emergency services, the procedure for seeking a temporary road closure is separate from that required for a planning consent. All measures will be complied with for the purposes of securing a Road Opening Licence and in seeking any temporary road closures from Cork County Council, including fully engaging with the Emergency Services within the general area of the closure.
  - It is submitted that there are sufficient mitigation measures set out in the EIS to ensure that any traffic disruptions are minimised.

## **9.0 OBSERVATIONS**

### **9.1 Deirdre Murphy O'Brien & Others**

- Given that the observers have previously made submissions to both Cork County Council and the Board on the route of the proposed Shehy More grid connection, it is considered to be unfair to have to submit further observations on a proposal which effectively forms part of one single overall development which is not being assessed as such.
- It is illegal for the applicant to have applied for planning permission for the proposed cable route separately from the wind farm development. In this respect it is submitted that in the absence of the proposed wind farm, the subject proposal serves no purpose.
- The substation proposed at Barnadivane does not yet have the benefit of planning permission whilst the alternative permitted substation does not satisfy the requirements of Eirgrid and thus is not fit for purpose.

---

Accordingly, there may be no grid connection available at the end of the proposed cable route.

- The wind farms at Shehy More, Barnadivane and Carrigariék, in addition to the substation at Barnadivane, and the proposed cable route linking the aforementioned developments, should not be considered to comprise separate projects. Each of the foregoing items are co-dependent in that they comprise one single project and, therefore, they should have been assessed under one single planning application.
- The local community has had to lodge appeals and to make observations in respect of 5 No. separate planning applications which has proven to be a costly and time-consuming process. Furthermore, it should be noted that homeowners along the proposed connection route between Teranassig and Barnadivane may have already lodged 4 No. separate observations along the same stretch of the cable route.
- The proposed connection route passes directly to the front of the observers' dwelling houses and thus they will be regularly exposed to high levels of electromagnetic radiation and the magnetic fields from the HVAC underground cables. In this respect the Board is referred to the recommendations contained in the report of the *'Expert Group on the Health Effects of Electromagnetic Fields'* as published by the Department of Communications, Marine and Natural Resources. It is further submitted that there is scientific evidence associating ELF magnetic fields with childhood leukaemia.
- The proposed 38kV cabling is to be laid at a depth of only 1.5m beneath unsuitable narrow country roads. However, given the rocky terrain of the area, it is not possible to achieve a depth of 1.5m and thus there are serious concerns that the proposed cabling will be laid at a shallower depth than is allowed.
- There are concerns as regards the widespread disruption and prolonged road closures likely to arise during the laying of the proposed cables. There are limited alternative routes in the surrounding area by which local residents etc. may access places of employment and schools etc. whilst any road closures will also impact on daily farming activities in addition to access to emergency services.
- Children attending the local school will be exposed to high levels of electromagnetic radiation as the proposed cable route will pass through an area used by pupils every day due to the school pitch being located across the road from the main school complex. The proposed cable will be located in close proximity to the Special Education Room, the majority of classrooms and the playground. Therefore, there are serious concerns as

---

regards the health risk posed by the varying magnetic fields emanating from the HVAC underground cables. The laying of the proposed cables will have a detrimental impact on how prospective parents view the existing school for their young children.

- The route of the proposed development will interfere with local services etc. whilst the cables could potentially give rise to difficulties as regards land improvement works and the ability to obtain planning permission thereby impacting on land / property values.
- The proposal could possibly interfere with existing land boundaries, fencing and drainage arrangements whilst any dumping of soil could also result in problems.
- An inadequate number of site notices were erected along the route of the proposed grid connection. Furthermore, whilst the applicant delivered a brief information leaflet along the proposed route, no such details were provided to the local school which is located directly alongside the said route. In addition, the e-mail address provided was invalid whilst the diagrams etc. shown on the leaflets were illegible. Accordingly, it is asserted that the applicant's efforts do not amount to public consultation.
- Local residents have not been provided with the opportunity to ask questions or to raise concerns as regards the proposed development. They have not been consulted at any point with regard to the subject application.
- In relation to the notification of the grant of permission issued by the Planning Authority, no reference has been made in official correspondence to 'Dromleigh' despite the development seemingly passing along the front of the observer's property.
- The erection of several large electricity pylons is already underway less than 5km away from the observers' dwelling house and the preparatory work for these pylons has resulted in considerable disruption to local traffic due to the numbers of lorries travelling along the surrounding unsuitable road network. Furthermore, even though the pylons in question are not yet finished, their presence has given rise to tension in the local community between neighbours and landowners. In this respect it is submitted that the proposed development of a wind farm, a substation, and the proposed grid connection / cabling, will not be any less disruptive or offer any improvement in community spirit.
- The Board is requested to note that the observers also support the further appeals and observations submitted in respect of the subject application.



---

## **10.0 NATIONAL AND REGIONAL POLICY**

10.1 *The National Climate Change Strategy* issued by the Dept. of the Environment and Local Government in 2000 advocates the expansion of renewable energy to reduce emissions and to meet commitments under the Kyoto Protocol and wind energy is identified as a means of achieving this.

10.2 *The National Spatial Strategy 2002 – 2020* states “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aqua-culture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

10.3 ‘*White Paper – Delivering a Sustainable Energy Future for Ireland 2007 – 2020*’ sets out as a strategic goal to accelerate the growth of renewable energy sources, reduce reliance on fossil fuels and to increase the ratio of renewable energy sources in the overall production of electricity to 33% by 2020.

10.4 *White Paper – “Ireland’s Transition to a Low Carbon Energy Future 2015-2030”*, issued by the Department of Communications Energy & Natural Resources, promotes the idea of a carbon-free energy sector by 2050.

10.5 *Wind Energy Development, Guidelines for Planning Authorities:*

The guidelines pertaining to wind farm development in Ireland are set out in the publication “Wind Energy Development, Guidelines for Planning Authorities” by the Department of the Environment, Heritage and Local Government in June, 2006. The presumption is in favour of wind farm development in suitable circumstances.

The Guidelines indicate:

- The need for a plan led approach.
- In section 4.3 there is reference to access to the electricity grid and that best practice would suggest having in applications for windfarms information on grid connection including indicative or feasible options but this may not always be possible.
- Noise is another important consideration and is referred to in paragraph 5.6 and account should be taken of the nature and character of nearby

- 
- surroundings and developments in assessing noise levels and guidance on levels for different locations are outlined.
- Chapter 6 relates to aesthetic considerations in siting and design.
  - Regard should be had to profile, numbers, spacing and visual impact and the landscape character.
  - Account should be taken of intervisibility of sites and the cumulative impact of developments.

The Guidelines consider that the following influence visual impact:

- Form and characteristics of the landscape;
- Design and colour;
- The existing skyline;
- Layout of turbines, and
- The number and size of turbines and intervisibility of sites.

10.6 *South West Regional Planning Guidelines 2010-2022:-*  
Chapter 5: *Transport and Infrastructure Strategy:*

- RTS-09: *Energy and Renewable Energy:*

It is an objective to facilitate the sustainable development of additional electricity generation capacity throughout the region and to support the sustainable expansion of the network. National grid expansion is important in terms of ensuring adequacy of regional connectivity as well as facilitating the development and connectivity of sustainable renewable energy resources.

It is an objective to ensure that future strategies and plans for the promotion of renewable energy development and associated infrastructure development in the Region will promote the development of renewable energy resources in a sustainable manner. In particular, development of wind farms shall be subject to:

- the Wind Energy Planning Guidelines
- consistency with proper planning and sustainable development

- 
- criteria such as design and landscape planning, natural heritage, environmental and amenity considerations,

## **11.0 DEVELOPMENT PLAN**

### **Cork County Development Plan, 2014:-**

#### **Chapter 9: Energy and Digital Economy:**

##### **Section 9.1: *Energy:***

- *ED 1-1: Energy:*  
Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets
- *ED 1-2: Future Development of the County's oil and gas reserves*  
Ensure secure, reliable and safe supplies of electricity, gas and oil in order to maximize their value, maintain inward investment, support indigenous industry and create jobs.

##### **Section 9.2: *Renewable Energy***

##### **Section 9.3: *On-Shore Wind Energy:***

- *ED 3-1: National Wind Energy Guidelines:*  
Development of on-shore wind shall be designed and developed in line with the 'Planning Guidelines for Wind Farm Development 2006' issued by DoELG and any updates of these guidelines.
- *ED 3-2: Wind Energy Projects:*  
On-shore wind energy projects should focus on areas considered 'Acceptable in Principle' and Areas 'Open to Consideration' and generally avoid "Normally Discouraged" areas in this Plan.
- *ED 3-3: Wind Energy Generation:*  
Support a plan led approach to wind energy development in County Cork and identify areas for wind energy development. The aim in identifying these areas is to ensure that there are no significant environmental constraints, which could be foreseen to arise in advance of the planning process.

- 
- *ED 3-4: Acceptable In Principle:*  
Commercial wind energy development is normally encouraged in these areas subject to protection of residential amenity particularly in respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives.'
  
  - *ED 3-5: Open to Consideration:*  
Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:
    - Residential amenity particularly in respect of noise, shadow flicker and visual impact;
    - Urban areas and Metropolitan/Town Green Belts;
    - Natura 2000 Sites (SPA and SAC), Natural Heritage Areas (NHA's) or adjoining areas affecting their integrity.
    - Architectural and archaeological heritage;
    - Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.
  
  - *ED 3-6: Normally Discouraged:*  
Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments). Only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered.
  
  - *ED 3-7: Other Wind Energy Development:*  
The Council will consider proposals where it can be shown that significant impacts on;
    - Residential amenity particularly in respect of noise, shadow flicker and visual impact;
    - Urban areas and Metropolitan/Town Green Belts;
    - Sites designated for nature conservation, protected species and habitats of conservation value;
    - Architectural and archaeological heritage and;
    - Visual quality of the landscape and the degree to which impacts are highly visible over wider areas can be avoided.

---

Section 9.6: *Transmission Network:*

- *ED 6-1: Electricity Network:*

Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure.

Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards.

Facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal proper planning considerations.

Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected.

- *ED 6-2: Transmission Network:*

Proposals for new electricity transmission networks need to consider the feasibility of undergrounding or the use of alternative routes especially in landscape character areas that have been evaluated as being of high landscape sensitivity. This is to ensure that the provision of new transmission networks can be managed in terms of their physical and visual impact on both the natural and built environment and the conservation value of European sites.

Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected.

*Chapter 13: Green Infrastructure and Environment:*

Section 13.5: *Landscape*

Section 13.6: *Landscape Character Assessment of County Cork*

Section 13.7: *Landscape Views and Prospects*

---

**Skibbereen Electoral Area Local Area Plan, 2011, (2nd Ed. January, 2015):-**

Section 1: *Introduction to the Skibbereen Electoral Area Local Area Plan*

Section 2: *Local Area Strategy*

**12.0 ASSESSMENT**

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Environmental impact assessment
- Appropriate assessment
- Procedural issues
- Other issues

These are assessed as follows:

**12.1 The Principle of the Proposed Development:**

12.1.1 The provisions of the Cork County Development Plan, 2014 are generally in favour of the development of renewable energy, including wind energy, and acknowledge the economic and environmental benefits which can be derived from same. In this regard particular consideration should be given to the potential for the development of wind energy to aid in the achievement of Ireland's international, European and national commitments as regards the reduction of greenhouse gas emissions and the provision of energy from renewable sources. Accordingly, the Development Plan advocates a plan-led approach with regard to the development of on-shore wind energy in accordance with the recommendations of the *'Wind Energy Development, Guidelines for Planning Authorities'* and includes a Wind Energy Strategy Map (Figure 9.3) which (having taken account of a number of key policy considerations including the pattern of population distribution, the location of all existing and proposed wind energy developments and their cumulative impacts, the availability of access to the electricity distribution grid, the implications of any important or high value landscapes, the location of nature conservation sites (including Natura 2000 sites), and the provisions of the Sustainable Energy Ireland (SEI) Wind Atlas, 2003) has identified, in broad strategic terms, three categories of *'Wind Deployment Area'* for large scale commercial wind energy developments i.e. *'Acceptable in Principle'*, *'Open to Consideration'*; and *'Normally Discouraged'*.

---

12.1.2 Whilst the subject proposal does not, in itself, involve the development of any wind turbines and actually relates to the proposed laying of a 38kV underground electricity cable, it is clear that it is inherently linked to the development of wind energy in the wider area given that it is specifically intended to connect the proposed Shehy More Wind Farm (PA. Ref. No. 13/551 / ABP Ref. No. PL04.243486) to the National Grid via either the permitted substation at Garranareagh (PA. Ref. No. 11/6605 / ABP Ref. No. PL04.219620) or the 'proposed' substation at Barnadivane (Kneevies) (PA Ref. No. 14/557 / ABP Ref. No. PL04.244439). In this respect it is of relevance to have regard to the fact that the more centrally located and westernmost extents of the proposed grid connection route are situated within areas which have been identified as '*Open to Consideration*' in the Wind Energy Strategy Map contained in the Development Plan whilst the easternmost extent of the cable route (which generally corresponds with that section to the southeast of the village of Teerelton) is in an area where large scale commercial wind energy developments are deemed to be '*Acceptable in Principle*'. Therefore, on the basis of the foregoing, and having regard to the planning history of both the application site and the wider area where a considerable number of wind energy-related developments have been approved by either by the Planning Authority or An Bord Pleanala, it is my opinion that the development of the grid connection in question at the location proposed is certainly '*Open to Consideration*' and thus I propose to assess the subject proposal from first principles in order to establish its wider environmental impact and to determine whether or not the application site is an acceptable location for same.

12.1.3 In terms of the wider debate as regards the overall merits of developing wind energy from both an economic and environmental perspective, in my opinion, it is not within the remit of the Board to undertake an in-depth analysis of such matters which pertain to the formulation of national, European and international policies and programmes, including the National Renewable Energy Action Plan. Instead, I would suggest that it is a function of the Board to ensure that physical development and major infrastructure projects in Ireland respect the principles of sustainable development, including the protection of the environment, in line with adopted policy programmes. In effect, it is presently Government policy to pursue the development of wind energy and therefore it is entirely appropriate to assess the subject proposal in this context.

---

## **12.2 Environmental Impact Assessment:**

### **12.2.1 Outline of Process:**

12.2.1.1 In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning & Development Acts, 2000-2015, this process requires the Board, as the competent authority, to identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of the proposed development on the four indents listed in Article 3 of that Directive as set out below:

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

12.2.1.2 This assessment also requires consideration to be given to, where relevant, the indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the proposal, including those which arise during the construction phase, which are essentially short-term and temporary, as distinct from the likely long-term effects arising from the operational phase.

12.2.1.3 The Environmental Impact Statement which has accompanied the subject application generally follows a grouped format structure with each environmental topic presented in a separate chapter. It includes a generally satisfactory description of the receiving environment, the proposed development, its impacts and proposed mitigation measures, and has been accompanied by a non-technical summary. In my opinion, this document can be described as 'satisfactory' in that it accords with the requirements of Schedule 6 of the Planning and Development Regulations, 2001, as amended, and is sufficient to comply with Section 172 of the Planning and Development Act, 2000, as amended, and Article 94 of the Regulations.

12.2.1.4 In general, this part of my assessment of the subject application is informed by the contents and conclusions of the EIS, and also by information provided during the various stages of the application / appeal process in relation to the likely effects of the development on the environment and its likely consequences for the proper planning and sustainable development of the area



---

in which it is proposed to be situated. My assessment also has regard to potential mitigation measures, including those indicated in the EIS, and any others which might reasonably be incorporated into any decision to approve the development through the attachment of conditions.

12.2.2 Consideration of Alternatives:

12.2.2.1 Schedule 6 of the Planning and Development Regulations, 2001, as amended, requires an EIS to include *'An outline of the main alternatives studied by the developer and an indication of the main reasons for his or her choice, taking into account the effects on the environment'*. In this respect I would refer the Board to Section 2.4 of the EIS which states that the applicant considered various alternative grid connection routes and construction methodologies with a view to complying with the foregoing requirement.

12.2.2.2 More specifically, Section 2.4.2 of the EIS submits that the proposed grid connection route represents the shortest and most accessible pathway between the proposed Shehy More Wind Farm and the Barnadivane substation using the public road corridor. In support of the foregoing, it has been submitted that although there are alternative routes available along the public road network, these would be of a longer distance and thus have an increased potential to give rise to environmental impacts from the associated ground disturbance. In addition, whilst there is an acknowledgement that an alternative and more direct route would be theoretically possible 'cross-country', I would accept that any such route would involve crossing open fields / forestry (i.e. not availing of the established public road corridor and through lands not within the control of the applicant) and would therefore also have the potential for greater environmental impacts to arise.

12.2.2.3 In terms of alternative construction methodologies, in the first instance, Section 2.4.3 of the EIS has referenced the possible use of a network of overhead transmission lines as an alternative connecting technology to the national grid (other than the proposed underground grid connection), however, it was concluded that such an arrangement would not be optimal as it could give rise to additional landscape and visual impacts that would otherwise be mitigated through the provision of an underground connection. Secondly, Section 2.4.4 of the EIS has also referenced the alternative methodologies that will be employed for watercourse crossings along the proposed cable route.

12.2.2.4 At this point it is of relevance to note that the *'Guidelines on the information to be contained in Environmental Impact Statements'* published by

---

the Environmental Protection Agency in March, 2002 acknowledge the existence of difficulties and limitations when considering alternatives in the context of Environmental Impact Assessment. In this respect it should be noted that whilst EIA is confined to the assessment of the environmental effects which influence the consideration of alternatives, it is important to acknowledge that other non-environmental factors may have equal or overriding importance to the developer such as project economics, land availability, engineering feasibility and planning considerations. Similarly, the consideration of alternatives also needs to be set within the parameters of the availability of land or the need for the project to accommodate demands or opportunities which are site specific.

12.2.2.5 Having regard to the foregoing, and following a review of the available information, including the consideration of alternatives as set out in the submitted EIS, in my opinion, the applicants' investigation of alternatives complies with the requirements of the Regulations insofar as the applicant has provided a satisfactory examination of the main alternatives studied with regard to the project in addition to a reasoned explanation for the selection of the submitted proposal.

12.2.3 Human Beings:

12.2.3.1 In terms of assessing the potential impact of the proposed development on human beings I would, in the first instance, refer the Board to Chapter 4 of the submitted EIS which focuses attention on settlement and land use, tourism, health, property values, and other socio-economic considerations.

12.2.3.2 Population, Settlement and Land Use:

12.2.3.2.1 The proposed grid connection route extends in an easterly direction across a total of 26 No. townlands for a distance of 26.27km, of which approximately 2.81km will be located within the internal access roadways serving the proposed Shehy More Wind Farm, with the remaining 23.46km generally following the corridor of various minor public roadways, although it will also extend along a short section of the R587 Regional Road (c. 0.22km) within the village of Kilmichael. The overall level of residential development within the immediate site surrounds is generally low (c. 95 No. dwelling houses within 100m of the proposed cable route) and characteristic of this upland rural location in that its primarily comprises one-off rural housing developed along the roadside, with the exception of smaller concentrations of housing within the villages of Kilmichael and Teerelton. The current land uses on site are transportation and commercial forestry as the proposed works will be restricted to existing road infrastructure and forestry tracks, although lands adjacent to the route and within

---

the wider area are generally used for agricultural and forestry purposes with intermittent instances and localised concentrations of individual farmsteads and one-off rural housing in addition to the presence of local schools and some commercial services (e.g. post office, public house etc.) within the villages of Kilmichael and Teerelton.

12.2.3.2 Whilst I would acknowledge that the construction phase of the proposed development will result in a localised and temporary increase in activity in the wider area, I would concur with the applicant that this will not have any significant impact in terms of the composition of the local population or on settlement patterns. Furthermore, given the nature of the proposed works, with particular reference to the reinstatement and resurfacing of the carriageway, the existing land use of the transport / road corridor will continue both upon completion of the development and also to some extent during the wider construction works, although admittedly with some degree of temporary disruption arising from possible road closures, diversions and other traffic management measures. In this respect I am inclined to suggest that the level of disruption expected to be generated during the construction stage in terms of access for local residents etc. will be both limited in extent and duration given the nature of the works proposed. More specifically, I would accept that the limiting of individual active construction areas to an approximately 300m stretch of roadway at any one time, with a separation of two to three kilometres to be maintained between any such areas in instances where multiple crews are installing ducting along the route, will serve to limit the temporary impact at any one location thereby reducing the potential for on-going or longer-term disturbance and / or disruption at specific locations e.g. individual dwelling houses (*N.B.* It is anticipated that the works will be undertaken at a rate of c. 150m of cable being laid daily over the course of a 12-month period of construction).

12.2.3.2.3 In terms of employment, it is anticipated that there will be a short-term beneficial impact on the area as the majority of workers and materials will be sourced locally thereby sustaining employment in the relevant sectors with approximately 15 No. people expected to be employed during the construction phase. This injection of capital in the form of salaries and wages is also likely to comprise a short-term moderate positive impact as regards supporting local business and contributing to household incomes.

#### 12.2.3.3 *Tourism:*

12.2.3.3.1 From a tourism perspective, the proposed development site is located within the South-West Region and it is notable that in terms of visitor numbers

---

and revenue, this region places second highest after the Dublin Region. However, whilst the EIS has asserted that there are no tourist attractions pertaining specifically to the subject site and that the Study Area is not located within any of the 'strategic tourism areas' identified in the Cork County Development Plan, I would advise the Board that Section 8.2: '*Protection of Tourist Assets*' of the Development Plan identifies both the Lee River Valley (with its important recreational amenity and fisheries areas) and the Shehy Mountains (an important centre for walking, cycling, and adventure related activities) as '*nationally significant tourism assets*'. In this regard I would suggest that although the EIS has acknowledged that the wider environment / landscape affords opportunities for walking, hiking, cycling and horse-riding, the subsequent assertion that there are no designated trails located within the site must be taken in context given that the wider area is known as an important centre for walking and cycling activities etc. In addition to the foregoing, it is also notable that there are two Scenic Routes along the proposed route (i.e. Scenic Route Nos. S32 & S36), although the application site is not located within a 'High Value' landscape as identified in the Development Plan.

12.2.3.3.2 Having considered the available information, it is my opinion that the operational impact of the proposed grid connection on tourism considerations will be negligible given the underground nature of the works and the proposed road reinstatement measures, however, it is clear that the construction phase and the associated disruption arising from the necessary traffic restrictions will have a short-term negative impact on local tourism and amenity. The extent of this constructional impact can be mitigated in part through the implementation of a suitable traffic management plan which will provide for local access with appropriate diversions and alternative routes where necessary, and whilst I would accept that the works in question will inevitably give rise to a slight negative impact, this will be of a short-term duration, particularly as the impact at any one location will be limited due to the continued completion of individual sections of the grid connection thereby reducing the potential for on-going or longer-term disturbance and / or disruption at specific locations.

#### *12.2.3.4 Health and Safety:*

12.2.3.4.1 Particular concerns have been raised in the grounds of appeal as regards the potential health implications associated with the emission of electromagnetic radiation from the proposed grid connection, however, Section 4.4.1 of the EIS confirms that the low frequency (ELF) electric and magnetic (EMF) fields expected to be associated with the operation of the proposed cable connection will fully comply with the international guidelines set by the International

---

Commission on Non-Ionising Radiation Protection (ICNIRP), as well as EU guidelines for human exposure to EMF. In this regard I would further advise the Board that exposure to electromagnetic fields (EMF) is commonplace and that it is my understanding that the magnetic field associated with the grid connection will be mitigated due to the undergrounding of same with the EMF decreasing rapidly with distance as the ground absorbs it.

12.2.3.4.2 Whilst I would acknowledge the appellants' concerns given the proximity of the proposed grid connection to nearby housing and local schools etc., I am not in a position to undertake an extensive in-depth analysis of the wider debate as regards the alleged impact of electric and magnetic (EMF) fields on human health nor do I consider it to be within the remit of the Board to undertake such an exercise. In addition, I would draw the Board's attention to the *'Proposed Revisions to the Wind Energy Development, Guidelines for Planning Authorities: Targeted Review in relation to Noise, Proximity and Shadow Flicker'* published by the Department of the Environment, Community and Local Government in December, 2013 and, in particular, to the introduction to same which expressly states that *'Concerns of possible health impacts in respect of wind energy infrastructure are not matters which fall within the remit of these guidelines as they are more appropriately dealt with by health professionals'*. This would seem to suggest that matters pertaining to the alleged impact of wind energy infrastructure, including grid connections, on human health are outside of the remit of the planning system. Accordingly, it is my opinion that the Board is restricted to considering the subject proposal in the context of the applicable current guidance and in this respect the submitted information serves to clarify that the development will comply with the international guidelines set by the International Commission on Non-Ionising Radiation Protection (ICNIRP), as well as EU guidelines for human exposure to EMF. Therefore, in my opinion, it would not be reasonable to refuse permission on public health grounds in this instance.

12.2.3.4.3 With regard to the construction, maintenance and any future decommissioning of the proposed grid connection, any associated potential health and safety impacts can be satisfactorily mitigated through adherence to all relevant health and safety requirements.

*12.2.3.5 Devaluation of Property:*

12.2.3.5.1 Section 4.5 of the EIS asserts that property values will not be affected by the proposed development due to the temporary nature of the works and as the road surface will be reinstated to its original condition. In this respect whilst I would acknowledge the concerns raised in the grounds of appeal that the mere

---

presence of the electrical cable along the public road could potentially impact on the monetary value of adjacent properties, no evidence has been submitted to support such a proposition and I would further suggest that the laying of electrical, telecommunications and other service cables within public roads (both in rural and urban locations) in relatively close proximity to housing etc. is not in itself an unusual occurrence. Accordingly, given the nature of the proposed works, which will be underground, and the proposal to reinstate the roadway to its original condition, I am satisfied that the development in question is unlikely to result in any devaluation of property.

*12.2.3.6 Noise and Dust:*

12.2.3.6.1 In the interests of conciseness, and in order to avoid unnecessary repetition, I would refer the Board to my assessment of these potential impacts as detailed elsewhere in this report.

*12.2.3.7 Construction, Operational & Decommissioning Impacts:*

12.2.3.7.1 It is evident from the available information, and the foregoing assessment, that the principle impact of the proposed development on human beings will arise during the constructional phase as a direct result of the inevitable disruption / disturbance associated with such works. However, the very nature of construction works is inherently temporary and of limited duration thereby reducing the significance of the impact whilst the implementation of suitable mitigation measures through adherence to a Construction and Environmental Management Plan and best work practice will further serve to ameliorate any potential impacts. Therefore, on balance, it is my opinion that the short-term negative impact of the proposed construction works on the human environment by reason of noise, dust, traffic and general disturbance etc. does not warrant a refusal of permission.

12.2.3.7.2 With regard to the operational phase of the proposed development, I would concur with the applicant that no potential impacts on human beings will arise at this stage given that the grid connection will be sited underground with the route corridor of same having been reinstated.

12.2.3.7.3 In terms of future decommissioning, the likelihood is that the proposed grid connection will become a permanent part of the electricity transmission network, however, in the event of any future need for decommissioning, this will only involve the removal of the cables which can be carried out via the joint bays with minimal excavation required to expose the joint bays and the cables subsequently being pulled from the ducts using cable pulling equipment. This is a

---

relatively simple operation and any impacts arising during same such as traffic restrictions would be short-lived and negligible.

*12.2.3.8 Cumulative Impacts with Other Projects:*

12.2.3.8.1 Section 4.6.5 of the EIS considers the potential for cumulative impacts on human beings between the proposed grid connection and the following projects:

- The proposed Shehy More Wind Farm – PA Ref. No. 13/551 / ABP Ref. No PL04.243486
- The proposed Shehy More turbine delivery works – Inchincurka Cross Roads
- The permitted Barnadivane Wind Farm – PA Ref. Nos. 055907 (ABP Ref. No. PL04.219620) & 11/06605
- The permitted Barnadivane Wind Farm - PA Ref. No. 14/6760
- The permitted Barnadivane Substation – PA Ref. No. 14/557
- The proposed Carrigarierk Wind Farm – PA Ref. No. 15/730 / ABP Ref. No. PL04.246353
- The permitted Barnadivane access road – PA Ref. No. 14/6803

12.2.3.8.2 In this respect it has been submitted that no significant cumulative impacts will arise and that the slight negative cumulative impact on tourism and amenity during the construction phase will be of a temporary nature and can be satisfactorily mitigated subject to the implementation of the identified mitigation measures i.e. a traffic management plan.

12.2.3.8.3 Having considered the available information, it is my opinion that the proposed development is unlikely to result in any significant cumulative impacts when taken in conjunction with other projects in the wider area. Whilst I would concede that there is the potential for some cumulative impacts to arise during the construction phase of the proposed development in the event it were to proceed in tandem with the construction of one or more of those other wind energy-related projects in the area, most notably in the form of disruption / disturbance related to the imposition of traffic restrictions and the generation of noise and dust emissions during the construction works, due to the limited extent and duration of the subject works, including the gradual progression of same along the route corridor, in addition to the implementation of suitable mitigation through the use of best practice construction management measures, I am inclined to conclude that any such cumulative impact would be of limited significance and would not warrant a refusal of permission.

---

(N.B. Although there are other developments proposed within the wider area, the nature and proximity of the projects set out in Section 2.3.2 of the EIS is a key factor in assessing the potential for cumulative impacts, particularly as the separation distance from other projects serves to reduce / mitigate the potential for any in-combination impacts).

#### 12.2.4 Flora and Fauna:

12.2.4.1 In the first instance, and in order to avoid unnecessary repetition, I would advise the Board that the proposed development site is not subject to any European designation and that my assessment of the impact of the proposed development on the qualifying interests of Natura 2000 sites in the surrounding area pursuant to Article 6 of the Habitats Directive, is set out elsewhere in this report under the section entitled '*Appropriate Assessment*'. Accordingly, I propose to focus the following aspect of my assessment on the broader environmental impact of the proposed development on the remaining ecological considerations (i.e. including those aspects of flora and fauna which are not subject to a requirement for 'appropriate assessment').

12.2.4.2 Chapter 6 ('*Flora & Fauna*') of the EIS is based on a desk-top assessment of the available resources and field surveys (17<sup>th</sup> June, 2015) conducted for the proposed cable route. In this respect it is of particular relevance to note that due to the lack of habitat diversity and the fact that the entire grid connection route, save for a small section that runs through private lands (i.e. the forestry / access tracks within the site of the proposed Shehy More Wind Farm), is within the curtilage of the existing public road network, it has been submitted that detailed habitat and botanical surveys were not required.

#### 12.2.4.3 Habitats:

12.2.4.3.1 Given the limited extent of the proposed works and the confinement of the construction corridor to existing roadways / tracks, there was no requirement to traverse habitats outside of same. Habitats along the cable route have been identified in accordance with the '*Guide to Habitats in Ireland (Fossitt, 2000)*' and habitat mapping was undertaken with regard to '*Best Practice Guidance for Habitats Survey and Mapping (Smith et al., 2011)*'. Accordingly, all roads and tracks within / adjacent to the cable route have been classified as '*Buildings and Artificial Surfaces (BL3)* / '*Spoil and Bare Ground (ED2)*' whilst it has been established that the verge areas bordering same predominantly support '*Dry Meadows and Grassy Verges*'. Also present along much of the road, outside of the proposed working area, are '*Hedgerows (WL1)*', '*Treelines (WL2)*', '*Earth*



---

*Banks (BL2)*, *Scrub (WS1)*, *Stone Walls (BL1)* and some buildings *(BL3)*, although these habitats are unlikely to be disturbed during the proposed works. The proposed route extends in an easterly direction from an upland area where the dominant roadside habitats include upland pasture classified as *Wet Grassland (GS4) / Acid Grassland (GS3)*, *Exposed Siliceous Rock (ER1)*, *Dry Siliceous Heath (HH1)*, *Degraded Wet Heath (HH3)*, patches of *Scrub (WS1)* and *Conifer Plantations (WD4)*. Upon continuing eastwards the adjacent habitats become increasingly dominated by *Improved Agricultural Grassland (GA1)* whilst the roadside verge also becomes less species-rich. Additional habitats adjacent to the roadside include *Mixed Broadleaved Woodland (WD1)*, *Mixed Broadleaved / Conifer Woodland* and *Oak Birch Holly Woodland (WN1)* and *Degraded Heath (HH)*.

12.2.4.3.2 In addition to the foregoing, the Board is advised that a number of rare or unusual plant species were previously recorded within the relevant hectads in which the proposed development is situated (W16, W26 & W36), as were a number of species listed within the Irish Red Data Book.

12.2.4.3.3 The proposed grid connection route will also necessitate a total of 41 No. watercourse / culvert crossings (15 No. stream crossings and 26 No. drain / culvert crossings) which will employ either of the following methodologies: Piped culvert crossings, flatbed formation over culverts or at road level, or directional drilling. No in-stream works are required at any of the watercourse crossings

12.2.4.3.4 With regard to the significance of the foregoing, it is of relevance to note that none of the habitats recorded within the proposed works area correspond to habitats listed within Annex I of the EU Habitats Directive, although it is acknowledged that some habitats with links to Annex I habitats *Wet Heath (4010)* and *Dry Heath (4030)* were recorded adjacent to the proposed grid connection route towards the western extremity of same. In addition, the riverine habitats recorded at Watercourse Crossings Nos. 27 & 29 have links to *Floating River Vegetation (3260)* whilst the fragments of oak woodland encountered adjacent to the route may also have links to *Old Sessile oak woodland with Ilex and Blechnum in the British Isles (91A0)*.

12.2.4.3.5 Whilst the proposed works will inevitably result in the loss of some roadside habitats / vegetation primarily consisting of grassy verges due to the excavation works and subsequent replacement, I would concur with the findings of the EIS that these habitats are not of any particular ecological significance given that they are commonplace and of limited value from a biodiversity

---

perspective. It is also worth considering the likelihood that a considerable amount of the proposed works will take place along the roadway itself and thus will simply involve the excavation and reinstatement of existing artificial surfaces. In relation to the potential impact of the proposed watercourse crossings, although the watercourses themselves are of ecological significance as they could act as a conduit for pollution of downstream habitats of ecological sensitivity, no in-stream works are proposed at any crossing point and best practice construction measures will serve to obviate the risk of any potential pollution / contamination incidents. Therefore, it is my opinion that the proposed development will not have any significant impact on habitats.

#### *12.2.4.4 Natural Heritage Areas:*

12.2.4.4.1 The proposed development site does not traverse any Natural Heritage Area (proposed or otherwise) and thus will not directly impact on the integrity of same. Furthermore, whilst the proposed grid connection route will necessitate the crossing of various streams and drainage channels which drain towards the Lough Allua proposed Natural Heritage Area (at a distance of 0.5km downstream), it is reiterated that no in-stream works are proposed at any crossing and that the implementation of suitable mitigation measures during the construction phase will prevent any potential contamination incidents thereby avoiding any deterioration in water quality within the pNHA.

#### *12.2.4.5 European Sites:*

12.2.4.5.1 It has already been stated that my assessment of the impact of the proposed development on the qualifying interests of Natura 2000 sites in the surrounding area pursuant to Article 6 of the Habitats Directive, is set out elsewhere in this report under the section entitled '*Appropriate Assessment*'.

#### *12.2.4.6 Fauna:*

12.2.4.6.1 In terms of avifauna, it should be noted at the outset that the proposed grid connection route does not pass through any Special Protection Area designated pursuant to the provisions of the EU Birds Directive. Furthermore, whilst a variety of bird species were observed during the course of field surveys, none of these are listed on Annex I of the Birds Directive, although it is accepted that larger watercourses within the study area could potentially provide for such species e.g. the Kingfisher. The EIS also acknowledges that overwintering species are likely to occur in the wider landscape, but proceeds to state that these are unlikely to be impacted on given the limited extent and temporary nature of the proposed works. Notably, a detailed bird survey was not conducted as part of the submitted ecological assessment, primarily on the basis of the

---

nature of the proposed works and the site context, however, it has been submitted that the species assemblage recorded during the site visit would be typical of the survey effort and habitats present within the study area whilst a greater variety of species is likely to occur within the wider landscape.

12.2.4.6.2 Having considered the available information, it is my opinion that, given the site context, the level of survey work carried out for the proposed development is adequate for the purposes of establishing if the works in question would have any significant impact on avifauna. Furthermore, whilst the construction of the proposed grid connection will result in the loss of a limited area of habitat that may be frequented by certain bird species and will also give rise to some level of disturbance, any such impacts will be limited in duration (and extent) due to the temporary nature of the construction works and the intention to reinstate excavated areas. In addition, considering that the site itself is not the subject of any statutory designation as regards the protection of bird species, the fact that no species listed on Annex I of the Birds Directive were recorded on site, and as any displacement of local avifauna will be both temporary in nature and will likely be compensated through the use of comparable habitats within the wider landscape, I am satisfied that the proposed works will not result in any significant impact on bird species along the grid connection route.

12.2.4.6.3 In relation to other fauna, the EIS has detailed that an otter survey was conducted at each of the proposed watercourse crossings with the only evidence of otter activity being recorded in the form of prints at Watercourse No. 18 and in this regard it is considered likely that the watercourses are being used by otter as a feeding area / commuting corridor, although no active holts or couches were recorded. However, as the proposed works will be limited to within the curtilage of the existing roadway, and given the absence of any proposals for in-stream works, in addition to the fact that constructional works in any one location will be of a short duration, I would accept the conclusion drawn in the EIS that the proposed development is unlikely to impact on otter or any suitable otter habitat.

12.2.4.6.4 With regard to bats, it has been submitted that as the proposed works will not involve the loss or alteration of any trees, hedges or any other features that may be of significance to bats, it was not considered necessary to undertake a dedicated bat survey. It has also been asserted that as the proposed cabling will be installed either within the road surface or via directional drilling at any bridge crossings along the route (thereby avoiding any works to the structure of

---

those bridges) there will be no impact on any potential bat roosts at those locations.

12.2.4.6.5 No suitable habitat for either the Marsh Fritillary Butterfly or the Kerry Slug was recorded within the proposed route corridor and thus no impacts arise in respect of those species.

*12.2.4.7 The Aquatic Environment:*

12.2.4.7.1 In terms of the aquatic environment, the entirety of the proposed grid connection route is located within the River Lee surface water catchment with the majority of those watercourses that require crossing flowing directly into Lough Allua or the River Lee. In this regard it should be noted that the Freshwater Pearl Mussel is listed under Annex II of the EU Habitats Directive and that the majority of the grid connection route is located within the Lee Upper *Margaritifera* Sensitive Area where extant populations of the species are known to be found in the River Lee and Lough Allua, although this catchment has not been afforded protection by way of designation as a Special Area of Conservation (*N.B.* The nearest such site is located along the Bandon River c. 6.2km south of the application site within the Bandon River catchment). Accordingly, any deterioration in surface water quality within tributaries / watercourses draining to the river system consequent on the proposed development could potentially have a significant indirect impact on both the Freshwater Pearl Mussel and other downstream species and habitats. For example, potentially negative impacts during the construction stage of the proposed development on the wider aquatic environment and fisheries would include:

- The pollution of watercourses with suspended solids due to runoff of soil from construction areas.
- Excessive nutrient release due to runoff of soil from construction areas.
- The contamination of surface waters during construction works through the accidental release or discharge of hydrocarbons or other contaminated site runoff.

12.2.4.7.2 In this respect it has been submitted that the inherent design of the proposed development is such that it will serve to mitigate the aforementioned risk as no in-stream works are proposed. In addition, Section 7.4 of the EIS details a series of mitigation measures proposed to protect surface water quality whilst the adoption of best practice techniques (as set out in Section 5.6.1.3 of the EIS) will also serve to ensure that the risk of any sediment release and the potential for pollution during the construction phase is minimised. Accordingly, it

---

is my opinion that the risk of a detrimental impact on downstream water quality and the consequences of same on aquatic ecological considerations can be satisfactorily mitigated both through the nature / design of the works proposed and the implementation of an appropriate programme of pollution control measures which are effectively tied into good construction and site management practice

#### *12.2.4.8 Invasive Species:*

12.2.4.8.1 A number of invasive species have been recorded within those hectads through which the route of the proposed grid connection will pass (Japanese Knotweed, Himalayan Balsam, Himalayan Knotweed, Rhododendron, New Zealand Pygmy Weed, Canadian Waterweed, and Nuttall's Waterweed) and this is supported by the field survey which identified a number of instances of Japanese Knotweed and Rhododendron along the grid route. Therefore, there is the potential for the movement of construction machinery and plant during the excavation works required for the grid connection to result in the introduction or spread of these invasive species along different sections of the route. In order to mitigate this potential impact the applicant has indicated that any treatment or control of such species will adhere to the guidance issued by the National Roads Authority – *'The Management of Non-Native Invasive Plant Species on National Roads'*, and the Environment Agency's *'Knotweed Code of Practice: Managing Japanese Knotweed on Development Sites'*. Further mitigation will involve the implementation of those measures set out in the Construction and Environmental Management Plan contained in Appendix 3-2 of the EIS and adherence to the provisions of the Invasive Species Management Plan (Appendix 3-4).

#### *12.2.4.9 Construction, Operational & Decommissioning Impacts:*

12.2.4.9.1 It is evident that the principle impact of the proposed development on flora and fauna will arise during the constructional phase as a direct result of the inevitable disruption / disturbance associated with such works. However, I would reiterate that any such impacts are inherently temporary and of limited duration thereby reducing the significance of same whilst the implementation of suitable mitigation measures, including adherence to a Construction and Environmental Management Plan and best work practice, will further serve to ameliorate any potential impacts.

12.2.4.9.2 With regard to the operational phase of the proposed development, I would concur with the applicant that no potential impacts on flora or fauna will arise at this stage given that the grid connection will be sited underground with the route corridor of same having been reinstated.

---

12.2.4.9.3 Finally, in the event of any future need for decommissioning, this will involve minimal excavation with the cables subsequently pulled from the ducts using cable pulling equipment and, therefore, any impacts would be short-lived and negligible.

*12.2.4.10 Cumulative Impact with Other Projects:*

12.2.4.10.1 Whilst I would concede that there is the potential for some cumulative impacts to arise during the construction phase of the proposed development in the event it were to proceed in tandem with the construction of one or more of those other wind energy-related projects identified in the EIS, most notably in the form of increased disturbance to fauna, due to the limited extent and duration of the subject works, including the gradual progression of same along the route corridor, in addition to the implementation of suitable mitigation through the use of best practice construction management measures, I am inclined to conclude that any such cumulative impact would be of limited significance and would not warrant a refusal of permission.

12.2.4.10.2 I would also specifically state that although the proposed Shehy More Wind Farm will necessitate account to be taken of possible impacts on other avifauna (given the acknowledgement in ABP Ref. No. PL04.243486 that bird species of conservation significance could possibly be present on that site and could fly at heights at which they could collide with the blades of a wind turbine e.g. Hen Harrier, Merlin, Peregrine Falcon, White-Tailed Eagle, Chough and wintering Golden Plover), in my opinion, the specifics of the grid connection and its site context will not give rise to any cumulative impacts as regards those bird species.

12.2.4.10.3 In conclusion, it should be acknowledged that most forms of development will invariably impact on ecological considerations to some degree, however, in this instance, I am satisfied that on balance the residual impacts of the proposed development are both localised and of such limited significance and influence as not to warrant a refusal of permission. Accordingly, having considered the available information, in my opinion, the impact of the proposed development on flora and fauna on site is within tolerable limits.

12.2.5 Soils and Geology:

12.2.5.1 With regard to the dominant bedrock geology underlying the grid connection route, reference to the GSI database indicates that the lands are underlain by Devonian Old Red Sandstone which comprises different

---

combinations of sandstone, mudstone and siltstones that are regularly cross-bedded in areas. This geological resource is considered to be of 'low' importance.

12.2.5.2 In respect of the overlying soils and subsoils, mapping available from the Environmental Protection Agency has confirmed that the predominant soil types in the area are peaty podzols and lithosols. Podzols are predominantly shallow soils derived from non-calcareous rock with a peaty surface horizon. Poorly drained peaty gleys have also been mapped in the lower lying valley areas and adjacent to watercourses. Along the existing road sections of the proposed grid connection, soils are predominantly absent except along some verges. The subsoils map compiled by the GSI also shows that mineral subsoils are absent or thin over much of the proposed grid connection within the proposed Shehy More Wind Farm site whilst it is also notable that no peat was encountered along that section of the route. The distribution of subsoils along the remainder of the grid connection route is described as being characterised by sandstone tills in the lower lying valley areas which become thin or absent on the more elevated sections of the route. These soil and subsoil deposits along the proposed route are also considered to be of 'low' importance from a geological perspective.

12.2.5.3 Potential negative impacts on the underlying soil / geology arising as a result of the proposed development will include the direct physical impact of excavations carried out during the construction stage and the possible contamination of subsoils and surface / ground waters due to accidental spillages / leakages. No operational impacts will arise whilst the impact of any decommissioning works will be less than those encountered during the initial construction phase, particularly as it will involve the excavation of previously disturbed ground.

12.2.5.4 Although the proposed excavations will have a direct and permanent residual impact, it is clear that the geological resource affected is of low importance and that the proposed backfilling / reinstatement works will serve to mitigate same with the result that the overall effect will be of little significance. Similarly, it is noteworthy that there are no sites of geological heritage significance along the proposed grid connection route. Furthermore, in order to minimise the potential constructional impacts arising from the development, it is proposed to implement a series of mitigation measures set out in Section 6.4.2.2 of the EIS which includes various mechanisms intended to minimise the accidental release or discharge of hydrocarbons.

---

12.2.5.5 In terms of the potential for cumulative impacts, it is of relevance to note that the proposed grid connection will connect the proposed Shehy More Wind Farm to either the permitted substation at Garranareagh (PA. Ref. No. 11/6605 / ABP Ref. No. PL04.219620) or the proposed substation at Barnadivane (Kneevies) (PA Ref. No. 14/557 / ABP Ref. No. PL04.244439) (*N.B.* At this point, I would reiterate to the Board that its decision to grant permission for ABP Ref. No. PL04.244439 was the subject of judicial review proceedings [2016 614 HR] and that it subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration). In this respect the EIS has stated that the differential in the overall length of the proposed cable route is c. 850m, although the construction of each cable connection will be completed in the same manner.

12.2.5.6 In addition to the foregoing, it is of particular relevance to note that the proposed grid connection will be partially located along the same roads as the cable route serving the Carrigarierk Wind Farm which was recently granted on appeal under ABP Ref. No. PL04. 246353 (PA Ref. No. 15730). From the point where the grid connection routes would meet in the townland of Terranassig, the cable connections for both projects are to be facilitated within the same trench as far as the Barnadivane substation. Accordingly, in the event of favourable consideration being given to the Shehy More Wind Farm, it is anticipated that the grid connection for both the Shehy More and Carrigarierk Wind Farms will be facilitated within the single trefoil formation connection to Barnadivane substation, thereby minimising the potential for cumulative impacts.

12.2.5.7 Having considered the various existing, proposed and planned wind energy-related projects in the wider area, with particular reference to the Shehy More and Carrigarierk Wind Farms in addition to the Barnadivane substation, and in light of the limited scale and nature of the subject works, I am satisfied that the construction, operation and any decommissioning of the proposed development should not give rise to any significant cumulative or in-combination impacts in terms of soil and geological considerations on site.

12.2.6 Hydrology and Hydrogeology:

12.2.6.1 Chapter 7 of the EIS focuses on the likely hydrological and hydrogeological impacts arising as a result of the proposed development. It states that the proposed grid connection cable route is located entirely within the surface water catchment of the River Lee (Hydrometric Area 20 of the South Western River Basin District) and in this respect it is of particular relevance to



---

note that the proposed development will necessitate a total of 41 No. watercourse crossings (including 15 No. streams) comprising a combination of natural streams and drains, all of which have an existing culvert in place. It is proposed to install the grid connection cable either over the existing culverts, below the existing culverts by means of an excavated trench, or through the use of trenchless technology (i.e. directional drilling). No in-stream works will be required at any of the proposed watercourse crossings and thus it has been submitted that there will be no potential for any direct impact on surface waters. Designated sites downstream of the site include The Gearagh SAC & pNHA and the Lough Allua pNHA which can be considered to be very sensitive due to the presence of Annex II species whilst other non-designated downstream surface waters such as the River Lee are also sensitive to potential contamination.

12.2.6.2 With regard to flooding, Section 7.3.5 of the EIS states that the OPW's indicative river and coastal flood mapping does not identify any recurring incidences of flooding along the proposed cable route, although it is acknowledged that further downstream of the proposed route, the Bealaphadeen Stream has reports of recurring flooding upstream of Allua Lough as does the River Lee downstream of Allua Lough. Having reviewed the data available from the 'National Flood Hazard Mapping' prepared by the Office of Public Works, the Predictive Flood Maps contained in the Lee Catchment Flood Risk Assessment and Management Study, and the mapping undertaken for the Preliminary Flood Risk Assessment, I would concur with the EIS that there are no recorded instances of significant flood events along the route of the proposed grid connection. Furthermore, having regard to the actual nature of the proposed works which will involve the laying of an underground cable and the subsequent reinstatement of the overlying roadway, it is my opinion that the submitted proposal will not give rise to any additional surface water runoff and will not contribute to any increased flood risk.

12.2.6.3 It has already been set out elsewhere in this report that any deterioration in surface water quality within tributaries / watercourses draining to the River Lee catchment consequent on the proposed development could potentially have a significant indirect impact on populations of Freshwater Pearl Mussel and other downstream species and habitats. For example, potentially negative impacts during the construction stage of the proposed development on the wider aquatic environment and fisheries would include the pollution of watercourses with suspended solids due to runoff of soil from construction areas and the contamination of surface waters through the accidental release or discharge of hydrocarbons or other contaminated site runoff.

---

12.2.6.4 In this respect I would reiterate that the design of the proposed development is such that it will serve to mitigate the aforementioned risk as no in-stream works are proposed. Section 7.4 of the EIS also details a series of mitigation measures proposed to protect surface water quality during the construction phase, including the identification and implementation of a constraints zone at each watercourse crossing which is intended to:

- Avoid physical damage to surface water channels;
- Provide a buffer against hydraulic loading by additional surface water runoff;
- Avoid the entry of suspended sediment and associated nutrients into surface water from excavation and earthworks; and
- Provide a buffer against direct pollution of surface waters by pollutants such as hydrocarbons and construction plant materials used during construction and chemicals or waste associated with temporary on-site sanitary facilities.

12.2.6.5 Further mitigation is to be provided by way of adherence to best practice and the implementation of *'General Pollution Prevention Measures'*.

12.2.6.6 In relation to the groundwater resource it has been submitted that the proposed cable route is partially underlain by Devonian sandstones which are predominantly classified by the GSI as a Locally Important Aquifer whilst the Devonian siltstones and mudstones which underlay other sections of the route are considered to comprise a Poor Bedrock Aquifer. Groundwater vulnerability along the application site is considered to be variable, although it is acknowledged that the majority of route is rated as *'Extreme'* by the GSI which indicates that the depth of subsoils varies between 0.0m - 3.0m. Indeed, it has been stated that much of the subsoil along the proposed route is classified as *'rock at or near the surface'*.

12.2.6.7 With regard to the potential for the proposed development to impact on groundwater quality, I am inclined to concur with the EIS that due to the shallow nature of the excavations required to facilitate the proposed underground grid connection, the primary risk to groundwater along the route is likely to be from the spillage / leakage of hydrocarbons or other contaminants during the construction phase which can be satisfactorily mitigated through adherence to an appropriate programme of pollution control measures as has been set out in the EIS.

---

12.2.6.8 In relation to specific concerns as regards the potential impact of the proposed works on private wells / water supplies in the vicinity of the site, at the outset I would refer the Board to Section 7.3.14 of the EIS which states that a search of the GSI well database has not identified any private wells within 300m of the grid connection route, although it is acknowledged that the database is not exhaustive and that it is likely there are some private wells along the proposed route. In this respect it should be noted that the response of the applicant to the third party appeals of Stephanie Larkin & Others and Dan Kelleher & Others includes a report compiled by Hydro Environmental Services which was prepared in order to address specific concerns, including the potential impact of the proposed development on the private wells / water supplies of Mrs. Ursula Williams and Dromleigh National School.

12.2.6.9 The aforementioned HES report states that the original submission received from Mrs. Williams' in objection to the subject proposal had indicated that her well at Tooreenalour was located along the roadside of the proposed grid connection route (as identified in an accompanying land registry map) and, therefore, the likelihood was that the water source in question consists of a spring / shallow well rather than a bored well. The report subsequently concludes that as the well in question is located to the south of the proposed grid connection (and the public road), it is consequently up-gradient of the proposed works and, therefore, as the proposed cable trench will be situated down-gradient of the groundwater catchment (i.e. the zone for contribution) for the well, the works will not impact on groundwater flows to the well. Further precautionary measures are also proposed to protect Mrs. Williams' well, including the installation of surface water runoff interceptor methods such as silt fencing, sand bags etc. around the well area during construction works (if required) to prevent surface water runoff reaching the well area during wet periods.

12.2.6.10 In respect of the bored well located within the grounds of Dromleigh National School, the HES report has submitted that due to its location within the playground area, there is no risk of the proposed grid connection directly impacting on same due to the shallow nature of the construction works. Furthermore, on the basis that this private supply is registered as a borehole, it is considered that the excavation of a cable trench c. 1.2m in depth will not impact on deeper groundwater flows toward the bored well in terms of water quality or groundwater levels.

---

12.2.6.11 It is evident that the principle impact of the proposed development on hydrological and hydrogeological considerations will arise during the constructional phase as a direct result of the inevitable disruption / disturbance associated with such works. However, any such impacts are inherently temporary and of limited duration thereby reducing the significance of same whilst the implementation of suitable mitigation measures, including adherence to a Construction and Environmental Management Plan and best work practice, will further serve to ameliorate any potential impacts. Furthermore, there will be no impact on water resources / quality etc. during the operational phase of the proposed development as the grid connection will be sited underground with the route corridor of same having been reinstated. Finally, any excavation works required to decommission the cable will be minimal with any risk of water impacts etc. likely to be significantly less than those associated with the initial construction phase.

12.2.6.12 In terms of the potential for cumulative impacts with other projects in the area I would refer the Board to Section 7.4.5 of the EIS which acknowledges that 7 No. of the turbines proposed within the Shehy More Wind Farm are located within the River Lee surface water catchment before stating that any cumulative impacts arising from the construction of the proposed Shehy More Wind Farm and the proposed grid connection are expected to be negligible for the following reasons:

- The proposed Shehy More surface water management plan will ensure that all surface water runoff leaving the site and its access / delivery routes will be of the highest quality and therefore impacts on the downstream River Lee are not anticipated; and
- The potential for surface water quality impacts arising during the construction of the grid connection are expected to be negligible as no in-stream works are proposed and also the majority of the proposed route is along existing roads.

12.2.6.13 The EIS proceeds to assert that although all of the Barnadivane wind farm site, including its turbines and related infrastructure, is located within the catchment of the River Lee, the majority of the site drains to the River Bride with the remainder draining to the River Lee Reservoir via the River Cummer. Accordingly, it has been submitted that there is no direct hydrological link between the Barnadivane scheme and the River Lee channel itself on the basis that both the River Lee Reservoir and the River Bride are significant hydrological features and thus any 'unlikely slight' hydrological impacts that may occur at the

---

Barnadivane site would be attenuated by water bodies before reaching the receptor i.e. the River Lee downstream of both the River Bride and the River Lee Reservoir.

12.2.6.14 In reference to the permitted Carrigierk wind farm, it has been put forward that as the turbines proposed within that development are located within the Bandon catchment there is no potential for cumulative hydrological impacts associated with same whereas the proposal to co-locate sections of the grid connection intended to serve both the Shehy More and Carrigierk wind farms will actually reduce the potential for cumulative impacts pertaining to those elements of the respective projects.

12.2.6.15 On balance, it is my opinion that the risk of a detrimental impact on hydrological and hydrogeological considerations associated with the construction, operation and decommissioning of the proposed development can be satisfactorily mitigated to within acceptable limits due to both the nature / design of the works proposed and the implementation of an appropriate programme of pollution control measures which are effectively tied into good construction and site management practice

#### 12.2.7 Air and Climate:

12.2.7.1 During construction of the proposed development the principle impact on air quality will most likely arise from a combination of fugitive dust emissions emanating from the on-site construction activity, with particular reference to excavation works and to the movement of traffic and materials along the local road network, and exhaust fumes from construction traffic and machinery.

12.2.7.2 In relation to dust emissions, Section 8.1.4.2.1 of the EIS has outlined a series of measures which will be implemented on site in order to militate against the potential release of dust during the construction phase. These include the dampening down of loose stone surfaces to minimise the movement of dust particles to air, the regular cleaning of roadways as necessary, and the transportation of any soils or other materials with the potential to generate dust to be undertaken in covered vehicles.

12.2.7.3 With regard to exhaust emissions, it has been submitted that all construction machinery will be maintained in good operational order thereby minimising emissions, and in this regard I would suggest that any adverse impact on air quality as a result of same will be short-term and of no significance.

---

12.2.7.4 Whilst I would acknowledge that there is the potential for cumulative impacts in relation to the generation of dust and air emissions in the event the construction of the subject proposal were to proceed in tandem with the construction of other nearby developments, with particular reference to the proposed Shehy More, Carrigarierk, and Barnadivane wind farms, given the overall limited scale and type of the proposed works and the mitigation measures to be undertaken, it is my opinion that any cumulative impact is likely to be negligible.

12.2.7.5 Having reviewed the foregoing, given the inherent temporary duration and impact of the proposed construction works, coupled with the implementation of suitable measures to ensure best practice site management and dust minimisation, I am satisfied that the construction of the proposed development will not result in any significant impact on air quality in the surrounding area. Similarly, given the nature of the development proposed, there will be no detrimental impact on air quality during the operational phase.

12.2.7.6 Whilst the construction of the proposed development will invariably result in the emission of some greenhouse gases, these will be of little consequence when taken in context and can be mitigated by adherence to best practice site management including the shutting off of equipment during periods of inactivity and the implementation of a traffic management plan. Accordingly, in my opinion, the impact of any such emissions, including when taken in conjunction with the construction of other developments in the immediate area, on climatic considerations will be minimal.

12.2.7.7 With regard to the operational impact of the proposed development, I would concur with the findings of the EIS that the generation of renewable electricity by wind turbines will have a wider positive impact on climatic considerations in terms of reducing carbon emissions thereby contributing to the achievement of national and international emission reduction objectives through the displacement of traditional methods of energy generation by the unsustainable combustion of fossil fuels such as coal and oil.

12.2.8 Noise and Vibration:

12.2.8.1 In relation to the likely noise impacts arising during construction of the proposed development, it must be acknowledged that due to the nature of the construction activity to be conducted on site there is an inherent potential for the generation of increased levels of noise. Similarly, the flow of traffic transporting material to and from the site is also likely to be a potential source of increased

---

noise. In this respect the applicant has submitted that regard will be had to the guidance set out in *BS5228: Part 1: 2009+A1: 2014: 'Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise'* whilst Section 9.3.1 of the EIS outlines a series of best practice mitigation measures which will be employed on site. In addition to the foregoing, I would suggest that, in the event of a grant of permission, a condition should be imposed whereby a Construction Method Statement / Management Plan be agreed with the Planning Authority prior to the commencement of development. This Plan should detail the various means of reducing noise impacts during the construction period and I would envisage that any such document should include mitigation measures such as the use of mobile machinery with an inherently low potential for noise generation fitted with effective well-maintained silencers and the restriction of construction activity to day-time hours in order to minimise any noise impact arising during unsociable hours.

12.2.8.2 Therefore, whilst I would acknowledge that the construction of the proposed development will inevitably impact to some degree on those noise sensitive receptors located in the immediate vicinity of the grid connection route, with particular reference to housing and school buildings within the villages of Kilmichael and Teerelton, considering that the construction works will be of a temporary nature and that the gradual progression of same along the proposed route will serve to limit the noise impact thereby reducing the potential for on-going or longer-term disturbance at any one location, I am satisfied that the short-term noise impact arising from same will be of limited significance and can be satisfactorily mitigated by way of condition and adherence to best practice site management so as to avoid any undue impact on the amenities of nearby dwelling houses (*N.B.* In this respect I would reiterate that it is anticipated that the works will be undertaken at a rate of c. 150m of cable being laid daily over the course of a 12-month period of construction).

12.2.8.3 Due to the nature of the proposed development no noise impacts will arise during the operational phase whilst any impacts associated with works required as part of any future decommissioning of the grid connection will be relatively minor and of a limited duration.

12.2.8.4 From a cumulative impact perspective, Section 9.4.5 of the EIS states that although there is the potential for in-combination noise impacts in the event the construction of the proposed grid connection coincides with that of other development projects in the area, including the Shehy More, Carrigarierk, and Barnadivane wind farms, this will be limited to those areas located in closer

---

proximity to the active construction sites and will be of a temporary nature due to the gradual progression of the subject works along the grid connection route and the associated dissipation of the noise arising from the other 'static' / 'location-bound' construction works. In addition, it has been submitted that the proposal to locate part of the grid connection for both the Shehy More and Carrigarierk wind farms within a single trench will serve to reduce the overall construction noise impact by obviating the need for each project to require individual excavation of a grid connection route.

12.2.8.5 With regard to the potential for vibrational impacts during the construction stage, whilst I would acknowledge that certain aspects of the proposed development such as the trench excavation works could give rise to same, I am inclined to suggest that the impact of same will be inherently limited due to the shallow depth of the excavations required whilst further mitigation can be provided by way of best practice construction management and adherence to *BS5228: Part 1: 2009+A1: 2014: 'Code of Practice for Noise and Vibration Control on Construction and Open Sites'*. In addition, any such impact will be of a temporary nature and limited duration at any given location along the proposed grid connection route. At this point, I would also note that concerns have been raised in the grounds of appeal as regards the limited depth to bedrock along sections of the cable route, however, I would suggest that the impact of any necessary rock-breaking will be both temporary and limited in scope and that it could be mitigated further through adherence to a Construction Management Plan which would detail an agreed methodology for any such works (e.g. by only permitting the use of rock-breaking equipment at certain hours of the day and by prohibiting the use of blasting). Furthermore, the potential for any cumulative vibrational impacts is likely to be temporarily limited to areas in the immediate proximity of other construction works (similar to my assessment of cumulative noise impacts) and will also dissipate with distance. No vibration impacts are likely to arise during either the operational or decommissioning phases of the subject development.

12.2.8.6 Therefore, considering that the construction works will be temporary in nature, I am satisfied that the short-term noise and vibration impacts arising from same can be satisfactorily mitigated by way of condition and adherence to best practice site management so as to avoid any undue impact on the amenities of nearby properties.



---

### 12.2.9 Landscape and Visual:

12.2.9.1 The proposed development site extends across a total of 26 No. townlands between Cloghboola and Garranareagh, Co. Cork, and originates at the proposed Shehy More Wind Farm on the north / north-eastern slopes of Shehy More on the eastern fringe of the Shehy Mountains whereupon it passes through uplands to the east, which are bounded to the north by the Upper Lee River Valley, before terminating at the site of the connecting Barnadivane substation. The actual cable route will traverse the internal access roadways serving the proposed Shehy More Wind Farm before extending for a distance of approximately 23.46km along the corridor of the public road through the villages of Kilmichael and Teerelton and onto the Barnadivane substation.

12.2.9.2 In terms of assessing the landscape / visual impact of the proposed development it is also of relevance in the first instance to note that the grid connection route will pass through a total of 3 No. '*Landscape Character Types*' (i.e. '*Fissured Fertile Middleground*', '*Valleyed Marginal Middleground*' & '*Ridged and Peaked Upland*') as identified in the landscape character mapping set out in the County Development Plan, 2014 and that further refinement of these designations is provided in the Landscape Character Assessment of Co. Cork which indicates that the proposed route lies within the following '*Landscape Character Areas*':

- LCA 33 – Lough Allua (Composite Middle Valley of Rugged Scrub, Mosaic and Marginal Land)
- LCA 55 – Cappeen (Upland of Intimate Rolling Farmland Mosaic with Scrub Outcrops)
- LCA 60 – Kilmichael (Broad Middle Valley of Rugged Scrub and Marginal Land).

12.2.9.3 Notably, the site itself is not located within a designated '*High Value*' landscape, although the proposed cable route will extend in part along 2 No. Scenic Routes with the views from same having been listed for preservation in the Development Plan pursuant to Objective GI 7-2: '*Scenic Routes*' whilst Volume 2: '*Heritage and Amenity*' of the Plan states that these views are in areas of '*Medium*' and '*Low*' overall landscape value respectively:

- S32 (Local Roads from South Lake Road – Inchigeela and Ballingearry, via Curraheen to Tullagh: Views of Lough Allua & the surrounding mountains).

- 
- S36 (Local Roads adjoining Teerelton to the east - Views of valleys & rugged mountainous landscape).

12.2.9.4 Whilst the route of the proposed grid connection will pass through a number of landscape designations of varying sensitivity, in my opinion, the critical consideration in the assessment of the landscape / visual impact of the proposal is the actual visibility of the development and in this respect it is of the utmost relevance to note that the proposed cabling will be laid underground and that upon completion of the necessary construction works and the associated reinstatement of the road surface, the only visible imprint of the works will most likely be limited to some minor tracking / scarring of the carriageway which will not detract from the fundamental defining landscape and amenity characteristics of the wider area.

12.2.9.5 Accordingly, given the short-term, localised and transient nature of the proposed construction works, I am satisfied that the visual impact of the subject proposal will be minimal and that it will not give rise to any significant cumulative impacts when taken in combination with other projects in the surrounding area.

#### 12.2.10 Archaeology and Cultural Heritage:

##### 12.2.10.1 Architectural Heritage:

12.2.10.1.1 Following a review of the available information, and in light of the absence of any protected structures either within the confines of the application site or in the immediate vicinity of same, I am satisfied that the proposed development is unlikely to give rise to any significant impact on items of built heritage.

##### 12.2.10.2 Archaeological Heritage:

12.2.10.2.1 In terms of the archaeological heritage implications of the proposed development, Section 11.5.1.2 of the EIS has identified the following 3 No. recorded monuments within the study area (i.e. those lands within 100m of the proposed grid connection route):

- CO093-006: *Megalithic tomb - wedge tomb*

*Townland: Cornaire*

*Description: On small bog-covered platform on steep S-facing slope at head of Sruhaunphadeen valley, to NE of Douce Mountain. Comprises gallery (L 3.4m; Wth 1.1m at SW end) open to SW, represented by two sidestones to N, three to S and inset backstone at E end; two outer-wall*

---

stones stand beyond N side. Traces of mound to S and W of gallery. Wedge-tomb (6393) stands c. 300m to W in Cloghboola townland. (de Valera and Ó Nualláin 1982, 26-7, Co. 37).

*Distance from cable route: 40m.*

- CO093-007: *Megalithic tomb - wedge tomb*

*Townland: Cornaire*

*Description:* On small platform on steep N-facing slope of Sruhaunphadeen valley to NE of Douce Mountain. Comprises ruined gallery (L c. 3.5m; Wth 0.5m at E end), aligned ENE-WSW, irregularly constructed of small stones and surrounded by closely-set outer walling. Two fallen stones at W end may be remains of facade. Incorporated in mound on edge of which lie two slabs, possibly displaced roofstones. (de Valera and Ó Nualláin 1982, 24-5, Co. 34).

*Distance from cable route: 46m.*

- CO081-013: *Mass-rock*

*Townland: Curraheen (Muskerry West By., Inchigeelagh Par.)*

*Description:* Roadside. Flat slab raised above another slab by two small pillars; lower slab atop plinth of coursed stones. Roughly incised cross on lower slab; upper slab adorned with quartzite pebbles and flowers. Plaque reads "Altar of Penal Times - Mass was said here 1640-1800".

*Distance from cable route: 15m.*

12.2.10.2.2 Having considered the available information, I would concur with the findings of the EIS that due to the separation distances between the aforementioned recorded monuments and the proposed grid connection, in addition to the confinement of the site development works to within the corridor of the public road, there is no potential for any significant adverse impacts on the foregoing items of archaeological significance. However, as a further precautionary measure, I note the proposal to erect fencing around RM No. CO081-013: 'Mass-rock' in order to avoid any potential direct damage to the monument or its setting during construction works whilst further mitigation is to

---

be provided through the archaeological monitoring of all cable works within the vicinity of the 3 No. aforementioned recorded monuments. Therefore, on the basis of the foregoing, I am satisfied that the proposed development, subject to the implementation of suitable mitigation measures, is unlikely to have any significant impact on items of archaeological interest.

*12.2.10.3 The Gaeltacht:*

12.2.10.3.1 The westernmost extremity of the proposed grid connection route is located within the culturally distinct Múscraí Gaeltacht area which requires special treatment in order to protect its linguistic and cultural heritage without hindering development. Therefore, I would refer the Board to Objective HE 5-3: 'Gaeltacht Areas' of the Cork County Development Plan, 2014 which seeks to protect the linguistic and cultural heritage of the Gaeltacht areas by:

- a) Encouraging development within the Gaeltacht, which promotes, facilitates or complements the cultural heritage, including Irish language use;
- b) Encouraging development within the Gaeltacht, which provides employment or social facilities, especially, but not exclusively, where these are of relevance to local young people;
- c) Resisting development within the Gaeltacht, which would be likely to erode the cultural heritage (including the community use of Irish language), unless there are overriding benefits for the long term sustainability of the local community or for the proper planning and sustainable development of a wider area;
- d) Ensuring that where the County Council erects signs within the Gaeltacht, these have Irish as their primary language, unless there are positive and overriding reasons for doing otherwise;
- e) Discouraging the exhibition of advertisements within the Gaeltacht which do not use Irish as their primary language;
- f) Considering the desirability of demanding linguistic impact analyses with planning applications for particular major developments. These would be cases where the potential impact of the development on the use of Irish as the community language is not immediately apparent and pivotal in the determination of the application.

12.2.10.3.2 In response to the foregoing, Section 11.5.1.10 of the EIS acknowledges that the introduction of some large scale industrial / commercial / residential developments into Gaeltacht areas can result in an influx of mono-linguistic English speakers which may impact on the Irish Language, however, with regard to the subject proposal, it has been submitted that the low staffing

---

numbers employed during the construction phase of the project, in addition to the temporary nature of these works, will serve to obviate any erosion of local cultural heritage, including the community use of the Irish Language. Nevertheless, Section 11.6.1 of the EIS proceeds to recommend that any signage associated with the proposed development which is to be erected within the Gaeltacht area should be in both Irish and English.

12.2.10.3.3 On balance, I am inclined to concur with the applicant that given the nature of the proposed works, and the limited timeframe during which construction works will be carried out within the Gaeltacht, any impact on the integrity of the Irish Language community is likely to be minimal. Furthermore, whilst I would also accept the applicant's proposal to erect signage in both Irish and English, I would suggest that any such signage within the Gaeltacht should have Irish as its primary language in keeping with the provisions of Objective HE 5-3: 'Gaeltacht Areas' of the Development Plan.

*12.2.10.4 Cumulative Impacts:*

12.2.10.4.1 In terms of the potential for cumulative impacts on features of archaeological and cultural significance, Section 11.6.3 of the EIS notes that all of the cultural heritage sites within the proposed Shehy More Wind Farm study area have been designed out of the proposed layout and grid connection route. In this respect it can be confirmed that all recorded monuments are located outside of the proposed works area and that the potential for unknown sub-surface archaeological features within the actual Shehy More Wind Farm site can be addressed through the archaeological monitoring of all ground works under license from the Department of Arts, Heritage and the Gaeltacht. With regard to other wind energy projects in the area, the EIS has indicated that these were consulted and no direct archaeological or cultural impacts were identified whilst any potential impact on unknown archaeological features would be effectively mitigated against by archaeological monitoring of ground works at the construction stage of the respective developments. Furthermore, given the underground nature of the proposed grid connection, there is no potential for any cumulative detrimental visual impacts on features of cultural heritage.

12.2.10.5 Therefore, on the basis of the foregoing, I am satisfied that the proposed development, subject to the implementation of suitable mitigation measures, is unlikely to have any significant impact on items of archaeological or cultural interest and that any residual impacts will be low to negligible.

---

### 12.2.11 Material Assets:

#### 12.2.11.1 Traffic:

12.2.11.1.1 The construction of the proposed grid connection within the curtilage of the public road will inevitably impact on local traffic movements by way of time delays arising as a result of the necessary road works and the time spent undertaking local diversions in addition to the distance travelled as a result of any diversions. In this respect Section 12.1 of the EIS includes an estimate of the likely delays and additional distances expected to be travelled by local traffic due to works associated with the ground excavations and cable laying along identified sections of the proposed route which is based on the following assumptions:

- On the basis of a desk-top assessment, a preliminary estimate of the likely Traffic Management Measure required for each section of road was made. The measures will be either a localised closure, or a one-way 'stop and go' on sections of the route considered wide enough to accommodate both the construction works and one lane of live traffic.
- An estimate of the duration of the construction works along each section of road based on an assumption that 150m will be completed each day.
- An estimate of the daily traffic flow on each section of road. The volumes on the various sections of the route are based on observations made as part of the Original Shehy More Wind Farm EIS.
- Estimates of the average delay incurred to each vehicle. In the case of a 'closure' it is assumed that each vehicle on average will be required to make a 2km detour, with the exception of Section 10 where it is estimated that an average detour of up to 10km will be incurred by the limited number of vehicles on this segment of the route. For the 'stop and go' arrangement it is assumed that an average of 10 seconds will apply (based on 150m taking 30 secs to travel, plus an additional 10 secs clearance, with 50% of traffic having no delay as they arrive on a green signal aspect, with the average delay incurred by those required to stop being 20 seconds).

12.2.11.1.2 Similar assumptions were applied to the impact of the construction works associated with the 41 No. water crossings along the proposed route, including that each crossing will add a further day of construction at those locations. In addition, the EIS has acknowledged that some delays and detours will arise in instances where vehicular trips cross or join the proposed cable route from side roads, although this impact is estimated to be limited to 16 No. side roads with the works at each location being completed over the course of a

---

single day i.e. the impact on side roads will only occur for 16 No. days of the construction period.

12.2.11.1.3 Having considered the available information, in my opinion, the likely increase in traffic volumes associated with the proposed construction works will be minor and does not give rise to such an impact as to warrant a refusal of permission. Furthermore, whilst there will clearly be some degree of nuisance and disruption to local residents and road users associated with the construction of the proposed development, this will be of a limited duration and will also be mitigated through the implementation of an appropriate programme of traffic management which will provide for suitable alternative routes in the event of road closures and minimal delays in passing through any 'Stop and Go' systems in place alongside areas of active construction works. It should also be noted that the overall impact of construction traffic may be lessened further in the event that cable laying works are undertaken simultaneously at various locations along sections of the proposed route, for example, at the eastern and western extremities of the connection, which could potentially reduce the construction period by up to half.

12.2.11.1.4 In relation to the concerns raised by the Local Authority Area Engineer that the proposed works would involve breaking up recently completed surfacing works in the villages of Dromleigh and Teerelton and that alternative routes should be considered, in my opinion, this is not a sufficient basis on which to reject the application or to legitimise the potentially increased wider impacts associated with any alternative or elongated grid connection route. Furthermore, given that any grant of planning permission would be for a period of 10 No. years, the possibility arises that the proposed works may not be undertaken for a number of years. In any event, it would be possible to attach a condition to any grant of planning permission requiring the lodgement of a bond for the reinstatement of any damage caused to the public road network during the construction works.

12.2.11.1.5 No traffic impacts will arise during the operational phase of the proposed development whilst any impacts associated with works required as part of any future decommissioning of the grid connection will be relatively minor and of a limited duration.

12.2.11.1.6 In terms of the potential for cumulative traffic impacts with the construction of other projects (as described in Section 2.3.2 of the EIS), including the proposed Shehy More, Carrigarierk and Barnadivane wind farms and the

---

associated grid connections, it has been submitted that any such impacts will be short-term with a slight to moderately negative effect on those days which coincide with concrete foundation pouring, site preparation works, and also when general materials are delivered to the individual development sites by conventional HGVs. It is further stated that these impacts will be restricted to the proposed haul routes for the various wind farms and that the proposed grid connection routes do not overlap with the majority of the proposed haul routes thereby minimising the potential for cumulative impacts. The EIS proceeds to acknowledge the significant potential for traffic impacts on those days when the turbine blades, towers and nacelles will be delivered to the respective sites, although it has been suggested that this will be reduced as these deliveries will generally be undertaken at night and as the majority of the grid connection route does not overlap with the proposed haul routes. The Board is also advised to take cognisance of the assertion that the turbine delivery phases of the proposed Shehy More, Carrigarierk and Barnadivane wind farms will not occur simultaneously and thus no cumulative impacts will arise in this respect. Similarly, the overlapping of the proposed Shehy More and Carrigarierk grid connections will reduce the overall potential cumulative impact.

12.2.11.1.7 Whilst I would accept that a co-ordinated construction traffic management plan will serve to minimise the extent and duration of any cumulative traffic impacts, there will be a need to ensure that any cable laying works for the proposed grid connection are not in progress along those sections of the route which coincide with the turbine haul routes at the time of the delivery of the turbine blades, tower sections etc.

12.2.11.1.8 On balance, although the construction of the proposed development will impact on traffic movements on the surrounding road network, I am satisfied that these impacts can be mitigated to within acceptable limits.

*12.2.11.2 Telecoms and Other Services:*

12.2.11.2.1 The construction of the proposed grid connection will not affect any above ground telecommunications networks, however, it is acknowledged that there is the potential for underground services to be affected by the construction activities. In this respect I would accept that any such impacts can be satisfactorily mitigated by way the specific measures incorporated into the Construction and Environmental Management Plan as set out Appendix 3-2 of the EIS, including the following:



- 
- Any area where excavations are planned will be surveyed and all existing services will be identified prior to the commencement of any works.
  - Liaison will be held with the relevant sections of the Local Authority including all the relevant area engineers to ensure that all services are identified.
  - Excavation permits will be completed and all plant operators and general operatives will be inducted and informed as to the location of any services.

12.2.11.2.2 There will be no impact on telecoms or other services during the operational phase of the proposed development whilst any impacts associated with works required as part of any future decommissioning will be minimal. Similarly, I am satisfied that any potential cumulative impacts can be addressed by way of adherence to the construction methodology set out in the EIS as regards the crossing and clearance to existing services in addition to the Construction and Environmental Management Plan.

12.2.12 Interaction of the Foregoing:

12.2.12.1 With regard to the inter-relationships between several of the foregoing factors / impacts, in my opinion, these interactions have been satisfactorily addressed throughout the EIS and the further submissions received during the application and appeal process. By way of further clarity, Section 13 of the EIS includes a matrix of possible interactions for both the construction and operational phases of the development. These interactions have been considered within the relevant sections of this environmental impact assessment.

12.2.13 In-combination / Cumulative impacts

12.2.13.1 In terms of the wider potential for in-combination / cumulative impacts with other developments in the surrounding area, with particular reference to wind-energy related projects, in my opinion, it is clear that any such impacts will generally be limited to the construction stage of the proposed development and that those impacts will be of a limited duration and, subject to the implementation of an appropriate programme of mitigation measures (including adherence to best practice construction methodologies, the agreement of a Construction and Environmental Management Plan, and the development of a suitable traffic management plan), will not be of such significance as to give rise to such a detrimental effect as to warrant a refusal of permission.

12.3 Appropriate Assessment:

12.3.1 From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the

---

proposed development site is not located within any Natura 2000 designation there are a number of protected sites in the wider area, including the Bandon River Special Area of Conservation (Site Code: 002171) and The Gearagh Special Area of Conservation (Site Code: 000108) and Special Protection Area (Site Code: 004109). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Objective No. HE 2-1: *'Sites Designated for Nature Conservation'* of Chapter 13 of the Cork County Development Plan, 2014, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

#### 12.3.2 Stage 1: Screening:

12.3.2.1 In screening the subject proposal for the purposes of appropriate assessment, I would refer the Board at the outset to the screening exercise undertaken by the applicant which has identified the following 6 No. European Sites within a 15km radius of the proposed works pursuant to the advice contained in *the 'Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities (Rev. 2010)'* published by the Department of Environment, Heritage and Local Government:

- The Gearagh Special Area of Conservation (Site Code: 000108)
- Bandon Special Area of Conservation (Site Code: 002171)
- Derryclogher (Knockboy) Bog Special Area of Conservation (Site Code: 001873)
- St. Gobnet's Wood Special Area of Conservation (Site Code: 000106)
- The Gearagh Special Protection Area (Site Code: 004109)
- Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162)

12.3.2.2 In addition to the foregoing, using the precautionary principle, consideration was also given to those Natura 2000 sites located outside of the defined 15km radius (e.g. the Killarney National Park Special Protection Area: Site Code: 004038), however, as no potential pathways for any significant

---

impacts on those sites could be established (such as by way of hydrological connectivity), it was determined that there was no potential for any impacts on those Natura 2000 sites located outside the 15km buffer.

12.3.2.3 Accordingly, having considered the available information, I would concur with the findings of submitted screening exercise that consideration for the purposes of appropriate assessment should be focused on the following Natura 2000 Sites:

European Site: The Gearagh SAC (Site Code: 000108):

Distance & Direction: 2.6km north

Qualifying Interests: [1355] Otter *Lutra lutra*  
[3260] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation  
[3270] Rivers with muddy banks with Chenopodium rubri p.p. and Bidention p.p. vegetation  
[91A0] Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles  
[91E0] Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae)

Conservation Objectives: To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation in The Gearagh SAC.

To maintain the favourable conservation condition of Rivers with muddy banks with Chenopodium rubri p.p. and Bidention p.p. vegetation in The Gearagh SAC.

To maintain the favourable conservation condition of Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles in The Gearagh SAC.

To maintain the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) in The Gearagh SAC.

---

To maintain the favourable conservation condition of Otter in The Gearagh SAC.

European Site: Bandon SAC (Site Code: 002171):

Distance & Direction: 6.2km south

Qualifying Interests: [3260] Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation  
[91E0] Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)  
[1029] Freshwater Pearl Mussel *Margaritifera margaritifera*  
[1096] Brook Lamprey *Lampetra planeri*

Conservation Objectives: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

European Site: Derryclogher (Knockboy) Bog SAC (Site Code: 001873):

Distance & Direction: 9.9km west

Qualifying Interests: [7130] Blanket bogs

Conservation Objectives: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

European Site: St. Gobnet's Wood SAC (Site Code: 000106):

Distance & Direction: 11.9km north

Qualifying Interests: [91A0] Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

Conservation Objectives: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

European Site: The Gearagh SPA (Site Code: 004109):

Distance & Direction: 3.8km north

---

*Qualifying Interests:* [A050] Wigeon *Anas penelope*  
[A052] Teal *Anas crecca*  
[A053] Mallard *Anas platyrhynchos*  
[A125] Coot *Fulica atra*

*Conservation Objectives:* To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

To maintain or restore the favourable conservation condition of the wetland habitat at The Gearagh SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

*European Site:* Mullaghanish to Musheramore Mountains SPA (Site Code: 004162):

*Distance & Direction:* 11.4km north

*Qualifying Interests:* [A082] Hen Harrier *Circus cyaneus*

*Conservation Objectives:* To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

12.3.2.4 In terms of assessing the potential direct, indirect or secondary impacts of the proposed development on the conservation objectives of the aforementioned Natura 2000 sites, it should be noted at the outset that due to the location of the proposed works within the corridor of existing roadways / access tracks (including the public road) and outside of any Natura 2000 designation, in addition to the separation distances involved, it is clear that the subject proposal will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction), however, I would accept that consideration should be given, in particular, to the potential for the proposal to indirectly impact on the qualifying interests of some of the identified sites as a result of any deterioration in water quality which could be attributable to the proposed works due to the hydrological connectivity / links between the application site and those European sites. Therefore, in the interests of conciseness and in order to avoid unnecessary repetition, I would refer the Board to my earlier environmental impact assessment of the proposal, and, in particular, to the hydrological and hydrogeological aspects of same, including the potentially negative impacts on

---

downstream water quality which could arise during the construction stage of the proposed development due to the pollution of watercourses through the release of suspended solids or the discharge of hydrocarbons / other contaminants, and those measures which have been incorporated into the design of the proposal to mitigate said risks (i.e. the absence of any in-stream works) as supplemented by a series of mitigation measures including adherence to best practice construction methodologies and the implementation of '*General Pollution Prevention Measures*'.

12.3.2.5 Table 6.1 of the submitted '*Appropriate Assessment Screening Report*' proceeds to summarise the applicant's position as regards the screening of the potential impacts of the proposed development on the identified Natura 2000 Sites as follows:

- *The Gearagh SAC:*

There will be no direct impacts as the proposed cable route is located 2.6km from the designated site. Works will be restricted to the road carriageway / verge and existing access tracks. Although there is hydrological connectivity with the site, there will be no in-stream works as part of the proposed development, and strict surface water runoff prevention measures have been incorporated into the design of the scheme. Consequently, there is no potential for impacts on Annex II species Freshwater Pearl Mussel within the Lee Upper *Margaritifera* Sensitive Area or on any European Site located hydrologically downstream of the cable route. Significant impacts on the European Site resulting from the cable route can be screened out.

- *The Bandon River SAC:*

There will be no direct impacts as the proposed cable route is located 6.2km from the designated site. Works will be restricted to the road carriageway / verge and existing access tracks. There will be no in-stream works as part of the proposed development and strict surface water runoff prevention measures have been incorporated into the design of the scheme. The site is also located in a separate river catchment to that of the proposed works. Significant impacts on the European Site resulting from the cable route can be screened out.

- *The Derryclogher (Knockboy) Bog SAC:*

There will be no direct impacts as the proposed cable route is located 9.9km from the designated site. Works will be restricted to the road

---

carriageway / verge and existing access tracks. There will be no in-stream works as part of the proposed development and strict surface water runoff prevention measures have been incorporated into the design of the scheme. The site is also located in a separate river catchment to that of the proposed works. Significant impacts on the European Site resulting from the cable route can be screened out.

- *The St. Gobnet's Wood SAC:*

There will be no direct impacts as the proposed cable route is located 11.9km from the designated site. Works will be restricted to the road carriageway / verge and existing access tracks. There will be no in-stream works as part of the proposed development and strict surface water runoff prevention measures have been incorporated into the design of the scheme. Due to the distance of the site from the proposed cable route and the numerous topographical barriers, significant impacts on the European Site resulting from the cable route can be screened out.

- *The Gearagh SPA:*

There will be no direct impacts as the proposed cable route is located 3.8km from the designated site. Works will be restricted to the road carriageway / verge and existing access tracks. Although there is hydrological connectivity with the site, there will be no in-stream works as part of the proposed development and strict surface water runoff prevention measures have been incorporated into the design of the scheme. Significant impacts on the European Site resulting from the cable route can be screened out.

- *Mullaghanish to Musheramore Mountains SPA:*

There will be no direct impacts as the proposed cable route is located 11.4km from the designated site. Works will be restricted to the road carriageway / verge and existing access tracks. There will be no in-stream works as part of the proposed development and strict surface water runoff prevention measures have been incorporated into the design of the scheme. Due to the distance of the site from the proposed cable route and the numerous topographical barriers, significant impacts on the European Site resulting from the cable route can be screened out.

12.3.2.6 Having reviewed the available information, including the screening report prepared by the applicant in respect of the subject proposal, and following consideration of the 'source-pathway-receptor' model (with particular reference to

---

the potential for the discharge of contaminated waters to the River Lee via the surrounding surface water drainage network and onwards to The Gearagh Special Area of Conservation & Special Protection Area), I would concur with the findings of the submitted screening exercise, and it is my opinion that given the nature and scale of the development proposed, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question (which comprise existing roadways / access tracks), the absence of any pathways between the application site and several of the European Sites, the implementation of best practice construction techniques / methodologies in terms of pollution control / avoidance as part of the inherent design of the proposed development, and the separation distances involved between the site and the identified Natura 2000 sites, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of those Natura 2000 sites. Therefore, I am inclined to conclude that the proposed development would not be likely to have a significant effect on the foregoing Natura 2000 sites, in view of the Conservation Objectives applicable to same.

12.3.2.7 With regard to the potential for in-combination / cumulative impacts with other plans or projects, I would refer the Board to the consideration of same as set out in Table 6.1 of the submitted *'Appropriate Assessment Screening Report'*. Furthermore, it is my opinion that, given the nature, scale and locational context of the proposed works, in addition to the foregoing conclusion that the proposal in isolation would not be likely to significantly affect the integrity of any Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same, the proposed grid connection would not be likely to give rise to any in-combination / cumulative impacts with other plans or projects which would significantly affect the integrity of any Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same. In this regard, I have also given particular consideration to the contents of the Natura Impact Statement which initially accompanied ABP Ref. No. PL04.243486 in addition to the Revised Natura Impact Statement (and further documentation) submitted in response to the Section 132 Notice issued by the Board in respect of that application.

12.3.2.8 Accordingly, it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site and, in particular, specific Site Codes: 000108, 002171, 001873,



---

000106, 004109 & 004162, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

**12.5 Procedural Issues:**

**12.5.1 Concerns with regard to 'Project-Splitting':**

12.5.1.1 At the outset, it should be noted that I propose to assess the subject application in conjunction with ABP Ref. No. PL04.243486 on the basis of the inter-relationship between the respective development projects i.e. the proposed development of the Shehy More Wind Farm and the proposed connection of same to the national grid. In this respect I would further advise the Board that although 'indicative' details of the proposed grid connection were submitted in response to the Section 132 Notice issued for ABP Ref. No. PL04.243486 and that it is necessary to give consideration to same in the determination of that appeal in order to ensure a robust assessment of the environmental impacts, including any cumulative impacts arising as a result of the overall project, it should be noted that the subject application provides for a greater level of detail as regards the 'final' proposed grid connection and thus could reasonably be considered to supersede the 'indicative' proposals provided as part of ABP Ref. No. PL04.243486 in terms of relevancy to the assessment of cumulative / in-combination impacts. Furthermore, it is clear that the proposed Shehy More wind farm is reliant on the subject application for connection to the national grid and that neither of the respective developments is likely to proceed in isolation from the other. In effect, both the subject application and ABP Ref. No. PL04.243486 are inherently related to one another and could be further linked (if deemed necessary by the Board) by way of condition in the event of a grant of permission for both developments. Accordingly, in the interests of conciseness and in order to avoid unnecessary repetition, I would advise the Board to take due cognisance of my concurrent assessment of ABP Ref. No. PL04.243486.

12.5.1.2 With regard to the concerns raised in the third party submissions that the subject application involves 'project-splitting' on the basis that it amounts to the assessment of a grid connection in isolation from the wind farm which is proposed to be served by same and thus is in conflict with the findings of Mr Justice M. Peart in the judgement of the High Court in the case of *O'Grianna & Ors. v. An Bord Pleanala [2014] IEHC 632* as delivered on 12<sup>th</sup> December, 2014, it is necessary to consider a number of factors.

12.5.1.3 The term 'project-splitting' can be used to describe a number of scenarios that may arise during the planning / development consent process. For

---

example, it would be appropriate to use the term ‘project-splitting’ in reference to a scenario whereby a single larger development project has been purposely split into a series of smaller ‘sub-threshold’ planning applications in order to avoid the mandatory preparation of an Environmental Impact Statement, however, this is not the case in the subject application. Instead, it is clear that in this instance the third party submissions are referring to the findings of the High Court in respect of *O’Grianna & Ors. v. An Bord Pleanala* wherein, inter alia, it was held that the connection of a wind farm to the national grid formed an integral part of the overall development of which the construction of the turbines is the first part; and that the cumulative effects of the construction of the turbines and the connection to the national grid must be assessed in order to comply with the EIA Directive.

12.5.1.4 Whilst I would acknowledge the concerns raised as regards the allegation of ‘project-splitting’ and the assertion that the subject proposal conflicts with the judgement of the High Court in the case of *O’Grianna & Ors. v. An Bord Pleanala*, I am not of the opinion that such a scenario has arisen in this instance given the circumstances of the applications. In this regard I would advise the Board that the ruling in the case of *O’Grianna* effectively necessitates the consideration of all the cumulative impacts of all the integral parts of a particular development proposal in the decision-making process and that this can be achieved in the subject instance through the simultaneous consideration of this planning application with ABP Ref. No. PL04.243486. In effect, I would suggest that by assessing both the subject application and ABP Ref. No. ABP Ref. No. PL04.243486 in tandem, the Board can undertake a satisfactory environmental impact assessment of the cumulative effects of both the proposed wind farm and the grid connection as part of an informed singular and concurrent decision-making process (*N.B.* In this particular instance, there would seem to be little merit in requiring the re-submission of a single planning application for the overall development project given that the available information already provides for an adequate assessment of cumulative impacts). Furthermore, it should be noted that in the *O’Grianna* case, the High Court directed that the decision in question should be remitted to the Board for further consideration on the basis of fairness and justice given that the Board itself was of opinion that the situation could be reasonably expected to be remedied and that it would be in a position to carry out a new EIA in the light of the Court’s judgment (*N.B.* The Court acknowledged that if the Board was not of the foregoing view then it would make no sense for it to seek such a remittal). Therefore, the Board has previously adopted a position whereby it is satisfied that an environmental impact assessment of the cumulative effects of a proposed development when taken in conjunction with other existing, permitted and planned developments can be undertaken in

---

circumstances when sufficient details of the overall development have been provided, notwithstanding that an element of the wider development proposed does not form part of the application under consideration. The key consideration is the requirement to undertake a satisfactory assessment of the likely cumulative effects.

12.5.1.5 On the basis of the available information, and having considered the implications of the judgement of the High Court in respect of *O’Grianna & Ors. v. An Bord Pleanala*, it is my opinion that the Board has sufficient information before it to undertake a comprehensive and robust environmental impact assessment (and appropriate assessment) of the subject proposal, including consideration of the cumulative effects associated with the construction of the proposed Shehy More Wind Farm, and thus any concerns as regards ‘project-splitting’ have been addressed.

12.5.1.6 At this point, I would reiterate to the Board that the subject application should be determined in conjunction with ABP Ref. No. PL04.243486 on the basis of the inter-relationship between the respective development projects i.e. the proposed development of the Shehy More Wind Farm and the associated connection to the national grid. In addition, consideration should also be given to the parallel assessment of the foregoing applications with PA Ref. No. 14557 / ABP Ref. No. PL04.244439 as it is my understanding that the decision issued in respect of same was the subject of judicial review proceedings [2016 614 HR] and that the Board subsequently consented before Mr. Justice Seamus Noonan of the High Court on 1<sup>st</sup> November, 2016 to orders quashing its decision and remitting the appeal for reconsideration.

12.5.1.7 Finally, with regard to the suggestion that the subject proposal (when taken in conjunction with the proposed Shehy More wind farm presently under consideration pursuant to ABP Ref. No. PL04.243486) is, in itself, a single component of a much larger wind-energy project which can be considered to comprise multiple individual wind farm developments (encompassing existing, permitted & proposed schemes) within the wider Lee Valley area (including those located on the northern side of same) and thus is representative of ‘project-splitting’ on a much larger scale in contravention of the EIA Directive, the applicant has submitted that there is no basis to support such a claim and that the submitted EIS provides an overview of those relevant projects considered in order to permit an assessment of any potential cumulative impacts. The applicant has further requested the Board to note that the identified projects are / have been subject to additional assessment processes, including Environmental

---

Impact Assessment which aims to examine what influence each development proposal will have on the surrounding environment as well as considering the cumulative and in-combination effects with other relevant permitted, proposed and existing projects in the vicinity of the development site.

12.5.1.8 Whilst I would acknowledge that there have been multiple planning applications for various wind-energy developments within the wider area, and although there may be instances when elements of these projects overlap, such as the proposal to locate part of the grid connection for both the Shehy More and Carrigarierk wind farms within a single trench in order to reduce the overall constructional impact by obviating the need for each project to require individual excavation of a grid connection route, it is my opinion that a clear distinction must be drawn between those projects which are inherently related to one another and those which are not necessarily inter-dependant. In this respect, I am satisfied that the proposed development of the Shehy More wind farm and its related infrastructure can proceed in isolation from other wind farms and thus should not be considered to form one part of a larger project. Indeed, consideration must also be given to those other factors which would effectively undermine the suggestion that all the individual wind farms in this part of Co. Cork encompass a single larger development project such as differing applicants, landownership, resources, financing, and the possibility of competing interests. Similarly, it should be noted that not all of the projects planned in the area will either receive the benefit of planning permission or indeed progress to the construction stage.

12.5.1.9 In my opinion, cognisance must also be taken of the fact that the inclusion of the 'Wind Energy Strategy' in the Cork County Development Plan, 2014 (which has identified, in broad strategic terms, three categories of 'Wind Deployment Area' for large scale commercial wind energy developments i.e. 'Acceptable in Principle', 'Open to Consideration'; and 'Normally Discouraged'), was most likely going to give rise to concentrations of individual applications for wind energy development in certain locations from interested parties. In this respect it must be noted that the inclusion of such a policy provision in the Development Plan would have been subjected to Strategic Environmental Assessment and thus the impacts of wind energy development would have been considered in a wider strategic context.

12.5.1.10 Accordingly, on the basis of the foregoing, I am satisfied that the subject proposal does not form part of a larger single project encompassing various individual wind farms within this area of Co. Cork and thus does not give rise to project-splitting. Instead, the proposed development of the Shehy More

---

wind farm and its related infrastructure can proceed as a project in its own right which is not inter-dependant with other schemes whilst the assessment of same will have regard to the potential for cumulative impacts with other development. In my opinion, concerns with regard to the wider acceptability of wind energy development in the area would be more appropriately addressed through the public consultation / participation provisions incorporated into the Development Plan preparation process.

12.5.2 The Description of the Proposed Development:

12.5.2.1 It has been asserted in the grounds of appeal that the use of the term ‘*Barnadivane substation*’ in the submitted documentation to describe both the permitted substation at Garranareagh (PA. Ref. No. 11/6605 / ABP Ref. No. PL04.219620) and the ‘proposed’ substation at Barnadivane (Kneeves) (PA Ref. No. 14/557 / ABP Ref. No. PL04.244439), is misleading and disingenuous, particularly as the two substations are subject to separate planning applications and are seemingly in the ownership of separate wind farm companies. Whilst I would acknowledge the appellants’ concerns in this regard, it is my opinion that the description of the proposed development as set out in the public notices is sufficiently clear to provide a reasonable summation of the submitted proposal and that it complies in full with the requirements of the Planning and Development Regulations, 2001, as amended. Furthermore, I would accept the explanation set out in the Environmental Impact Statement that the permitted and proposed substations have been referred to communally as the ‘Barnadivane substation’ for ease of reference as the use of such a description serves to provide for a more concise document and avoids unnecessary repetition / complication. In addition, it must be emphasised that the principle purpose of the public notices is to notify third parties of the lodgement of the planning application and that the development description contained in same must be considered in the context of the wider application documentation, including the Environmental Impact Statement, which provides for a more in-depth and detailed description of the specifics of the development proposal. Finally, notwithstanding the fact that both the subject application and those further planning applications pertaining to the development of the ‘Barnadivane substation’ have been lodged by different applicants, I am satisfied that there is sufficient information before the Board to permit it to complete a comprehensive assessment of the potential for any cumulative impacts consequent on those developments (including the ‘permitted’ and ‘proposed’ substations).

---

12.5.3 The Validity of the Planning Application:

12.5.3.1 Concerns have been raised that the subject application should be declared invalid on the basis that the proposed development site is already the subject of a planning application for a similar development which is presently on appeal to the Board. This is in reference to ABP Ref. No. PL04.243486 and the submission of a 'proposed' grid connection cable route between the proposed Shehy More wind farm and the 'Barnadivane substation' in response to a Section 132 Notice issued by the Board in respect of that application.

12.5.3.2 Whilst I would acknowledge that the applicant's response to the Section 132 Notice issued in respect of ABP Ref. No. PL04.243486 may have given rise to some degree of confusion, in the interests of clarification, it should be noted that the development proposal for which permission has been sought pursuant to ABP Ref. No. PL04.243486 is as set out in the plans and particulars which were originally lodged with the Board (i.e. the proposed wind turbines and the associated works) and that the additional information provided by the applicant as regards a 'proposed' grid connection cable route is for indicative purposes only. Development consent has not been sought for the grid connection aspect of the overall project as part of ABP Ref. No. PL04.243486, but rather proposals for the provision of a grid connection were provided in order to permit a robust environmental impact assessment and the appropriate assessment of the cumulative impacts of both the proposed Shehy More wind farm and the future grid connection. Accordingly, the subject proposal is the only planning application which has expressly sought permission for the development of the grid connection.

12.5.4 The Adequacy of the Public Consultation / Participation Procedures:

12.5.4.1 With regard to the decision of the Planning Authority not to deem the unsolicited further information submitted by the applicant on 15<sup>th</sup> June, 2016 as 'significant' thereby precluding any further third party observations on same, in my opinion, such procedural matters are generally the responsibility of the Planning Authority which in this instance took the view that the documentation in question was not of such significance as to warrant the publication of revised public notices. It should also be noted that the Board is not empowered to correct any procedural irregularity which may have arisen during the Planning Authority's assessment of the subject application. Nevertheless, having reviewed the contents of the unsolicited additional information, it is my opinion that the submitted correspondence simply serves to clarify certain details that had already been provided in the planning application as a rebuttal of the various grounds of objection lodged by third parties. Accordingly, I am satisfied that the

---

additional information in question does not include any new details of material significance and, therefore, I do not propose to comment further on same other than to state that the Planning Authority's actions would not appear to have infringed the appellants' right to appeal.

12.5.4.2 In response to the appellant's suggestion that the lodgement of multiple planning applications for individual elements of a single overall project is akin to 'project-splitting' which has infringed the public's right to effective and affordable participation in the planning process, the applicant has asserted that there has been no other application for a grid connection of the nature proposed previously lodged with the Planning Authority whilst the application for the proposed Shehy More Wind Farm was initially lodged on 30<sup>th</sup> September, 2013 and remains on appeal before the Board. It has been further submitted that the subject application and that presently under consideration pursuant to PA Ref. No. 13/551 / ABP Ref. No. PL04.243486 (i.e. the proposed Shehy More wind farm) are the only applications of note with regard to the types of development proposed and as such cannot be deemed to be multiple applications with particular reference made to the intervening period of time between the lodgement of each application.

12.5.4.3 Whilst I would accept that the lodgement of separate planning applications has given rise to a scenario whereby interested third parties may have felt it necessary to lodge submissions in respect of both proposals, I would suggest that it is of more relevance to note that no party has been denied the opportunity of participating in the planning process, particularly given the limited geographical extent of the proposed wind farm relative to the proposed grid connection.

12.5.4.4 In relation to complaints as regards the extent / adequacy of the public consultation process undertaken by the applicant prior to the lodgement of the subject application, I would suggest that such matters are beyond the remit of the Board given that they are not expressly provided for under existing legislative provisions. Indeed, whilst the *'Wind Energy Development, Guidelines for Planning Authorities'* advocate the merits of public consultation with regard to the development of wind energy and actually recommend that the developers of wind energy projects should engage in active consultation and dialogue with the local community at an early stage in the planning process, ideally prior to the submission of a planning application, this is not a mandatory requirement. Instead, it must be accepted that the submission of the subject application accorded with the regulatory provisions of the Planning and Development

---

Regulations, 2001, as amended, included those requirements pertaining to statutory public notification, and that any interested parties were entailed to lodge submissions / observations on the application within the appropriate period and subject to the payment of the prescribed fee.

**12.6 Other Issues:**

**12.6.1 The Duration of the Permission:**

12.6.1.1 The subject application has sought a ten-year grant of permission, however, it has been asserted in the grounds of appeal that no justification has been provided to support same and neither are there any exceptional circumstances with regard to the proposed development that would warrant a deviation from the five-year limit set out in the legislation. In response, the applicant has submitted that the subject proposal will facilitate the connection of the proposed Shehy More Wind Farm to the national grid and that a ten-year permission has also been sought in respect of that development. Accordingly, the case has been put forward that it is entirely logical to seek a planning permission of the same duration as that sought for the proposed Shehy More Wind Farm.

12.6.1.1 With regard to the power to vary the *'appropriate period'* of a grant of permission I would refer the Board to Section 41 of the Planning and Development Act, 2000, as amended, which states that the Board may specify the period, being a period of more than 5 years, during which a permission is to have effect, *'having regard to the nature and extent of the relevant development and any other material consideration'*. In this respect it should be noted that it has been the practice of the Board to grant such permissions for wind energy-related developments given the potential delays to the commencement of construction on site typically associated with such projects including the availability of finance, the securing of a Gate offer, legal challenges to the consent process, and instances of delays / considerable waiting times related to the production of finished turbine components by the relevant manufacturer. Therefore, given that the subject proposal is inherently related to the proposed development of the Shehy More wind farm, and in order to ensure consistency with both that application and previous Board decisions in respect of comparable developments, whilst also acknowledging the considerable number of cases of judicial review taken in relation to wind farm developments in the wider area, I would consider that a 10-year permission is reasonable in this instance.

**12.6.2 The Adequacy of the Permitted 'Barnadivane Substation':**

12.6.2.1 It has been submitted that the permitted substation at Garranareagh (PA Ref. No. 11/6605 / ABP Ref. No. PL04.219620) does not comply with the current



---

requirements of Eirgrid given that the Environmental Report which accompanied PA Ref. No. 14557 / ABP Ref. No. PL04.244439 specifically states that the replacement substation proposed as part of that application is needed *'in order to meet current Eirgrid standards in substation design and will replace the currently permitted substation that is not yet constructed'*. This is further corroborated by the response of the applicant to a request for further information issued in respect of that application wherein it is stated that since the grant of permission issued for the original substation under ABP Ref. No. PL04.219620, the role of the Transmission System Operator has passed from the ESB to Eirgrid with the latter having adopted substantially changed substation requirements.

12.6.2.2 Having reviewed the available information, at the outset I would suggest that the specific technical requirements of the TSO are beyond the remit of the Board and that it would be inappropriate to comment on same, particularly as any grid connection will ultimately have to comply with the requirements of Eirgrid, however, notwithstanding the details provided as part of ABP Ref. No. PL04.244439, consideration must be given to the fact that there is an extant grant of permission for a substation and that the applicant has submitted that the subject proposal and the proposed Shehy More wind farm can be accommodated by same. Furthermore, in the event that there is a need to revisit the specific design of the permitted substation it may be possible to resolve same as an amendment of the extant grant of permission and in this regard the Board may wish to consider if parallels can be drawn between any such proposal and the ruling of the High Court in the case of *South-West Shopping Centre Promotion Association Ltd. and Stapleyside Company v. An Bord Pleanala*.

12.6.2.3 At this point I would also reiterate that the remittance of ABP Ref. No. PL04.244439 to the Board for reconsideration provides it with the opportunity to undertake a comprehensive assessment that development.

12.6.3 Prematurity of the Proposed Development:

12.6.3.1 Concerns have been raised that the subject proposal (i.e. the grid connection) is premature pending a determination of ABP Ref. No. PL04.243486 (i.e. the proposed Shehy More wind farm) and ABP Ref. No. PL04.244439 (the proposed replacement substation at Barnadivane). In this respect I would reiterate my earlier comments that the subject application should be determined in conjunction with ABP Ref. No. PL04.243486 on the basis of the inter-relationship between the respective development projects i.e. the proposed development of the Shehy More Wind Farm and the associated connection to the national grid. In addition, the decision of the Board to consent before the High

---

Court to orders quashing its decision in respect of ABP Ref. No. PL04.244439 and remitting the appeal for reconsideration allows for the parallel assessment of that application with the subject proposal (*N.B.* Notwithstanding any future decision in respect of ABP Ref. No. PL04.244439, it should be noted that there is already an extant grant of permission for a substation under ABP Ref. No. PL04.219620). Accordingly, on the basis that the subject proposal can be determined as part of a joint assessment of the proposed Shehy More wind farm, I do not accept the suggestion that it could be considered premature.

12.6.4 Land Ownership / Consent Issues:

12.6.4.1 With the exception of that section of the proposed cable route which will extend along existing forestry / site roads within the site of the proposed Shehy More Wind Farm, the entirety of the proposed grid connection works will be undertaken within the corridor of the public road from its westernmost point within the townland of Cloghboola and onwards through the villages of Kilmichael and Teerelton before terminating at Barnadivane substation. In this respect it has been suggested that there is a degree of uncertainty as to whether or not the Local Authority retains ownership of the public road under which the proposed cable connection will pass or if it simply maintains the carriageway for the benefit of the general public i.e. whether Cork County Council has the authority to permit the proposed works to be undertaken within the 'public road'. It has also been asserted in the grounds of appeal that the subject application has not been accompanied by the necessary consent for a private utility to use the roadway for the laying of a grid connection, particularly as the correspondence from Cork County Council dated 12<sup>th</sup> April, 2016 expressly states that the author has no authority to bind the Council and as it is also headed 'Without Prejudice' and 'Subject to Contract / Contract Denied'.

12.6.4.2 Having reviewed the submitted information, in my opinion, it is clear that Cork County Council as both the Planning Authority and, more particularly, as the relevant Road Authority with responsibility for the maintenance etc. of the public road network in the area, has sufficient interest within that part of the public road corridor under which it is proposed to lay the subject grid connection to consent to the works in question. In this respect the correspondence from Cork County Council dated 12<sup>th</sup> April, 2016 which accompanied the initial planning application satisfies the requirements of the Planning and Development Regulations, 2001, as amended (*N.B.* Whilst I would accept that the aforementioned correspondence is headed 'Without Prejudice' and 'Subject to Contract', I would not consider this to be unusual, particularly as a road opening licence would be required in the event of a grant of permission).

---

12.6.4.3 Finally, in relation to the issue of land ownership and concerns pertaining to the possible encroachment / trespass of third party lands, including the potential for interference with services, drainage etc., I would suggest that any such disputes are essentially civil matters for resolution between the parties concerned and in this regard I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

12.6.5 Disposal of Excavated Material:

12.6.5.1 Section 3.3.1.1 of the Environmental Impact Statement states that all material arising from the excavation of the proposed cable trenching will either be removed to the wind farm for restoration of the borrow pits or to a permitted waste recovery facility or, if suitable, reused for backfilling where appropriate. In this regard concerns have been raised in the grounds of appeal that the proposal to dispose of excess excavated material to the borrow pits within the proposed Shehy More wind farm will involve the use of lands within the confines of that site that did not form part of the original planning application for the wind farm. It has also been submitted that the importation of materials to the proposed Shehy More site gives rise to further concerns as regards project-splitting and the failure to assess the cumulative impact of the entirety of the development proposed.

12.6.5.2 Whilst I would acknowledge that Section 3.3.1.1 of the EIS indicates that excess material from the excavation of the proposed grid connection may be disposed of within the borrow pits of the proposed Shehy More wind farm, Sections 6.3.6 & 6.4.2 of that document subsequently state that the excavated material will be removed to a licensed / permitted waste recovery facility or, if suitable, reused in the backfilling of the trench work. In addition, the unsolicited additional information submitted by the applicant on 15<sup>th</sup> June, 2016 (as a rebuttal of the various grounds of objection) states that all excavated material from the construction of the cable trench will be removed to a licensed recovery facility or reinstated where appropriate and this position is further reiterated in the response to the grounds of appeal.

12.6.5.3 On balance, it would appear to be intention of the applicant to dispose of any excess excavated material arising from the proposed construction works at an appropriately licensed waste recovery facility and I would suggest that this is a matter which can be satisfactorily addressed as a condition of any grant of permission.

---

12.6.6 Constructional Impacts on Residential Amenity and the Wider Area:

12.6.6.1 Given the nature and extent of the proposed development, it is inevitable that the necessary constructional works will give rise to localised impacts in terms of the disturbance and disruption of local residents, road users etc., however, I would reiterate my earlier comments that the level of disruption expected to be generated during the construction stage will be both limited in extent and duration given the nature of the works proposed. More specifically, the limiting of individual active construction areas to an approximately 300m stretch of roadway at any one time, with a separation of two to three kilometres to be maintained between any such areas in instances where multiple crews are installing ducting along the route, will serve to limit the temporary impact at any one location thereby reducing the potential for on-going or longer-term disturbance and / or disruption at specific locations.

12.6.7: Haul Route Accommodation Works:

12.6.7.1 Although not expressly included in the subject proposal, in the interests of completeness, and in order to ensure a satisfactory consideration of all potential cumulative impacts, I would advise the Board that various accommodation works are proposed to be undertaken at several locations along the proposed turbine component delivery route, including at Inchincurka Crossroads. In this regard the proposed junction accommodation works will entail the excavation of overburden within the affected area until a competent stratum is reached which will subsequently be overlain with granular fill and finished in a final surface running layer. Upon completion of the turbine delivery phase it is envisaged that the granular fill and final surface running layers will be left *in situ* which will allow these areas to be used again in the future should it be necessary (e.g. at decommissioning stage for turbine removal or in the unlikely event of having to swap out a blade component during the operational phase), although they will be permitted to revegetate naturally whilst any boundary walls or hedgerows that were removed will be reinstated by creating earthen stone berms.

12.6.7.2 Having considered the location, nature and context of the proposed junction accommodation works, it is my opinion that they will not give rise to any significant impacts when taken in conjunction with the proposed grid connection works and the remaining aspects of the proposed Shehy More wind farm or those other wind energy-related projects planned in the wider area.

---

## **13.0 RECOMMENDATION**

Having regard to the foregoing I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

### **Reasons and Considerations:**

Having regard to:-

- a) national policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouse gases,
- b) the provisions of the “Wind Energy Development Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in 2006,
- c) the policies set out in the Regional Planning Guidelines for the South-West Region 2010-2020,
- d) the policies of the planning authority as set out in the Cork County Development Plan 2014, including the Cork County Council Wind Energy Strategy contained therein,
- e) the character of the landscape in the area and the absence of any ecological designation on or in the immediate environs of the site, and the character of the landscape through which the proposed grid connection would be provided,
- f) the characteristics of the site and of the general vicinity,
- g) the pattern of existing and permitted development in the area, including other wind farms,
- h) the nature and scale of the proposed development and the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement,

- 
- i) the topography and character of the landscape in the area,
  - j) the planning history of the site and its surrounds, and
  - k) the submissions and observations made in connection with the planning application and the appeal, including submissions in relation to the environmental impacts of the proposed development;

it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant adverse effect on the landscape or the visual or residential amenities of the area, would not adversely affect the natural heritage or the integrity of any European site, including Natura 2000 sites or any protected species and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 9<sup>th</sup> day of May, 2016, the 23<sup>rd</sup> day of May, 2016, the 31<sup>st</sup> day of May, 2016 and the 15<sup>th</sup> day of June, 2016, and as received by An Bord Pleanála by way of First Party response submissions to the Third Party appeals (on the 15<sup>th</sup> day of August, 2016 and the 22<sup>nd</sup> day of August, 2016), except as may otherwise be required in order to comply with the following conditions. In this regard:
  - a) 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.
  - b) Specifically, the mitigation measures described in the Environmental Impact Statement and other details submitted to the planning authority and to An Bord Pleanála shall be implemented in full during the construction, operation and decommissioning of the development.

**Reason:** In the interest of clarity.

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

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

3. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site or along the grid connection route. In this regard, the developer shall:
- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- i. the nature and location of archaeological material on the site, and
- ii. the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

---

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist along the grid connection route.

4.

- a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
- i. a Transport Management Plan, including details of the road network/haulage routes, the vehicle types to be used to transport materials on and off-site, and a schedule of control measures for exceptionally wide and heavy delivery loads,
  - ii. detailed measures whereby cable laying works for the proposed grid connection will not pose a hindrance along those sections of the public road network which coincide with haul routes scheduled for the delivery of exceptionally wide and heavy loads,
  - iii. a condition survey of the roads and bridges along the grid connection route to be carried out at the developer's expense by a suitably qualified person both before and after construction of the development. This survey shall include a schedule of required works to enable the haul routes to cater for construction-related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority prior to commencement of development,
  - iv. detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities,
  - v. detailed arrangements for temporary traffic arrangements/controls on roads, and
  - vi. a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.



- 
- b) All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of the use of each road as a haul route or grid connection route for the proposed development.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

5. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including:-
- a) location of the site and materials compound including areas identified for the storage of construction waste,
  - b) location of area for construction site offices and staff facilities,
  - c) measures providing for access for construction vehicles to the site, including details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include, in particular, proposals to facilitate and manage the delivery of over-sized loads,
  - d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
  - e) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works or the laying of the grid connection,
  - f) details of appropriate mitigation measures for construction-stage noise, dust and vibration, and monitoring of such levels,
  - g) details of the methodology for any rock-breaking works,

- 
- h) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
  - i) appropriate provision for re-fuelling of vehicles,
  - j) off-site disposal of construction waste and construction-stage details of how it is proposed to manage excavated soil / material,
  - k) means to ensure that surface water run-off is controlled in accordance with the mitigation measures proposed in the submitted documents, and
  - l) details of the intended hours of construction.

Prior to the commencement of construction, proposals for the environmental monitoring of construction works on site by an ecologist and by an environmental scientist or equivalent professional, including the monitoring of the implementation of construction-stage mitigation measures, and illustrating compliance with the requirements set out above, shall be submitted to, and agreed in writing with, the planning authority, together with associated reporting requirements.

**Reason:** In the interest of protection of the environment and of the amenities of the area.

6. Any signage for the proposed development located within the Múscraí Gaeltacht shall be in both Irish and English with Irish as its primary language.

**Reason:** Having regard to the location of the site in the Gaeltacht area.

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by works carried out in relation to the laying of the grid connection, coupled with an agreement empowering the planning authority to apply such security or

---

part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

Signed: \_\_\_\_\_

Robert Speer  
Inspectorate

Date: \_\_\_\_\_