



An
Bord
Pleanála

Inspector's Report PL17.247007

Development	Erection of one 1.5 MW electricity generating wind turbine and all associated works
Location	Knockumber, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	NA151405
Applicant(s)	Boliden Tara Mines Limited
Type of Application	Planning Application
Planning Authority Decision	GRANT
Type of Appeal	Third Party
Appellant(s)	1. Braccanby Irish Farm LLC 2. Michael & Anna Mills and Brendan & Catherine McKenna
Observer(s)	None
Date of Site Inspection	16 th November 2016
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.641 ha, is located within the Boliden Tara Mines complex in Knockumber, on the western fringes of Navan. The appeal site is located towards the eastern side of the applicant's c. 72 ha landholding, c. 250m north of the Knockumber Road and c. 340m south of the R147 Regional Road.
- 1.2. The site is located to the west of the mine's settlement ponds, and to the north of the dedicated railway line that serves the mine. It currently comprises a mix of hardstanding and grassed areas, with some shrubs and other vegetation.
- 1.3. The appeal site is slightly elevated above the surrounding area, with a ground level of c. 51m AOD (Malin). The land uses surrounding the mine include agricultural and dispersed residential development, while Navan Retail Park is c. 300m to the south with Blackwater Retail Park is c. 550m to the east. The River Blackwater is c. 420m to the north. The N51 National Road, which connects Navan to the M3 Motorway is located c. 450m south of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development consists of the erection of one 1.5 megawatt electricity generating wind turbine with a stated hub height of up to 60m and rotor diameter of up to 66m, resulting in a total height of up to 93m. Ancillary development includes the tower base, crane hardstanding area, palisade fencing and underground cabling to an existing on-site 110kV substation that serves the mine complex.
- 2.2. Tara Mines is Europe's largest lead and zinc mine, producing 2.5m tonnes of ore per annum, and is one of the country's top ten users of energy. The rationale for the proposed development is to meet part of the energy demand of Tara Mines and the applicant states that all electricity generated will be utilised on-site.
- 2.3. The proposed construction and maintenance access to the appeal site is from an existing site entrance on the R147 Regional Road and I note that the access roads within the mine complex that will serve the development are existing.
- 2.4. The planning application was accompanied by an Environmental Report and a Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Meath County Council decided to grant planning permission and the following Conditions are relevant to this appeal:

- C3: Permission for 25 years or until closure of mine, whichever comes first.
- C4: Maximum height of hub 60m and maximum tip height 66m. Details of turbine model, height, colour to be submitted to Planning Authority.
- C5: All mitigation measures and construction measures in Env. Report to be implemented.
- C7: Noise limits and monitoring.
- C8: Shadow flicker limits and monitoring.
- C12: All mitigation measures in NIS and Ecological Impact Statement to be implemented.

3.2. Planning Authority Reports

3.2.1. The report of the area planner can be summarised as follows:

- Further information submitted was acceptable.
- Application site is not in an identified highly sensitive landscape.
- Planning Authority is satisfied that the views of the turbine are visually robust and that the development is acceptable on this basis.
- Development will be visible from protected views at the Hill of Tara and Hill of Skryne.
- Development is consistent with Policies EC POL 3 and EC POL 20.
- No specific impediments to the proposed development have been identified by the various Departments.
- Suitable condition will manage the development and preclude operation in the event of shadow flicker or noise exceeding guidance standards.

- Industrial/brownfield site is suitable from a technical perspective.
- No Development Contribution payable as electricity generated will be utilised on-site.

3.3. Other Technical Reports

- **Environment:** No objection subject to Conditions.
- **Heritage Officer:** Satisfied that updated EclA was undertaken at appropriate time of year and that there will be no significant impact on the ecology of the site.
- **Conservation Officer:**
 - Views from protected view locations at Hill of Tara and Hill of Skryne are visually robust.
 - Proposed development will be visible from both locations and will have minor impact through the introduction of an uncharacteristic element.
 - Concerned about the cumulative impact should there be a proliferation of such structures.
 - Photomontages indicate that Ardraccan house is not visible from the turbine hub although roof is visible from rotor tip. St Utan's Church is visible as well as other parts of the demesne. Difficult to assess impact without photomontages from these locations.
 - Applying the precautionary principle, reducing the height of the turbine would reduce the visual impact.

3.4. Prescribed Bodies

- None.

3.5. Third Party Observations

- 3.5.1. Eight third party observations were made. The issues raised were generally as per the two third party appeals.

4.0 Planning History

4.1. Subject Site

- 4.1.1. The mine complex has an extensive planning history dating back to the mid-1970s, however I do not consider any of these applications to be of specific relevance to the appeal.

5.0 Policy Context

5.1. Wind Energy Development Guidelines for Planning Authorities 2006

- 5.1.1. The *Wind Energy Development Guidelines 2006* are the key source of guidance on the assessment of planning applications for wind energy projects. The guidelines indicate the need for a plan led approach, and set out the main environmental issues to be considered:

- Noise is an important consideration and is referred to in paragraph 5.6. 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.
- Shadow flicker is identified as a potential issue in some cases, depending on site context and design of the proposed development. Guidance on the acceptable level of shadow flicker are outlined.
- Chapter 6 relates to aesthetic considerations in siting and design.
- Regard should be had to visual impact, landscape character and impact on architectural heritage.

- 5.1.2. The Minister for Housing and Planning announced on 11 December 2013 a public consultation process in respect of revisions to the 2006 Guidelines. The revisions relate primarily to noise (including distance) and shadow flicker and have yet to be finalised and formally adopted. The main proposals are as follows:

- The setting of a more stringent absolute noise limit (day and night) of 40 decibels (dB) for future wind energy development. This limit is an outdoor limit

and it is noted that in general the reduction of noise levels between the outside and inside of a dwelling is approximately 10 decibels.

- A mandatory setback of 500m between a wind turbine and the nearest dwelling for amenity considerations.
- Proposes to attach a condition to all future permission for wind farms to ensure no shadow flicker at any dwelling within 10 rotor diameters of a wind turbine with the requirement that necessary measures are taken if shadow flicker does occur to eliminate same, such as turbine shut down.
- Additional information required in relation to the operator of the turbine for the purposes of monitoring conditions applied.

5.2. Regional Planning Guidelines for the Greater Dublin Area 2010-2022

- 5.2.1. The *Regional Planning Guidelines for the Greater Dublin Area 2010-2022* generally support the development of wind energy projects throughout the study area and this support is reflected in Strategic Recommendation ER6 of the RPGs. However, it is stated that “*the development of new turbines needs to take place within the context of clear Development Plan policies and the DOEHLG Guidelines on Wind Energy Development*”.

5.3. Meath County Development Plan 2013-2019

- 5.3.1. Renewable energy is considered in Section 11.15 of the CDP. It states that in considering the site of wind energy projects, Meath County Council will assess the development siting based on locations identified in the Landscape Character Assessment of the County, compliance with the DOEHLG Wind Energy Development Guidelines and the relevant development management standards. The location of wind farm development must also have regard to the Landscape Character Areas of the County (refer to Chapter 9 and Appendix 7 of CDP).
- 5.3.2. Section 11.15.2 of the CDP seeks that certain design guidelines are adhered to in making applications for wind energy projects. These include:

- Topographical enclosures and extensive areas of degraded or previously developed lands should be identified for wind farm development to help minimise visual impacts and to harmonise wind turbines with the landscape;
- In general, matt finishes and neutral colours for turbines and structures are encouraged to minimise their conspicuous nature;
- Measures should be taken to ensure a good acoustical design of turbines, to guarantee that there are no significant increases in ambient noise level in the nearby surroundings, which could affect private properties and wildlife, as well as the tranquillity of the landscape.

5.3.3. Section 9 of the CDP considers cultural heritage, natural heritage, landscape, historic landscape characteristics, views and prospects and landscape conservation areas. Section 9.6.13 states that the designed landscapes in Meath are for the most part found in demesnes or estate lands. Meath County Council recognises the importance of these landscapes, and that they often form the setting of Protected Structures.

5.3.4. I note that section 9.10 of the Development plan states that *“in assessing the potential impacts on views and prospects and development proposals, it is not proposed that this should give rise to the prohibition of development in these locations, rather such development, where permitted, should not hinder or obstruct these views and prospects and should be designed and located so as not to be intrusive in the landscape as seen from these vantage points”*.

5.3.5. Relevant Objectives include:

- EC POL 1: Facilitate energy infrastructure, including renewable energy sources.
- EC POL 3: Encourage production of energy from renewable sources subject to normal planning criteria and potential impact on sensitive areas and Natura 2000 sites.
- EC POL 20: Encourage wind energy development, having regard to Meath’s LCA and Wind Energy Guidelines.

- Objective CH OBJ 22: To discourage development that would lead to a loss of, or cause damage to, the character, the principle components or, or the setting of historic parks, gardens and demesnes of heritage significance.
- LC OBJ 5: To preserve the views and prospects and the amenity of places and features of natural beauty or interest from development that would interfere with the character and visual amenity of the landscape

5.4. **Landscape Character Assessment**

- 5.4.1. The site is located within the 'West Navan Lowlands' in the Landscape Character Assessment, which is included as Appendix 7 of the CDP. This landscape character area is identified as being of 'Moderate' value and sensitivity. The LCA notes in respect of the West Navan Lowlands that the area has 'medium' capacity to accommodate wind farms or single turbines because views are often restricted and potential opportunities exist to locate such development in non-visually prominent locations.

6.0 **The Appeals**

6.1. **Grounds of Appeals**

- 6.2. Two third party appeals were lodged by Braccanby Irish Farm LLC and Ardraccan and Knockumber Residents Group (Michael & Anna Mills and Brendan & Catherine McKenna). Their grounds of appeal can be summarised as follows:
- Proposed development will significantly impact on the setting of Ardraccan House, a Protected Structure of national and international importance and will destroy its architectural integrity.
 - Land Registry search indicates that appeal site is not owned by the applicant, Boliden Tara Mines Ltd. No letter of consent included with application.
 - Public notice was inadequate, misleading and not erected at all entrances to the site.
 - Development is connected with the operation of the mine and an EIA is required. EIS should address the totality of the mine development.

- Environmental Report submitted is inadequate.
- Extent of underground cabling is unclear and may already have been constructed.
- Distance of site from River Blackwater SAC boundary is ambiguous in submitted reports. Significant excavation is proposed for turbine and cabling on heavy industry site which may have heavy metal contamination. There is no basis for the NIS to conclude that there will be no significant effects.
- Whooper swans, bats, buzzards etc. Will be affected. No Appropriate Assessment undertaken.
- Ecological survey undertaken on two days in January and is not representative of extent of bird life in summer months.
- Concern that further wind turbine development is intended, with risk of project splitting.
- Works outside red line, including access roads, are proposed.
- Conditions imposed by Planning Authority create ambiguity over height and type of turbine. Noise condition can't be complied with as there are no testing receptors at noise sensitive locations.
- Noise impacts.
- Impact on Hill of Tara and Kells, candidate World Heritage Site and wider visual and landscape impacts.
- Conservation Officer expressed concern over visual impact and potential cumulative impact if there is proliferation of such structures.
- No traffic analysis or consideration of how components will be delivered to site.
- No proper geological analysis was provided. Mine has created large caverns underground.
- Impact on equine industry. There are a number of thoroughbred racehorse facilities in the immediate area.

- Impact on residents through shadow flicker, devaluation of property, noise and health impacts. Shadow flicker effect on road traffic also.
- Development does not comply with distances from dwellings required by current or draft Planning Guidelines. There are numerous properties within 500m of the turbine.
- Alternative renewable energy projects, such as solar or geothermal would be more suitable.
- Proposed turbine type is a 17 year old, out of production unit. Best practice is to install a modern unit with lower noise.

6.3. First Party Response to Third Party Appeals

6.3.1. Stephen Ward Town Planning and Development Consultants submitted a response to the third party appeals on behalf of the applicant, which is summarised as follows:

- Proposed development will not significantly impact on Ardracchan House due to being 2.71km away, with only glimpsed views due to dense planting within the demesne.
- Ardracchan Demesne is not intact and unspoilt, as M3 Motorway is located c. 480m to the west, and significant one-off housing in the area.
- Proposed north south interconnector, including towers up to 60m high, will run between Ardracchan House and the mine complex.
- Boliden Tara Mines Ltd. is the effective owner of the site and Planning Authority was satisfied that application was valid.
- Public notices were clear and compliant with Regulations.
- Development falls below EIA threshold and no EIS required. Mining operations do not affect this. All cabling is within the site development works referenced in the development description and is within the red line.
- A full Appropriate Assessment was undertaken, contrary to appellant's claim.

- Project splitting does not arise. O’Grianna judgment is not relevant as no connection to the grid is sought and all electricity generated will be used on-site.
- Access roads to serve the site are existing and adequate to cater for traffic associated with the proposed development.
- Noise Condition is in accordance with Wind Energy Guidelines.
- Unlikely to be any discernible view of the turbine from Kells, which is 13km away.
- Transportation of turbine components will be subject to traffic plan and consultation with An Garda Siochana, Planning Authority and other stakeholders. Such a plan will be temporary and short-term.
- Lifespan of mine has no material bearing on the proposed development.
- Turbine will not impact on equine sector due its central location within mining complex, separation distances, and the substantial development and roads infrastructure in the surrounding area.
- Draft revisions to 2006 Guidelines do not constitute Ministerial Guidelines under section 28.
- Proposed development meets all best practice standards at noise sensitive receptors. Condition 7 sets out restrictions which the applicant has not appealed.

6.4. Planning Authority Response

- Proposed development is significantly below the threshold for mandatory EIA. Environmental Report addresses key issues.
- Applicant has current planning application to extend Tailings Storage Facility, located c. 2.5km north east of the application site. There have been several planning applications since the mine was first permitted in 1973 and proposed development does not constitute project splitting.
- Any proposed access roads or other works outside red line boundary require planning permission.

- There is a typographical error in Condition 4. Maximum height is clear from the public notices and development description.
- Conservation Officer is satisfied that protected views from Hill of Tara and Skryne are visually robust and there will only be a 'minor impact' on both views. Conservation Officer expressed concern about potential cumulative impact should there be a proliferation of such structures in the future.
- Proximity of residences was given significant consideration, particularly in terms of noise, visual and shadow flicker.
- Construction traffic and haul routes were addressed in Section 6 of Env. Report.
- Condition 3 requires the turbine to be decommissioned after 25 years or upon closure of the mine, whichever comes first. Turbine will not therefore remain in place post closure of the mine.
- Planning Authority recognises that wind turbines can impact negatively upon horses.
- Noise will be controlled by Condition 7 and turbine will not exacerbate levels of vibration on site.
- Mine is an established industrial site and proposed development will not further depreciate property values. There are two existing single turbines associated with businesses in Lobinstown and Balrath.
- Receptor at which the highest shadow hours will be experienced (SR59) will experience one quarter of accepted shadow flicker threshold as per 2006 Guidelines.
- The Board is requested to uphold the decision to grant planning permission.

6.5. Observations

6.5.1. No submissions/observations are on file from any other party.

7.0 Planning Assessment

7.1. I consider the key issues in determining the appeals are as follows:

- Principle of development and Compliance with Planning Policy.
- Landscape and Visual Impact.
- Architectural Heritage
- Shadow Flicker.
- Noise.
- Roads and Traffic.
- Ecology.
- Requirement for Environmental Impact Assessment.
- Other Issues.

7.2. Principle of Development and Compliance with Planning Policy

7.2.1. National, Regional and Local policy all support the development of wind energy projects in suitable locations and I therefore consider that the provision of one wind turbine in this location is acceptable in principle, subject to detailed consideration of the potential impacts of the proposed development.

7.2.2. I note that there is currently no Wind Energy Strategy for County Meath, which was a factor in a recent refusal by the Board for a large-scale wind energy project in the County (ABP Ref. PL17 .PA0038). I do not consider that the lack of a Strategy is of fundamental importance to this case, as this appeal relates to a single auto-production turbine associated with a long-established industrial operation and all electricity generated will be utilised on-site. In this regard, the proposed development, if permitted, cannot be considered to constitute a precedent for further wind energy development in such areas in the absence of a Wind Energy Strategy.

7.3. Landscape and Visual Impact

7.3.1. Both appellants have expressed their concerns over the landscape and visual impact of the proposed development, which they consider to be unacceptable in terms of

the impact on residential amenity, architectural heritage and on protected views and prospects.

- 7.3.2. A Landscape and Visual Impact Assessment (LVIA) was submitted as part of the Environmental Report, accompanied by a series of photomontages. Ten viewpoint locations were identified by the applicant, within c. 15km of the appeal site. These included a number of views from approach roads to the town and from nationally important protected views, such as from the Hill of Tara and Skyrne Church. I note that no views from within Navan Town Centre were chosen, although the wind turbine is likely to be visible from various parts of the town. Other than this, I consider the choice of viewpoints to be reasonable.
- 7.3.3. In terms of the baseline, the appeal site is located within a large industrial mining complex. While the mine is extensively screened by landscaping planting, elements of the mine complex are already visually prominent when approaching Navan from the M3 Motorway via the N51 National Road, particularly the conical ore storage structure (37.2m high) and the production shaft (36.9m high). The appeal site is located with the West Navan Lowlands, a Landscape Character Area of moderate value, medium sensitivity and local importance with an identified medium capacity to accommodate wind farms or single wind turbines.
- 7.3.4. I concur with the Planning Authority's Conservation Officer that the views from the Hill of Tara (c. 10km distant) and Skyrne Church (c. 12km distant) towards the appeal site are visually robust, and that there would be a minor impact on these views. I consider that the nature and location of the single turbine means that it will act as a point of visual interest in the far distance, marking the location of Navan from these locations. With regard to the impact on other viewpoints, I generally agree with the findings of the LVIA, and note that the lower part of the turbine is partially screened by existing planting in various views.
- 7.3.5. I consider the most significant impact to be from the N51 approaching Navan, where the turbine will be visible against the skyline from a relatively close distance. The existing mine structures are already visible from this viewpoint however, and I consider that the addition of the wind turbine introduces a visual element that is complementary to the existing industrial character of the area. On that basis, I consider that the impact would be moderate from that location. The turbine will also

be highly visible from Navan Retail Park to the south of the appeal site, but I do not consider the Retail Park to be a sensitive receptor.

7.3.6. I would share the Conservation Officer's concern regarding the potential cumulative impact should there be a proliferation of wind turbines in the area, but as noted above, I do not consider that the proposed development constitutes a precedent for further wind energy development in the area since it is clearly related to meeting the energy needs of the existing industrial operation.

7.3.7. In conclusion, whilst I accept that the turbine will be highly visible from certain locations in the local environment, I consider that the proposed development represents a logical and legible addition to the industrial site and I do not consider that its impact will be so significant so as to seriously detract from the character of the surrounding landscape and to warrant refusal of the application.

7.4. **Architectural Heritage**

7.4.1. Ardraccon House, which is owned by one of the appellants, is a large 18th century house within a demesne setting, c. 2.6km west of the appeal site. The house is recognised in the National Inventory of Architectural Heritage as being of Regional importance, and it and St Ultan's church and various other structures within the demesne are protected structures. The demesne is also designated as an Architectural Conservation Area. The appellant states that the proposed development will intrude on the unspoilt setting of the house and destroy its architectural integrity. The applicant in their response to the appeal note the presence of the M3 Motorway c. 480m to the west of Ardraccon House and the proposed line of the north-south interconnector between Ardraccon House and the appeal site.

7.4.2. The appellant was unable to facilitate my access to Ardraccon Demesne on the date of my site inspection, however I have reviewed its entry in the NIAH and Development Plan. Photographs from the appeal site at hub height (60m) and rotor tip height (93m) looking towards Ardraccon House were submitted as Further Information, as the applicant was unable to gain access to Ardraccon House for the purposes of preparing photomontages.

7.4.3. These photographs show that the roof of Ardraccan House is visible from the rotor tip height, but the house itself is not. This indicates that the rotor will not be visible above the treeline when viewed from Ardraccan House, although it will be more visible from St Ultan's church and other more open locations within the demesne. Having regard to the significant separation distance and the limited visibility of the wind turbine, I do not consider that it will have a significant adverse impact on the integrity of the setting and character of Ardraccan House or the wider demesne.

7.5. Shadow Flicker

- 7.5.1. Both third parties have raised the issue of shadow flicker, and contend that it will have a significant impact on residential amenity. Where shadow flicker can potentially occur, the Wind Energy Guidelines recommend that it should not exceed 30 hours per year or 30 minutes per day for dwellings within 500 metres. The Guidelines also note that at distances greater than 10 rotor diameters from the turbine the potential for shadow flicker is very low.
- 7.5.2. A Shadow Flicker Assessment was included as part of the Environmental Report. The assessment identified 76 sensitive receptors within 2.8km of the turbine location and assessed the shadow flicker at each of these locations. I note that the majority of these receptors are more than 660m away from the turbine location (i.e. 10 x 66m rotor diameter) and would be at low risk of experiencing shadow flicker in any event.
- 7.5.3. The assessment was undertaken using the WindPro software utilising both a 'worst case' scenario assuming 100% sunshine conditions, and a 'realistic' scenario which incorporates various assumptions, such as utilising sunshine data from Dublin Airport met station and historic wind rose data. The use of a realistic scenario is supported by the best practice guidelines produced by the Irish Wind Energy Association.
- 7.5.4. The assessment found that all sensitive receptors would be below the 30 hours per year as set out in the Guidelines for the 'realistic' or expected scenario, although a number would be above this level for the 'worst case' scenario. The maximum real time shadow experienced by any receptor is 10.36 hours annually. This is c. 33% of the recommended maximum, and it should be noted that the receptor in question is financially linked to the development. Of the properties not financially linked to the

development, the receptor with the highest real time shadow hours would experience 7.19 hours annually, i.e. c. 25% of the of the recommended maximum.

- 7.5.5. On the basis of information submitted, and having regard to the separation distances to sensitive receptors, which are considered to be acceptable, I am satisfied that the methodology applied in assessing shadow flicker impact in relation to the proposed development is reasonable.
- 7.5.6. Mitigation measures are proposed should shadow flicker result in an impact on the health and safety of residents. The proposed mitigation comprises the pre-programming of the turbine with dates and times when shadow flicker would cause a nuisance and utilising a photo sensor cell to monitor sunlight. The turbine would then shut down in circumstances where a flicker nuisance could be caused.
- 7.5.7. Having regard to the fact that the shadow flicker at certain receptors is acceptable in the expected or realistic case, but not in the worst case, I consider these mitigation measures to be critical to the preservation of residential amenity, and they should be attached as a Condition to any grant of planning permission.

7.6. **Noise**

- 7.6.1. Noise is clearly one of the key planning issues that must be assessed due to the nature of the development and its location on the western fringes of Navan.
- 7.6.2. A noise impact assessment was submitted as part of the Environmental Report, which I note was prepared by the applicant's own environmental scientist. A total of 76 sensitive receptors were identified, of which 38 dwellings were identified within 660m of the turbine site. The closest dwelling (which is owned by the applicant) is 324m away, while the closest dwelling not owned by the applicant is 418m away.
- 7.6.3. Baseline noise surveys are stated to have been undertaken at three locations, although only the results for two locations are provided. The omitted survey location is at a significant distance from the appeal site however, and I consider that the two baseline survey locations are adequate.
- 7.6.4. The noise data for the proposed Enercon E-66 turbine model, which is included as Appendix 5.1 of the Environmental Report, indicates that it is for a slightly larger variant of the model, with a hub height of 65m and rotor diameter of 70m (compared

to stated hub height of up to 60m and rotor diameter of up to 66m for the proposed development). Since the rotor diameter for the proposed E-66 turbine is less, I consider that the use of the noise data can be considered adequate on the basis that it will provide conservative results.

- 7.6.5. The noise impact assessment determined that the noise level at the nearest noise sensitive receptors complies with the current Wind Energy Guidelines limits for daytime and night time noise of 45dB(A) and 43dB(A), respectively. The maximum predicted noise level at the nearest sensitive receptor is 41.2dB(A). This dwelling is owned by the applicant. The maximum predicted noise level at the nearest non-financially linked dwelling is 38.7dB(A). Accordingly, I am of the opinion that satisfactory information has been submitted by the applicants to demonstrate that the proposed development will not unduly impact upon local residents in terms of noise generation.
- 7.6.6. I note that the proposed development would not be acceptable under the proposed revisions to the Wind Energy Guidelines, which seek a minimum separation distance of 500m from all residential property. However, these revisions have not yet been formally adopted by the Minister. In any event the fixed noise limit of 40dBA for daytime and night-time, which is contained in the draft revisions would not be exceeded at any non-financially linked sensitive receptors.
- 7.6.7. Finally, the appellants have expressed concern about the combined noise impact of the wind turbine and blasting at the mine. I note that the use of $L_{A90\ 10\ min}$, as recommended by the Guidelines, has the effect of removing loud transitory noise events such as blasting, and I consider that this is appropriate for assessing the typical noise environment and potential noise impact of the proposed development.

7.7. Roads and Traffic

- 7.7.1. Since the proposed development relates to a single turbine, I consider that any traffic generated during the operational stage will be negligible. The key issue to be assessed is therefore the construction stage impacts.
- 7.7.2. A traffic assessment for the proposed development was submitted as part of the Environmental Report. This is essentially a high level method statement for the construction traffic associated with the development. The envisaged haul route for

the turbine components is from Dublin Port to the M50 via the Port Tunnel, to the M3 toward Navan, before exiting onto the N51 National Road and then the R147 Regional road, from which it will access the site via an existing site entrance. All necessary access roads within the mine complex are existing.

- 7.7.3. The volume of construction traffic that the proposed development will generate is not quantified in the traffic report. However, since the development relates to a single wind turbine and associated development, I do not consider it likely that a significant volume of traffic will be generated.
- 7.7.4. The report states that a transport company specialising in wind turbine component transport will be appointed. This specialist will obtain the necessary permits and consents following agreement on a traffic management plan with the Local Authorities. The report also acknowledges that localised temporary works may be required on parts of the haul route (e.g. at junctions) to facilitate the movement of abnormal loads.
- 7.7.5. I consider that sufficient information has been submitted with the planning application for the purposes of this assessment and that, subject to the agreement of a construction traffic management plan with the relevant Local Authorities, the acquisition of the necessary consents/permits and a Condition requiring the repair of any damage caused by the abnormal loads, the proposed development will not have a significant traffic impact during either the construction or operational phases.
- 7.7.6. With regard to the visibility of the wind turbine from the N51 National Road and the potential traffic hazard that this could create, I note that the Wind Energy Guidelines state at Section 5.8 that turbines may distract motorists initially, but over time they become part of the landscape and in general do not cause any significant distraction for motorists. The Guidelines recommend a safety set back from National and Regional roads of a distance equal to the height of the turbine, which is achieved in this instance.

7.8. **Ecology**

- 7.8.1. An Ecological Impact Assessment (EclA) formed part of the Environmental Report submitted with the application. The baseline surveys underpinning the EclA were undertaken in January 2015, with bat surveys undertaken in July 2015. The

Planning Authority, noting that January is not the optimal time for breeding bird surveys, requested additional surveys by way of Further Information. A revised EclA with more comprehensive survey results was subsequently submitted. These surveys included flora, birds (breeding and over-wintering), bats, mammals (including badger), frog and newt.

- 7.8.2. The appeal site and surrounding area is largely anthropogenic and subject to regular disturbance as a result of the long-established industrial operation. The River Blackwater, which is both an SAC and SPA, is located c. 300m to the north of the appeal site. There are also water treatment ponds associated with the mine to the east of the appeal site. These were visited as part of the bird survey, and found not to be utilised by breeding water fowl.
- 7.8.3. The surveys confirmed that the appeal site itself is not ecologically sensitive due to its brownfield nature and that the key areas of ecological interest within the wider mine complex are the areas of woodland which provide screening and landscaping to the industrial areas and which are used by mammals, birds and bats.
- 7.8.4. The only birds of prime conservation concern (i.e. red-listed) observed during the bird surveys were two black-headed gulls resting on one of the ponds. Winter bird surveys undertaken at the Randalstown Tailings Management Facility found that Whooper Swans were not observed to fly in the vicinity of the appeal site, and were unlikely to do so due to its disturbed industrial nature. While various mammals were observed in the vicinity of the appeal site, I do not consider that the proposed development is likely to significantly impact on them. With regard to bats, surveys were undertaken in July 2015 and May 2016. These surveys identified a low number of bat passes, indicating that the site is of low significance for bats. The recorded bat passes were identified as commuting bats rather than feeding, indicating that there are no bat roosts in the immediate vicinity.
- 7.8.5. Having regard to the nature of the proposal, which comprises a single wind turbine, and the disturbed brownfield nature of the appeal site and the surrounding industrial area, I agree with the conclusions of the revised EclA, and the views of the Planning Authority's Heritage Officer, that the proposed development will not have a significant impact on local ecology.

7.9. Requirement for Environmental Impact Assessment

- 7.9.1. The proposed development comes within a class set out in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, i.e. class 3(i). However, it falls significantly below the thresholds set out in that class for which an EIA is mandatory (i.e. more than 5 turbines or having a total output greater than 5 megawatts).
- 7.9.2. Having regard to the limited scale and extent of the proposed development, being a single wind turbine, and to the location of the site, which is on industrial land that is not within a landscape of historical, cultural or archaeological significance, and which is not considered to have particular environmental sensitivity, and in particular having regard to the criteria set out in Schedule 7 of the Regulations, I consider that the development would not be likely to have significant effects on the environment, and that therefore the submission of a sub-threshold Environmental Impact Statement is not required.
- 7.9.3. One of the appellants has also raised the O’Grianna judgment and queried its implications for the proposed development. I do not consider that the O’Grianna judgment is relevant to this case, as firstly there is no EIA requirement as identified above, and secondly, there is no separate grid connection element to the project. The proposed development that is under assessment includes an underground cable connection to the applicant’s own on-site substation and all electricity generated will be utilised on-site. The cable route is within the development site boundary and the construction works associated with the cable construction have been addressed in the Environmental Report.
- 7.9.4. The appellant has also contended that the proposed development must be considered cumulatively with the mining operation and that an EIA of the entire operation is required. I do not accept this argument, as the mine is a long-established operational facility, and the proposed development will not result in any change in production, capacity or nature of operation of the mine. I am satisfied that the proposed wind turbine can be considered on its own merits.

7.10. Other Issues

- 7.10.1. **Aeronautical:** There is no correspondence on file from the Irish Aviation Authority. Nevertheless, I consider it appropriate for a Condition to be attached requiring the applicant to submit details of the development to the IAA prior to commencement, and to implement any lighting or other such requirements of the Authority.
- 7.10.2. **Lifespan of Turbine:** Although the Wind Energy Guidelines recommend that a Condition limiting the lifespan of wind energy projects should be avoided except in exceptional circumstances, I consider it appropriate in this instance having regard to the rationale for the proposed development which is meet part of the energy demands of the Tara Mines complex. I consider that a Condition limiting the lifespan to 25 years or until the mine ceases operation, whichever occurs first, would be appropriate.
- 7.10.3. **Decommissioning of Turbine:** The mine is obliged to maintain a fully financed Closure Remediation and Aftercare Management Plan (CRAMP) under its EPA Licence. Since I am recommending a Condition linking the lifespan of the turbine to the operation of the mine, I do not consider that a Condition requiring a decommissioning plan or bond to be agreed with the Planning Authority is required in this instance.
- 7.10.4. **Development Contributions:** The current *Meath County Development Contribution Scheme 2016-2021* states that renewable energy initiatives used for on-site consumption of power shall be exempt from development contributions. No development contribution Condition should therefore be attached to any grant of permission.

8.0 Appropriate Assessment

- 8.1. The closest Natura 2000 sites that could be impacted on by the proposed development are the River Boyne and River Blackwater SAC and SPA (Site Codes 002299 and 004232, respectively) which are located c. 300m to the north of the appeal site in the vicinity of the River Blackwater. There are no other Natura 2000 sites within 15km of the appeal site.

8.2. The conservation objective for the River Boyne and River Blackwater SAC is to maintain or restore the favourable conservation condition of the Annex I habitats and Annex II species for which the SAC has been selected. These qualifying interests are as follows:

- Alkaline fens (7230)
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (priority habitat) (91E0)
- River Lamprey (*Lampetra fluviatilis*) (1099)
- Salmon (*Salmo salar*) (1106)
- Otter (*Lutra lutra*) (1355)

8.3. The conservation objective for the River Boyne and River Blackwater SPA is to maintain or restore the favourable conservation condition of the bird species listed as special conservation interests for this SPA. The sole bird species listed is:

- Kingfisher (*Alcedo atthis*) (A229)

8.4. Having regard to the nature and scale of the proposed development, and the proximity of the identified Natura 2000 sites, I consider that likely significant effects on the Natura 2000 sites in view of their conservation objectives cannot be ruled out, and therefore an Appropriate Assessment is required. The applicant's Ecologist formed the same view, and a Natura Impact Statement (NIS) was submitted with the planning application.

8.5. The baseline flora and fauna survey of the site was undertaken in January 2015 which, as the Ecologist notes, is not the optimal time of year for such surveys. This issue was identified by the Planning Authority, and a requirement for additional surveys formed part of a request for additional information. I note that a revised Ecological Impact Assessment was submitted with additional survey results on foot of a request for additional information, but a revised NIS was not submitted. However, I consider that there is sufficient information on file for the Board to carry out an Appropriate Assessment.

- 8.6. The NIS notes that the appeal site is anthropogenic and undergoes constant disturbance and change as a result of the industrial nature of the site, although there are some ecologically important areas of woodland within the mine complex.
- 8.7. The proposed development will drain to the mine's existing surface water management system. There is therefore no water pathway between the wind turbine site and the River, and I consider that the primary source of concern in respect of the erection of a wind turbine in close proximity to the important ecological corridor represented by the SAC and SPA are the potential impacts on birds and bats. The NIS considers that there will be no direct impact on the conservation objectives of the SAC or SPA. With regard to indirect or secondary effects, the NIS identifies potential impacts on Whooper Swan (*Cygnus cygnus*) populations, through collision or disturbance, and on one or more bat species, through barotrauma. While Whooper Swans are not a qualifying interest of the River Boyne and River Blackwater SPA, they are a qualifying interest of other SPAs in this region, such as Lough Derravarragh. Similarly, while bats are not qualifying interests of either the SAC or SPA all Irish species of bats are listed on Annex IV of the Habitats Directive and must be protected wherever they occur.
- 8.8. The NIS states that the risk of impacts on over-wintering Whooper Swan are very low, given the brownfield nature of the site, existing presence of tall structures and lack of feeding/roosting sites. It also states that Whooper Swans fly at low altitude and are therefore unlikely to pass within the rotor envelope. The key risk to swans from wind energy development are therefore stated to be overground power cables. The placing of cables underground, as proposed, will therefore serve to mitigate this potential impact. I note that the subsequent winter bird surveys and flight path monitoring of Whooper Swans which utilise the mine's Tailings Management Facility at Randalstown, c. 3km to the north, found that at no point were the Whooper Swans observed to fly in the vicinity of the appeal site.
- 8.9. With regard to bats, the key species at risk is Leisler's bat, which flies at high altitude and travels considerable distances. Given the heavily industrialised habitat present in the area, the NIS considers that the appeal site will not be heavily utilised by bats. It goes on to recommend that a bat survey be undertaken. It also recommends that existing hedgerows and scrubland be retained, with any removal works being undertaken following a survey and outside of breeding season. A detailed bat

survey was subsequently undertaken, with the results submitted in the revised EclA. This survey found that the appeal site is not utilised by a significant number of bats.

- 8.10. The NIS concludes that the risks to the safeguarding and integrity of the qualifying interests and conservation objectives of the Natura 2000 sites have been addressed by the proposed mitigation measures to ensure that the proposed development should have no significant impact on the Natura 2000 network. Having regard to the nature of the nearby Natura 2000 sites, the results of the ecological surveying undertaken, the brownfield industrial nature of the appeal site and the limited scale of the proposed development I consider this conclusion to be reasonable.
- 8.11. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any European sites, in view of the sites Conservation Objectives.

9.0 Recommendation

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

10.0 Reasons and Considerations

- 10.1. Having regard to:

- (a) national policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouses gases,
- (b) the guidelines issued by the Department of Environment, Heritage and Local Government in 2006 on Wind Energy Development,
- (c) the provisions of the current Meath County Development Plan,
- (d) the nature of the proposed development which provides for the generation of renewable energy for use within an existing industrial site, thereby enhancing the environmental sustainability of the development,
- (e) the character of the landscape and the topography surrounding the site, and

- (f) the distance to dwellings or other sensitive receptors from 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 Natura 2000 sites or any protected species. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 13th June 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The permitted wind turbine shall operate for no more than 25 years from the date on which electricity is first generated from it or until the mine ceases operation, whichever is the sooner. Upon cessation of the use, the turbine and all associated development shall be dismantled and removed from the site, and the site shall be restored to its existing condition.

Reason: To clarify the nature of authorised development in accordance with the details submitted with the application.

3. The developer shall ensure that all construction methods and mitigation measures set out in the Environmental Report, the further information submitted and the Natura Impact Statement are implemented in full, except as may otherwise be required by the attached conditions.

Reason: In the interests of protection of the environment.

4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

5. The permitted turbine shall have a maximum hub height of 60 metres and a maximum tip height of 93 metres. Details of the turbine design, height and colour shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. Cables from the turbine to the substation shall be placed underground.

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

6. Noise levels emanating from the proposed development following commissioning, when measured externally at noise-sensitive locations, shall not exceed the greater of 45 dB(A)L90, 10 min or 5 dB(A) above background levels between the hours of 0700 and 2300, or 43 dB(A)L90, 10 min between 2300 and 0700. All noise measurements shall be carried out in accordance with ISO Recommendation R1996:2007: Acoustics – Description and Measurement of Environmental Noise.

The noise mitigation measures described in the environmental report shall be implemented in full. Prior to the commencement of development, the developer shall agree a noise compliance monitoring programme for the operational wind turbine with the planning authority. The operator shall maintain the programme and make it available for inspection by the planning authority.

Reason: In the interest of residential amenity.

7. Shadow flicker arising from the proposed development shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors. Prior to the commissioning of the wind turbine, the developer shall agree in writing with the planning authority a shadow flicker monitoring programme to determine actual flicker effects at agreed locations following commissioning of the turbine, and shall implement an agreed programme to mitigate the impact on these receptors, and any other impacted receptors following a review of the monitoring programme. The developer shall comply with any mitigation measures deemed necessary by the planning authority including the intermittent switching off of the turbine as a result of the monitoring.

Reason: In the interest of residential amenity.

8. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority –
- (a) a Transport Management Plan, including details of the road network/haulage routes and the vehicle types to be used to transport materials and parts on and off site,
 - (b) a condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a qualified engineer both before and after construction of the proposed development. This survey shall include a schedule of required works to enable the haul routes and, in particular, regional and local roads 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,
 - (c) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority,
 - (d) detailed arrangements for temporary traffic arrangements/controls on roads, and
 - (e) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.

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

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

9. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Subsequently the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions of the turbine and the highest point of the turbine.

Reason: In the interest of air traffic safety.

10. Soil, rock or peat excavated during construction shall not be left stockpiled onsite following completion of works. Details of treatment of stockpiled materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority following consultation with the relevant authorities.

Reason: In the interest of protecting telecommunications signals and of residential amenity.

12. 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 the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

Niall Haverty
Planning Inspector

28th November 2016