



An  
Bord  
Pleanála

## Inspector's Report PL05. 247194

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<b>Development</b>	Revisions to authorised windfarm of 5 turbines
<b>Location</b>	Meenderrygamph, Gweedore, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	16/50989
<b>Applicant</b>	Gineadoir Gaoithe Teo
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third party
<b>Appellant</b>	Peter Crossan
<b>Observer</b>	Joseph Brennan
<b>Date of Site Inspection</b>	16 <sup>th</sup> November 2016
<b>Inspector</b>	Stephen J. O'Sullivan

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## **1.0 Site Location and Description**

1.1. The site is in a rural area in the north west of Co. Donegal c8km east of the coast at Carrickfin. It lies on the southern slope of a mountain at Cronalaght, which rises by another c140m behind it to over 400m OD. The N56 national secondary road runs through the valley below, c1.5km south of the site. The landcover on the mountain is heath and bog. Agricultural land and houses lie on the lower land in the valley c1km south of the site. There is a windfarm of 8 turbines on the mountain on higher land to the north between the contours at 290m and 350mOD. The windfarm includes access roads, a control building and grid connection.

## **2.0 Proposed Development**

2.1. It is proposed to erect 5 wind turbines, each with a hub height of 72.5m, a rotor diameter of 105m, a tip height of 125m and a maximum output of 3.45MW. They would be to the south and west of the existing turbines on lower land between the 200m and 260mOD contour lines. A cable would connect the turbines with a control building authorised under a different permission, Reg. Ref. 15/1726.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 7 conditions, including one which required compliance with the conditions of the parent permission Reg. Ref. 09/30104

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

#### **3.2.1. Planning Reports**

The proposed development would be in an area where wind energy development is open for consideration according to the county development plan. The area is designated as being of especially high amenity. The site is not close to any structure on the RPS or NIAH, or archaeological monument. It is 1.1km upslope of the SAC at Fawnboy Bog/Lough Nacung. The proposed development will not have a significant

effect on the scenic amenity of the area or the SAC, and is acceptable in principle. The proposed development would not change the location or layout of the authorised turbines and so the advice on those matters in the wind energy guidelines would not be relevant. While the visual of turbines nos. 1, 2 and 5 would be locally significant in the view VP6 identified in the landscape analysis submitted with the application, the development would not have a significant general impact on the landscape, or a local impact that was significantly greater than the authorised development. The Natura Impact Statement and Environmental Report submitted with the application are reviewed, as were the objections to the development from third parties. The proposed development will have a minimal environmental impact and an EIA is not required. The existing road access to the windfarm will be used. A grant of permission was recommended.

### 3.2.2. Other Technical Reports

An appropriate assessment was carried out on the likely effects of the proposed development on several Natura 2000 sites, including the SACs at Fawnboy Bog/Lough Nacung, at Gweedore Bay and Islands, and at Cloghernagore Bog and Glenveagh National Park, as well as the SPA at Derryveagh and Glendowan Mountains. It concluded that the proposed development would not adversely affect the integrity of those sites due to the separation distance from them, the proposed measures that would mitigate the risk of the pollution of downstream waters during construction, the minimal additional amount of habitat that would result from the larger size of the proposed hardstanding areas, and the absence of any of the bird species for which the SPA is designated nesting or roosting in the area according to the submitted survey.

### 3.3. Prescribed Bodies

The Department of Arts, Heritage and the Gaeltacht recommended that archaeological testing be required.

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

Objections were made to the development on grounds similar to those raised in the subsequent appeal and the observation upon it. The importance of Irish placenames was stated.

## **4.0 Planning History**

Reg. Ref. 09/30104 – The planning authority granted permission for a windfarm of 5 turbines on the site, each with a hub height of 80m and a rotor diameter of 90m, along with ancillary structures including a substation and control building. The permission specified an appropriate period of 10 years.

Reg. Ref. 15/1726 – The planning authority granted permission to relocate the substation control building authorised under 09/30104.

## **5.0 Policy Context**

### **5.1. Guidelines for Planning Authorities on Wind Energy Development, June 2006**

Chapter 1 of the guidelines identifies the development of renewable energy sources as a national and European priority on grounds of energy and environmental policy, to be implemented with due regard to the binding requirements of the Habitats and Birds Directives. Chapter 3 states that the assessment of individual proposals for wind energy development must be undertaken on a 'plan-led' basis, which involves the setting out in development plans of areas considered suitable or unsuitable for wind energy development. Chapter 6 refers to aesthetic considerations. It states that mountain moorland may be inappropriate for wind energy development for reasons of natural heritage or if the landscapes are of rare scenic quality, but many such landscapes should be open for consideration. Larger wind farms can be accommodated in typical extensive areas of unenclosed ground. There would generally be no height restrictions.

## 5.2. Development Plan

The Donegal County Development Plan 2012-2018 applies. The plan designates areas as being open for consideration for wind energy development, or as not favoured for it, under policy E-P-11. The site is in an area where it is open for consideration. Policy E-P-16 is to support the clustering of wind farms within the vicinity of existing or proposed grid connections and existing operational and approved windfarms. The site is not in an area designated as one of especially high scenic amenity, nor is it within a view or prospect designated for protection in the plan.

## 5.3. Natural Heritage Designations

The Special Area of Conservation at Fawnboy Bog/Lough Nacung, sitecode 000140, comes to within 1.2km of the site to the south at the Clady River.

The Special Area of Conservation at Cloghernagore Bog and Glenveagh National Parks, sitecode 002047, comes to within 1.9km of the site of the far side of the valley of the Clady River to the south.

The Special Area of Conservation at Gweedore Bay and Islands, sitecode 001141, comes to within 5.2km of the site at the coast to the west.

The Special Protection Area at the Derryveagh and Glendown Mountains, sitecode 004039, comes to within 1.5km of the site to the south-east at the Clady River.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The applicant and the planning authority understated that significance of the proposed changes and their likely environmental impact. This application may be viewed as a case of project splitting. The 2015 application to amend the substation implies that the proposed change of turbine was envisaged. The applicant has engaged in a piecemeal approach to amending the original permission to avoid having to conduct an EIA in a sensitive environment. The application should be refused because it was not accompanied by an EIS.

- The site is 1.1km upstream of the Claddagh Rive and is hydrologically linked to the to the SAC at Faunboy Bog and Lough Nacung, sitecode 000140 which has a significant population of Freshwater Pearl Mussel which is threatened by the level of sedimentation in the river. There are 3 other SACs and an SPA within 4km of the site. The planning authority failed to carry out a full and proper assessment and has not established whether significant impacts are likely to occur on the receiving environment or the European sites. The applicant and the planning authority have failed to consider the qualifying interests of those sites. The 2016 Bird Survey submitted by the applicant is deficient and another observer describes Golden Eagle nesting sites within 10km. The application should be refused due to the risk is poses to habitats and species.
- The board should consider the visual impact of the development.
- The application for Reg. Ref. 09/30104 did not specify the output of the turbines. Those now proposed could provide an output of 3.5MW each, which surely requires an EIA. The parent application predates the decision of the European Court of Justice C50/09 that the conduct of EIAs in Ireland was defective and unlawful. So the original EIA for the parent permission was unlawful and a new application is required to re-assess the entire development.
- A variation to the county development plan to change the areas favoured for wind farm development is currently being considered by the minister and it may result in the change in the designation of this area.

## 6.2. Applicant Response

- The board is requested to issue a decision before 31<sup>st</sup> December 2016 as this date is a deadline under the REFIT 2
- The Vesta V90 model that was specified in the original application is no longer available. The proposed V105 model would have the same overall tip height of 125m, although the rotor diameter would increase from 105m from the permitted 90m. The size of the hardstanding for the crane and assembly of the turbines would also increase by 480m<sup>2</sup> to 620m<sup>2</sup> over the 1,025m<sup>2</sup> at each

authorised turbine. The maximum output of each authorised turbine is 3.0MW, that of each proposed turbine would be 3.45MW. The proposed alterations would not be likely to have significant effects on the environment and would not require EIA.

- The proposed revisions comply with policies E-P-17 & 18 of the county development plan and the technical standards at section 10.6.
- The submitted environmental report demonstrates that the changes would have no material impact on peat stability or the conclusions of the peat stability risk assessment for the original permission; or upon hydrology. The changes would reduce the impacts on air quality or from noise. It is unlikely that there would be any significant issues from shadow flicker, or a discernible impact on visual amenity.
- The submitted NIS concludes that the development is unlikely to have significant effects on Natura 2000 sites, subject to the implementation of mitigation measures.
- The current proposal does not represent 'project splitting'. The location of the substation in the original permission would be to the north of the existing substation, at a location that as unworkable from a construction and operational point of view due to the proximity of a steep embankment and cables from the existing windfarm, requiring the application to move its location under Reg. Ref. 15/51726. The size of the substation was not altered by that permission. The need to move the place for the sub-station is not related to the need for the current application, which is the non-availability of the turbine model specified in the parent permission. The proposed turbine model is as close as possible in specification to the one granted, albeit with a longer rotor and more efficient output. The change will result in no greater impact on the environment than that assessed prior to the original permission, or upon any Natura 2000 site.
- The submitted NIS and environmental report comprehensively dealt with the impact on Natura 2000 site, including those on birds and the freshwater pearl mussel, of the changes in hub height, rotor diameter and crane hardstanding areas that are proposed in this application. The proposal would result in very



minor losses of habitats on the site and a minimal increase in the amount of excavation that is already authorised. There would be a buffer of 50m from watercourses. The marginal increase in the area which would be subject to earthworks does not have the potential to alter the risks posed by sediment loss or other pollutants. The increase in the rotor diameter from 90m to 105m will not represent an increase in risk to sensitive bird species. Red Grouse and Golden Plover are not sensitive to collision. The bird surveys for the 2009 did not record any activity by golden eagle or merlin in the area, while that by peregrine was very low. The 2016 surveys did not record any activity by golden plover, golden eagle or peregrine falcon, with very low activity by merlin. These represent the findings of the ecological expert employed by the applicant, a summary of which is submitted with the appeal. The NIS outlines the detailed screening of ten Natura 2000 site, and an appropriate assessment was carried out with particular emphasis on freshwater pearl mussel and otters. Mitigation measures are described which largely relate to ensuring water quality and which are similar to those of the authorised development. The assessment concludes that the proposed development would not be likely to result in significant effects of the freshwater pearl mussel or otter populations of the River Clady catchment, nor would it result in significant effects on bird species, provided all mitigation measures were implemented.

- With regard to a possible alteration in the designation of the area under the county development plan, the proposed development merely seeks the alteration of an existing permission under which the principle of development is established. In its decision on PL04. 245196 the board recognised that strict dimension envelopes for turbines should not be used because there is a finite range of models available on the market. If this approach had been followed by the parent permission on this site then the current application would not be necessary.

### **6.3. Planning Authority Response**

- The planning authority's appropriate assessment was on the basis that the site was not in a Natura 2000 site; that detailed proposals were made for

surface water drainage and slope management which would avoid a deterioration in water quality in the Clady River; that a relatively small area of additional hardstanding would be provided that would not be likely to result in a significant loss of habitat for the Red Grouse; and that the bird survey did not record any of the species that are qualifying interests for the SPA at Derryveagh and Glendowan Mountains. It determined that the proposed development would not have an adverse effect on nearby Natura 2000 sites.

- The visual impact of the additional hardstanding areas would be minimal.
- The proposed development would result in an increase of the output of the authorised windfarm by 2.25MW, compared to the threshold of 5MW specified for windfarms in schedule 5 to the planning regulations. A sub-threshold EIA is not required in respect of this development.

#### 6.4. Observations

The observation by Joseph Brennan can be summarised as follows-

- The board should consider Mr Brennan's objection to the planning authority as well as this observation on the appeal.
- The observer shares the appellant's concern regarding the impact on the Greenland White Fronted Goose and the Golden Eagle, which has nests within 10km of the site. He refers to his appeal on PL05.246871. To illustrate the inadequacy of the NIS with this application he refers to the consideration of the Red-throated Diver. The development ignored the presence of 6 to 8 pairs of this vulnerable species in Donegal, with one pair nesting within 1km of the application site. It is a qualifying interest for the SPA at the Derryveagh and Glendowan Mountains, whose conservation objectives overlap with those of the SAC at the Fawnboy Bog/Lough Nacung. The NIS also fails to mention the Ring Ouzel, a rare upland bird which is Red Listed and frequents the Derryveaghs.
- The NIS does not adequately deal with the impact on the Freshwater Pearl Mussel, whose conservation is an objective of the SAC and which occurs over the full 7.81km length of the river from Lough Nacung. Any disturbance of the

peaty soils over gravel substrate on the site, which sheds its water to the Claddagh River 1.1km away, would be a reckless endeavour. To achieve the conservation objective of the SAC with regard to this species requires the general hydrology of the catchment to be restored and maintained free of siltation. The submitted NIS was inadequate in assessing the intolerable risk that the development poses in this regard.

- The EIA and appropriate assessment undertaken by the applicant and planning authority were flawed, with no evidence of a consultative period with the NPWS and other necessary bodies, as was that for the connected development proposed under PL05. 246871 by the same developer. Correspondence with the NPWS on that application is submitted. The extension on this site was granted without declaring a turbine size, so that the current application would increase the output from zero to 17.5MW.

## 7.0 Assessment

7.1. The planning issues that arise in this case can be addressed under the following headings-

- Appropriate Assessment
- Screening for Environmental Impact Assessment
- Policy
- Natural heritage
- Landscape
- Residential Amenity

7.2. Appropriate Assessment

7.2.1. Screening

There are four Natura 2000 sites in the vicinity of the appeal site:

The Special Protection Area at the Derryveagh and Glendown Mountains, sitecode 004039, comes to within 1.5km of the site to the south-east at the Clady River.

The Special Area of Conservation at Cloghernagore Bog and Glenveagh National Parks, sitecode 002047, comes to within 1.9km of the site of the far side of the valley of the Clady River to the south.

The Special Area of Conservation at Fawnboy Bog/Lough Nacung, sitecode 000140, comes to within 1.2km of the site to the south at the Clady River.

The Special Area of Conservation at Gweedore Bay and Islands, sitecode 001141, comes to within 5.2km of the site at the coast to the west.

There are no other Natura 2000 sites for which the potential for likely significant effects would arise from the proposed due to the lack of any pathway for any such effect due to the separation distance from the site and the absence of a hydrological link.

The SPA at the Derryveagh and Glendown Moutains, site code 004039 is within 1.5km of the appeal site. The conservation objectives of the SPA are to maintain or restore the favourable conservation condition of the following species –

A001 Red-throated Diver *Gavia stellata*

A098 Merlin *Falco columbarius*

A103 Peregrine *Falco peregrinus*

A140 Golden Plover *Pluvialis apricaria*

A466 Dunlin *Calidris alpina schinzii*

The habitats in and around the site might provide foraging for Merlin and peregrine falcon. It would not provide foraging or breeding habitats for the other species and the development would not be likely to have significant effects in relation to the conservation objectives that refer to those species, including the Red-throated Diver. The Natura Impact Statement refers to bird surveys that were carried out in 2006, 2008 and 2016 that recorded a single registration of merlin and two of peregrine falcon. The proposed development would result in a marginal increase in the swept area of the rotors compared to that previously constructed and authorised on the site. Given this, and the low incidence of Merlin and Peregrine Falcon recorded on the site and vicinity, it can be concluded on the basis of the information on the file, which is adequate to reach a determination on the matter, that the proposed development would not be likely to have any significant effects on the SPA, either

individually or in combination with any other plan or project and that a stage 2 appropriate assessment of the proposed development in respect of that site is not required.

The Special Area of Conservation at Cloghernagore Bog and Glenveagh National Parks, sitecode 002047, comes to within 1.9km of the site of the far side of the valley of the Clady River to the south. The conservation objective of the SAC refer to the following habitats –

3110 Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)

3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation

4010 Northern Atlantic wet heaths with *Erica tetralix*

4030 European dry heaths

4060 Alpine and Boreal heaths

6410 *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*)

7130 Blanket bogs (\* if active bog)

7150 Depressions on peat substrates of the *Rhynchosporion*

91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

and the following species –

1029 Freshwater Pearl Mussel *Margaritifera margaritifera*

1106 Salmon *Salmo salar*

1355 Otter *Lutra lutra*

1421 Killarney Fern *Trichomanes speciosum*

The separation distance of the appeal site from the SAC and the lack of a hydrological connection between them means that the proposed development would not be likely to have any significant effect on any of those habitats or species. The development would not cause a deterioration in the quality of waters that might be

used by otters that form part of the population protected under the conservation objective of this SAC, and therefore a significant effect upon them is not likely taking into account both the separation distance and the lack of a hydrological connection between the appeal site and the SAC.. Given these circumstances it can be concluded on the basis of the information on the file, which is adequate to reach a determination on the matter, that the proposed development would not be likely to have any significant effects on the SPA, either individually or in combination with any other plan or project and that a stage 2 appropriate assessment of the proposed development in respect of that site is not required.

The site is not within or immediately adjacent to an SAC. The proposed development would not, therefore, have direct effects on any such site. The proposed development involves groundworks that raise a possibility that there might be an impact on the quality of surface waters downstream of the site. There are two Special Areas of Conservation that would be downstream of the site – the one at Fawnboy Bog/Lough Nacung and the one at Gweedore Bay and Islands. A stage 2 appropriate assessment should be carried out in respect of those SACs.

#### 7.2.2. Stage 2 assessment

The conservation objectives for the SAC at Fawnboy Bog/Lough Nacung site code 000140 are to restore the favourable conservation condition of the following species-

1029 Freshwater Pearl Mussel *Margaritifera margaritifera*,

and to restore the favourable conservation condition of the following habitats-

4010 Northern Atlantic wet heaths with *Erica Tetralix*

7130 Blanket bogs (\* if active bog)

7150 Depressions on peat substrates of the *Rhynchosporion*

The conservation objectives of the SAC at Gweedore Bay and Islands sitecode 001141 are –

To maintain the favourable conservation condition of the following habitats:

1170 Reefs

1220 Perennial vegetation of stony banks  
1410 Mediterranean salt meadows (*Juncetalia maritimi*)  
2110 Embryonic shifting dunes  
2120 Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)  
2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)  
2140 Decalcified fixed dunes with *Empetrum nigrum*  
2150 Atlantic decalcified fixed dunes (*Calluno-Ulicetea*)  
2170 Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*)  
2190 Humid dune slacks  
3110 Oligotrophic waters containing very few minerals of sandy plains  
(*Littorelletalia uniflorae*)  
4030 European dry heaths  
4060 Alpine and Boreal heaths

To restore the favourable conservation condition of the following habitats:

1150 Coastal lagoons  
21A0 Machairs  
5130 *Juniperus communis* formations on heaths or calcareous grasslands

To maintain the favourable conservation condition of the following species-

1355 Otter *Lutra lutra*  
1395 Petalwort *Petalophyllum ralfsii*  
1833 Slender Naiad *Najas flexilis*

The operation of the proposed development would not have any effects on the above SACs. There would be a potential that works to carry out the development could lead to a release of sediments or other pollutants, including hydrocarbons or cement, that would have an effect on the quality of waters downstream and thus upon the freshwater pearl mussel and the otter that are the subject of conservation objectives

of the SACs at Fawnboy Bog/Lough Nacung and Gweedore Bay and Islands respectively. Measures to avoid any such effect on the quality of waters are set out in sections 3.3.1 and 5.8.1 of the environmental report submitted with the application, and section 5 of the Natura Impact Statement. These include –

- The location of the windfarm where it avoids areas of deep peat and steep slopes, with the turbines set back at least 50m from watercourses. Slopes will be regularly checked for development on tension cracks.
- Excavated peat will not be stored on area of bog or near flushes, drains or watercourses. Access roads and turning areas will be confined to areas of shallow peat and constructed on a geotextile layer. Slopes will not be undercut or excavations left unsupported for more than 24 hours
- An impermeable barrier will be installed around the construction area for turbine bases to ensure no surface runoff to watercourses.
- No storage of fuel oil on site, with the storage of lubricants and hydraulic fluids in bunded containers at least 100m from watercourses.
- Surface runoff from above the site will be diverted from construction areas using interceptor drains installed up-gradient. Drainage waters originating in construction areas will be collected in a closed system and treated prior to a controlled, diffuse release. Settlement ponds will be used to attenuate and treat runoff. (It may be noted that the drainage system for the completed development differs, and would seek to avoid the access roads significantly altering the flow of surface water down the hill to avoid the peat below becoming desiccated).
- Aggregates of similar chemistry as site bedrock will be used for road construction and foundations. Cement shall be mixed only within confinement areas.
- Restricting plant and machinery to the development footprint area to prevent track rutting.
- Construction will be avoided during periods of high rainfall



- Ongoing monitoring of streams and watercourses during works, including the Clady River and the watercourses identified as D1 to D8 in the submitted environmental report.

The proposed measures are standard and represent good practice for ground works in rural areas. Their efficacy is established. Their implementation would be expected even if the site was not upstream of a Natura 2000 site. They would be adequate to avoid the proposed development having a significant negative impact on the quality of waters in the SACs downstream of the site, and therefore they would prevent the development impeding the achievement of the conservation objectives of the above cited SACs with regard to freshwater pearl mussels and otters. The mitigation measures that will prevent a deterioration in the quality of waters downstream will also prevent the development having any impact on the use of the Clady River as a foraging habitat by otters. This would also prevent the development having any effect on the achievement of the conservation objective of the SAC at Cloghernagore Bog and Glenveagh National Park, sitecode 002047, that relates to otters, although a significant effect in this regard would be unlikely in any event due to the separation distance of the site and the downstream part of the river from this SAC.

Having regard to the foregoing, and to the information on the file including the Natura Impact Statement and the submissions from the applicant, planning authority and other persons which is adequate for a Stage 2 Appropriate Assessment, I consider it reasonable to conclude that the proposed development, individually or in combination with other plans or projects, will not adversely affect the integrity of the Special Areas of Conservation at Fawnboy Bog, Lough Nacung sitecode 000140 and at Gwedore Bay and Islands sitecode 001141, or any other European site, in view of the sites' conservation objectives. The conclusions of this appropriate assessment can be ascertained beyond reasonable scientific doubt on the basis on the information contained on the file. They are generally consistent with the conclusions of the appropriate assessment carried out by the planning authority and those stated in the NIS. The assertions in the appeal and observation that different conclusions should be reached, and the copies of correspondence with the NPWS appended to the observation, do not provide scientific reasons to doubt the conclusions now reached. The board consulted with the department responsible for heritage on the

current appeal in the manner prescribed by the planning regulations. The absence of a response would not preclude the board from further consideration of the application and appeal.

### 7.3. Screening for Environment Impact Assessment

The proposed development is to amend an authorised development which was subject to EIA. The governing legislation makes provision for such proposals in relation to the requirements for EIA. Class 13 of part 2 of schedule 5 of the planning regulations refers to changes and extensions and whether they would be development prescribed by section 176 of the act as requiring EIA. It refers to any change or extension that resulted in an increase in size of 25%, or 50% of the threshold for that class of development, whichever is the greater. The threshold for windfarms at Class 3(i) of part 2 of schedule 5 is 5 turbines or an output of 5MW. The proposed development would not alter the number of turbines, so that element of the threshold would not be breached. The output of the proposed development would be 17.25MW. The appellant's assertion that no output limit was specified in the parent permission was not contradicted by the applicant. However the model of the authorised wind turbine was, from which the output of the authorised development may be logically inferred as being 15MW. Therefore the second element of the threshold would not be breached either. The proposed development is therefore sub-threshold, and a screening for EIA depends upon the criteria at schedule 7 of the planning regulations. When the proposed development is compared to the criteria in schedule 7, it is apparent that the size of the proposed development would not render it likely to have significant effects on the environment. Neither would its cumulation with other proposals, its use of natural resources, production of waste, pollution and nuisance or the risk of accidents. The location of the proposed development, outside of any area designated for natural heritage or scenic amenity and away from centres of population, would not render it likely to have significant effects on the environment, nor would the characteristics of its potential impact, including their extent, magnitude, complexity, probability, duration, frequency or reversibility. The significant environmental effects that would be likely to arise from the overall development were subject to assessment before the parent permission was granted under Reg. Ref. 09/30104. That assessment and permission are not open to review at this stage. The proposed development would

not result in more turbines or a different location of turbines compared to the authorised development which had already been subject to EIA. It would not result in turbines with a higher overall height. It would result in blades that were 12.5m longer and an the area of hardstanding at the base on the turbines. Neither the proposed increase in the swept path of the rotors would or in the area of hard standing would be significant, having regard to the measures to prevent emissions to water described in the appropriate assessment above. Therefore the development would not be likely to have significant effects on the environment other than those described and assessed in the previous EIA carried out before the parent permission was granted. If the proposed development were likely to give rise to significant effects on the environment other than those which were previously subject to EIA, either in itself or in cumulation with other development proposed or authorised subsequent to the previous EIA, than there would be a requirement for a new EIA to be carried out before a grant of permission was considered on foot of this application. However, after carrying out a screening assessment following the thresholds set in schedule 5 of the planning regulations and the criteria set out in schedule 7, it is concluded that significant effects are not likely to arise from the proposed development either in itself or in cumulation with the revised substation control building authorised under Reg. Ref. 15/1726. Therefore an environmental impact assessment is not required in this case.

#### 7.4. Policy

The national guidelines set a policy that supports wind energy development in general. They require the appropriate locations for such development to be set out in development plans. The county development plan designates this area as being open for consideration for wind energy development. This is the most favourable category. The plan includes a policy in favour of the clustering of wind energy development, E-P-16. The proposed development is supported by these policies and is therefore acceptable in principle. Section 34 of the planning act specifies that the provisions of current development plans and guidelines are material in the consideration of planning applications. They cannot be considered on the basis of draft or proposed provisions which have not been duly adopted. It may be noted that the minister issued a direction under section 31 of the planning act in October

2016 not to extend the areas identified in the development plan as not favoured for wind energy development as set out in variation no. 2 to the plan.

#### 7.5. Natural heritage

The proposed development would result in only a marginal increase in the swept path of the rotors of the turbines authorised on the site and in the footprints of the turbine bases. Therefore it would not give rise to a significant increase in the risk of bird collision or pose a threat to Golden Eagles or Greenland White Fronted Goose that may be in the area. The loss of habitat that would result from the proposed development would not be significant due to the small size in the increase of the development's footprint compared to that already authorised. It would not be likely to effect the population of grouse. As concluded in the appropriate assessment above, adequate measures would be in place to avoid the proposed development affecting the aquatic environments downstream of the site. Given these circumstances, it is considered that the proposed development would not have a significant impact on natural heritage.

#### 7.6. Landscape

The site is in an elevated location and the proposed development would be visible over a wide area. However it is not in an area designated for the protection of visual amenity and the development would not appear within a view or prospect which it is an objective of the development plan to preserve. The proposed turbines would appear below the line of existing turbines, with both appearing a single windfarm. There would be a distinction of the length of the rotors between the proposed and existing turbines, which would diminish the visual harmony between the two when the blades were moving. However the proposed turbines with the longer rotors would be on lower ground than the existing turbines, and the difference would not give rise to visual discordance that would justify refusing permission for the development. It is therefore considered that the proposed development would not have a serious negative effect on the landscape.

#### 7.7. Residential amenity

The proposed turbines would be more than a kilometre from the nearest houses. Their tip height would be the same as the authorised turbines. The proposed development would not, therefore, give rise to significant additional impacts on

residential amenity and could comply with the limits on noise and shadow flicker set out in the guidelines.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to the conditions set out below.

## **9.0 Reasons and Considerations**

Having regard to the limited increase in the scale of the proposed wind energy development compared to that authorised under the extant grant of permission made under Reg. Ref.09/30104, to the Guidelines for Planning Authorities on Wind Energy Development issued by the Department of the Environment, Heritage and Local Government in June, 2006, and to the provisions of the Donegal County Development Plan 2012-2018 duly in force at the time of this decision, including the designation of the area containing the site as one where wind energy development was open for consideration and policy E-P-16 to support clustering of wind farms in the vicinity of grid connections, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant negative effect on the natural heritage or the visual and residential amenities of the area, and that it would be in keeping with the proposed planning and sustainable development of the area.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Special Areas of Conservation (SACs) at Fawnboy Bog/Lough Nacung sitecode 000140 and Gweedore Bay and Islands sitecode 001141, are the European sites for which there is a likelihood of significant effects and that significant effects are not likely to arise from the development for the Special Protection Area at the Derryveagh and Glendown Mountains sitecode 004039, the Special Area of Conservation at Cloghernagore Bog and Glenveagh National Park sitecode 002047 or any other Natura 2000 site.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Special Areas of Conservation at Fawnboy Bog/Lough Nacung and Gweedore Bay and Islands in view of the sites' Conservation

Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered in particular –

- i) the likely indirect impacts arising from the proposed development both individually or in combination with other plans or projects, specifically the impact on the quality of waters downstream of the appeal site,
- ii) the mitigation measures which are included as part of the current proposal and set out in the Natural Impact Statement, and
- iii) the Conservation Objectives for the said SACs,

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the SACs, having regard to their Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the sites' Conservation Objectives.

## 10.0 Conditions

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

**Reason:** In the interest of clarity

2. The conditions of the parent permission issued under Reg. Ref. 09/30104 shall be complied with in the course of the authorised development unless a departure from those conditions is required to comply with the conditions of this permission or was explicitly proposed in the development described

in the application for this permission. The appropriate period for the carrying out of the development authorised by this permission shall expire on the date when the appropriate period of the parent permission issued under Reg. Ref. 09/30104 expires.

**Reason:** In the interest of clarity

3. All the mitigation measures described in the Natura Impact Statement and the Environmental Report submitted with the application shall be implemented in full in the course of development.

**Reason:** To protect the quality of waters and the natural heritage of the area

4. Noise levels emanating from the authorised development following commissioning, when measured externally at noise-sensitive locations, shall not exceed the greater of 45dB(A)L90, 10 min or 5dB(A) above background levels between the hours of 0700 and 2300, or 43dB(A)L90, 10 min between 2300 and 0700. All noise measurements shall be made in accordance with I.S.O. Recommendations R1996/1 and 2 "Acoustics – Description and measurement of Environmental Noise".

**Reason:** In the interest of residential amenity

5. 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.

**Reason:** In the interest of residential amenity.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. 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,
  - . (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- . (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

7. . The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

. **Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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. Stephen J. O'Sullivan  
Planning Inspector



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9<sup>th</sup> December 2016