



An
Bord
Pleanála

Inspector's Report PL92.248010.

Development	10 year permission for the erection of 2 no wind turbines, overall height of up to 150 metres, crane hardstands, access roads, electrical cabling, electrical control building, borrow pit, ancillary drainage system and ancillary site works.
Location	Glenpaudeen, Moheragh, Holyford Co Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	15/601088.
Applicant(s)	Ecopower Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Ecopower Developments Ltd,.
Observer(s)	None.
Date of Site Inspection	4 th May 2017
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site which has a stated area of 15.74 hectares is located in undulating terrain within the south-eastern foothills of the Silvermine Mountain Range. The site is within the Hollyford Hills, Glanpaudeen and Moheragh, approximately 2km to the south of Hollyford village in County Tipperary. The site is adjacent to *(380m south of the nearest turbine) the Glencarbry Windfarm (12 turbines) which is currently under construction. The mast site at Laghtseefin is 0.7km to the northeast. The Hollyford hills and mountain mosaic area holds the highest concentration of both operational granted and submitted applications for windfarms in County Tipperary.¹ I note from submitted EIS a number of existing or consented windfarms within 20km of the appeal site.

Existing or consented windfarms within 20km. Wind Farm	No of Turbines	Distance from appeal site	Status
Glencarbry / Turraheen	12	0.38km NW	Under construction
Glenough	14	3km NW	Operational
Cappawhite	18	3km W	Under Construction
Hollyford	3	3.6km NE	Operational
Garracummer	17	4.2km NW	Operational
Knockastanna	4	8.4km NW	Operational
Milestone / Inchivara	6	7.2km N	Permission granted
Upperchurch	22	7.5km N	Permission granted
Moanvaun single turbine	1	4.6km MW	Permission granted
Turraheen Upper	1	5.4km N	Permission granted
Cronavone	1	14.8km N	Refused on appeal

1.2 The appeal site which comprises agricultural grassland fields incorporates two separate shoulders on the Glencarbry ridgeline separated by a valley containing the Lackenacoombe Stream which flows in a south-easterly direction. The Lackenacoombe stream drains to the Multeen River c 5.2 river kilometres downstream of the site at Drumminacunna along the R497 Anglesey Road. The

¹ Tipperary County Council Wind Energy Strategy 2016. 3.2.1. Page 18.

Multeen River in turn drains to the River Suir near Golden. The landscape to the west and north is contained further within the Silvermine Mountain Range and is hilly in nature with valleys that tend to be deeply incised with steeply sloping hills giving away to more moderately sloped plateau ridges. The landscape to the east and south transitions down to foothills and lowland plains. The village of Hollyford occupies a low lying position within the Multeen River Valley with elevated ground on both sides. The R497 Anglesey Road runs through the village connecting it within Milestone to the north and Ironmills to the south.

- 1.3 The appeal site is set to grassland and the immediate surrounds are dominated by agricultural grassland fields with geometric blocks of commercial conifer plantation. Conifer plantation dominates hilltop areas whilst there is a higher proportion of pastoral farmland in the lower reaches of the valleys in the surrounding area and also within the plains to the east. Farmed fields tend to be defined by broadleaved tree lined hedgerows.
- 1.4 As regards settlement there are no major settlements in the immediate vicinity. The village of Holyford is some 2km to the northwest while Cappawhite is 5.6km to the southwest, Dundrum 6.9km to the southeast and Rossmore 6.1km to the east and Annacarthy 5.5km to the south. As regards residential development there is a sparse scattering of rural residences in the immediate area. The EIS documents nine dwellings within 1km of the proposed turbines mainly to the west and southeast.
- 1.5 The nearest designated sites are
 - Slievefeilim to Silvermines SPA (Site Code 001179) 4.7km to the northwest
 - Philipstown Marsh SAC (Site Code 002125) 6.8km to the southwest
 - Lower River Suir SAC 2.7 river kilometres downstream at Barraderry
 - Anglesey Road SAC (Site Code 002125) 3.5km to the north
 - Lower River Shannon SAC (Site Code 002165) 6.8km to the west
 - Inchinquilib and Dowlings Wood pNHA 2.3km to the west and
 - Maherslieve Bog NHA 11.8km to the northewest of the site.

2 Proposed Development

2.2 The proposed development involves permission for

- 2 no Nordex N100 wind turbines with an overall tip height of 150m, and hub height of 100m, a rotor diameter of 100 and foundation of c314m².
- 2 no wind turbine crane hardstands of c 2,170m² each.
- Internal site access road of 930m in length, 200m of which are new site roads with the 730m along existing farm roads which will be upgraded to 4.5m in width.
- 20kV electrical control building and internal electrical cabling between the electrical control building and the wind turbines.
- Integrated drainage system comprising drainage channels, check dams, settlement ponds and attenuation ponds along the site access roads and around the footprint of the development, and

Ancillary site works comprising 2 no site entrances including new site entrance on the L5117 public road at Moheragh, a borrow pit and temporary site compound.

2.2 The 2 Moheragh turbines are predicted to produce circa 12m kWh per annum. The turbine sites are moderately sloping at an elevation of 320mOD at turbine 1 and 302mOD at T2. They are proposed for a location approximately 1240m southwest of the peak of Knockmavourneen which has a peak elevation of 350mOD.

2.3 As regards grid connection it is envisaged that the electricity generated will be exported to the existing ESNB Cauteen 110kV substation 10.7 km to the southwest. The likely route of grid connection route (illustrated on Fig 3-21) is approximately 13km in length and will mainly comprise overhead 20kV conductors which will be mounted on single wooden poles. Some sections the 20kV conductors will be installed in an underground trench.

2.4 Access for construction and operational traffic is proposed to individual turbine locations by way of two separate site entrances. A temporary site compound will be set up close to the location of the proposed electrical control building. The compound will have an area of 600m², and will provide management and staff welfare facilities, car parking and designated storage including bunded storage

facilities for fuel and oils. A borrow pit is proposed c 135m southwest of proposed turbine no 2. Approximately 1,010m² of rock will be excavated and the area will be subsequently regraded and revegetated. Three watercourse crossings are proposed

- 2.5 The initial application to the Council was accompanied by an Environmental report and an Appropriate Assessment Stage 1 screening report. Following a request from the local authority, supplementary detail and further information was provided including a Natura Impact Statement and an Environmental Impact Statement.

3 Planning Authority Decision

3.1 Decision

Following a request for additional information requiring an EIA and NIS and further clarification in regard to the nature of the development proposed The Planning Authority by order dated 19th January 2017 decided to refuse permission for the following reasons:

1. TWIND 4 (Policy Areas for Wind Energy Development) of the South Tipperary County Development Plan 2009, as varied, states that it is the policy of the Council to assess proposals for new wind energy development in accordance with the associated Wind Energy Strategy Map (Appendix 6, Map 11). With respect to areas 'Unsuitable for New Development' it is stated that new wind energy development in these areas will not normally be considered, except as specified in policy TWIND 4.14. These areas have a special or unique landscape character where the main objective is consideration or are areas that may be at risk from cumulative visual impact from wind turbines. Where there are existing wind energy developments in these areas, their repowering may be considered appropriate. Any impact on the environment must be low and subject to proper planning and sustainable development, and the guidelines set out in this strategy.

The proposed development is located on lands identified as an area unsuitable for new wind energy development and while it adjoins another wind development, it is not considered to constitute an extension of the same owing to the fact that it will not share on site infrastructure such as road ways, cable routes or the control building, etc. The proposed development includes for a new electrical control building and an

independent grid connection. It is therefore considered the proposal does not comply with the policies and objectives of the South Tipperary County Development Plan 2009, as varied, specifically Appendix 6, Tipperary Renewable Energy Strategy, Wind Energy Strategy, Policy TWIND4 or the exceptions to same as set out under TWIND 4.14. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.

2. Policy LH6 (Natura 2000 Sites and Protected Species) of the South Tipperary County Development Plan, 2009, as varied states it is the policy of the Council to ensure the protection, integrity and conservation of existing and candidate Natura 2000 sites and Annex I and II species listed in EU Directives. Where it is determined that a development may independently, or cumulatively, impact on the conservation of existing and candidate Natura 2000 sites and Annex I and II species listed in EU Directives, the Council will require planning applications to be accompanied by a Natura Impact Statement (NIS) in accordance with “Appropriate Assessment of Plans and Projects, Guidelines for Planning Authorities’, (DEHLG 2009) or any amendment thereof.

While the application has been accompanied by a NIS it is considered that the information provided by the applicant with regard to potential construction impacts on the Hen Harrier, a Protected Amber List Species is not sufficiently robust. Greater detail on the mitigation measures is required on this particular issue to give a higher level of confidence in the conclusions reached. The proposed development as now presented is therefore to be contrary to Policy LH6 and to the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

- 3.2.1 Initial report of Area Planner’s raises question of project splitting and refers to information gaps within the submitted environmental report. Report recommends the preparation of an environmental impact statement with consideration to grid connection. Location within a secondary amenity area is noted and the question of landscape capacity to absorb further wind energy development is raised. Further details are required regarding surface water management, water supply and

wastewater management, and entrance sightlines. It is asserted that screening for Appropriate Assessment is not possible based on information provided.

3.2.2 Final Planner's Report indicates concern that while the proposal adjoins the Glencarby development, is it not an extension of same and does not therefore comply with TWIND 4 or the exceptions to same. (TWIND 4.14). Assessment conclusions regarding potential impacts on hen harrier are considered not sufficiently robust.

3.2.3 Initial report of environment section explores the requirement for EIA. Additional information is required to demonstrate noise impact. Appropriate Assessment screening needs to be revised to address cumulative impacts and should exclude mitigation. It is noted that the submitted documentation refers to potential for temporary significant adverse effect on the nesting hen harrier by virtue of disturbance and displacement. Report concludes that development can be granted subject to standard conditions and implementation of mitigation measures and environmental management plan

3.3 Prescribed Bodies

3.3.1 Department of Arts Heritage and the Gaeltacht submission recommends archaeological mitigation in the form of testing and monitoring.

3.4 Third Party Observations

3.4.1 Initial submissions from a number of third parties object on grounds of potential devaluation of property, health and safety issues. The validity of the application is questioned on the basis of absence of consent from relevant landowners who will host the grid connection infrastructure. Cumulative impact and question of saturation of wind turbines is raised. Issue of negative impact on tourism, noise, roads effects and lack of local public consultation. Appropriate Assessment test is referenced. The impact on hen harrier and wider ecology is addressed.

3.4.2 Following further information submission the submissions note change in zoning deeming the area unsuitable for wind energy development. Maps show hen harriers

to be present in the position of the turbines. Inadequate cumulative assessment of noise impact.

4 Planning History

4.1 There is an extensive planning history in relation to wind energy development in the vicinity (Glencarbry Windfarm) and within the wider locality. I note the following:

Glencarbry

PL23.225618 (PA Ref: 07/255) Following third party appeal of the decision of Tipperary County Council to grant permission for 10 no turbines the Board granted permission for 9 turbines with overall height up to 125m 2 no 60m high masts with wind measuring equipment attached at Glencarbry Piperhill. Glenpaudeen, Foimacduff and Glenlough Lower.

PL23 229993 (PA Reg Ref: 11/80) The Board granted permission for the erection of 2 no further wind turbines overall height up to 126m, access roads and ancillary site works to the north of the turbines permitted under PL23.225618 in the townlands of Lackenacreena and Glenlough Upper.

13/135 Permission granted to Ecopower Developments Ltd for an amendment to the permitted Glencarbry Windfarm Electrical Substation.

13/205 Permission granted to for amendments to the internal site roads, hardstand areas, development area and associated site works of the permitted Glencarbry Windfarm.

15/600955 Permission granted 8/6/2016 for construction operation and decommissioning of a meteorological mast.

14/600033 Permission granted to amend the location and layout of the Glencarbry Windfarm electrical substation granted under 13/135.

PL23.242709 (13/274) Permission refused for access road for Glencarbry Windfarm (Reg Ref 07/255 & 11/80) Refusal on basis of impact of Lower River Suir SAC and potential flooding impact.

Glenlough

04/1195 Permission granted for 11 turbines 80m hub height and up to 45m blade length, access roads, control building and ancillary site works, Glenlough Upper, Glenlough Lower and Turraheen Upper.

08/136 Permission granted for amendment to planning ref 04/1195 for repositioning of 11 no wind turbines and amended layout of access roads, control building and ancillary works.

PL23.242710 (PA Ref: 13/24) Permission granted on appeal to Ecopower Developments Ltd to erect 3 no wind turbines overall height up to 126.6m electrical control building, access roads and ancillary site works. Glenlough Lower Turraheen Lower, Rossmore.

15/600948 Application for communications support structure deemed withdrawn 30/9/2016.

13/210 Permission granted to ESB wind development for 10 year permission for development comprising 18 wind turbines access tracks, fenced electrical transformer station anemometer mast, borrow pit and associated site works. Bahaga, Cappagh, Fouilderg, Inchinsquilib, Kilmore, Moher East, Oldcastle, Parkroe, Cappaghwhite.

Garrycummer

PL23.215597 04/1259 Permission for 26MW Windfarm comprising 13 no 2MW wind turbines including transformers, hardstand access road and associated site works.

243611 14/51/10 Application for a ten-year permission for development of a wind energy project of two wind turbines (each with a maximum tip height of 126 metres), construction of new internal access roads, upgrading of existing internal roads, underground cables and associated works. Knockduff & Inchivara, Milestone, Co. Tipperary. Condition 1 of the Board decision to grant

permission restricted the development to one turbine.

5 Policy Context

5.1 Development Plan

5.1.1 County Tipperary has two adopted county development plans the North Tipperary County Development Plan 2010 (as varied) and The South Tipperary County Development Plan 2009 (as varied). The latter is the statutory plan for the area of the site.

Variation No 3 of the South Tipperary County Development Plan was made in September 2010 to incorporate the new Renewable energy strategy 2016 for Tipperary. The Renewable Energy Strategy is set out as Appendix 6 of the County Development Plan and incorporates a new Wind Energy strategy 2016.

I note that the at page 37 of the strategy it is noted that

“Tipperary has made a positive and proactive contribution to energy targets through wind energy development. As a result, there is a concentration of existing and permitted (refer to Map 8) wind energy developments in certain parts of the County. This is particularly evident in and around the Slievepheilim – Silvermines and the Holyford Hills uplands. Significant parts of these uplands are also subject to Natura 2000 designations and are designated as secondary amenity areas in the County Development Plan (as varied). The combined area at this location has seen the greatest intensity of wind energy development in recent years and there remains approximately 80 permitted turbines yet to be constructed in this area. It is recommended, in view of the significant numbers of turbines yet to be constructed and in view of the environmental designations of the area, that over the lifetime of the Strategy that a precautionary approach to wind energy development in these areas be undertaken and that they be designated as unsuitable for wind energy development.

This will not preclude the repowering of existing developments, the construction of permitted developments and in limited circumstances the extension of existing wind farms; however, it will limit new wind energy development in the meantime. It is intended that this area will be re-examined again at the next review of wind energy in

the county to determine if it is appropriate to permit further wind energy development in this area having regard to cumulative impact of existing development.”

Chapter 7 Deals with Landscape Water Quality and Heritage.

It is noted that the Plan, informed by the Landscape Character Assessments has identified sensitive landscapes as Primary and Secondary Amenity Areas.

The development plan indicates one scenic route within the vicinity of the proposed development. This is view V036 which is described as *“Views in all directions from Ironmills to Milstone Road (R497)”*

Chapter 8 Climate Change, Energy and Flooding notes the core aim to be a leader in addressing climate change through the facilitation of appropriately located renewable energy developments and through supporting energy efficiency in all sectors of the economy.

5.2 Natural Heritage Designations

5.2.1 The appeal site is located outside any Natura 2000 site however there are five Natura 2000 within 15km of the appeal site, namely;

- Lower River Suir SAC (Site Code 002137) 1.4km
- Anglesey Road SAC (Site Code 002125) 3.5km
- Slievefeilim to Silvermines Mountains SPA (Site code 004265) 4.9km
- Philipstown Marsh SAC (Site Code 001847) 6.8km
- Lower River Shannon SAC (Site Code 002165) 6.8km

6 The Appeal

6.1 Grounds of Appeal

The first party grounds of appeal are summarised as follows:

- On the matter of compliance with newly introduced policy TWIND 4, this is addressed in EIS Volume B2: Main Report Chapter 1. When the application was lodged in December 2015 the turbines were proposed for an area designated as

‘Preferred for wind Energy Developments’ in the Wind Energy Strategy of the County Development Plan. During the course of the application the wind energy strategy was varied (Sept 2016) with new policies for the previously “preferred for wind energy development areas. The proposed Moheragh windfarm now finds itself located on the boundary between an ‘Area Unsuitable for Wind Energy Development and an Area Open for Consideration’. There are no preferred areas for wind energy developments.

- Accurate map shows the turbines to be borderline with Turbine No 1 located just inside the area unsuitable for new wind energy development and turbine no 2 just inside an area open for consideration².
- All topics in relation to TWIND 4.1 to 4.12 including cumulative impact, landscape sensitivity, visual impact of the turbines and ancillary development, screening for AA, slope stability, cumulative effect, in conjunction with other windfarms in the area on the natural environment, effect on neighbouring residential properties, effects on tourism and recreation impact on flood risk description of the grid connection works and impact on water bodies and hydrology have been considered by competent experts in the EIS. Subject to construction of the windfarm with the incorporation of the detailed mitigation measures, the windfarm will have an acceptable impact on the topics examined.
- With regard to TWIND 4.13 and TWIND 4.14 in respect of ‘Areas Unsuitable for New Wind Energy Development’ both turbines can be considered as an extension of an existing windfarm because they are a visual extension of the adjoining Glencarbry Windfarm.
- In terms of aesthetics the proposal is perceived as a seamless extension of the adjacent Glencarbry Windfarm and the nature of existing views is not significantly altered. Haul route from Foynes Port will be same.
- The proposal complies with the policies as expressed in TWIND 4.1 to TWIND 4.14 (inclusive) for extra turbines in terms of being a visual extension of an existing windfarm in terms of installed capacity, location outside of a Natura 2000 site and sharing of public roads and national grid infrastructure.

² I note from Planning Interactive Planning Enquiry system on Tipperary County Council website that both turbines fall within the area designated as “Unsuitable for Wind Energy Development”.

- Proposed turbines are on 2 separate landholdings. Relevant landowners live and farm locally. Exclusion of a potential local stakeholder in the local wind industry is contrary to the Department Guidelines in terms of Community benefit.
- In relation to refusal reason 2, it is submitted that the examination and analysis presented in the NIS and Biodiversity Chapter 9 of the EIS in relation to potential hen harrier during construction is comprehensively robust to enable complete precise and definitive findings to be made on the likelihood of significant effects on Hen Harrier during construction.
- Commitment to requirement for construction to take place outside the Hen Harrier breeding season (March – August inclusive)
- It is local regional national and EU policy to develop renewable energy sources. It is recognised in National policy documents that on-shore windfarms are the most cost effective renewable generation options available to us, given our excellent wind regime.
- Notably Environment Section report indicated that permission could be granted.
- Potential impact of construction activities on hen harrier are described in detail within the AA Stage 1 report.
- The location of a nest close to (but greater than 500m from the proposed development and the potential for significant effects through disturbance is acknowledged.
- The potential impact on the integrity of the sites through disturbance / displacement of hen harrier through construction disturbance and potential for indirect effect to the integrity on the Slivelfeilim to Silvermines Mountains SPA is acknowledged.
- Mitigation measures to avoid impact on hen harrier are presented within the mitigation sections of the Environmental Control Sheet and detailed within the NIS and EIS.
- Environmental Control Measure sheets integrate EIA and EMS are contractual mechanisms by which the environmental control measures / mitigation measures set out with regard to each specific potential environmental commitment will be addressed and implemented.

- The likely significant effects on the on hen harrier during construction relate to disturbance to and or displacement of nesting hen harrier as a result of construction activities associated with the proposed development.
- The examination and analysis presented in terms of potential impacts on hen harrier during construction is comprehensively robust to enable complete, precise and definitive findings to be made on the likelihood of significant effects on hen harrier as a result of construction impacts. Sufficient detail on the mitigation measures and their respective efficacy is presented to enable complete precise and definitive findings as to the absence of adverse effects on Hen harrier.
- The proposed development subject to the implementation of the mitigation measure as outlined is not contrary to Policy LH6 Natura 2000 Sites and Protected Species of the South Tipperary County Development Plan 2009-2015.

6.2 Planning Authority Response

6.2.1 The Planning Authority did not respond to the appeal.

6.3 Observations

6.3.1 None

7 Assessment

7.1 Having examined the file, considered the prevailing local and national policies, the planning history in the area and having inspected the site and assessed the proposal and all submissions, I consider the key issues to be considered in the Board's assessment of the proposed development can be addressed under the following headings:

- Policy Compliance – Principle of Development
- Landscape and visual impact
- Impacts on the residential and other amenities of the area including archaeology and roads.

- Ecological Impact
- Appropriate Assessment.
- Environmental Impact Assessment

7.2 Policy Compliance. – Principle of Development.

7.2.1 The proposed development is in accordance with national and EU policies which seek to promote the reduction of greenhouse gases and the advancement of renewable energy resources. The Planning Guidelines emphasise the importance of wind energy as a renewable energy resource and in general there is a presumption in favour of wind farm development in suitable circumstances.

7.2.2 In relation to the South Tipperary County Development Plan 2009 as varied, Wind Energy Policy for Tipperary is set out at Chapter 7 and Appendix 6 Renewable Energy Strategy 2016 incorporating the Tipperary County Council Wind Energy Strategy 2016.³ It is the policy of the Council TWIND 1 General Policy Statement on Wind Energy Development “to support in principle and in appropriate locations the development of wind energy resources in county Tipperary”.

TWIND 2. It is the policy of the Council to ensure that all wind energy development in the county complies with the provisions and all applicable government legislation and guidance on wind energy development and renewable energy resources (and any review thereof).

TWIND 3 “to require compliance with the Wind Energy Development Guidelines, DoEHLG 2006 (and any review thereof) and the policy and objectives of the County Development Plan (as varied) and any review thereof.”

TWIND 4 Policy Areas for Wind Energy Development. It is the policy of the Council to assess proposals for new wind energy development in accordance with the associated Wind Energy Strategy Map (Map 11). The Wind Energy Strategy, categorises the county into two classes Areas “Open for Consideration” and areas “unsuitable for new development”. The appeal site falls into the latter category. I note that within the grounds of appeal the first party has submitted a map referenced Fig

³ Variation No 3 of the South Tipperary County Development Plan 2009 was made in September 2016 to incorporate the renewable energy strategy 2016.

1.4 Version 2 and suggests that one of the turbines is within the area open for consideration for new wind energy development however I have accessed the planning interactive map⁴ and note that the location of the two turbines fall within the area indicated as unsuitable for new wind energy development. However, I note that the interactive map indicates that the Wind Energy Zoning Areas illustrated are indicative and are not designated to be read at detailed scale. As noted within the grounds of appeal when the application was made to the Council the site was within a “preferred area for wind energy”⁵) As set out in the current strategy ‘new wind energy development in these areas will not normally be considered, except as specified in policy TWIND 14. These areas have a special or unique landscape character where the main objective is conservation or are areas that may be risk from cumulative visual impact from wind turbines. Where there are existing wind energy developments in these areas, their repowering may be considered appropriate. Any impact on the environment must be low and subject to proper planning and sustainable development, and the guidelines set out in this strategy.

TWIND 4.13. Areas Unsuitable for New Development - New wind energy projects will not normally be considered in these areas. TWIND 4.14. Proposal for wind farm development may be considered on a case by case basis in the following limited circumstances:

- a) Where there are existing wind farms in these area, proposals for repowering may be considered appropriate on a case by case basis, Repowering is the process or replacing older turbines with newer ones that either have a greater capacity or more efficiency which result in a new increase of power generated, Repowering may also seek to extend the overall lifespan of the development. Proposals for repowering shall not result in a new increase in turbines and it shall be demonstrated that there is no adverse impact on the receiving environment.
- b) In areas located outside of Natura 2000 sites, proposals for an extension to an existing wind farm (of up to 20% in terms of the permitted numbers of turbines or in cases where 5 or less turbines are permitted in a wind farm, one additional turbine)

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<http://stcc.maps.arcgis.com/apps/webappviewer/index.html?id=a1a9c33f16134d11aa07f600d9c0a847>

⁵ Variation No 3 of the South Tipperary County Development Plan 2009 was made in September 2016 to incorporate the Renewable Energy Strategy 2016.

will be considered. The proposal will be required to demonstrate that the additional turbines may be served by the infrastructure serving the existing development, or

c) In areas located outside of Natura 2000 sites, where an existing wind farm has been permitted and this permission expires over the lifetime of this Wind Energy Strategy, a revised proposal will be considered within the planning unit of the previously permitted development and where it is demonstrated that there is no new increase in turbines.

7.2.3 It is on the basis of TWIND 4.14 that the Council based its first reason for refusal. The Council considered that the development cannot be considered to constitute an extension of an existing wind development on the basis that it does not share on site infrastructure such as roadways, cable routes or control building. The first party within the grounds of appeal alleges that the Council's reasoning is an unduly narrow interpretation of the policy context. The first party further notes that when the application was originally lodged in December 2015, it was located in an area designated as "preferred for wind energy development" and became designated as an area unsuitable for wind energy during the course of the application to the council.⁶

7.2.4 The first party further argues that in visual terms the proposed development would appear as a seamless extension of the adjacent Glencarbry windfarm and would not significantly alter existing views. Whilst I would concur that visually the proposal appears as an extension to the windfarm under construction, the proposal is clearly presented as a standalone development independent of the Glencarbry windfarm and as it is not an extension, therefore it does not fall within the limited categories for consideration for new wind energy development. On this basis I consider that the proposal would represent a material contravention of the development plan. I note that the Council's reason for refusal does not expressly refer to a material contravention.

7.2.5 I note the exceptional criteria set out in Section 37 2(b) of the Planning and Development Act 2000 as amended whereby the Board may decide to grant

⁶ Variation No 3 of the South Tipperary County Development Plan 2009 was made in September 2016 to incorporate the Renewable Energy Strategy 2016.

permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates. In this regard I do not consider that the proposal would be considered to (i) be of strategic or national importance. I do not consider (ii) that there are conflicting objectives in the development plan or the objectives are not clearly stated insofar as the proposed development, is concerned, or (iii) that permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under Section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or finally (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the areas since the making of the development plan.

7.2.6 In regard to the foregoing I find no basis to consider the proposal of strategic or national importance. The objectives within the development plan insofar as the development is concerned are clearly stated and are not conflicting. As regards government strategies and guidelines to address renewable energy there is no specific basis for support for the case in hand. I am not aware of any permissions granted in the vicinity since the making of the development plan which would support the case for deviation from this policy.

7.2.7 I note the first party appellant's concern and frustration regarding the ostensible change in direction in terms of wind energy policy as evidenced by transformation from an area "preferred for wind development" to an area "unsuitable for wind development". This contextual changes during the course of the application to the Council arise in the context of the cumulative effects of wind energy developments in the area and the question of landscape capacity to accommodate wind farms. Clearly the proper planning and sustainable development of the area requires ongoing monitoring and evaluation of the capacity of the landscape to absorb wind energy development and that development should be plan led. The significance of cumulative impact consideration is particularly relevant given the nature of wind energy proposals and its effects on environmental receptors. I further note that by its nature an exceptional extension to an existing windfarm as envisaged within

TWIND 4.14 with shared infrastructure grid connection etc. would provide further mitigation which would not be insignificant in the context of the cumulative assessment within this area.

7.2.8 On the basis of the foregoing analysis of the policy context I would concur with the planning authority that the provision for the proposed wind farm development on the site would contravene the adopted wind energy policy for the County and would set a precedent for similar such development. I find that there is no basis for the proposed development to come within the scope of the exceptions (i-iv) set out in Section 37(2)(b) of the Planning and Development Act 2000.

7.3 Landscape and Visual Impact

7.3.1 On the issue of landscape and visual impact, this is addressed within Chapter 18 of the submitted EIS. The zone of theoretical visibility for the 20km study area essentially demonstrates a split of the study area through the middle from south west to northeast. There is very little visibility of the proposed turbines from the northern and north-western portions of the study area other than from high peaks and ridges. Visual exposure to the south and southeast is relatively comprehensive other than within the valleys in the central study area within 2km of the turbines where the visibility pattern is more sporadic. There is little difference between visibility at nacelle height (100m) and blade tip height (150m).

7.3.2 Within the EIS visual impacts are assessed based on 12 no varied viewpoints that generally range in sensitivity between medium and low with the majority classified as medium low. The only exception is VP 11 from Rock of Cashel which has a very high sensitivity rating.

7.3.3 In relation to the analysis of the Viewshed reference points, VP 1, VP 2 and VP3 and VP5 represent local community views in respect of which the significance of visual impact is deemed to range from moderate slight to slight. VP 4 represents view from local road above Hollyford and confirms that the proposal is not visible from the village. VP6 from the R661 to the southwest (6.3km distant) represents a broad

view from the lowlands plains to the east of the site. Within this view the proposed turbines appear as an extension to the Glencarbry Wind Farm. VP7 (4.4km distant) represents a local community view to the northwest and is also representative of the Multeen Way walking route. The assessment notes that in the context of the broad vista and existing wind energy development on the ridgeline the proposed turbines are barely noticeable. The proposed turbines add a minor degree of intensity to the Glencarbry development but without exceeding the visual envelope. They will also add a degree of visual clutter however effects are minor in the context of the clear view of the Glencarbry turbines. In relation to VP9 View from Limerick junction (14.7km distant) the addition of two further turbines to the existing context result in a marginal increase in visual clutter. As regards VP 11 Rock of Cashel (17.4km distant) the Silvermines Mountains forms a distant backdrop to the vista and the ridge is lined by around 30 turbines that rise in silhouette against the sky. The proposed turbines will be seen at the southern end of the line of turbines on the distant ridge and marginally extend the visual envelope of wind energy development on the ridge. However, there is no material alteration of the view. VP10 from the N74 east of Golden and West of Cashel (15.4km distant) takes in gently rolling pastoral landscape and the proposed turbines are at the southern end of a line of distant turbines. The increase in visual presence of wind turbines is considered minimal. VP12 is from M8 motorway north of Cashel and 17.7km distant. In this view the proposed turbines form a cohesive addition in the southernmost Glencarbry cluster with a minor degree of turbine overlap with one of these turbines. The degree of change is barely noticeable and therefore is inconsequential in the overall distant context of turbines lining the ridge.

7.3.4 There is one designated scenic route in the vicinity namely View V036 described as “Views in all directions from Ironmills to Milestone Road (R497)”. The extent of this road contained within the ZTV is limited and EIS notes that fieldwork confirms little or no potential to view the turbines from the designated route. I note VP8 from Ironmills Bridge (5km distant). Whilst the proposed turbines add to the visual envelope of the Glencarbry scheme, the contribution of the proposed development to the visual presence of wind energy development in this context is minimal.

7.3.5 In relation to cumulative effects the grid connection route will be 13km long and comprise underground and overground sections. Trenching of underground sections will occur along parts of the existing road network and through open farmland. Consideration within the EIS is given to a number of existing and permitted developments in the area including those in Cappawhite, Falleenafinoga Garrycummer, Glencarbry, Glenough, Holyford Moanvaun and Tooreen and Turraheen. As regards cumulative impact the Cumulative ZTV map show that there is virtually nowhere within the landscape context that will have a view of the proposed Moheragh wind turbines in isolation. Most wind energy development in the area comprises consolidated clusters of 13 turbines on average. The proposed development adds to the cluster on the Glencarbry ridge (currently 7 to make 9 overall). It is asserted that in the context of this landscape consolidated medium sized clusters are the more appropriate form.

7.3.6 The EIS analysis notes that the sensitivity of the landscape is medium / low on the basis of its productive rural character typically demonstrating a relatively equal combination of farming, forestry and wind energy. This is balanced against the sense of rural tranquility. I would tend to concur that in this context the modest two turbine development adjacent to an existing wind farm will have any noticeable consequence in terms of the landscape character of the area. Generally, the uplift in visual presence of wind energy development is minimal and the proposed turbines are aesthetically well assimilated with the Glencarbry turbines and at greater distances with the overall view of turbines on the ridge. In terms of landscape effects, the proposed windfarm will have a relatively minor physical impact on the landscape within the site as none of the proposed development features have a significant footprint that will require substantial alterations to the landform or the already modified landcover. On site mitigation measures relate to re-establishment of vegetation on bare soils following construction replacement of trees and hedgerow lost during construction.

7.3.7 In terms of visual presence viewpoints from local roads in close proximity may experience medium to high order visual dominance however notably the level of visual presence does not coincide with any residential receptors. When seen at distances beyond 500m the proposed turbines are seen in the context of a broad

scale upland landscape context and the adjacent Glencarbry turbines. I would tend to accept the argument made that in terms of aesthetics, the proposal is perceived as a seamless extension to the adjacent Glengarby windfarm and the nature of existing views is not significantly altered. Cumulative impact is considered to be low. Notably the turbines are screened from view of the nearest settlement of Holyford.

7.3.8 In conclusion I would accept the arguments made that in terms of the landscape impacts, visual impacts and cumulative impacts, the highest level of effect arising from the proposed Moheragh turbines will be experienced in the immediate area. As viewing distances increase the proposed Moheragh turbines become more assimilated with the overall cluster of the Glencarbry turbines. I consider that the level of detail provided including viewshed reference points are sufficient to inform a comprehensive visual impact assessment of the proposed development. On this basis I consider that the conclusion of the Visual Impact Assessment provided within the EIS that the proposed Moheragh windfarm will not give rise to any significant landscape or visual impacts is reasonable and well supported.

7.3.9 Having regard to the foregoing assessment in relation to the limited scale of the development, and the established character of the area, I consider that the proposed development will not give rise to significant landscape or visual impacts and in the context of the established character and the nature of the site the visual and landscape effects are not significant. On this basis I do not consider that the visual impact of the development presents as an impediment to development of a windfarm on the site. I note that the matter of cumulative impact of windfarm developments and landscape capacity is a significant element addressed in the policy in respect of areas designated as “unsuitable for new development” in the Wind Energy Strategy 2016 as set out at Section 7.2 above.

7.4 Impacts on the Residential and Other Amenities of the Area Including archaeology and impact on roads.

7.4.1 The submitted EIS demonstrates that there are 9 dwellings within 10 rotor diameters or 1km of the proposed turbines. The nearest house identified as H1 is 505m to the south of T2. H1 is currently uninhabited and is located within a farmyard complex

owned by a landowner involved in the project. H4 and H3 are located c635m to the south of T1 and T2 and H2 747m to the southwest in Glenpaudeen.

7.4.2 House H1 – H4 are situated in the valley below proposed 2 no turbines. H5-H7 are located on the far side of the same shoulder of ground from T1. H8 and H9 are located to the northeast at a higher altitude on the same shoulder of ground as T2. Predicted noise emission (wind turbine at the receiver) show that H1 to H4 are primarily influenced by the proposed Moheragh Wind Turbines and H5-H9 by the Glencarbry turbines. Noise levels show that cumulatively both Moheragh and Glencarbry windfarm will not exceed 40dB at all bar two locations. (H6 and H7 cumulatively at wind speeds of 8m and above.) The predicted noise results demonstrate that the noise emissions from the proposed Moheragh windfarm will not exceed L90 40dB(A) at any location within 1km of the wind turbine. The result show that at locations where there are low daytime background noise levels (i.e <30Dba) up to wind speeds of 6 m / s, the daytime noise level criteria can be achieved either stand alone or cumulatively with the adjacent Glencarbry windfarm. The ISO 43 dBA night time fixed limit value can be achieved at all locations either stand alone or cumulatively with the adjacent Glencarbry windfarm.

7.4.3 As regards shadow flicker the submitted assessment demonstrates a worst case scenario and a realistic case scenario. Of the 9 houses within the potential zone of influence four H1, H2 H3 and H4 will not experience any shadow flicker. Five Houses H5, H6, H7 H8 and H9 could potentially experience shadow flicker however the setting mitigates the effect. H5 is within a farmyard complex and screening is provided by trees and buildings. As regards H6 views of the proposed turbines are partially screened by tall trees within the grounds of the house and the house is set diagonally aligned with the turbines. H7 is screened by tall trees forming a wind break on east side of the house. As regards H8 two conifer trees on the curtilage will provide some screening. H9 has its gable elevation orientated towards windfarm while a maturing hedge forms the perimeter boundary.

7.4.4 The submitted assessment asserts that the proposed wind farm can operate along or in combination with the Glencarbry within the Diehl Wind Energy Development Guidelines Threshold values for nuisance shadow flicker. As a precaution and to

measure actual shadow flicker a shadow flicker module which will monitor light intensity and wind direction will be fitted as part of the specifications. Shadow flicker monitoring programme can reduce or eliminate shadow flicker as a precautionary measure.

7.4.5 I note that the recommendations within the targeted review⁷ and preferred draft approach⁸ recommend a minimum 500m setback between any commercial scale wind turbine and the nearest point of the curtilage of any property in the vicinity in order to provide for amenity considerations e.g. visual obtrusion. Notably an exception may be provided to the minimum setback where the owner of the relevant property is content for the proximity of turbines to be less than the minimum setback. Written confirmation to demonstrate agreement to the reduced setback is recommended in such cases.

7.4.6 On the issue of wind take I note that the layout does not achieve the minimum two rotor blade distance from the landholding boundary as required by the current guidelines. T2 is within 92m of the landholding boundary and T1 is 74m from the landholding boundary.

7.4.7 As regards traffic impact it is noted that during the expected six months on site construction period a total of up to 363 inbound and 363 outbound HGV deliveries would be generated. Based on 6 working days this would equate to an average of 4.65 two way heavy vehicles per working day. The selection of the same haul routes as those used by the Glencarby windfarm for the delivery of construction materials cranes and turbine and transformer components will avoid new works to the main public road network. It is asserted that following implementation of mitigation measures residual effects on the road network will be moderate. Peak effects will occur during concrete placement for turbine foundations when a total of 50 inbound and 50 outbound heavy goods vehicle trucks would be generated for each of the two delivery days associated with concrete deliveries for the turbine foundations. Local

⁷ Proposed Revisions to Wind Energy Development Guidelines 2006, Targeted Review in relation to noise, proximity, and Shadow Flicker, December 11th 2013. Department of Environment Community and Local Government.

⁸ Preferred draft approach to address the review of the wind energy guidelines announced 13th June 2017.

road widening works at the Y junction between the Moheragh Road and Glencarbry road and along the Glencarbry Road adjacent to the site to facilitate construction access.

7.4.8 As regards archaeological Impacts, no significant implications in terms of archaeological aspects are predicted. There are no significant direct impacts on any recorded cultural heritage sites. The EIS addresses impact on archaeological monuments, historic and vernacular buildings and structures in the environs. On the basis of the potential for previously unknown cultural archaeological heritage to be directly impacted on it is recommended that all groundworks associated with the development be archaeologically monitored under licence. I note that the submission from the Department of the Arts Heritage and the Gaeltacht concurs with the recommendation for archaeological monitoring and also requires a programme of archaeological test excavation in advance of works commencing. In relation to Site entrance 2 from Glencarbry Scarrough local road some local tree and hedgerow removal is required in the vicinity of Site 27 farmyard. It is asserted that following completion of construction stage, site entrance 2 will be narrowed and reinstated with grass and roadside hedgerow will be substantially replanted and an area in the north-eastern corner of the field at site entrance no 2 will be replanted with native tree species to compensate for tree / hedgerow loss.

7.4.9 I conclude based on the detail provided within the submitted EIS that the impact on the residential and other amenities of the area is appropriately mitigated. The development will have short term impact on roads in terms of traffic and inconvenience however on basis of short term duration and subject to the detailed mitigation as outlined the proposal will not have an unduly negative impact. As regards archaeology no significant impacts are predicted and archaeological monitoring and test excavation would be required. As noted above the matter of cumulative impact of windfarm developments is a significant element addressed in the policy in respect of areas designated as “unsuitable for new development” in the Wind Energy Strategy 2016 as set out at Section 7.2 above.

7.5 Ecological Impact

- 7.5.1 Flora and Fauna assessments are outlined in Chapter 9 Biodiversity and were informed by desktop review and a suite of flora and fauna field surveys between April 2015 and November 2016. The scope of avifauna assessment was based on preliminary VP Survey April 2015, Winter season 2015-2016, Breeding season 2015 and one month of the winter season 2016/2017.
- 7.5.2 Habitats on site were classified in accordance with Fossit (2000) None of the habitats present within the site and adjacent are of significant ecological value. As regards Avifauna, the study area is considered to be of local importance to general bird species and is of national importance with regard to its value to breeding hen harrier. The Lackenacoombe stream draining the site is of insignificant fisheries value and upper reaches are evaluated as being of local importance.
- 7.5.3 The construction phase will result in some habitat loss and potential disturbance however given that habitats are of low ecological importance; the loss is not significant. The potential for disturbance to hen harrier is assessed in detail and detailed mitigation measures outlined. Based on survey data it is asserted that the location of the proposed windfarm does not contain viable habitat for wintering / roosting hen harrier and as such does not constitute an important area for wintering hen harrier. There is no suitable nesting habitat for hen harrier on site. Notably the hen harrier used the stream valley between the locations of the two proposed turbines as a commuting corridor. Mitigation proposed includes pre-construction monitoring for nesting hen harrier and possible construction outside the main breeding season as necessary. Detailed during and post construction monitoring is proposed.
- 7.5.4 As regards water impact mitigation strategy is outlined to prevent potential impact on hydrological and hydrogeological regime are addressed in chapter 12 and in the context of potential for sediment input from runoff and other pollutants such as hydrocarbons and cement based compounds no significant direct or indirect effect is predicted. A suite a mitigation measures are outlined to minimise adverse effect no water quality.

7.5.6 As regards interaction of impacts and cumulative effects, a wide range of potential impacts are examined. No significant adverse impact emerges and all impacts anticipated are small, localised and can be managed and mitigated. On the basis of the information submitted, and the ecological surveys and consultations, I consider that the proposed development, subject to the detailed mitigation measures as set out is acceptable in terms of its impact on ecology. As noted above the matter of cumulative impact of windfarm developments is a significant element addressed in the policy in respect of areas designated as “unsuitable for new development” in the Wind Energy Strategy 2016 as set out at Section 7.2 above.

7.6 Screening for Appropriate Assessment

7.6.1 The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for a Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site’s conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

7.6.2 The Natura Impact Statement, dated November 2016 provided in response to the Council’s request for additional information is prepared by Inis Environmental Consultants Ltd. The report examines the likely effects of the proposed wind energy development both alone and in combination with other projects on the conservation objectives of Natura 2000 sites within the zone of likely influence, that is within 15km of the proposed windfarm and considers whether any possible impacts on the conservation objectives of any Natura 2000 sites can be characterised as significant. The NIS takes account of the core windfarm site and the grid connection route.

7.6.3 In terms of step 1 of **Stage 1 Screening**, the European Sites which could potentially be affected using the Source-Pathway-Receptor model are identified as the five Natura 2000 sites within a 15km radius of the proposed windfarm site and the associated grid connection route, namely:

Site Name	Site Code	Distance
Lower River Suir SAC	Site Code 002165	1.4km
Anglesey Road SAC	Site Code 002124	3.5km
Slievefeilim to Silvermines SPA	Site Code 001179	4.9km
Philipstown Marsh SAC	Site Code 001847	6.8km
Lower River Shannon SAC	Site Code 002165	6.8km

7.6.4 Step 2: Identify the Conservation Objectives for these sites.

7.6.4.1 The Qualitying interests for the lower River Suir are as follows:

- 1029 Freshwater Pearl Mussel *Margaritifera margaritifera*
- 1092 White-clawed Crayfish *Austropotamobius pallipes*
- 1095 Sea Lamprey *Petromyzon marinus*
- 1096 Brook Lamprey *Lampetra planeri*
- 1099 River Lamprey *Lampetra fluviatilis*
- 1103 Twaite Shad *Alosa fallax fallax*
- 1106 Salmon *Salmo salar*
- 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- 1355 Otter *Lutra lutra*
- 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
- 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- 91E0 Alluvial forests with *Alnus Glutinosa* and *Fraxinus Excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

91J0 *Taxus baccata* woods of the British Isles

The conservation objectives for the Lower River Suir SAC, Version 1, 28th March 2017, note the overall aim of the habitats directive is to maintain or restore the favourable conservation status of habitats and species of community interest.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

7.6.4.2 The qualifying interest for the Anglesey Road SAC is

Species rich Nardus Grassland [6230] Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]

The conservation objectives version 5.0 dated 15/8/2016. Generic conservation objectives refer.

7.6.4.3 The qualifying interest for Philipston Marsh SAC [7140] Transition mires and quaking bogs [7140]. The generic conservation objective 15/8/2016 to maintain or restore favourable conservation condition of the Annex 1 habitat and or Annex II species for which the SAC has been selected applies to the site.

7.6.4.4 The Qualifying Interests for the Lower River Shannon SAC are as follows:

- Sandbanks which are slightly covered by sea water all the time [1110]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Coastal lagoons [1150]

- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation [3260]
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Tursiops truncatus* (Common Bottlenose Dolphin) [1349]
- *Lutra* (Otter) [1355]

Site specific conservation objectives for the SAC have been published, dated 7 August 2012 and provide specific conservation objectives for each qualifying interest.

7.6.5 Step 3. Identify the potential a) likely and b) Significant effects (direct or indirect) of the project along on the European sites solely within the contexts of the sites conservation objectives

7.6.5.1 The potential impacts with reference to the Natura 2000 sites' conservation objectives at various stages of the process include emissions to surface and ground water, run off, silt laden run off, hydrocarbon and other pollutants, fuels, construction materials to watercourses, loss of habitat for fauna, avoidance and disturbance.

7.6.5.2I note that the Anglesey Road SAC, Philpston Marsh and Lower River Shannon SAC are located 3.5km, 6.8km and 6.7km respectively from the proposed development and are not hydrologically connected with the appeal site of the proposed development.

7.6.5.3No direct impacts are predicted on any Natura 2000 site. In the scenario of a large release of suspended sediment or fuel spillage to the Lackenacoombe Stream there is potential for significant indirect impacts downstream. As the Lower River Suir is downstream there could be indirect impacts via water quality. As regard the Slievefeilim to Silvermines SPA 4.9km from the site the qualifying interest of this site the Hen Harrier has been recorded nesting close to the site therefore there is potential for disturbance and displacement. A reduction in breeding success as a result of disturbance could may indirectly affect the SPA. An additional effect considered significant is the potential spread of invasive species during construction works.

7.6.6 Step 4. Identify the potential a) likely and b) Significant effects (direct or indirect) of the project in combination with other plans or projects on the European sites solely within the contexts of the sites conservation objectives

7.6.6.1Cumulative effects are considered with regard to proposed grid connection, road widening and rewidening works and other plans and projects. In the absence of mitigation, the potential for water quality impacts to the Lower River Suir and potential for disturbance displacement impacts to hen harrier the qualifying interest for the Slievefeilim to Silvermines SPA the potential for significant cumulative effects cannot be discounted.

9.6.7 Step 5. Evaluate Potential Effects identified above using the source pathway receptor model.

9.6.7.1 No direct impacts on European sites are predicted. Indirect impacts however cannot be excluded. The identified pathways for potential impact on European sites are associated with the potential for water pollution and water quality

impacts, invasive species and disturbance to breeding hen harrier during the construction and operational phase.

7.6.8 Step 6 Determine whether or not likely significant effects, either individually or in combination with other plans or projects on the European Sites can be reasonably ruled out on the basis of objective scientific information.

7.6.8.1 On the basis of the identified pathways for potential impacts in respect of Lower River Suir SAC and Slievefeilim to Silvermines Mountains SPA having regard to the hydrological connection from the site and potential for disturbance to breeding hen harrier.

7.6.8.2 I note that in respect of the following sites significant effects were screened out on the basis of the qualifying interests for these sites and due to distance and absence of complete impact source pathway receptor chain.

- Anglesey Road SAC
- Philipston Marsh SAC
- Lower River Shannon SAC

7.6.9 Appropriate Assessment.

7.6.9.1 The stage 2 NIS considers activities during each phase of the development (construction, operation, maintenance and decommissioning)

7.6.9.2 Steps 1-4 above from Stage 1 Screening are detailed above. The screening assessment identifies potential pathways for impact on the Lower river Suir through potential emissions to surface water. The potential pathway for impact on the Slievefeilim to Silvermines SPA relates to potential disturbance displacement to Hen harrier the qualifying interest of Slievefeilim to Silvermines SPA. An additional effect considered likely to be significant in the absence of mitigation is the spread of invasive species during construction works.

7.6.9.3 In the scenario of a large release of suspended sediment to the Lackenacoombe Stream during construction works there is potential for significant indirect impacts downstream of the development area. Indirect impacts via water quality on the key species and habitats for which the site has been designated. In the event of siltation or pollution of watercourses from the site the aquatic habitats and species of the Lower River Suir SAC could be indirectly damaged by changes in water turbidity and water quality. Reduction in water quality and habitat availability could affect population levels of qualifying interest species. Indirect effects from transportation requirements include potential introduction of dispersing of non-native invasive species.

7.6.9.4 Slievefeilim to Silvermines SPA is 4.9km from the site and the Hen harrier is the qualifying interest. The surveys noted hen harrier were recorded nesting close to the site therefore there is potential that nesting hen harrier could be impacted through disturbance / displacement during construction or operation/ Should this nesting territory provide a source of birds to the SPA then a reduction in breeding success as a result of disturbance may indirectly affect the SPA.

7.6.5 In terms of an evaluation of the potential effects of the project on the conservation objectives of the sites taking account of mitigation, the mitigation measures include the provision of a preliminary Environmental Management Plan setting out environmental commitments, waste management plans. Best practice guidelines and codes of practice will be implemented at various stages. A preliminary surface water management plan is provided. It is proposed that an environmental clerk or works will oversee construction works and the implementation of the measures in the Environmental Management Plan will be a contractual obligation on the appointed contractor.

7.6.6 Good practice mitigation measures in respect of surface water and groundwater are outlined including mitigation by avoidance, source controls and in line controls and treatment systems. Environmental Control Measures Sheets set out controls in respect of excavation areas dewatering, stream crossings, cement based products and fuels/oils leakages spillages.

- 7.6.7 On the basis of detailed mitigation measures for protection of water quality in the proposed drainage design and site management programme in addition to the nature of the qualifying interest and the hydraulic distance impacts on downstream habitats are unlikely. It is thus concluded that the project would not affect the integrity of the **Lower River Suir SAC** either individually or in combination with other plans or projects.
- 7.6.8 In relation to the **Slievefeilim to Silvermines SPA** on the basis of the detailed mitigation measures including scheduling of construction activities, survey for nesting hen harrier prior to commencement of construction and post construction operational phase monitoring. If an active nest is located within 500m of the footprint of developmental works will take place outside the breeding season. It is concluded that on the basis of efficacy of proposed mitigation measures, significant impact on nesting hen harrier is not likely. On the basis of this conclusion it is considered that the project would not affect the integrity of the European Site either individually or in combination with other plans or projects.
- 7.6.9 Having considered the submitted report, I am satisfied that the methodology used in the NIS report is clearly explained and information sources set out. I consider that the level of information provided allows the Board as the competent authority to assess the impact of the proposed development on the integrity of the adjacent Natura 2000 sites. Having regard to the mitigation measures proposed I consider that the conclusion that the proposed development will not adversely impact the **Lower River Suid SAC and Slievefeilim to Silvermines Mountains SPA** is reasonably supported.
- 7.6.10 On the basis of the details provided I accept the assertion of the first party that it has been demonstrated that the cumulative impact of the development will not have adverse effect on the Lower River Suir SAC and Slievefeilim to Silvermines Mountains SPA in the light of their conservation objectives and that subject to the mitigation measures and habitat and species management plan, construction and environmental management plan and surface water

management plan the proposed project will not adversely affect the integrity and conservation status of any Natura 2000 sites.

7.7 Environmental Impact Assessment

7.7.1 On the matter of the Environmental Impact Assessment, I note that that application as initially submitted to the local authority was made on the basis that the proposed development is sub threshold in terms of the prescribed development for the purposes of Part 10. In this regard Environmental Impact Assessment is required for “Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts”, as set out in Part 2, Schedule 5 - Development for the purposes of Part 10 (Environmental Impact Assessment) Planning and Development Regulations 2001. The application details indicate that the proposal is intended to provide the 4MW capacity available in Cauteen substation however I note that the specified wind turbine (Nordex 100) has a rated power capacity of 2.5MW. In any event on the basis of the potential cumulative impact in the context of existing and permitted wind energy developments in the vicinity, the Local authority determined that the proposed development was likely to have significant effects on the environment and therefore required the submission of an Environmental Impact Statement. I would tend to concur with this EIA screening determination on the basis of the characteristics of the proposed development, the location of the proposed development and the characteristics of potential impacts.

7.7.2 I note that the submitted EIS takes account of the revised provisions provided in the EIA Directive 2014*52/EU. I note that the format of the EIS adopts the refined consideration of environmental factors. AS the Directive has not to date been transposed into Irish legislation. (Transposition date 16th May 2017) Circular Letter 1/2017 issued by the Department of Housing Planning Community and Local Government (DHPCLG) sets out the transitional arrangements in advance of the commencement of the transposing legislation. Circular Letter 1/2017 provides that “where an application was made for planning permission or a scoping opinion before 16 May 2017, the 2011 Directive will apply to the whole process.

7.7.3 Compliance with Requirements of Articles 94 & 111 of the Planning and Development Regulations 2001 (as amended)

7.7.3.1I consider that the EIS in overall terms, is in compliance with Articles 94 and 111 of the Planning and Development Regulations, 2001, as amended. To this extent I would observe that-

The EIS contains the information specified in paragraph 1 of Schedule 6 of the Regulations. The EIS-

- Describes the proposal, including the site and the development's design and size;
- Describes the measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Provides the data necessary to identify and assess the main effects the project is likely to have on the environment;
- Outlines the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.
- The EIS contains the relevant information specified in paragraph 2 of Schedule 6 of the Regulations. This includes-
 - A description of the physical characteristics of the project and its land use requirements;
 - The main characteristics of the wind energy process to be pursued;
 - The emissions arising;
 - A description of the aspects of the environment likely to be significantly affected by the proposal;
 - A description of the likely significant effects on the environment resulting from the development's existence, the development's use of natural resources, the emission of pollutants and creation of nuisances, and
 - a description of the forecasting methods used; and
- There is an adequate summary of the EIS in non-technical language.
- There is an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information (EIS Vol B2 Main Report at 1.4.10 indicates that no technical difficulties were encountered).

7.7.3.2 The submitted EIS focuses on the significant direct and indirect effects arising from the proposed development. The main likely effects can be identified under the range of headings as follows:

Human Beings

- Employment and economic impact at the construction stage and operational phase
- Health and Safety impacts during construction.
- Shadow flicker.
- Visual impact
- Traffic

Noise and Vibration

- Noise & other disturbance to residents.

Ecology - Flora & Fauna

- Effects on SPA, SAC pNHA
- Impacts on on-site habitats.
- Species impact.
- Avifauna disturbance.
- Hen harrier displacement / collision

Aquatic Ecology

- Undermining water quality in streams during construction phase.
- Affecting important habitats downstream of the site.
- Fisheries.

Soils, Geology and Hydrogeology

- Removal of soil
- Peat stability.
- Impact on natural drainage patterns

- Hydrology and Water Quality.

- Sediment release
- Surface water runoff
- Water quality

Landscape and Visual Impact

- Scale, height and extent of visibility.
- Impact on landscape character.
- Impact on important views.

- Cumulative impact with other existing and permitted wind farms.

Cultural Heritage

- Effects on archaeology.
- Impact on structures of heritage significance.

Air Quality and Climate,

- Dust
- Climate Change.

Material Assets

- Tourism and amenity.
- Impact on local road network.
- Electromagnetic radiation
- Shadow cast shadow flicker
- Interference with telecommunications.
- Impact on land use

7.7.3.3 Interactions Chapter 19 deals with the interaction of the foregoing.

Matrix Table 19.1. seeks to identify interactions between various aspects of the environment.

The effects of the interactions between humans and air quality, the visual landscape, flora & fauna and water and soils; and landscape and the natural environment are implicit in the range of preceding issues listed.

7.7.3.4 As regards alternatives, chapter 2 of EIS Volume B2 Main report, consideration is given to site selection, with review of three alternative windfarm sites within a reasonable distance of Cauteen Substation (9 -12km). The other sites were excluded on basis of proximity to dwellings and noise effects. Other alternatives considered include alternative site layout and design, alternative processes, alternative wind farm output, alternative turbine model and number, alternative site layout, alternative entrance and transport routes to the site alternative mitigation measures. In relation to the “Do nothing” option the EIS provides some discussion in environmental factor appraisals.

7.7.3.5 Assessment of the Likely Significant Effects Identified having Regard to the Mitigation Measures Proposed

The assessment preceding this section of the report under the relevant headings fully considers the range of relevant likely significant effects with due regard given to the mitigation measures proposed to be applied if the to address the range of potential significant impacts arising from the proposed development.

7.7.3.6 Conclusions Regarding the Acceptability or Otherwise of the Likely Residual Effects Identified

The conclusions regarding the acceptability of the likely main residual effects of this proposal are clearly addressed under the various headings of the main assessment. The principal areas of concern relate to cumulative impact and impact on ecology.

7.7.3.7I consider that the EIS is adequate and is of an acceptable standard that the document is generally in compliance with the provisions of Article 94 and Schedule 6 of the Planning and Development Regulations 2001.

8 Conclusion and Recommendation

8.1 Having considered the file, the planning history and all submissions and having visited the site, I consider that based on analysis of the appeal site location the landscape has some capacity to absorb development of this nature and I note the limited nature and scale of the proposal. The documentation submitted including the EIS provide a sufficient level of detail to enable analysis of the likely impacts of the development on environmental receptors and residential effects. The submitted NIS provides sufficient information to inform an appropriate assessment of the implications of the proposed development for nearby European sites in view of the site's conservation objectives. However, in light of the policy context as set out in the Wind Energy Policy 2016 of the South Tipperary County Development Plan 2009 as varied which designates the site

as an area unsuitable for new wind energy development the proposed development in its proposed form does not meet the limited criteria for consideration for such development. On this basis I recommend refusal for the following reason:

Reasons and Considerations

It is a policy TWIND 4 (Policy Areas for Wind Energy Development) of the South Tipperary County Development Plan 2009, as varied, to assess proposals for new wind energy development in accordance with the associated Wind Energy Strategy Map (Appendix 6, Map 11). With respect to areas ‘*Unsuitable for New Development*’ it is stated that “*new wind energy development in these areas will not normally be considered, except as specified in policy TWIND 4.14. These areas have a special or unique landscape character where the main objective is consideration or are areas that may be at risk from cumulative visual impact from wind turbines. Where there are existing wind energy developments in these areas, their repowering may be considered appropriate. Any impact on the environment must be low and subject to proper planning and sustainable development, and the guidelines set out in this strategy.*”

The proposed development is located on lands identified as an “*area unsuitable for new wind energy development*” and while it adjoins another wind development, it is not considered to constitute an extension of the same. It is therefore considered the proposal would materially contravene the policies and objectives of the South Tipperary County Development Plan 2009, as varied, specifically Appendix 6, Tipperary Renewable Energy Strategy, Wind Energy Strategy, Policy TWIND4 or the exceptions to same as set out under TWIND 4.14. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.

Brid Maxwell

Planning Inspector

16th June 2017