



An  
Bord  
Pleanála

## Inspector's Report PL 04.248152 / 244439.

### Development

Construct electricity substation compound, to replace substation already granted permission under PL04.219620 (05/5907) and extended under 11/6605. Electricity substation layout includes 3 no. control buildings, associated electrical plant and equipment, security fencing and ancillary works. A 10 year permission is sought.

### Location

Barnadivane, Kneeves, Terelton, Co. Cork.

### Planning Authority

Cork County Council.

### Planning Authority Reg. Ref.

1400557.

### Applicant

Arran Windfarm Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant permission.

### Type of Appeal

Third Party

### Appellant

Stephanie Larkin and others.

**Observers**

None.

**Date of Site Inspection**

12<sup>th</sup> April 2018.

**Inspector**

Mairead Kenny.

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## 1.0 Introduction

These introductory comments refer to 2 no. appeal cases, which were previously considered by the Board and both decisions quashed by order of the High Court on 20th of December 2016.

PL 04.248152 refers a proposed substation. An appeal case was previously considered under file reference PL04.244439.

PL 04.248153 refers to a proposed 6 turbine windfarm - previously considered under file reference PL04.245824.

The Board on 18<sup>th</sup> December 2017 issued Directions in relation to the remitted appeals. This included a request for a new report and recommendation to be prepared by an Inspector not previously involved in either case. This report and the concurrent report on the related windfarm case refer.

Having regard to the interdependence of the projects subject of the two appeals, to the legal history and the Direction of the Board on 18<sup>th</sup> December 2017 it is recommended that this report be read in conjunction with the report relating to PL04.248153.

The Board is also referred to the live appeal which was lodged under ABP301563-18, which relates to a proposed 110kV substation at Carrigarierk wind farm and a 100kV grid connection to Dunmanway substation to serve Carrigarierk and Shehy More wind energy developments to the west. I refer to this as the Carrigarierk Substation and Grid Connection.

## 2.0 Site Location and Description

The site is located in a rural agricultural area 9km from Macroom town in central county Cork. The nearest settlements to the site are the small villages of Cappeen, which is 2km to the southwest and Teretlon 2km to the northwest. Also noteworthy is Crookstown, which is situated close to the N72, which is the Macroom to Killarney road.

The hillside on which the site is positioned is part of a wider landform which is within the river Lee catchment. The site is just below the most elevated lands at this

location and is between the 250m and 260m contours. The land to the north slopes towards the main Lee Valley and to the south towards the Bride, which is a tributary of the Lee.

The substation site is in the townland of Barnadivane. The general landscape comprises an upland area with pasture being the dominant land use. There are groups and rows of trees in places, including evergreen trees. An 110kV line is evident in the landscape and it crosses the road at a number of locations and traverses the edge of the site. Garranereagh windfarm comprising 4 turbines is to the east of the site.

The area is characterised by a relatively high residential population much of which appears to be related to the farming activities in the area and some of the houses are newly constructed. There are a number of derelict unoccupied buildings some of which would be former houses and which might be described as 'habitable houses' in terms of planning legislation. The road network serving this development, the site of the proposed windfarm and the constructed wind farm is narrow but in reasonable repair.

The site itself is of stated area of 2.95 hectares. It is relatively centrally situated within the site of the proposed windfarm, which lies between 170m at the southern side and 270m at the north-eastern corner and is outlined as being of 40 hectares extent and set within an overall study area of 355 hectares. The site is located to the south of a narrow county road and is part of an agricultural holding. Hedgerow removal appears to have taken place within the holding in recent times. The site is exposed in views from the south in particular.

Photographs of the site and the surrounding area which were taken by me at the time of my inspection are attached.

### **3.0 Proposed Development**

Permission is sought for construction of an electricity substation compound to replace the previously permitted substation (PL04.219620 refers – this was for 14 turbines and the substation and other works – extended under reg. ref. 11/6605). That permission has lapsed.

The substation is stated to be required in order to conform to current Eirgrid requirements which now pertain.

The proposed development comprises:

- A level site area of 108m x 86m.
- 3 no. control buildings – single storey structures rendered with pitched roof and maximum height of 6.5m - stated area of proposed buildings is 541.97m<sup>2</sup>.
- Fenced area of 76m x 79m surrounded by 2.4m high palisade fencing.
- Remainder of site area reserved for future expansion.
- 200m access track from the county road to the substation.
- Steel lattice masts and other structures including two 18m high steel lattice mast structures underneath the existing overhead line.

The application is accompanied by an Environmental Report (ER) and an Appropriate Assessment (AA) Screening Report.

The project construction details, requirements for materials and traffic generated and proposals for waste management are set out in the Environmental Report. The development will require visits by maintenance personnel but will not be permanently staffed.

Surface water mitigation measures are outlined in Chapter 8. The Environmental Report concludes that the residual ecological impacts will be slight to imperceptible.

Landscaping details presented with the application were subsequently augmented.

## 4.0 **Planning Authority Decision**

### 4.1. **Decision**

The planning authority decided to grant permission following a request for further information regarding:

- winter bird survey
- Eirgrid Guidelines
- detailed rationale as to the unsuitability of the original site

- detailed landscaping plan
- detailed justification for 10 year permission.

The 28 no. conditions relate to matters including:

- Duration - 10 year permission.
- Landscaping details and related security in the amount of €3,000.
- Measures related to the protection of water quality and the environment and amenity of the area.
- Security in the amount of €75,000 regarding potential road damage and other conditions relating to roads and utilities including roadside drainage.
- Archaeology.

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

The final report of the Council's Planner includes the following points:

- The response to the request for further information (RFI) on birds and local biodiversity is acceptable.
- Regarding the revised location of the substation the applicant's submission is presented. The submission generally relates to external events and considerations, which take into account topography, grid connection, land ownership and considerations, which could allow future expansion if required.
- A detailed landscape plan is submitted in the RFI.
- The applicant's response regarding the need for a 10 year permission is outlined. An estimated completion time of just under 5 years is noted as is the stated potential for significant delays in all stages.
- Substation is necessary in order to facilitate the permission for 14 turbines granted under PL04.219620. Proposal is generally in compliance with the requirements of Eirgrid and the current WEGs. Engineering, environmental and heritage requirements have been satisfied. The proposal to relocate and



construct a larger substation is reasonable, particularly as permission exists for 14 turbines.

- Effect on the visual amenity of the area is somewhat mitigated by the proposed landscaping plan. Bond relating to the implementation appropriate. The landscape value of the area while somewhat elevated, and visible does not have any specific listing and is not located in an area where there are any recognised views or protected landscape area. The nearest scenic route to the north is not affected.
- Development contributions have been levied on the original permission for the turbine development including the substation - €78,280.07 is outstanding.
- On balance, I recommend permission.

The original report identified the primary planning issues as including national guidelines, visual amenity, residential amenity due to noise, light pollution, traffic safety, the scale and expansion of proposal and its suitability in a rural area, environmental and engineering issues and the extant permission. The original report also noted the matter of whether the project would constitute strategic infrastructural development and the An Bord Pleanála determination that is not SID.

The Senior Planner had considered whether an EIS and or EIA is required and concluded that it is not.

Regarding the selected site and the scale of the development the report notes:

- Concerns regarding the location of the proposal on an exposed elevated landscape – previous site would have less visual impact due to location, topography and some existing screening – agree that revised location and scale will increase visibility of the development from surrounding landscape.
- Regarding extending the existing site the applicant's case is considered to contain little exploratory evidence to dismiss its overall suitability – extension on the north south access does not appear to have been considered.
- Notes that the site is to contain staff facilities and to be manned by maintenance staff three to four times a week.

- Site however does have a reasonable backdrop where the land rises from the south to the north.
- A detailed landscaping plan should be required if granted.
- Site not visible from nearest scenic route.

#### 4.2.2. Other Technical Reports

The reports received from the Area Engineer, Environment Section, Heritage Officer and Senior Planner do not identify any objections subject to conditions.

#### 4.3. Prescribed Bodies

Irish Water – no objection.

#### 4.4. Third Party Observations

Matters raised in the 3 no. third party objections are largely those outlined in the subject appeal. One observer queries in addition whether the 60MW grid connection granted has now been transferred to the applicant – that letter was subsequently withdrawn.

### 5.0 Planning History

#### 5.1. On site / immediate vicinity

##### **1. Permitted 14 turbine and substation development – Garranereagh – granted - lapsed**

PL04.219620 refers to the decision of the Board to uphold the decision of Cork County Council to grant permission for development of 18 turbines (modified to 14 turbines) and 110 KV substation. Development fully described as construction of 18 turbines, 18 transformers, a 110kV substation, a 110kV switch station, 70 m wind monitoring mast, construction and upgrading of the site entrances, site tracks and associated works. It was clarified in the order dated 14<sup>th</sup> of February 2007 that the permission is for a total of 14 turbines.

The Board's Direction referring to its decision not to accept the Inspector's recommendation to refuse permission noted the planning history of the site and the location of the proposed development within a 'strategic search area'. The Board considered that the scheme by virtue of its revised scale and turbine configuration had addressed to a significant degree concerns relating to the previous proposal.

Planning reference number 11/06605 refers to an application for extension of permission related to development granted under PL04.219620 / 05/5907. The decision referred to the extension to 13<sup>th</sup> of February 2017.

## **2. Delivery Road - granted**

Under reg. ref. 14/06803 the planning authority granted permission on 27<sup>th</sup> July 2015 for a private road c150m between the R585 and L6008. The road was to facilitate delivery of components for the windfarm on the current appeal site.

## **3. Previous refusal**

Under PL04.204928 the Board overturned the decision of the planning authority to grant permission for development of 17 turbines. The Board refused permission on the basis of excessive dominance and visual obtrusion in the landscape due to the layout, number and size of the turbines, having regard to the landscape character and pattern of residential development in the area.

### **5.2. Other significant cases in area**

#### **1. Shehy More windfarm - PL04. 243486 (reg. ref. 13/551) – granted – legal challenge - proceedings withdrawn June 2018**

The Board granted permission for a development of 12 wind turbines at Shehy More c20km west of the appeal site. The application was accompanied by an EIS and EIS addendum in respect of the proposed grid connection and details regarding the route of that connection which will be entirely by way of an underground 38kV cable. The underground cable will run within the public road corridor between the site of the current proposal and either the previously permitted substation (in the townland of Garranereagh) or the currently proposed substation (in the townland of Barnadivane /Kneeves). The Board's Direction notes that this was concurrently considered with PL88.246915 summarised below (grid connection from Shehy More to proposed or

permitted substation at Barnadivane or Garranereagh). Legal proceedings against the decision were withdrawn in June 2018.

## **2. Grid connection from Shehy More windfarm to Garranereagh or Barnadivane substations - PL88.246915**

The Board under PL88.246915 upheld the decision of the planning authority to grant permission for development of an underground cable to connect the proposed Shehy More windfarm to the National Grid by way of either the permitted substation at Garranereagh or the proposed substation of Barnadivane. The Inspector noted that at the time of lodging the application for the proposed Shehy More windfarm the proposed substation at Barnadivane were subject of appeals to An Bord Pleanála. The Inspector advised that a concurrent assessment of the grid connection with the then current case of the Shehy More windfarm and the Barnadivane substation might be considered, which approach was followed by the Board.

## **3. Carrigarierk windfarm, substation and Grid Connection to Barnadivane substation - PL04.246353 - High Court upheld decision in November 2017**

The appellants refer to this case in the context of the substation appeal; the application under reg. ref. 147/431 for development comprising 5 wind turbines and various ancillary works including an underground grid connection to the permitted / proposed Barnadivane substations. The planning authority decided to refuse permission but the Board granted permission following third and first party appeals.

The decision of the Board was upheld by ruling of the High Court in November 2017. The court decided that the Board had conducted EIA and AA as required to do so and that the decision in relation to EIA and AA had been recorded as required in law.

## **4. Garranure windfarm, 10-15km to the south of the sites**

Under PL04.127137 permission was granted for 4 no. turbines of total height of 122m to blade tip.

PL239280 was a subsequent application/ appeal to increase the height of some turbines and erect an additional, bringing the total number to 5no. At the time of inspection 3 no. turbines were in place. The Board refused permission for the proposed modification and extension.

## **5. Cleanrath wind farm, 15km to the north-west – judicial review dismissed 30<sup>th</sup> May 2018**

PL04.240801 relates to a proposal for 11 turbines – decision to grant permission was quashed by High Court on 16<sup>th</sup> June 2016. The subsequent appeal under PL04.246742 for 11 turbines was granted by the Board on 19<sup>th</sup> May 2017. The High Court challenge was recently dismissed.

## **6.0 Policy Context**

### **6.1. Cork County Development Plan 2015-2020**

I consider that the most relevant provisions of the current development plan include:

- The identification of the site within the ‘Area Likely to be Most Suitable’ under Figure 9.2 and ‘Acceptable in Principle’ under Figure 9.3. Only two relatively small parts of the county are so designated. These are the optimal areas for wind farm development without significant environmental impacts with viable wind speeds and access to grid.
- Policy ED 1-1 is to ensure that through sustainable development the Council fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.
- Policy ED 3-4 states that in areas designated as ‘Acceptable in Principle’ commercial wind energy development is normally encouraged subject to protection of residential amenity particularly in respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives.
- ED 6-1 refers to the Electricity Network. Policy is to support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal planning considerations. Proposals will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological

assessment, that the integrity of nature conservation sites will not be adversely affected.

- ED 6-2 refers to the Transmission Network and the need to consider undergrounding or alternative routes for new network proposals especially in landscape character areas of high sensitivity.
- The landscape in which the site is located is designated as Landscape Character Type 10a – Fissured Fertile Middleground. This has a Landscape Value of ‘Low’, a Landscape Sensitivity of ‘Low’ and Landscape Importance of ‘Local’.
- The Lee valley to the north of the site is identified as a high value landscape. Policy GI-2 is to protect the character of views and prospects from designated scenic routes.
- A looped route south of Terelton and north of the site is designated under SR 36 – this is the nearest scenic route.
- GI 4-1 is to support the diversification of the rural economy through the development of the recreational potential of the countryside in accordance with the National Countryside Recreational Strategy. Under section 8.7.3 there is a need to identify more dedicated cycle and walking routes across the county. Objective TO 7-1 to promote the development of walking and cycling routes throughout the county refers.
- Policy RC1-1 is to strengthen rural communities and counteract declining trends within settlement policy framework while ensuring key assets in rural areas are protected.
- Objective CS 4-2e of the plan is to strengthen and protect the rural communities and agricultural infrastructure and productivity. Support of quality of life is identified.
- The Map Browser does not identify any further specific objectives of relevance.

## 6.2. **West Cork Municipal District Local Area Plan 2017 / Blarney Macroom Municipal District Local Area Plan 2017**

The area of relevance straddles these two Local Area Plan districts.

### West Cork Municipal District Plan.

The plan contains few specific reference to renewable energies and none which are relevant to the subject proposals. The need to establish mechanisms between the key stakeholders in order to deliver critical infrastructure (including energy) is noted in section 7.1.8. Some specific references to promotion of walking routes are provided but none are relevant to the subject locality.

### Blarney / Macroom Municipal District Local Area Plan 2017

The plan contains few specific reference to renewable energies and none which are relevant to the subject proposals. The need to establish mechanisms between the key stakeholders in order to deliver critical infrastructure (including energy) is noted in section 6.1.8. Some specific references to promotion of walking routes are provided but none are relevant to the subject locality.

The Map Browser does not identify any relevant specific objectives in the vicinity of the sites.

## 6.3. **Wind Energy Guidance 2006**

These are Ministerial Guidance issued under section 28 and the Board shall have regard to them.

The Guidelines call for a plan-led approach involving identification of areas which are considered suitable or unsuitable for wind energy development.

The Guidelines refer to various standards relating to noise, shadow flicker, electromagnetic interference.

Of most relevance to the current case is section 7.11 and 7.12 relating to ancillary structures and connection to electricity distributors. It is stated that ideally matters regarding associated structures and equipment should be considered at pre-planning application stage as part of the overall design solution for the site. Where that does

not happen conditions may be needed to address siting, design and finishes of ancillary structures including substations.

#### 6.4. **Other Guidance and Policy**

##### **National Planning Framework – Project Ireland 2040.**

This identifies National Strategic Outcome 8 as Transition to Sustainable Energy. It refers to the harnessing of considerable onshore and offshore protection from energy sources including wind. Targets include the delivery of 40% of our electricity needs from renewable sources by 2020 with the strategic aim to increase renewable deployment in line with EU targets and national policy objectives out to 2030 and beyond.

It contains numerous references to harnessing the potential of wind energy. New energy systems, additional electrical grid strengthening and transmission will be necessary. Development of renewables is critically dependent on the development of enabling infrastructure, including grid investment.

##### **National Landscape Strategy for Ireland 2015-2025**

This will provide a high level policy framework to achieve balance between the protection, management and planning of the landscape and recognises the concerns regarding the siting of national infrastructural development within our landscape – the objective of the strategy is to provide the data that will assist the future decision making process regarding our landscapes. Objectives include the provision of a policy framework which will put in place measures at national, sectoral (including energy) and local level.

##### **National Renewable Energy Action Plan**

The National Renewable Energy Action Plan (NREAP) sets out the Government's strategic approach and measures to deliver on Ireland's overall target to achieve 16% of energy from renewable sources by 2020. The Government has set a target of 40% electricity consumption from renewable sources by 2020.

The report was submitted to the EU in 2010. The fourth Progress report of December 2017 indicates that the interim target level of 8.92% average final energy



consumption set under the Renewable Energy Directive for 2015-2016 was met. The increased share of electricity from renewables is primarily (84% in 2015) from wind.

### **Strategy for Renewable Energy 2012-2020**

It is a strategic goal of the strategy to seek progressively more renewable electricity from onshore and offshore wind power for the domestic and export markets.

Key actions include the supporting of the delivery of the 40% target for renewable electricity through the existing GATE processes.

### **Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure, 2012**

Ireland needs to deliver a world class electricity transmission system in all the regions which meets the needs of Ireland in the 21<sup>st</sup> century which will, inter alia, enable Ireland to meet its renewable energy targets and reducing the country's dependence on imported gas and oil and reduce CO2 emissions.

### **Adapting to Climate Change and Low Carbon Act 2015**

This sets a statutory framework for the adoption of plans to ensure compliance with Ireland's commitments to European and international agreements on climate change.

### **White Paper – Transition to a Low Carbon Energy Future for Ireland 2015-2030**

The aim of this document is to set out strategies for the state to adapt to a low carbon future and to provide for Ireland meeting its international and E.U. commitments on greenhouse gas reductions.

## **6.5. Forthcoming Guidance**

The Draft Strategic Environmental Assessment Scoping Report for Renewable Electricity Policy and Development Framework and the draft 2016 Framework Report, remain at draft stage at the time of writing.

A review of the Wind Energy Guidelines is under way and a draft published in 2013 and subject of consultation. No date for adoption is known.

## 6.6. Natural Heritage Designations

The nearest European sites are:

- The Gearagh SAC to the north
- The Gearagh SPA
- Bandon River SAC to the south-west
- Mullaghanish to Musheramore Mountains SPA to the north-west.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The appeal on submitted by Noonan Linehan Carroll Coffey Solicitors (NLCC) on behalf of Stephanie Larkin and others includes the following points:

- Referring to the comparative size of the substation compared with that previously permitted as presented in Figure 1.2 of the Environmental Report the greater size is not justified except in the context of connection to other wind farms in the area for which there is evidence in the public realm.
- The permitted windfarm could proceed with the permitted substation.
- The location of the substation is more visually prominent and the original site is not constrained to the north or the site – the ‘eastern constraint’ is not a constraint as proximity to the line is an advantage.
- There is no need for a ten year permission which would create uncertainty.
- The substation is an integral part of a permitted windfarm and is in fact an integral part of a much larger series of windfarms entailing as yet unknown and therefore unassessed connection infrastructure. This is clearly a case of project splitting. The ECJ has been clear on this matter including in the O’Grianna judgement.
- The AA screening report is wholly inadequate and does not comply with the Kelly judgement.

- The Board should not rely on the previous permission for a wind farm of different nature and based on a decision which would now be seen as unlawful.
- We rely further on the enclosed submissions including that of Mr O'Donovan and Ms Larkin as well as on our submission under the concurrent appeal.
- There is a lack of clarity on the need for the number of control buildings.
- The development would give rise to visual intrusion by reason of its size, location, industrial nature, need for changes to ground levels and would impact on a waymarked scenic walk.
- Ground contouring will result in considerable traffic on unsuitable roads.
- Field of the proposed substation is a wintering ground for Golden Plover, Curlew, Red Wing and Fieldfare and data presented is inadequate and underlining the need for an appropriate assessment, which would rely on full knowledge of the project extent – inadequate bird survey periods and search area and lack of consultation on this matter – site important for roving passerine flocks and is at strategic location between two SACs (Gearagh and Bandon river).
- Enclosed map of waymarked trails – these are heavily used in locality and will be adversely affected as site visible from them.
- Application invalid on basis of lack of information as required under EIA and Habitats Directive.
- No policy requirement to increase wind generation.

## 7.2. Applicant Response

The main points of the first party response received on the 25<sup>th</sup> May 2015 are:

- The potential cumulative impacts including in relation to the existing Garranereagh wind farm, the permitted wind farm and other relevant developments was assessed. The appeal issues were mostly considered by the planning authority.

- Renewable energy is central to policy in Ireland to meet EU targets. The RPGs reference the need to expand the grid in order to ensure adequacy of regional connectivity as well as facilitating the development and connectivity of sustainable renewable energy resources.
- The proposed development is ideally located within the footprint of a permitted wind farm and close to 110kV overhead transmission line – avoiding the need for additional overhead cables and minimising electrical losses. 5 key criteria in site selection were considered.
- Criteria 1- capacity for future expansion – the substation will form part of the national grid network - Eirgrid will take operational control of the majority – Eirgrid’s requirements include expansion or alteration.
- Criteria 2 – proximity to the permitted windfarm – the consideration of the study area of 355 hectares allowed for avoidance of environmentally sensitive areas proximate to the permitted windfarm.
- Criteria 3 – proximity to the transmission system – existing overhead cable.
- Criteria 4 – visual screening – substation should not be excessively dominant or visually obtrusive in the landscape and be sited and designed accordingly.
- Criteria 5 – landowner consent.
- The constraints map presented to the planning authority as RFI is enclosed.
- The site is owned by a contributory land owner and the nearest non-stakeholder house is 440m away.
- A detailed description of the proposed development is provided in section 2.4 - this addresses matters relating to the making by Barna Wind Energy (B.W.E.) of another application for 6 turbines and for a private road.
- Applications for the 6 turbines (B.W.E.) and the substation (Arran Windfarm Ltd) are separate applications - companies are part of a larger group.
- Future connection by Eirgrid is not within our control - applicant has no plans for further wind energy proposals in this area.

- Addresses the construction phase in terms of the matter of where the fill will come from, the traffic implications of the construction phase and the hours of construction.
- Section 3.4 address the stand-alone nature of the application, the pre-application and the matter of an EIA requirement.
- If the substation is built in connection with the permitted windfarm the cumulative impacts are assessed in the ER and if the substation is built in connection with the proposed (6 turbine) windfarm the cumulative impacts are reviewed in the EIS for that project.
- The EIS for the (6 turbine) wind farm application includes an assessment of the potential cumulative impacts of the wind farm, the proposed turbine delivery route realignment, the proposed substation and any other relevant developments in the area including the adjacent operational Garranereagh wind farm, thus the overall impact of the developments is fully considered.
- Matters raised in the AA Screening report are summarised.
- In terms of the winter bird Vantage Point survey which followed SNH Guidelines and was carried out at the proposed development site from November 2013 to March 2014 (two fixed VPs overlooking the site were monitored for a total of 36 hours for bird activity) and in terms of the qualifying interest of the Gearagh SPA only Mallard was recorded flying over the site, on one occasion in January 2014, no other qualifying species or species of note from the SPA were recorded.
- The construction of the substation will not result in adverse impacts, including disturbance to flight paths, or disturbance of key species from the Gearagh SPA, having regard to the conservation objectives in circumstances where no reasonable scientific doubt exists.
- There are no watercourses within the substation site, which drains south-eastwards into drainage ditches. The site is in the catchment of the River Bride, is not linked to the Bandon River cSAC and discharges to the Lee downstream of the Gearagh cSAC and SPA – thus it can be concluded that

the proposed development will not adversely impact on the Bandon River cSAC, Gearagh SPA or Gearagh cSAC in relation to the indirect impacts.

- A number of enclosures refer.

### 7.3. **Planning Authority Response**

None.

### 7.4. **Observations**

None.

### 7.5. **Board Direction**

On the 21<sup>st</sup> of September 2015 the Board Direction required:

Justification for the proposed increase in the scale and capacity of the substation from that already permitted and the proposed relocation of the substation onto a more elevated and visually prominent area of the windfarm site.

Applicant to provide large-scale photomontages of high quality resolution to demonstrate the visual impact including the cumulative impact of the development together with existing and permitted development.

Provision of landscaping in the vicinity of the proposed substation in order to help soften its impact and visual integration into the existing landscape.

The letter issued on 6<sup>th</sup> October 2015 refers.

### 7.6. **Further Responses**

Applicant's submission of 3<sup>rd</sup> November 2015 is summarised below.

**Regarding the proposed increase in scale and capacity of the substation:**

- Connection to the 110 KV transmission network, operated by Eirgrid must meet its requirements in terms of the connection infrastructure required, such as the substation size and layout.
- Eirgrid will take the majority of the substation under its operation when construction is completed subject to specifications.
- Requirements now include that the substation be suitable in its electrical plant layout and overall footprint size to allow for potential future expansion, which is identified in red in the Eirgrid drawings.
- This is the only reason for the increase in footprint as stated in the applicant's response to RFI and subsequent appeal - the capacity of the substation has remained unchanged. The size of the substation is dictated by the fact that the connection is to a 110 kV overhead line not the capacity of the windfarm.
- The applicant will have no control over future connections to the substation – Eirgrid have a standing and reasonable corporate requirement that the new substation be capable of expansion in the event of changing technology and future requirements.
- No more viable areas for windfarm development in this area.
- Since making of the planning application another windfarm [Shehy More windfarm (PL04.243486)] is now proposed to connect to the substation – Eirgrid can make any further connection to the substation subject to statutory approvals.
- Shehy More windfarm does not form part of the Barnadivane substation application or the proposed Barnadivane windfarm project and the grid connection is not an integral part of the overall development and does not form part of the one project for the substation the subject matter of this application.
- Shehy More grid connection has been assessed as part of the application.

**Regarding the relocation of the substation:**

- The constraints are identified–proposed substation as required by Eirgrid is substantially larger.

- Permitted location is constrained by the location of the road, the overhead line and if the substation was to be located in the permitted location the existing overhead line would need to be diverted around the substation compound.
- If diverted to the West it would be closer to permitted turbines diverting it to the East will require to be at the other side of the road.
- Relocation of the overhead line would require consent from Eirgrid, landowners and planning consent and require removal of significant lengths of hedgerow north of the permitted site with the attendant impacts on local ecology. If provided at the previously approved location it would be in closer to dwellings.
- The proposed location is not constrained in any such way and was considered to result in considerably less impact on the local environment than attempting to design suitable mitigation.
- A review of the entire area within the permitted windfarm boundary was carried out.
- The proposed location was considered the most favourable from technical, planning and environmental perspective considering all these criteria.

**Regarding the visual impact:**

- Substation is within a landscape type identified as Fissured Fertile Middle Ground (type 10 (a) in 2014 CDP), which is a landscape value of low, a landscape sensitivity of low and a landscape importance of local. Nearest designated scenic route is the 3<sup>rd</sup> class road near the village of Terelton 1.75 km to north-west.
- The substation is most exposed to uphill views from the south and south-east and for this reason it is proposed that the perimeter of the site where slope and land availability allows will, where possible, be planted with semi mature native trees to provide year-round screening of the substation infrastructure.



- This type of planting is familiar in the landscape and the detailed landscape plan submitted to the council and in response to the appeal is now further supplemented in the submission (section 4).
- The nearest residential receptors enjoy a higher degree of amenity from the southerly views over the valley in the opposite direction.
- The substation will draw the eye of viewers in the immediate vicinity and as a cluttered industrial form of development will detract from the amenity of the broad rural views but it is considered to represent a minor intrusion on such views and not a visual obstruction. It will blend into the visual context to a greater degree as mitigation planting matures
- For people travelling along the R585 near the base of the valley the substation will intrude on pleasant uphill views. Once planting matures the substation is likely to be difficult to discern.
- Substation landscape and visual effects will be slight and localised.
- The views from selected locations are presented showing all the different scenarios and the landscaping has been modelled in the photomontages based on the landscaping plan and a landscaping height of 4.5 m. - each of the views are described.
- View 1 from the local road – the substation is visible in the middle ground towards the top of the hill, is not considered a dominant feature although the control buildings, electrical infrastructure and fencing are clearly visible – screening will significantly screen the substation from this viewpoint.
- View 2 from the regional road – the visibility of the substation is not considered dominant – the substation control buildings, fencing and electrical infrastructure are visible directly to the east of the existing overhead line – planting will significantly screen the substation from view from this viewpoint.

**Regarding the landscaping proposals:**

- The proposed substation is located on the south facing plateau within the Bride River Valley approximately 500 m south-west of the permitted substation – the proposed site ranges in elevation from to 250m on the

southern boundary to 260 m on the northern boundary – the land to the south slopes towards the River Bride and low-lying rolling farmland – to the north outside the substation site boundary the land slopes to the River Lee which lies at 70 m OD – land to the east of the study area drops to below 200 m OD with hills separated by river valleys – to the west of the site is a series of hills with peaks in the region of 220 m OD to 240 m OD.

- The proposed substation is most exposed to uphill views from the south and south-east it is proposed that the perimeter of the site where slope and land availability allows will where possible be planted with semi mature native trees to provide year-round screening of the substation infrastructure – this type of planting is a familiar feature in this landscape - details of plant sizes and numbers is included and a copy of the revised landscaping plan is in appendix 3.

In conclusion it is considered that:

- The development is acceptable in terms of policy and the rationale for the required changes to the substation in terms of its location, scale, layout and design, which are necessitated to meet Eirgrid requirements and the applicant has no control over any future connections to the substation.
- Landscape and visual impact is minimised by the submitted information.
- The enclosed letter of the Wind Prospect dated 8<sup>th</sup> of December 2014 notes the applicant's opinion that the impact of relocating constraints at the site of the permitted development (road/overhead line) has a more significant impact than relocating the substation.

Appellant's submission – **submission of NLCC solicitors** which responds to the above was received by the Board on 24<sup>th</sup> of November 2015. This includes the comments of Michael O'Donovan and Stephanie Larkin:

- Speaking as an industry professional I have never worked for a company that submitted a planting plan as bad graphically and containing as many errors as that proposed. The planting plan represents confusion, contradiction, lack of understanding of ground conditions/site location, lack of forward thinking and basic taxonomical errors. Regarding the screening effect of the proposed

planting only one species is evergreen (Holly) and this will not grow to significant heights at this location. There are further comments made in relation to what is described as horticultural naïveté and errors.

- It is necessary that the details are clarified if the Board is to decide that the planting plan is adequate. The planting plan will not effectively screen the site, which was selected in error and the development cannot be absorbed into the receiving landscape – there is a much better site closer to the permitted substation.
- Total number of turbines proposed to connect to the proposed substation is now 26 (permitted 14 at Barnadivane and 12 under appeal at Shehy More) which exceeds the threshold of 25 wind turbines for qualification for SID.
- It is only in the clarification request from an Bord Pleanála on the substation did the applicant disclose that they will be handing over the operation of the substation to Eirgrid - it is clear that the information presented to the Board in August 2014 was either false or has been superseded.
- The proposed substation must now be described as transmission infrastructure.
- Other legitimate questions include should Shehy More windfarm, Shehy More grid connection route, Barnadivane windfarm (proposed and permitted and the proposed substation) be considered as one project as determined by the O' Grianna judgement.
- Further should the Board take into consideration in the Kelly case judgement with regards Appropriate Assessment screening because of the wide-ranging effects of this project (Shehy More and Barnadivane windfarms are separated by 24 km and the proposed developments affect many catchments).
- Constitutes a true industrial power hub of on the top of Kneeves Hill. The prospect of further generation infrastructure and cable routes is not something the local community has bargained for and has not been yet made aware of (including underground).

- Regarding further wind energy proposals landowners have been approached are merely waiting for the decision regarding the substation to be granted before these applications are rolled out.
- It is not the role of the private company to decide that Ireland needs a transmission infrastructure connected to the National Grid to facilitate further ongoing developments and if Eirgrid wants to develop a facility of this type then it needs to demonstrate the need for it, chose a suitable site and go through the proper planning process. Eirgrid would never choose such a visually dominant location for a major piece of infrastructure such as this.
- The application drawings presented by the applicant are not as a direct result of correspondence with Eirgrid and do not fulfil the proofs necessary to satisfy the request for further clarification by the Board.
- There are further options open to the applicants with regard the design and layout of the substation for example GIS 110 KV substation would be considerably smaller than the AIS model. Also the area for expansion is something which can be negotiated with Eirgrid. The rigid regulations regarding size and layout of the 110 KV substation that are supposedly being imposed by Eirgrid are something that the Board needs to clarify through direct communication with Eirgrid.
- Constraints itemised by the applicant are not a real obstacle to developing the substation of the permitted site. The applicant has admitted that all the constraints can be overcome and do not appear to be unduly difficult – for instance the issue of further consent is merely initial internal squabbling of relevant stakeholders. Applicant has not demonstrated that the negative effects (especially visual impacts) greatly outweigh any perceived difficulties.
- It is considered that the photomontage locations chosen, which are at lower altitude were selected to take advantage of the effect of higher ground and forestry between the proposed sub-station and to maximise the benefit of the screening foliage presented.
- Other obvious locations will be from the road traverses the top of the hill behind the proposed substation, a popular walking route. Views from the

opposite side of the valley would also be very different. At this location there are houses which are at a similar altitude to the proposed substation and are much closer but would not receive the benefit of the higher ground forestry. Views from local roads are not adequately represented.

- Only 2 of the 4 existing turbines are included in the photomontages – this must constitute an error and does not provide the Board with the clarity to make the decision.
- The original EIS states that the substation should not be excessively dominant and visually obtrusive in the landscape and should be sited and designed accordingly – it is very clear that this is not achieved – further extensions and connections are likely but they have not worked these into their visual impact assessment. No visual comparisons with the permitted substation have been provided.
- This key element in the rationale for moving the substation needs to be clearly proven by the applicant through illustrated maps etc.
- The owner of the land for the proposed substation has altered the topography of his farm in the past year and seriously altered the movement of water, so run-off from the substation has to be reassessed as the map ‘existing site drainage’ is figure 8.2 located at 8.2.2 in the EIS is now factually incorrect.

Following the High Court order of 1<sup>st</sup> November 2016 the **Board invited all parties to make any general submissions on the application having regard to the quashing of the decision and the elapsement of time.** Responses were received as follows:

NLCC on behalf of Stephanie Larkin and others (2<sup>nd</sup> August 2017).

Arran Windfarm Ltd (3<sup>rd</sup> August 2017) – indicating no comments.

Planning authority (4<sup>th</sup> August 2017) – indicating no comments.

The submission by **NLCC Solicitors** on behalf of Stephanie Larkin and others (**dated 2<sup>nd</sup> August 2017**) received on 16<sup>th</sup> November 2017 includes the following comments:

- (NLCC cover letter) The clients continue to rely on the grounds advanced in the Judicial Review proceedings, which were not dealt with when the proceedings were compromised by agreement.
- The latest proposal by the applicant and related companies includes the proposed construction of a substation next to the proposed Carrigarierk wind farm (reg. ref. 17/431) to which the proposed 6 no. turbines may be connected and the Barnadivane substation may never be constructed.
- The Board needs to be able to identify and describe on the record just what 'the project' is for the purposes of EIA and AA.
- The enclosed working paper contains a detailed study evidencing the effect of wind turbines on nearby properties. If the Board remains in any doubt on this important issue it is required to solicit competent expert valuation advice before coming to a conclusion.
- Comments are made in relation to noise from turbines.

The submission of Stephanie Larkin and Michael O'Donovan, whose residence is 609m from the nearest turbine includes the following comments:

- Various comments in relation to noise from turbines, to shadow flicker and the visual impact of the turbines and property valuations.
- A further 100 submissions were added to the original 259 made to the planning authority – all are opposed – inadequate consideration of stakeholders.
- Taking into account all of the applications proposed in the area there is no clear idea of what the project will look like.
- There is a functional interdependence between the windfarm and substation and project splitting has been facilitated by the planning authority and the Board – the right to public comment is impinged.
- We have notified the applicant, the planning authority and the Board of the bat roost in our attic but it has not been taken into account – if the Board does not ensure that a robust and reliable bat survey is carried out as part of the EIS the matter will be taken to the European Court.

- Similarly I refer to the information previously submitted on breeding and wintering birds – as usual there are multiple pairs of snipe on site and other species which do not appear in the EIS and which lead us as ornithologist to conclude the EIS is inadequate.
- The EIS incorrectly states that there is no recreational amenity uses in this area, which is used by local hunting groups on an annual basis.
- The Inspector’s rejection of the application and proposed development of the Barnadivane substation was resounding and the Board failed to provide a reasoned and coherent process as to how it arrived at its decision to grant permission for this application.
- Matters related to the visual impact to scenic routes in proximity to the site, the zone of theoretical visibility being incomplete, the visual impact arising from cutting into the site, the visual impact with regard to the human environment were not properly assessed. Introduction of such a significant industrial installation will dramatically alter the receiving wider landscape.
- Need for a 60 MW substation has not been provided – we have asked for evidence to be provided from Eirgrid as to the rationale – this has not materialised.
- Evidence for and the nature of a grid connection at Barnadivane and of the newly proposed Carrigarierk substation is also required to properly assess the full implications and extent of the Barnadivane windfarm project.
- Planting plan lodged by the applicant is inadequate and pointless. The Inspector or the Board made no reference to the planting plan or my submission. We ask the board to engage a competent person to assess the planting plan and to have those findings published.

The enclosed submission is are the FCN working paper number 3/2012 which assesses the impact of windfarms on property values, a paper by Mike Stigwood and others relating to audible amplitude modulation and the paper by the same author reporting on the results of a long-term study of community impact from windfarm noise monitoring on a continuous period.

The submission by NLCC Solicitors on behalf of Stephanie Larkin and others (dated 2<sup>nd</sup> August 2017) was circulated to the applicant and the planning authority for comment. The **planning authority indicated no further response**.

The main points of the **submission on behalf of the applicant** received on 16<sup>th</sup> November 2017 are:

- Background to the planning application is outlined – the proposed replacement substation was determined not to be SID (VC0074 refers) - it was also assessed for EIA which was determined not be required.
- Cumulative effects have been considered in the Environmental Report and the AA Screening Report.
- Policy and legislative context is presented including the National Renewable Energy Action Plan and the Strategy for Renewable Energy –latter acknowledges that Ireland has the capability to meet its target for renewable electricity primarily through onshore wind power and contains key action of supporting delivery of targets through the existing GATE processes.
- Objective RTS-09 of South West Region relating to Energy and Renewable Energy notes importance of national grid expansion in terms of ensuring adequacy of regional connectivity as well as facilitating the development and connectivity of sustainable renewable energy resources.
- The proposed substation development is ideally located within the footprint of a permitted wind farm and in close proximity to an existing 110kV overhead transmission line which avoids need for additional overhead cables minimising electrical losses.
- Principle of development established and proposal in keeping with policy.
- Site selection process informed through review of EIA carried out pursuant to proposed wind farm.
- Table 3-1 provides a summary of the submissions to which the applicant now responds.
- The report of the acoustic consultant attached in appendix 1 – this considers the noise concerns relating to the operation of the wind farm and the



combined issues. We refer also to consideration of this matter by the Inspector on page 20 of his report.

- Regarding project splitting claims there is a summary of the different applications and proposals, the reasons for the making of separate applications and the consideration of this matter by the Inspector on page 29 of his report. The Shehy More and Carrigarierk cases were lodged subsequently and under those applications the project was considered cumulatively. The Barnadivane application as presented can be built out and operated independently of the Shehy More grid connection and the Carrigarierk substation consents.
- The layout of the replacement substation and the rationale, capacity and other matters have been outlined in the RFI to the planning authority and in response to the appeal and relate to the 2011 Eirgrid changes. We refer also to the information on the Eirgrid website which demonstrates that the applicant is committed to providing to Eirgrid 60MW of electricity.
- Responds to comments on the visual amenity of the 6 turbines and the cumulative impact of the existing Garranereagh turbines as well as matters related to the noise, shadow flicker and visual amenity which together constitute the means of considering residential amenity impacts.
- Further comment in response to concerns related to shadow flicker, property valuation, bats surveys, which are matters which are primarily relevant to the wind turbine proposal and to the adequacy of the relevant EIS submitted in association with that application. Similarly, comments on bird species present refer to the EIA and to the more extensive development site of the wind farm proposal. There are no specific references to the substation in these sections.
- Enclosed report of Hayes McKenzie – Consultants in Acoustics, which is more relevant to the concurrent appeal and which I have summarised in that report.
- Enclosed also in Appendix 2 which contains 2 no. drawings entitled 110kV Station Design Standard – this shows the plan and elevation of the two sections namely ‘New Loop Station’ and ‘Future Ring Station (Space Only)’.

## 7.7. Further submissions from parties and observers

Based on the Board's Direction dated 18<sup>th</sup> of December 2017 the applicant's submission summarised above was circulated to all parties and observers, namely Stephanie Larkin and other (represented by NLCC Solicitors) and the planning authority. Responses were received from both.

The planning authority indicate no further comments.

The submission on behalf of Stephanie Larkin and others is identical to that submitted in relation to the concurrent windfarm appeal and includes:

- Letter of NLCC Solicitors
- Letter of Denis Buckley
- Letter of Patrick Manning
- Submission of Barna Wind Action Group
- Report of Mr Dick Bowler, Acoustic Consultant, supported by a number of supporting studies and reference material including
  - Appeal decision – RES Developments Ltd - West Devon
  - Decision on wind farm – near Swinford
  - University of Salford – Research into AM – final report – July 2007
  - Wind Turbine AM Review report – Parsons Brinckerhoff - August 2016
  - Inspector's report PL04.243630
  - Acoustics Bulletin article – A Planning Condition for wind turbines
  - Examination of Significance of Noise – commissioned by SEAI – Marshall Day Acoustics - Nov 2013
  - ETSU – R – 97.

The letter of NLCC Solicitors states:

- The clients continue to rely on the substantial grounds advanced in the Judicial Review.
- Comments relating to the proposed wind farm noise.

- The numbering of Mr Manning's three properties is clarified.
- Other comments.

Letter of Denis Buckley – refers to wind turbine noise and property valuations.

Letter of Patrick Manning – refers to wind turbine noise and property valuations.

Submission of Barna Wind Action Group states:

- Proposed substation is not justified.
- No valid reason for the new substation. Developer wishes to increase the capacity to facilitate other developments. For this reason an agreement has been made with Eirgrid, it is not an agreement which brings the new standards (2011) for substations into the picture. We ask the Board that we be given further time to pursue FOIA and AIE requests as to date efforts have been unsatisfactory and we are proceeding to appeal this matter to the data protection Commissioner.
- It is due to the inadequate nature of the surveys that the recreational activity in the area is not been recognised.
- The matter of property valuations is evidenced by the fact that 259 local people living around the site do not want this development.
- Regarding the planting plan, the response of the applicant does nothing to address this.
- Disagree that the Aarhus requirements of complied with.
- Regarding birds the applicant is hiding behind woefully inadequate or surveys. It would be advisable the Board request fieldwork to be carried out shortly when the breeding return to the site. Spotted Flycatchers are also in the area under not recorded in the EIS.
- Species which are breeding at the site and are not recorded in the EIS are listed. These are Snipe, Mallard, Reed bunting, Sparrowhawk, Kestrel, Long-eared Owl, Grasshopper Warbler, Spotted flycatchers and Buzzard.
- The agreement between the applicant and PCI has no legal basis.

## 8.0 Assessment

### 8.1. Issues

I consider that the relevant issues may be discussed under the following headings:

- Principal
- Landscape and visual assessment
- Ecology including birds and bats
- Residential amenity and property values
- Other matters including public consultation
- Environmental Impact Assessment
- Appropriate Assessment.

### 8.2. Principle

I refer below to:

- Policy, scale and purpose of proposed substation
- Whether it would constitute Strategic Infrastructure

#### **Policy, scale and purpose**

- 8.2.1. The development of ancillary infrastructure is a necessary part of the promotion of the wind energy sector, which is supported under the NPF, RPGs and the CCDP and for which this area is described as optimum in terms of its suitability and in which wind energy proposals are deemed to be acceptable in principle.
- 8.2.2. In principle the general location of the site is acceptable in that context. The requirement to comply with normal planning standards pertains.
- 8.2.3. In terms of the principle of the development it is appropriate to consider the scale and purpose of this proposal including its relationship with other wind energy proposals in this area. This matter is subject of considerable comment in third party submissions. I address the matter of project splitting under the concurrent appeal report.

8.2.4. The stated development is intended to 'connect the electricity from Barnadivane Wind Farm to the national grid'. When the application was initially lodged the 14 turbine permission was extant. It is clear from the submissions made by the applicant that the stated intention in the original submissions was to provide for the previously permitted windfarm in this immediate area. The information in the public realm now clearly demonstrates that the development is of a scale which would facilitate connection of other windfarms and the obvious candidates are Carrigarierk and Shehy More, both having permitted underground grid connections to the site.

8.2.5. I set out below some aspects of the first and third party submissions and matters in the public realm (including recent planning history), which I consider are relevant to the question of the need for a development of this scale and to its purpose.

1. The application submissions rely heavily on the new Eirgrid requirements. While the previously permitted substation might have been acceptable to EBS the requirements are now different and must be complied with. This includes lands for expansion by Eirgrid, which will in future take charge of the majority of the substation. The applicant indicates no control over the proposed substation and who will connect to it on completion and transfer to Eirgrid. I accept this. If the Board is minded to facilitate wind energy development in this area, which is deemed to be suitable in principle then I also consider it reasonable that the Board favourably consider authorising a substation in accordance with the necessary requirements which are set by Eirgrid.
2. The appellants are correct in their understanding that the substation may in the future command a wider function than that previously permitted - but that matter is outside the current appeal. The site area is increased from 0.5 hectare to 0.9 hectares but more significantly there are three control rooms proposed and a complicated array of infrastructure. I do not consider that there is evidence for the applicant's statement that the size of the substation is dictated by the fact that the connection is to a 110 kV overhead line not the capacity of the windfarm. In this regard I refer to the development proposed and the infrastructure which is outlined in black on the relevant drawings – it is not at all clear that this is intended to serve the development and is necessary for the Barnadivane windfarm. Further, the extant permission for a grid connection from wind energy to the west refers.

3. In my view the overall evidence supports the objector's view that this is a sub-regional scale facility.
4. The applicant indicates no intention to seek permission for further wind energy proposals in the vicinity. I note the appellant refers to land owners being approached with a view to future developments. I consider that the applicant's statement should be accepted.
5. The appellant refers to further options open to the applicants with regard the design and layout of the substation for example GIS 110 KV substation, which would be considerably smaller than the AIS model. I consider that there may be merit in that argument but that there may also be technical reasons for the selection of AIS for this site. The Board could consult with Eirgrid on this and other matters as suggested by the appellant but my recommendation is that the Board assess the proposal as presented.
6. I note that the local planning context does not contain detailed planning guidance relating to the provision of electricity infrastructure except to refer to supporting the sustainable development of the grid, protection of ecology and completion of Appropriate Assessment and to giving due consideration in areas of high landscape sensitivity to undergrounding or diverting of routes. While the latter may refer mainly to new pylons it is the only relevant guidance for development of substations and I consider it reasonable to take this into account as it is framed in the context (section 9.6) of the general issue of the electricity network including the connection of wind energy proposals and it is not a large leap to infer that it is relevant to substations also.
7. The area in which the sites are located are not designated as being of high landscape sensitivity. Rather this is an area which is specifically designated as acceptable in principle and suitable for wind energy development. My overall conclusion in relation to principle of the development is that the development of a substation at this general location is acceptable in principle and I do not have reservations about its scale and purpose. The scale of the facility finds policy support in Objective ED 6-1 of the development plan.
8. Regarding the tourist potential of the area based on heritage and / or walking routes there is no specific development plan support for these activities in this

area and no national trails or features of nationwide heritage interest are present. The area already contains wind energy infrastructure and there is no evidence to support any claim that further wind energy development would significantly adversely impact on recreational assets.

9. The substantive national guidance for the Board to consider shall be the Wind Energy Guidance 2006 pending the adoption of any subsequent Guidance. Section 6.11 of the Wind Energy Guidelines (WEG) 2006 reference the need that individually and collectively elements associated with wind energy developments including control building and substation compounds should be considered, located and designed to respect the character of the surrounding landscape. I refer to the detailed consideration of the proposal below.

- 8.2.6. In conclusion I consider that notwithstanding its purpose the development is of a type which is acceptable in principle in this locality having regard to the location of the site in an area designated for wind energy. Nothing in national or local policy supports any other conclusion in my opinion. I consider that its increased scale should be considered acceptable in view of the requirements of Eirgrid and policy ED 6-1 which supports and facilitates the development of the electricity network.

#### **Whether the development might be described as Strategic Infrastructure**

- 8.2.7. A relevant matter relates to whether the proposed development would constitute Strategic Infrastructure Development, which application would therefore be appropriately made to the Board in the first instance. The appellant states that the substation is transmission infrastructure. The Board has previously considered this issue and determined that it is not SID (PL04.VC0074). The Inspector's report on which this decision was based noted that the proposed development will not facilitate other wind energy proposals, which was the information presented at the time. The appellant's case now is that in fact the total number of turbines proposed to connect to the Barnadivane substation is 26 (in excess of the SIDs threshold) - that comment is made based on the previously permitted 14 turbines.
- 8.2.8. Other issues taken into account by the Board included the fact that the development was to replace a previously permitted substation and to serve a permitted development. The application drawings presented showed the layout before the Board, which I consider is particularly noteworthy - the current proposal is the same

development as that which was considered under the SID pre-application consultation.

- 8.2.9. The decision of the Board stands and notwithstanding any information, which has come to the fore in the interim the making of the application to the planning authority was the appropriate procedure in my opinion.

### 8.3. **Landscape and visual assessment**

I have concluded above that having regard to the policy provisions including those which relate particularly to this location I have no objection to the development of a facility which appears to be in excess of the requirements for the proposed turbines subject of the concurrent appeal. I now consider in more detail whether the applicant has demonstrated that the site selected within this general area is reasonable and whether the substation is both located and designed to respect the character of the surrounding landscape.

I consider below whether the development meets the main policy requirements under the headings of:

- Site selection and whether the location selected is acceptable
- Landscaping plan and whether the approach is acceptable.

#### **Site Selection and whether the location selected is acceptable**

- 8.3.1. In terms of the selection of the subject site the applicant's comments in section 1.6 of the ER refer to the suitability of the site by reason of topography and screening from the scenic route to the north, its position underneath the existing line, centrally located minimising underground cabling, over 250 m from the nearest house and the distance to ecological and the sensitive areas. These criteria are referenced in response to the appeal (document received by An Bord Pleanála on 10<sup>th</sup> of March 2015, page 12), which states that the proposed location would result in considerably less impact on the local environment. The new site is considered preferable rather than attempting to define suitable mitigation for the constraints identified at the permitted site given the change in substation size.
- 8.3.2. The suitability of the site identified for the large substation has been subject of a further information request by the planning authority and subject again of the Board's



Direction, which follows a recommendation to refuse permission by the Inspector. The Board's Direction of 21<sup>st</sup> September 2015 considered that the applicant has not satisfactorily demonstrated need for the proposed increase in the scale and capacity of the substation from that already permitted and that the proposed relocation of the substation onto a more elevated and visually prominent area of the windfarm site has not been satisfactorily demonstrated.

- 8.3.3. I have already set out my position in relation to the scale and purpose of the proposed development, which I consider to be beyond the immediate requirements of the concurrent wind energy proposal. I agree that the substation would be at a more elevated and visually prominent position. The selected site is more exposed and elevated. The original site would be described as secluded and well screened. The question is whether the selected site is demonstrated to be reasonably necessary and in overall terms an acceptable location.
- 8.3.4. In terms of the results of the site selection process undertaken and the statements made by the first and third parties my conclusions are as follows.
1. The application documents including Figure 5.1 of the ER show that there are 7 no. inhabited houses excluding those which are inhabited by contributing landowners within 1km of the site. This is not a large number of houses.
  2. There is no evidence in the form of earth balance calculations to indicate that the amount of cut and fill required for site expansion at the original site could not be undertaken. However, from examination of the original site I accept that it would be relatively onerous and would be likely to result in significant groundworks with greater consequences for the natural environment, and to human beings by way of noise and air quality impacts in the construction period and for surface water in the short and longer term.
  3. This is a large development in terms of the extent of the site and the ground contouring required and there will be clear views to the development including from the local road and other lands to the proposed development. There will be a permanent landscape change and the visual impact will be adversely altered even after mitigation as the existing open view across the fields will be interrupted and for a period the overly industrial character of the site will be

dominant. This would be described as a permanent landscape impact, but after planting matures it would not be described as a negative visual impact.

4. I accept that the selected site is not visible from the scenic route and that it would be below the skyline. The proposed development would be seen against a backdrop of the hill to the rear but would be visible in the immediate area and from the south including from a regional road. However, the valley is relatively small and enclosed and from nearby locations the visibility of the development in the context of the electricity grid line and topography would not be unduly visually obtrusive.
5. Regarding the views from sensitive receptors in the area I concur with the first party submission that most of these houses would be orientated to the south and not in the direction of the substation. In addition many of the houses would have planting within their sites and along site boundaries which are likely to interrupt views to the proposed development. I do not consider that these houses would be adversely affected in the long-term.
6. Passing motorists along the regional road would not be deemed to be highly sensitive viewers and the distance to the site as well as the presence of roadside hedges would reduce visibility.
7. Taken with together with the significant groundworks, which would be likely to meet the Eirgrid requirements and the need to be close to the power line I consider that the site selected should be considered to be suitable.

8.3.5. I consider that the character and scale of the proposed substation is such that it could constitute a visually obtrusive form of development. However, the landscape designation under the development plan is of the lowest value and I consider that it is of the highest relevance that nearby scenic views would not be impacted. I am of the opinion that the site selection process undertaken was reasonably robust and that its conclusions can be supported. I conclude that the site is capable of being successfully screened and any adverse landscape and visual impacts arising from the development therefore are amenable to mitigation.

#### **Landscaping plant and design approach**

8.3.6. It is appropriate that the proposed development incorporates a high level of mitigation given the exposed nature of the site and having regard to section 6.11 of

the WEG. As a prelude to consideration of the landscaping plan it is relevant to reiterate that the majority of the vertical structures which would be situated on the site are not high and in this regard I refer the Board to Figure 3-1 of the ER. The structures also have an appearance of being lightweight and the individual components are not bulky or particularly intrusive.

My assessment of the proposed landscaping and planting plan is as follows:

1. I consider that the design of the proposed development and the measures to ensure integration into the landscape was approached in a retrofit manner. The selection site area does not provide any large areas for mounding and significant planting. Ideally the site landscaping might include some open grassed berms and groups of trees, to create a more naturalistic planting scheme.
2. Instead, the approach to planting aims to hide the proposed development. Having regard to the low level value of the landscape under adopted policy provisions I consider that this standard approach to the site landscaping is acceptable. Having regard to the character of this area in which groupings of trees are found and to the nature of the development, which is overtly industrial in character and large in scale, it is acceptable and indeed would be appropriate to rely upon a heavy planting scheme seek to screen this development.
3. The development requires extensive ground contouring and the excavated land would also be most visible from the southern side. The resulting material would be available for provision of landscaped berms.
4. The upper levels of the 2 no. 18m high lattice structures will be seen in the context of the 110kV line and will not read as a new type of development. The lower structures including many of the substation fixtures and the fencing can be completely obscured by boundary screening.
5. The potential expansion set out in red has not been included in landscaping proposals. The Board may wish to consider whether this is a matter for a future application and on balance I consider that it is acceptable to provide for landscaping of the entire site under any future consent for more infrastructure within the substation compound.

6. In terms of the landscaping proposals received by the Board on 3<sup>rd</sup> November 2015 and the screening of all site boundaries it is noteworthy that a dense planting plan at the boundaries is now proposed. I consider that the appellant's submission relating to the planting plan, which I would describe as scathing in its criticism, does raise some valid issues, including in relation to the nature of the selected planting. I also note that one of the main submissions from third parties is from an industry professional who has direct experience in this type of work. The nature of that submission is not amenable to ready summary and I refer the Board to the original document.
7. I agree with the appellant that the planting plan requires further consideration. I consider that it would benefit from more evergreen species and that consideration of earthen berms along the side boundary would be appropriate. However, I do not consider that it is necessary for the Board in its decision making process to have available the full detail of a finalised design. Rather I am of the opinion that this matter falls very firmly within the realm of items which are deemed to be suitable to be addressed by condition for future agreement. I find support in the Development Management Guidelines for this conclusion. In short, I accept that an approach to landscaping which aims to hide the boundaries and the lower levels of the infrastructure is acceptable and I consider that there is sufficient land available for that purpose. I conclude that this matter, notwithstanding its importance is appropriate for final agreement with the planning authority.

8.3.7. My overall conclusion in relation to the siting and design of the substation is that it is acceptable in terms of landscape and visual impacts.

#### 8.4. **Ecology**

- 8.4.1. I address the issues associated with the relevant species for which habitats are designated under the Appropriate Assessment section of this report. The appellants have raised other matters including the presence of birds on this site and the presence of bat roosts in the area.
- 8.4.2. The statements relating to birds concern in particular the presence of Snipe, Mallard, Reed Bunting, Sparrow Hawk, Kestrel, Long-eared Owl, Grasshopper Warbler,

Spotted Flycatchers and Buzzard. These are stated to be regular visitors to the site. It is alleged that the site surveys undertaken are woefully inadequate. The applicant notes the low levels of activity of wintering waterbirds recorded during the surveys.

8.4.3. I refer at the outset to the nature of the habitat, which would be affected by the proposed development. The site in common with much of the land in the area is primarily made up of improved agricultural grassland. It does not contain any areas of particular value to birds. There are no wetlands and there is no indication of regular foraging at the site or in the immediate area by significant numbers of birds. The surveys undertaken did not record any Annex 1 bird species in the breeding species and the winter bird Vantage Point survey did not give any evidence to indicate that the site or surrounds are of particular importance for wintering birds. Regarding the adequacy of the surveys, undertaken for the purposes of the Environmental Report I do not doubt that they may not have captured all of the bird species which may be found at the site or in the wider area from time to time. However, I do consider that the survey information presented is adequate having regard to the inclusion in particular of the winter season Vantage Point survey which supplemented the information from two days of surveys in the summer months. Furthermore, I consider that the Board should have regard to the lack of designation of this area for birds, the lack of objection from prescribed bodies and from the Council's officials. While the appellant notes the presence of particular species of interest, I note that the survey in the ER also records their presence. Thus the winter bird survey did identify the presence of Hen Harrier, Kestrel, Sparrowhawk, Buzzard and other species.

8.4.4. I conclude that the appellants have failed to substantiate concerns relating to adverse impacts on birds as a result of the development proposed. There is no evidence provided which would suggest that this site is of particular importance for the species which are referenced and that there are no other suitable sites which could be used as an alternative.

8.4.5. The ER refers to the three nights of bat surveys undertaken, the result of which was that there was no bats at the site of the proposed substation and no potential for bats in earthen banks or hedgerows. It is stated that the exposed nature of the site discourages bat foraging but concluded that there may be some foraging. The

surrounding landscape at lower elevations was demonstrated by surveys to have higher bat activity.

- 8.4.6. Regarding the presence of bats in the area I note that the nature of the proposed substation development, which is static and limited in its extent is a significant matter. I accept that the site and the immediate area are not of particular importance for bats and consider that the appellant has failed to demonstrate that the proposed development would give rise to any adverse effects on bats in the area. I accept the applicant's conclusion that the impact on bats would be imperceptible.
- 8.4.7. Regarding changes to the surface water flow as a result of the hedgerow removal I am unconvinced that this is of any relevant to the proposal and I refer in more detail under the Appropriate Assessment and other sections of this report to surface, to catchments and to potential impacts.
- 8.4.8. In summary in relation to the ecological impacts of the proposed development the main impact is a loss of low value habitat. The ER provides various mitigation measures to protect water quality and mammals including measures which are relevant to the construction phase. I am satisfied that there would not be significant residual effects on ecology. I refer below to the Natura sites.

## **8.5. Residential amenity and property devaluation**

- 8.5.1. The appellant has provided a submission from a local estate agent which indicates that the proposed development would give rise to property devaluation. The Board is requested to ensure that there is sufficient expertise available including if necessary to obtain specialist expertise.
- 8.5.2. On this issue I note as follows. There is an established wind energy development of 4 turbines in the area as well as the Macroom – Dunmanway 10kV line. The other land use of note in the area is agricultural production. I submit that there is no basis for a conclusion that the development proposed would adversely affect agricultural production in the area overall. Wind energy developments are generally considered to be highly compatible with agricultural activity and the additional resources to the benefiting farmers provides funds for reinvestment.
- 8.5.3. Regarding any individual one-off houses which may be in the area I consider it noteworthy that the Wind Energy Guidance makes no reference to property

devaluation. Provided the WEG standards including the setbacks from houses to ensure noise impacts are acceptable and secondly that there is no significant visual impact arising, I consider that the Board can also be satisfied that property values equally are unlikely to be adversely affected.

- 8.5.4. The issue of noise impacts while subject of considerable correspondence in relation to this appeal is not of particular relevance to the substation. The nature of the operation phase is such that noise arising from the substation would be insignificant. I am satisfied that the construction phase noise impacts would be capable of mitigation including by control on hours of construction and consultation in the event of complaint as suggested in the ER.
- 8.5.5. I accept the conclusions of that document that the noise from the construction phase including traffic impacts is unlikely to breach the adopted criterion of 65dBL<sub>Aeq</sub> and that the operational noise would not exceed 30dB. The short-term construction phase noise would be acceptable in my opinion and the operational noise level would be very low.
- 8.5.6. I conclude therefore that the development would not significantly adversely affect residential amenity or result in devaluation of property.

## 8.6. Other issues

- 8.6.1. A number of other issues are raised in the appeal submissions, many of them more relevant to the concurrent wind energy proposal.
- 8.6.2. The issues relating to adverse noise effects are set out in the submissions on file but in relation to the proposed windfarm. While there is unlikely to be significant noise from the proposed substation, and such effects if they did occur would be capable of being mitigated, I consider it appropriate in the context of the existing development, the proposed wind turbines and the proposed substation that a noise condition be attached but only in relation to construction phase noise impacts.
- 8.6.3. Site drainage is towards the south-east and in general towards the Bride. Mitigation measures proposed in the construction phase include measures relating to spoil heaps, setbacks from existing drains, swales and other erosion control and settlement measures. Post construction phase mitigation will involve visual inspections. It is considered that the potential for increase in sediment and nutrient

load due to the construction works and in the operational phase can be adequately mitigated. I agree with the applicant that there can be a high degree of confidence in the method of mitigation proposed provided the measures are properly installed and maintained. I consider that this can be achieved and that the applicant's proposals as contained in Chapter 8 of the Environmental Report and other submissions are robust.

- 8.6.4. Regarding requirements for roads surveys and related bonds to ensure any restoration I consider that this is best addressed as a condition on the related wind farm case and do not consider it necessary to the determination of this appeal.
- 8.6.5. The matter of compliance with the Aarhus Directive is raised. While the duration of the planning process and the emergence of different proposals in the wider area may have led to a requirement for greater vigilance and input on behalf of the public, I dispute that there has been any failure to provide for public consultation. Along with the normal statutory consultation provisions I note that the recent Direction of the Board and the circulation of documentation allowing for further input. This action ensured that the most up to date views of the public would be known. There has been no failure to engage the public in my opinion and a wealth of opinion has been provided.
- 8.6.6. Regarding the request for a 10 year permission I consider that this is reasonable having regard to the Circular Letter, the 5 year timescale involved in development and the potential for additional significant delays.

## **8.7. Environmental Impact Assessment**

- 8.7.1. The appellants state that this is a clear case of project splitting. It is claimed that the substation is an integral part of a permitted windfarm and is in fact an integral part of a much larger series of windfarms entailing as yet unknown and therefore unassessed connection infrastructure.
- 8.7.2. The preparation of an EIS (now EIAR) may be required where the proposed development falls within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations.
- 8.7.3. There are three possible classes which warrant consideration in this case.



8.7.4. Class 19, Part 1, Schedule 5

Construction of overhead electrical power lines with a voltage of over 220kV or more and a length of more than 15 kilometers.

8.7.5. Class 3(k), Part 2, Schedule 5

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.

8.7.6. Class 13, Part 2, Schedule 5

Changes, extensions, development and testing.

8.7.7. The proposed development is not a project which falls under any of the above classes. I conclude that there is no requirement for an EIS.

8.7.8. The cumulative effects arising from the proposed development in conjunction with the development subject of the concurrent appeal are a matter for consideration under the wind energy proposal appeal.

**8.8. Appropriate Assessment.**

8.8.1. The application is accompanied by a Screening for Appropriate Assessment which is included as Appendix 2 of the Environmental Report. The relevant Natura 2000 sites which are within a 10km radius of the site are shown on Figure 3.1 and comprise The Gearagh SAC, The Gearagh SPA and Bandon River SAC. The separation distances from the site of the proposed development to the Natura sites is 6.7km and 6.8km in the case of the Gearagh sites and 10.8 km to the southwest in the case of the Bandon River SAC.

8.8.2. The further information presented subsequently includes information relating to the Mullaghanish to Musheramore Mountains SPA, which is just within the 15km radius of the site.

8.8.3. This screening assessment concludes that having regard to the conservation objectives of the European sites the proposed development would not be likely to have significant effects on the European sites.

**Potential impacts, sources and pathways**

- 8.8.4. The appeal site is not within or immediately adjacent to any Natura 2000 site. The proposed development would not have a direct effect on any Natura 2000 site.
- 8.8.5. Potential impacts on European sites that may arise are indirect effects as a result of the development:
- Siltation or pollution of watercourses during construction and operation of the substation leading to pollution of watercourses draining to the Gearagh SAC and / or the Bandon SAC resulting in potential direct effects in terms of the loss or degradation of habitats and potential indirect effects in terms of effects on species which use European sites.
  - Disturbance / displacement impacts on birds from the Gearagh SPA and the Mullaghanish to Musheramore Mountains SPA.

#### **European sites potentially impacted by the proposed development**

- 8.8.6. There are no Natura 2000 sites in the immediate vicinity the closest being the Gearagh SAC and Gearagh SPA, Bandon River SAC and Mullaghanish to Musheramore Mountains SPA. These sites are potentially impacted having regard to the conservation objectives for these sites and the nature of the development. I refer to each of the 4 no. Natura sites below. I am satisfied that there is no other Natura site which could be affected by the proposed development.

#### **Bandon River SAC (site code 002171)**

- 8.8.7. The conservation objectives are to maintain or restore the favourable conservation condition of the Annex I habitats and/ or the Annex II species for which the cSAC has been selected. The qualifying interests are:
- Floating River Vegetation
  - Alluvial Forests
  - Freshwater Pearl Mussel
  - Brook Lamprey.
- 8.8.8. There is no significant watercourse within the site or in the immediate vicinity. The site is elevated and drains by way of two small drains at the southern and eastern site boundaries to the south-eastern corner of the site and then discharge towards the Barnadivane tributary of the River Bride. The Bride is part of the Lee catchment

and is not part of the Blackwater (Bandon). As such there is no hydrological connectivity between the site and the Bandon SAC. The tributary connects to the Lee at a point downstream of the Gearagh SAC / SPA. There are no other Natura sites within close proximity downstream.

8.8.9. In view of the above, the proposed development is not likely to have significant effects on the Bandon River SAC in light of the conservation objectives of the site.

#### **The Gearagh SAC (site code 000108)**

8.8.10. There are detailed site specific conservation objectives for this site, which were published on 15<sup>th</sup> September 2016. The qualifying interests are:

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

8.8.11. The detailed conservation objectives aim to define favourable conservation condition for a particular habitat or species at the site. For each of the qualifying interests the conservation objective is to maintain the favourable conservation condition of the habitat or species, which is defined by a list of attributes and targets.

8.8.12. The site is of most importance for its extensive alluvial woodlands. Otter occur throughout the site. The Gearagh also supports part of an important wintering bird population including Whopper Swans, Teal, Mallard, Tufted Duck, Golden Plover, Dunlin, Mute Swans, which appear in late summer and Greylag Goose and Great Crested Grebe.

8.8.13. The targets and attributes are to be found in the relevant NPWS publication. For Otter one of the attributes is the extent of freshwater (river) habitat. The target is that there would be no significant decline in this available habitat the length of which is

mapped and calculated as 10.6km. The availability of food supply in terms of biomass, the prevention of barriers to movement and other targets are included.

- 8.8.14. There is no significant watercourse within the site or in the immediate vicinity. The site is elevated and drains by way of two small drains at the southern and eastern site boundaries to the south-eastern corner of the site and then discharge towards the Barnadivane tributary of the River Bride. The Bride is part of the Lee but the tributary connects to the Lee at a point downstream of The Gearagh SAC / SPA. As such there is no relevant hydrological connectivity between the site of the proposed development and The Gearagh SAC, which might affect the habitats to be found upstream of the point of connection of the tributary to the main Lee channel and no potential for effects related to water quality.
- 8.8.15. While Otter from the site may be found foraging downstream of the connection of the tributary with the Lee I am satisfied that there is no potential for significant effects in view of the embedded design measures to protect surface water quality and the distance involved. Such measures are standard controls which are well understood and capable of being implemented.
- 8.8.16. I am satisfied that the proposed development is not likely to have significant effects on The Gearagh SAC in light of the specific conservation objectives of the site.

#### **The Gearagh SPA (site code 004109)**

- 8.8.17. The conservation objectives are to maintain or restore the favourable conservation condition of the Annex I habitats and/ or the Annex II species for which the cSAC has been selected. The birds listed as Special Conservation Interests are:
- Teal
  - Wigeon
  - Mallard
  - Coot
- 8.8.18. Conservation Objective is also to acknowledge the importance of Ireland's wetlands to wintering waterbirds and the second Conservation Objective is

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

8.8.19. The designated site is part of an impounded section of the Lee. It is a shallow lake which is fringed by wet woodland, scrub and grassland that is prone to flooding and the site supports important populations of species of national importance (Mute Swan, Wigeon, Teal, Northern Shoveler, Coot, Golden Plover) and regular visitors (Whooper Swan, Tufted Duck, Lapwing).

8.8.20. The results of the Winter Birds surveys which concluded that there is low level usage of the site of the proposed development by wintering birds, which conclusion I accept. There is no aspect of the proposed development which would be likely to give rise to significant effects on the Special Conservation Interests of this Natura site as a result of disturbance or displacement impacts.

8.8.21. There is no significant watercourse within the site of the proposed development or in the immediate vicinity. The site is elevated and drains by way of two small drains at the southern and eastern site boundaries to the south-eastern corner of the site and then discharge towards the Barnadivane tributary of the River Bride. The Bride is part of the Lee but the tributary connects to the Lee at a point downstream of The Gearagh SAC / SPA. Notwithstanding the mobility of birds I consider that it may be concluded that there is no potential for water quality impacts which would affect the watercourses connecting the site and The Gearagh SPA and no potential for effects related to water quality.

8.8.22. The results of the Winter Birds surveys which concluded that there is low level usage of the site of the proposed development by wintering birds, which conclusion I accept. There is no aspect of the proposed development which would be likely to give rise to significant effects on the Special Conservation Interests of this Natura site as a result of disturbance or displacement impacts.

8.8.23. In view of the above, the proposed development is not likely to have significant effects on The Gearagh SPA in light of the conservation objectives of the site.

#### **Mullaghanish to Musheramore Mountains SPA (Site code 004162)**

8.8.24. The conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

- Hen Harrier.

8.8.25. There is no reference in the bird surveys to use of this site by Hen Harrier, or in the third party submission although the species is stated to have been seen in the area. The grassland habitat on site would not be preferred habitat for Hen Harrier. There is no aspect of the proposed development which would be likely to give rise to significant effects on the Special Conservation Interests of this Natura site as a result of disturbance or displacement impacts.

8.8.26. In view of the above, the proposed development is not likely to have significant effects on the Mullaghanish to Musheramore Mountains SPA (Site Code 004162) in light of the conservation objectives of the site.

#### **In combination effects**

8.8.27. As the proposed development would not give rise to direct or indirect effects on any Natura 2000 site, its effects in combination with other projects, including the existing turbines in the vicinity, the permitted road, the proposed wind energy scheme before the Board under the concurrent appeal or the proposed Carrigarierk or Shehy More developments would not be significant.

#### **Conclusion**

8.8.28. It is therefore reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and in particular the SAC and SPA at the Gearagh (site codes 000108 and 004109) respectively, or the SPA at the Mullaghanish to Musheramore Mountains (site code 004162) or Bandon River SAC (site code 002171) in view of those Sites' conservation objectives. An appropriate assessment is therefore not required.

## **9.0 Recommendation**

9.1. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

## 10.0 Reasons and Considerations

Having regard to –

- (a) National policies to increase the proportion of energy that is generated from renewable sources including wind set out in the Renewable Energy Directive 2009/28/EC and the National Renewable Energy Action Plan which sets a target that 40% of the electricity generated in Ireland would be from renewable sources by 2020.
- (b) The provisions of the Cork County Development Plan 2014-2020, including objective ED-4 and ED 6-1 and the location of the site within an area where wind energy is acceptable in principle and the provisions to facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal planning considerations.
- (c) The planning history of the site and surrounding area.
- (d) The nature of the landscape and the absence of any specific conservation or amenity designation for the site.
- (e) The submissions on file.
- (f) The documentation submitted by the applicant including the appropriate assessment screening report;

### Environmental Impact Assessment

The Board considered the case concurrently with the appeal under PL04.238153 for a nearby windfarm. The Board considered that there was no 'project splitting' in this case and no avoidance of any requirements under Environmental Impact Assessment. The Board noted that the concurrent consideration of the proposed substation and the windfarm together planning history details of other developments related to renewable energy and / grid connection in the area ensured that all impacts including direct, indirect and cumulative impacts were comprehensively assessed for the purposes of Environmental Impact Assessment.

As the development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations there is no requirement for submission of an Environmental Impact Statement.

### Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary for the management of a European site.

In completing the screening for appropriate assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of European sites which could potentially be affected and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European sites Nos. 002171, 000108, 004109, 004162, or any other European site in view of the sites Conservation Objectives.

It is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of visual amenity and would not be detrimental to other aspects of the environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars of the application to the planning authority on 26/09/2014 as amended by the submissions received by the planning authority on 9/12/2014 and the further details received by An Bord Pleanála, 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 undertaker shall agree such details in writing with the planning authority prior to the



commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

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

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

**Reason:** To facilitate the completion of the development.

3. All mitigation measures identified in the Environmental Report and in the other particulars submitted on behalf of the applicant shall be implemented in full by the developer except as may otherwise be required in order to comply with the following conditions. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified are implemented in full.

**Reason:** In the interest of clarity and to protect the environment.

4. The site of the proposed development shall be landscaped in accordance with a comprehensive scheme of hard and soft landscaping details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The landscaping scheme shall maximise the screening effect of the boundary planting and shall incorporate dense planting on earthen berms where possible and shall include some evergreen species. The landscaping scheme shall be completed within the first season after completion of construction and shall be regularly maintained for a duration of not less than 5 years.

**Reason:** In the interest of minimising the visibility of the proposed substation and to ensure it is satisfactorily assimilated into the landscape.

5. Prior to the commencement of work the developer shall submit for the written agreement of the planning authority a detailed Construction and Environment Management Plan and an Environmental Emergency Response Plan for the proposed project.

This shall include details of construction practice for the development including hours of working, noise management measures and off-site disposal of waste. Surplus excavation material to be taken off site shall only be recovered or disposed of at an authorised site in accordance with the Waste Management Acts.

**Reason:** In the interests of residential amenity, public health and safety and the protection of the environment.

6. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

7. The following requirements relating to noise during construction of the substation shall be complied with in the development:

Noise monitoring locations and a schedule for the submission of noise monitoring results for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to the commencement of any development on site.

Construction noise levels shall be in accordance with the limits set out in the TII document, 'Good Practice Guidelines for the Treatment of Noise during the Planning of National Road Schemes' (2014).

**Reason:** To protect the amenities of property in the vicinity of the site.

8. Water supply and drainage arrangements including the disposal of surface water shall comply with the requirements of Irish Water and the local authority for such works in respect of both the construction and operation phases of the proposed development.

**Reason:** To ensure adequate servicing of the proposed development and prevent pollution.

9. Any over ground tanks containing liquid fuels shall be contained in waterproof bunded areas of sufficient volume to hold 110% of the value of the largest tank within the bund. All valves on the tank shall be contained within the bunded area. The bunded area shall be fitted with a locking penstock valve, which shall be opened only to discharge storm water to the interceptor. The developer shall ensure that this valve is locked at all times.

**Reason:** To protect the environment.

10. Prior to the commencement of any works on the site, the developer shall have completed, to the written satisfaction of the planning authority, the upgrading works at the site entrance. All such works shall be at the expense of the developer.

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

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. 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 relating to the proposed development, and
- b. employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

A report, containing the results of the assessment, shall be submitted to

the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation by record and protection of any archaeological remains that may exist within the site.

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Mairead Kenny  
Senior Planning Inspector

28<sup>th</sup> December 2018