



An
Bord
Pleanála

Inspector's Report PL10.248392.

Development	Permission for 2 kilometres of site access tracks, underground electricity and communications cabling and site drainage works.
Location	Crutt, County Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	17/62.
Applicant(s)	Pinewood Wind Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Pinewood Wind Ltd.
Observer(s)	(1) Margaret McCarthy & Martin O Shea. (2) Peter Sweetman & on behalf of Kieran Brophy and others.
Date of Site Inspection	21 st September 2017
Inspector	Bríd Maxwell

1.0 Introduction

1.1 This report should be read in conjunction with concurrent appeal report PL248518 which refers to an appeal in respect of a proposed wind energy development comprising 11 turbines, electricity substation, switchroom equipment compound site access tracks meteorological mast and upgrade of road junction within the neighbouring jurisdiction of County Laois. The within appeal relates to infrastructural works as part of the overall development proposed within the combined appeals. The overall development is referred to within the documentation as the Pinewood Windfarm.

2.0 Site Location and Description

2.1. The appeal site which has a stated area of 5.27 hectares forms part of a larger site of site of approximately 40 hectares which straddles the county boundary between County Laois and County Kilkenny in the townlands of Knockardugar, Bolebawn Garrintaggard, Ironmills (Kilrush) and Graiguenahown, County Laois and Crutt County Kilkenny. The site lies approximately 17km south-west of Portlaoise and 25km north of Kilkenny City and is part of the Castlecomer Plateau, a broad upland area which straddles the boundaries between Laois, Carlow and Kilkenny. The nearest towns are Abbeyleix approximately 8km northwest and Castlecomer approximately 8km to the south-east. The village of Ballinakill is circa 4km to the southwest and there are also a number of small crossroads settlements and numerous dispersed one-off dwellings within the environs. The nearby community of Knock contains a primary school a church and a number of scattered dwellings. Boleybeg is a small community to the west containing a branch of Glanbia and a community field.

2.2 The appeal site itself is within the wider upland area on the north-western edge of the Castlecomer Plateau and consists in part of lands owned and operated by Coillte comprising forestry access roads.

3.0 Proposed Development

- 3.1 The proposed development involves permission for *“two kilometres of site access tracks, underground electricity and communications cabling and site drainage works.”* The proposed development comprises part of the overall site infrastructure for a wind farm development in combination with concurrent appeal ref PL11.248518. The overall development within both County Kilkenny and County Laois comprises 11 no wind turbines each with a maximum height of up to 136.5m and all associated site development and ancillary works including a 110kV electricity substation switchroom and equipment compound; two single circuit strain towers with a maximum height of up to 26.5m, turbine foundations, crane hardstandings; 7.4kilometres of site access tracks; underground electricity and communications cabling; site drainage works, 7 no site entrances; a permanent meteorological mast with a maximum height of up to 85metres and temporary upgrade to the R430/L7800 road junction.
- 3.2 Application outlines that in effect the proposal within County Kilkenny involves the upgrading of the existing forestry roads which currently enable forestry activities on the site to facilitate the development of a windfarm within the neighbouring jurisdiction. It is asserted that forestry and agricultural activities can carry on unhindered while the windfarm is operational and can also make use of the upgraded access track.
- 3.3 A ten-year permission is being requested to ensure that all the grid connections and relevant consents are in place.
- 3.4 The application is accompanied by an EIS and NIS addressing the entirety of the project.

4.0 Planning Authority Decision

4.1 Decision

By order dated 31st March 2017, Kilkenny issued notification of its decision to refuse permission on the following grounds:

“The proposed development of access tracks, underground electricity and communications cabling and site drainage works, which forms part of a large wind-farm development is located within an area which has not been designated as suitable as per the Wind Energy Development Strategy in the Kilkenny County Development Plan 2014-2020.

The subject development which would be part of and facilitate the development of a large wind arm would be contrary to the Wind Energy Development Strategy and policies of Kilkenny County Council in relation to wind energy as set out in Section 10.5 and Appendix J of the Kilkenny County Development Plan 2014-2020, and would thus be contrary to the proper planning and sustainable development of the area.”

4.2 Planning Authority Reports

- 4.2.1 Area Planner’s report notes that the site is not in an area designated area within the Wind Energy Strategy and is 2.6km north east of an area designated as unsuitable. In accordance with the development plan matrix the site is within the ‘rest of the county’ where large scale wind energy developments will not be considered favourably. Large scale wind energy developments will only be considered in “preferred” areas in accordance with the Development Plan. It is considered that as the works facilitate a large scale wind farm which would be contrary to the policies of the development plan. Refusal is recommended.
- 4.2.2 Report of environment section indicates no objection subject to conditions including pre agreement of construction environmental management plan, clear felling of trees between April and October.
- 4.2.3 Road design section indicates no objection in principle. Access should be prohibited via the L1828 within County Kilkenny as this is not suitable for construction traffic. Construction and traffic management plan to be agreed.

4.3 Prescribed Bodies

- 4.3.1 Inland Fisheries Ireland indicates no objection subject to conditions.

4.3.2 Department of Arts Heritage Regional Rural and Gaeltacht Affairs submission notes large scale of proposal in close proximity to a recorded monument recommends archaeological mitigation in the form of archaeological assessment involving pre-development testing and licensed monitoring is recommended.

4.4 Third Party Observations

4.4.1 Submissions from third parties object on grounds of potential devaluation of property, noise, shadow flicker, health and safety issues, visual impact. Stress of ongoing uncertainty in respect of potential developments. Industrial scale wind energy development inappropriate in this rural area.

5 Planning History

5.1 I note the following history on the appeal site:

16/440 Permission refused to for 2km of access tracks, underground electricity and communications cabling and site drainage as part of larger wind farm development. (PL247304 Appeal invalid) Permission was refused for the following reasons:

“The proposed development of access tracks, underground electricity and communications cabling, ad site drainage works, which forms part of a larger wind-farm development is located within an area which has not been designated as suitable as per the Wind Energy Development Strategy in the Kilkenny County Development Plan 2014-2020.

The subject development which would facilitate the development of a wind farm would be contrary to the Wind Energy Development strategy and policies of Kilkenny County Council in relation to Wind energy as set out in section 10.5 and appendix K of the Kilkenny County Development Plan 2014-2020, and would thus be contrary to the proper planning and sustainable development of the area.

The applicant has not indicated if access is required via the L1828 for the proposed development, and in the event that this route is intended for use for construction traffic or heavy goods vehicles associated with this development the proposed

development would give rise to traffic hazard by virtue of the nature and conditions of this local road.

The applicant has not demonstrated that the proposed development would not have adverse impacts on the environment and would thus be contrary to the proper planning and sustainable development of the area. In particular, the applicant has not demonstrated that:

- (a) Having regard to the location of the site within a designated freshwater pearl mussel area, that adequate surface water drainage proposals have been submitted.
- (b) Sufficient surface water monitoring proposals have been submitted in relation to both the construction phase and the ongoing operational phase of the proposed development.
- (c) Clear felling operations will only take place between April and October as per the Department of Agriculture's Forestry and Freshwater Pearl Mussel Requirements: Site Assessment and Mitigation Measures."

13/397 Application for change of use and upgrade of 1.8km of forestry track/
Withdrawn.

16/330 Mirror of current appeal. Invalidated on basis of lack of site notice

Adjoining site (Forming part of overall development)

PL11.248518 16/260 Concurrent appeal in Laois County. Development involves permission for 11 no wind turbines, each with a maximum height of up to 136.5 metres and all associated site development and ancillary works, including a 110kv electricity substation, switch room and equipment compound; two single circuit strain towers with a maximum height of up to 26.5m, turbine foundations, crane hardstandings, 5.4 kilometres of site access tracks; underground electricity and communications cabling; site drainage works, 7 no. site entrances a permanent meteorological mast with a maximum height of up to 85metres and temporary

upgrade to the R430/L7800 road junction. The application is accompanied by EIS and NIS addressing the entirety of the project within Counties Laois and Kilkenny. Decision of Laois County Council was to refuse permission on the following grounds:

1. *The Planning Authority is not satisfied, on the basis of the information submitted with the application, in particular the Construction Environmental Management Plan (CEMP), having regard to the precautionary principle, that the proposed development would not have a significant adverse effect on the maintenance of the favourable conservation status of bats which are listed in Annex IV of the EU Habitats Directive (92/43/EEC) transposed into Irish Law with the European Communities (Birds and Natural Habitats) Regulations 2011, in the vicinity of the proposed turbines due to uncertainty in relation to the amount of hedgerow required to be removed during construction and the extent of associated impacts on the foraging habits of bats on the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

2. *In the absence of both:*
 - a) *A permission for 2 kilometres of site access tracks, underground electricity, communication cabling and site drainage works in the townland of Crutt in Co Kilkenny, all necessary infrastructural works to ensure the components of turbines 7,8,9, 10 and 11 can be transported to their location on the site and that these turbines can have access to the proposed grid connection; and*
 - b) *Consent from the third party landowner for works to be carried out on her landholding to upgrade the L7800/R430 junction, necessary works to facilitate the transport of components of the proposed turbines to the overall site; The Planning Authority considers that to grant permission for the proposed development in the absence of same would be premature and would therefore, be contrary to the proper planning and sustainable development of the area.*

3. *The Planning Authority considers that turbines no 6, 8, 9 and 10 contained within the proposed development, would significantly and adversely impact upon the existing residential amenities of a number of dwellings on the L-*

78002 to the south east of the site in Co Kilkenny by reason of visual intrusion, impacts that would be made event more acute if the forest area were felled or cleared into the future. The proposed development would therefore seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

PL11.VA.0015 Laois Kilkenny Grid Reinforcement Project. The route passes through the northern section of site PL11.248518.

6 Policy Context

6.1 National Policy

6.1.1 Circular Letter PL5/2017 Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change and Wind Energy Development Guidelines 2006 – Update on Review.

The circular letter reiterates advice of circular letter 20-13 on the review of wind energy and renewable policies in development plans which issued on 20 December 2013 advising local authorities to defer amending their existing development plan policies in relation to wind energy and renewable energy generally as part of the normal cyclical six yearly review or plan variation process and should instead operate their existing development plan policies or objectives until completion of a focused review of the wind energy development Guidelines 2006. The circular letter acknowledges that the review of the Wind Energy Development Guidelines 2006 has taken considerably longer to conclude than initially envisaged however notes considerable progress on the review. The correspondence notes that where local authorities break statutory requirements in the development plan process or fail to adopt policies that reflect the overall national policy position, the Minister has the powers under Section 31 of the Act, which allow him to direct a planning authority to amend a statutory development plan and notes that “Where a local Authority includes provisions considered to be incompatible with established national policy on renewable energy development and the statutory Guidelines, including the Wind

Energy Development Guidelines (2006) or these Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017) consideration will be given to the use of those powers to direct the local authority to remove the incompatible provisions.” In relation to the review of Wind Energy Development Guidelines Update refers to the “preferred draft approach” announced on 13th June 2018 and its key aspects including:

- The application of a more stringent noise limit consistent with World Health Organisation Noise Standards, in tandem with a new robust noise monitoring regime.
- A visual amenity setback of 4 times the turbine height between a wind turbine and the nearest residential property subject to a mandatory minimum distance of 500 metres.
- The elimination of shadow flicker.
- The introduction of new obligations in relation to engagement with local communities by wind farm developers along with the provision of community benefit measures.

The update outlines that the next stage of the focussed review will be the commencement of scoping for SEA and this will be followed in due course by the publication of detailed draft guidelines accompanied by relevant environmental reports for public consultation in Autumn 2017 with a view to concluding and publishing the final revised Guidelines in Q1 2018.

6.1.2 Interim guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change. Department of Housing, Planning, Community and Local Government, July 2017.

These guidelines were issued under Section 28 of the Planning and Development Act 2000, as amended. Under this provision, the Planning Authority and An Bord Pleanála are required to have regard to the guidelines and to apply any specific planning policy requirements of the guidelines, in the performance of their functions. The guidelines focus on administrative procedures and do not amend or replace the existing Wind Energy Development Guidelines 2006 which remain in place pending the completion of the ongoing review. The guidelines refer to the need for planning authorities to have regard to the relevant national plans policies and strategies when

making reviewing varying or amending development plan or local plan policies or objectives that relate to renewable energy and in particular wind energy developments. The guidelines set out a specific planning policy requirement when making reviewing varying or amending a development plan or a local area plan with policies or objectives that relate to wind energy developments the relevant planning authority shall

- (1) Ensure that overall national policy on renewable energy is acknowledged.
- (2) Indicate how the implementation of the relevant development plan or local area plan will contribute to realising overall national targets and the potential wind energy resource in megawatts and
- (3) Demonstrate detailed compliance with (2) in any proposal to introduce or vary a mandatory setback distance for wind turbines. It shall also be a material consideration in SEA when taking into account likely significant effects on climatic factors in addition to other factors such as landscape and air, if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan or local area plan would create a significant limitation or constraint on renewable energy projects including wind turbines, within the administrative area of the plan.

6.1.3 For the purpose of the interim guidelines four key national plans policies and strategies are referenced, namely:

- The National Renewable Energy Action Plan 2010.
- The Government Strategy for Renewable Energy 2012-2020 (DCENR)
- The Government's White Paper on Energy Policy – Ireland's Transition to a Low Carbon Energy Future 2015-2030 (DCENR)
- The Government's National Mitigation Plan, July 2017 (DCCAIE)

6.1.3.1 National Renewable Energy Action Plan 2010

This Plan implements EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources, which sets out agreed new climate and energy targets- 20-20-20 by 2020 – 20% reduction in greenhouse gas emissions; 20% energy efficiency, and 20% of the EU's energy consumption to be from renewable sources. In relation to the electricity sector, the plan has set a target of 40% electricity consumption from renewable sources by 2020.

6.1.3.2 The Government Strategy for Renewable Energy 2012-2020 (DCENR)

Strategy for Renewable Energy, 2012–2020

The Strategy for Renewable Energy, 2012–2020 reiterates the Government's view that the development of sources of renewable energy is critical to reducing dependency on fossil fuel imports, securing sustainable and competitive energy supplies and underpinning the move towards a low-carbon economy. The Strategy sets out specific actions the Government will take to accelerate the development of wind, ocean and bio-energy, R&D, sustainable transport energy, and supporting energy infrastructure. Strategic Goal 1 aims to achieve progressively more renewable electricity from onshore and offshore wind power for the domestic and export markets.

6.1.3.3 The Government's White Paper on Energy Policy – Ireland's Transition to a low Carbon Energy Future 2015-2030 (DCENR)

The White Paper is a complete energy policy update which sets out the framework to guide policy to 2030. Its objective is to guide a transition to a low carbon energy system which provides secure supplies of competitive and affordable energy to our citizens and business. The Ireland 2020 renewable energy target is to increase the share of final energy consumption made up from renewable energy sources (RES) to 165. This target is broken into 3 key sectors with individual targets for each sector 40% electricity supply, 12% heating and 10% transport. The strategy permitted the widening of opportunities for citizen participation in energy matters. On shore wind energy will continue to make a significant contribution to renewable energy generation. The 2020 target of 40% is likely to require a total of 3,500-4,000 mW of on shore renewables generation capacity compared to 2,500mW available at end December 2014, of which wind accounted for 2,200mW. To achieve the target, the average rate of build of onshore wind generation will need to increase to up to 260mW per year (current rate c170mW per year).

6.1.3.4 The first **National Mitigation Plan** represents an initial step to set us on a pathway to achieve the level of decarbonisation required. It is a whole-of-Government Plan, reflecting in particular the central roles of the key Ministers responsible for the

sectors covered by the Plan – Electricity Generation, the Built Environment, Transport and Agriculture, as well as drawing on the perspectives and responsibilities of a range of other Government Departments.

The measures to be implemented through this first Plan will lay the foundations for transitioning Ireland to a low carbon, climate resilient and environmentally sustainable economy by 2050. To support this ongoing work, the Plan also includes over 100 individual actions for various Ministers and public bodies to take forward as we move to implementation of what will be a living document. Importantly, the Government recognises that this first Plan does not provide a complete roadmap to achieve the 2050 objective, but begins the process of development of medium to long term mitigation choices for the next and future decades. Annex 1 Contains National Mitigation Plan Actions. Action 18 is to finalise Wind Energy Guidelines with a timeline of 2018.

6.1.4 Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development 2006

The Guidelines offer advice on planning for wind energy through the Development Plan process, and in determining applications for planning permission, and are intended to ensure consistency of approach in the identification of suitable locations for wind energy developments, and acknowledge that locational considerations are important. These considerations include ease of vehicular access and connection to the electricity grid. It is acknowledged that visual impact is amongst the more important issues when deciding a particular application. Whilst there is no set-back distance specified, it is indicated at section 5.6 that noise is likely to be a problem at less than 500m. In relation to shadow flicker, section 5.12 states that impact at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. It goes on to state that at distances greater than 10 rotor diameters, the potential for shadow flicker is very low. Section 5.13, dealing with 'windtake', states that distances between turbines will generally be 3 rotor diameters in the crosswind direction and 7 rotor diameters in the prevailing downwind direction. This section goes on to state- 'Bearing in mind the requirements for optimal performance, a distance of not less than two rotor blades from adjoining property boundaries will generally be acceptable, unless by written agreement of adjoining

landowners to a lesser distance. However, where permission for wind energy development has been granted on an adjacent site, the principle of the minimum separation distances between turbines in crosswind and downwind directions indicated above should be respected'.

6.2 Development Plan

6.2.1 Kilkenny County Development Plan 2014-2020.

Section 10.5 and Appendix J of the Kilkenny County Development Plan 2014-2020 sets out the Wind Energy Development Strategy. The wind energy strategy focuses on areas of highest viability based on areas with wind speeds equal to or greater than 8m/s. These areas are divided into three classes or strategy categories namely Preferred, Open for Consideration and Unsuitable.

The appeal site falls within the “rest of the county” strategy area where small scale wind farm and large scale wind farms are not open for consideration.

10.5.3 Development Management Guidance.

In relation to Large-Scale Wind Energy Development (>5MW) These will only be considered in “preferred areas”. The rationale behind this policy is to minimise the visual impacts of such large scale developments, in addition to effects on the environment of County Kilkenny as a whole as well as to facilitate appropriate grid connections.

6.3 Natural Heritage Designations

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

- o River Barrow and River Nore SAC (Site Code 002162)
- o Ballyprior Grassland SAC (Site Code 2256)
- o Lisbigney Bog SAC (Site Code 000869)
- o River Nore SPA (Site Code 004233)

7 The Appeal

7.1 Grounds of Appeal

The first party grounds of appeal are summarised as follows:

- Decision to refuse is both unreasonable and unwarranted.
- Proposed development within County Kilkenny will be imperceptible in the landscape and will largely have no surface expression.
- No wind turbines proposed in Kilkenny, as all are located in County Laois on lands designated as a “preferred area” and “area open for consideration” for wind energy development in the Laois County Development Plan 2011-2017. (I note that the within the current Laois County Development Plan 2017 the site is classified as area not open for consideration for wind energy development.)
- When preparatory work was being carried out in respect of the proposed development the site was designated as “acceptable in principle” for wind energy development in the Kilkenny County Development Plan however this designation altered and now the area is unclassified and “rest if county” applies in terms of wind energy policy.
- It is entirely inappropriate to assess the proposed development exclusively as a “Large Scale Wind Farm >5MW without any regard to the specific transboundary policy context.
- Planning Authority is acting ultra vires in extending its wind energy policies across the county boundary into a neighbouring jurisdiction.
- In accordance with Section 10.5.3 of the Kilkenny County Development Plan 2014-2020, The Planning Authority should have assessed the development on its own merit and specific context and in accordance with the Wind Energy Development Guidelines for Planning Authorities 2006 which establishes a positive presumption in favour of wind energy development.
- Proposal is entirely in accordance with the proper planning and sustainable development of the area.

7.2 Planning Authority Response

7.2.1 The Planning Authority did not respond to the appeal.

7.3 Observations

- 7.3.1 Submission for local residents Margaret McCarthy and Martin O Shea reiterate previous expressions of vehement objection on grounds of roads being unsuitable, negative visual impact and impact on residential amenity. Note considerable stress and anxiety arising from on-going uncertainty in regard to a prospective wind energy development at this location.
- 7.3.2 Observations by Peter Sweetman and Associates on behalf of Kieran Brophy, Peter Sweetman and others. Application and appeal are ultra vires as on the basis that the development is in the area of both Laois and Kilkenny, requires the submission of an Environmental Impact Statement and would have a significant effect on more than one planning authority it should have been made to the Board under Section 37E.

8 Assessment

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

- Procedural Issues
- Principle of Development
- Impacts on the amenities of the area.
- Appropriate Assessment.
- Environmental Impact Assessment

7.2 Procedural Matters

- 7.2.1 It is submitted by one of the third party observer parties that the appeal and concurrent appeal PL10.248518 are invalid as a combined application should have

been made under Section 37B as the development is in the area of both Laois and Kilkenny planning authorities, requires the submission of an EIS and would have a significant effect on more than one planning authority. The first party addressed this issue in response to the Council's request for additional information correctly outlining that for the purposes of Section 37(A) of the Planning and Development Act 2000 (as amended), only those categories of development specified in the Seventh Schedule can be considered for a direct application to An Bord Pleanála in accordance with the SID provisions. The relevant class within the seventh schedule is "*An installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total output greater than 50 megawatts*". It is clear that to qualify as strategic infrastructure development a proposed development must first come within the scope of the classes and comply with the thresholds contained within the seventh schedule and it is only then that the assessment stipulated in Section 37(A)(2) arises. As the proposed development does not fall within the seventh schedule, the appropriate forum for the application is via Section 34 of the Act. In an event as both appeals are subject to concurrent assessment by the Board, I note that holistic assessment of the proposed development in its entirety is in any case achieved.

7.3 Principle of Development.

7.3.1 As regards the principle of development the proposed development involves the upgrade of 2km of forestry roadway to facilitate the development of a windfarm on the adjoining site within County Laois. The first party contends that the planning authority acted ultra vires in attempting to extend its wind energy policies beyond the county boundary, and that refusal on grounds of the Kilkenny County Development Plan Energy Strategy is unwarranted. I would tend to concur that having regard to the nature of the proposed development which involves enabling infrastructure, refusal on the basis of the wind energy categories within the Kilkenny County Development Plan is unwarranted and consideration of the development as proposed within County Kilkenny should be assessed on its own merit.

7.4 Impact on the amenities of the area.

7.4.1 I note that the proposed development involves the upgrade of the existing forestry track, underground electricity and communications cabling and site drainage works. The nature of the proposed development in its overall context is outlined in detail within the application documentation which includes an EIS and NIS. Having regard to the nature of the proposed development and subject to the detailed mitigation measures as outlined within the EIS and NIS I consider that the proposed upgrade to access tracks, underground electricity cabling and site drainage works will not have a significant negative impact on the amenities of the area. I note that the concerns were raised by the local authority in respect of road capacity of local roads within county Kilkenny specifically L1828. The first party has confirmed that access via the L1828 will not be required for construction or heavy goods vehicles. As regards impact on ecology the submitted EIS and NIS outline a suite of measures to mitigate impact on ecological receptors. I consider that the proposed development will not have a significant impact on the amenities of the area and the impacts arising are appropriately mitigated.

7.5 Screening for Appropriate Assessment

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

7.5.2 The Natura Impact Statement, version 25/1/17 provided in response to the Council's request for additional information is prepared by ecofact Environmental Consultants.

The report examines the likely effects of the proposed wind energy development both alone and in combination with other projects on the conservation objectives of Natura 2000 sites within the zone of likely influence, that is within 15km of the proposed windfarm and considers whether any possible impacts on the conservation objectives of any Natura 2000 sites can be characterised as significant. The NIS takes account of the core windfarm site and the grid connection route.

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

Site Name	Site Code	Distance
River Barrow and River Nore SAC	Site Code 002162	0.04km to the north of proposed temporary junction upgrade. Main component of the development 0.73km north overland and 1.43km via Graiguenahown Stream where the Owenbeg River is part of the designated area.
Ballyprior Grassland SAC	Site Code 002256	c11.1km northeast of the site.
Lisbigney Bog SAC	Site Code 000869	4.5km west of the site.
Slieve Bloom Mountains SPA	Site Code 004160	22.5km northwest.
River Nore SPA	Site Code 004233	6.5km downstream via Boleybawn Stream.

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

The Qualifying interests for the **River Barrow and River Nore SAC** are as follows:

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive:

[1130] Estuaries

[1140] Tidal Mudflats and Sandflats

[1170] Reefs

[1310] Salicornia Mud

[1330] Atlantic Salt Meadows

[1410] Mediterranean Salt Meadows

[3260] Floating River Vegetation

[4030] Dry Heath

[6430] Hydrophilous Tall Herb Communities

[7220] Petrifying Springs*

[91A0] Old Oak Woodlands

[91E0] Alluvial Forests*

[1016] Desmoulin's Whorl Snail (*Vertigo moulinsiana*)

[1029] Freshwater Pearl Mussel (*Margaritifera margaritifera*)

[1092] White-clawed Crayfish (*Austropotamobius pallipes*)

[1095] Sea Lamprey (*Petromyzon marinus*)

[1096] Brook Lamprey (*Lampetra planeri*)

[1099] River Lamprey (*Lampetra fluviatilis*)

[1103] Twaite Shad (*Alosa fallax*)

[1106] Atlantic Salmon (*Salmo salar*)

[1355] Otter (*Lutra lutra*)

[1421] Killarney Fern (*Trichomanes speciosum*)

[1990] Nore Freshwater Pearl Mussel (*Margaritifera durrovensis*)

The conservation objectives for the River Barrow and River Nore SAC, Version 1, 19th July 2011, sets out the detailed specific objective to achieve the overall aim of the habitats directive to maintain or restore the favourable conservation status of habitats and species of community interest. Favourable conservation status of a habitat is achieved when:

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

The favourable conservation status of a species is achieved when:

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

The qualifying interest for the **Ballyprior Grassland SAC** is

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive:

[6210] Orchid-rich Calcareous Grassland*

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

The qualifying interest for **Lisbigney Bog SAC**. The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive:

[7210] Cladium Fens*

[1016] Desmoulin's Whorl Snail (*Vertigo moulinsiana*)

The generic conservation objective 15/8/2016 to maintain or restore favourable conservation condition of the Annex 1 habitat and or Annex II species for which the SAC has been selected applies to the site.

The Qualifying Interests for the **Slieve Bloom, Mountains SPA** The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier. Generic conservation objectives 15/8/2016 refer.

The River Nore SPA The site is a Special Protection Area (SPA) under the E.U. Birds Directive of special conservation interest for the following species: Kingfisher. Generic conservation objectives Version 5. 15/8/2016 refer.

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

7.5.5.1 No direct impacts are predicted to any Natura 2000 site. The potential indirect impacts with reference to the Natura 2000 sites' conservation objectives at various stages of the process include emissions to surface and ground water, run off, silt laden run off, hydrocarbon and other pollutants, fuels, construction materials to watercourses, loss of habitat for fauna, avoidance and disturbance.

7.5.5.2 I note that the Ballyprior Grassland SAC is located approximately 11.1km northeast of the site and there are no overland hydrological connections to this site. Lisbigney Bog is 4.5km west of the site and is not hydrologically connected to the development. The Slieve Bloom Mountains SPA is located 22.5 km northwest of the site and on the basis of distance significant effects can be discounted.

7.5.5.3 No direct impacts are predicted on any Natura 2000 site. In the scenario of a large release of suspended sediment or fuel spillage to the Boleybawn, Graiguenahown Stream, The Knockardagur Stream and Knockbaun there is potential for significant indirect impacts downstream to Owenbeg River and downstream areas on aquatic dependent species. As regards the River Barrow and River Nore SAC is downstream there could be indirect impacts via water quality. Significant elevation of suspended solids could potentially have an effect on the Freshwater Pearl Mussel population.

7.5.5.4 As regard the River Nore SPA 4.2km (overland) 6.45 (surface water distance) downstream of the site via the Boleybawn Stream the qualifying interest of this site the Kingfisher. The Boleybawn Stream which originates at the southern boundary of the site represents an overland pathway which could result in in direct impacts on water quality and subsequent indirect impacts on fish and Kingfisher. The River Nore SPA is also connected to the proposed site by the Graiguenahown Stream which rises within the site and is 14.4km (surface water distance) upstream of the SPA. Suitable nesting for the kingfisher is not recorded within the site. Taking account of the small size of the streams draining the site their low carrying capacity

and distance upstream it is argued that there is reasonable scientific certainty that the proposed development will not have any adverse effects on the conservation interest of the River Nore SPA (Kingfisher)

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

7.5.6.1 Cumulative effects are considered with regard to proposed grid connection, road widening and rewidening works and other plans and projects. In the absence of mitigation, the potential for water quality impacts to the River Barrow and River Nore SAC the potential for significant cumulative effects cannot be discounted.

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

7.5.7.1 No direct impacts on European sites are predicted. Indirect impacts however cannot be excluded. The identified pathways for potential impact on European sites are associated with the potential for water pollution and water quality impacts, during the construction and operational phase.

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

7.5.8.1 On the basis of the identified pathways for potential impacts in respect River Barrow and River Nore SAC having regard to the hydrological connection from the site.

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

- Lisbigney Bog SAC (Site Code 00896)
- Ballyprior Grassland SAC (Site Code 0002256)

- River Nore SPA. Taking account the small size and low carrying capacity of the streams connecting the site and distance upstream it the potential for significant effect to the River Nore SPA can be discounted.
- Slieve Bloom Mountains SPA. – On basis of distance 22.5km from the site.

7.5.9 Appropriate Assessment.

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

7.5.9.2 Steps 1-4 above from Stage 1 Screening are detailed above. The screening assessment identifies potential pathways for impact on the River Barrow and River Nore SAC through potential emissions to surface water.

7.5.9.3 Proposed temporary junction upgrade is located c40m south of the River Barrow and River Nore SAC. The main body of the site is located approximately 1.4km surface water distance upstream of the River Barrow and River Nore SAC hydrologically connected via the Gariguenahown Stream which rises within the site. The site is in the catchment of the specified Freshwater Pearl Mussel population as set out in the First Schedule of the EC Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009 (SI 296 2009). Sedimentation poses the biggest threat to the freshwater pearl mussel which is the qualifying interest of the River Barrow and River Nore SAC. In the scenario of a large release of suspended sediment during construction works there is potential for significant indirect impacts downstream of the development area. Indirect impacts via water quality on the key aquatic species for which the site has been designated. In the event of siltation or pollution of watercourses from the site the aquatic habitats and species of the River Barrow and River Nore SAC could be indirectly damaged by changes in water turbidity and water quality. Impacts such as elevated siltation levels could have adverse effects on the Nore Freshwater Pearl Mussel and the Freshwater Pearl Mussel. Reduction in water quality and habitat availability could affect population levels of qualifying interest species. Sediment and pollutants could potentially impact the habitat of watercourses of plain to montane levels with the Ranunculus fluitans and Callitriche Batrachion vegetation, Brook

Lamprey (*Lampetra planeri*) Atlantic Salmon (*Salmo salar*) White clawed crayfish (*Austropotamo bius pallipes*).

Mitigation Measures

7.5.9.4 Noting the dilution provided by the ever increasing size of the Owenbeg river on its course to the River Nore, and subject to the implementation of appropriate mitigation, to include a construction environment management plan, construction method statement and surface water management plan water quality will be protected. It is evaluated that there are no indirect impacts with regard to habitat loss, habitat deterioration or disturbance affecting the conservation interests of the River Barrow and River Nore SAC which would have the potential to affect the conservation status of the qualifying interests or the conservation objectives of the site. All surface water run off will be strictly controlled such that no silt or other pollutants enter watercourses and that no artificially elevated levels of downstream siltation or no plums or silt arise when substratum is disturbed in accordance with the fourth schedule of the EC Environmental Objectives Freshwater Pearl Mussel Regulation 2009 (SI NO 296 2009) The shortest overland hydrological distance from the proposed development to the River Barrow and River Nore SAC is 1.43km via the Graiguenahown Stream. I note as referenced within the report of the consulting ecologist informing the report of the planning authority further mitigation in the form of a temporary berm in the vicinity of the proposed junction upgrade within 40m of the SAC would be required. Good practice mitigation measures in respect of surface water and groundwater are outlined including mitigation by avoidance, source controls and in line controls and treatment systems. Erosion and sediment control measures will be incorporated into each element of the works. Generally accepted best practice control measures will be employed during the construction phase. The first party outlines commitment to review of ecological mitigation measures. The development will follow best practice environmental management approaches which will include an ongoing iterative review of all mitigation measures throughout the lifetime of the project.

Evaluation of potential effects of the projects on the conservation objectives of the sites taking account of mitigation.

7.5.9.5 In terms of an evaluation of the potential effects of the project on the conservation objectives of the sites taking account of mitigation, the mitigation measures include

the provision of a preliminary Construction Environmental Management Plan setting out environmental commitments, waste management plans. Best practice guidelines and codes of practice will be implemented at various stages. A preliminary surface water management plan is provided. On the basis of dilution factors and the fact that the tributaries rising and within the boundary of the site are small with limited conveyance capacity, and subject to the application of stringent mitigation measures, there is reasonable scientific certainty as to the absence of impacts to the Nore Pearl Mussel or the Freshwater Pearl Mussel for the proposed development. Cumulative impacts affecting the river barrow and River Nore SAC arising from the proposed development have been identified as being limited to in-combination water quality impacts and potential disturbance impacts affecting the water dependent Annex I habitat and Annex II species within the SAC complex. The primary pressures on Annex I habitat and Annex II species within the SAC are pollution and hydrological change. Modification of water quality and flow can arise from several sources, including agriculture commercial forestry, land clearance for housing, construction of paths and roads for fisheries and recreational activities. Artificial modifications to the river such as weirs on the river Nore impact on ecosystem function, and species migratory patterns. Drainage works and maintenance works on existing drains is a continual threat to water quality in the River Nore catchment.

7.5.9.6 On the basis of detailed mitigation measures for protection of water quality in the proposed drainage design and site management programme in addition to the nature of the qualifying interest and the hydraulic distance impacts on downstream habitats are unlikely. It is thus concluded that the project would not affect the integrity of the **River Barrow and River Nore SAC** either individually or in combination with other plans or projects.

7.5.9.7 Having considered the submitted report, I am satisfied that the methodology used in the NIS report is clearly explained and information sources set out. I consider that the level of information provided allows the Board as the competent authority to assess the impact of the proposed development on the integrity of the adjacent Natura 2000 sites. Having regard to the mitigation measures proposed I consider

that the conclusion that the proposed development will not adversely impact the **River Barrow and River Nore SAC** is reasonably supported.

7.5.9.8 On the basis of the details provided I consider that it has been demonstrated that the cumulative impact of the development will not have adverse effect on the River Barrow and River Nore SAC in the light of their conservation objectives and that subject to the mitigation measures and habitat and species management plan, construction and environmental management plan and surface water management plan the proposed project will not adversely affect the integrity and conservation status of any Natura 2000 sites.

7.6 Environmental Impact Assessment (Combined assessment 248392 248518)

7.6.1 On the matter of the Environmental Impact Assessment, I note that Environmental Impact Assessment is required for “Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts”, as set out in Part 2, Schedule 5 - Development for the purposes of Part 10 (Environmental Impact Assessment) Planning and Development Regulations 2001. The proposed development is for 11 turbines and is intended to provide the 35.2MW capacity therefore is subject to mandatory Environmental Impact Assessment.

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

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

7.6.3.1I consider that the EIS in overall terms, is in compliance with Articles 94 and 111 of the Planning and Development Regulations, 2001, as amended. To this extent I would observe that-

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

- Describes the proposal, including the site and the development's design and size;
- Describes the measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Provides the data necessary to identify and assess the main effects the project is likely to have on the environment;
- Outlines the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.
- The EIS contains the relevant information specified in paragraph 2 of Schedule 6 of the Regulations. This includes-
 - A description of the physical characteristics of the project and its land use requirements;
 - The main characteristics of the wind energy process to be pursued;
 - The emissions arising;
 - A description of the aspects of the environment likely to be significantly affected by the proposal;
 - A description of the likely significant effects on the environment resulting from the development's existence, the development's use of natural resources, the emission of pollutants and creation of nuisances, and
 - a description of the forecasting methods used; and
- There is an adequate summary of the EIS in non-technical language.
- There is an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information (EIS 1.8 indicates that no specific technical difficulties were encountered).

7.6.3.2The submitted EIS focuses on the significant direct and indirect effects arising from the proposed development. The main likely effects can be identified under the range of headings as follows:

Human Beings & Community

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

Noise and Vibration

- Noise & other disturbance to residents.

Ecology - Flora & Fauna

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

Aquatic Ecology

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

Soils, Geology and Hydrogeology

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

Hydrology and Water Quality.

- Sediment release
- Surface water runoff
- Water quality

Landscape and Visual Impact

- Scale, height and extent of visibility.
- Impact on landscape character.
- Impact on important views.
- Cumulative impact with other existing and permitted wind farms and grid infrastructure proposals

Cultural Heritage

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

Air Quality and Climate,

- Dust
- Climate Change.

Material Assets

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

7.6.3.3 Interactions Chapter 14 deals with the interaction of the foregoing. Matrix Table 14.1. seeks to identify interactions between various aspects of the environment.

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

7.6.3.4 As regards alternatives, 2.3 consideration is given to site selection, alternative site layout and design, alternative processes, alternative wind farm output, alternative turbine model and number, alternative site layout, alternative entrance and transport routes to the site alternative mitigation measures.

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

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

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

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

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

7.7 Conclusion and Recommendation

7.7.1 Having considered the file, and all submissions and having visited the site, I consider that based on analysis of the appeal site location the landscape has capacity to absorb development of this nature. The documentation submitted including the EIS provide a sufficient level of detail to enable analysis of the likely impacts of the development on environmental receptors. The submitted NIS provides sufficient information to inform an appropriate assessment of the implications of the proposed development for nearby European sites in view of the site's conservation objectives.

7.7.2 Having considered the contents of the application, the decision of the planning authority, the provisions of the development plan, national policy as set out in the Windfarm Development Guidelines issued by the Department of Environment Heritage and Local Government, the grounds of appeal and third party submissions, my site visit and assessment of the planning issues, I conclude that subject to the stated mitigation the proposed development would not have an adverse impact on the integrity of the adjacent European Sites, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic

impact. Accordingly, I recommend permission subject to the following schedule of conditions:

REASONS AND CONSIDERATIONS

Having regard to :

- (a) national policy with regard to the development of sustainable energy sources,
- (b) the Wind Energy Development Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the character of the landscape in the area and the topography surrounding the site,
- (d) the location of the site outside of any European Site, and the distance to such sites,
- (e) the pattern of development in the area,
- (f) the provisions as set out in the current Kilkenny County Development Plan 2017, including those regarding renewable energy development,
- (g) the distance to dwellings or other sensitive receptors from the proposed development, and
- (h) the submissions made in connection with the planning application and the appeal, including the Environmental Impact Statement submitted with the planning application (including mitigation measures therein), the further supplementary information submitted by the applicant in the course of the planning application and the appeal,
- (i) the Natura Impact Statement and the further information submitted in relation to ecology by the applicant in the course of the planning application and appeal

It is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the landscape, would not seriously injure the visual or residential amenities of the area and would not give rise to any significant impacts on the natural heritage of the area or affect the integrity of any European Site or any protected species. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

- 1 The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on, 10th February 2017, including the detailed mitigation measures set out in the EIS and NIS, except where otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

Reason: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. All environmental mitigation measures set out in the Environmental Impact Statement, Natura Impact Statement, and associated documentation submitted by the applicant to the planning authority and An Bord Pleanála, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of protection of the environment.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) The developer shall notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) regarding the proposed development,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and

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

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

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

5. Prior to the commencement of works on site, a surface water management plan shall be submitted to the Planning Authority for written agreement and shall set out the detailed measures to be undertaken to protect water quality during tree harvesting, construction and operation phase, as well as a schedule for water quality monitoring. Works with a potential to result in pollution or siltation of watercourses shall be supervised by an on-site clerk of works who will report on compliance with the relevant mitigation measures. The clerk of works shall be empowered to halt works where he/she considers that continuation of the works would be likely to result in a significant pollution or siltation incident. In the event of a water pollution incident, or of damage to a river, these reports will be made available to the relevant statutory authorities and on site works will cease until authorised to continue by the Planning Authority.

Reason: To prevent water pollution.

6. (a) Roads, hardstanding areas and other hard-surfaced areas shall be completed to the written satisfaction of the planning authority within three months of the date of commissioning of the wind farm.

(b) Soil, rock or sand excavated during construction shall not be left stockpiled on site following completion of works. Details of the treatment of stockpiled materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority a detailed Construction Management Plan, including a monitoring regime. The Plan shall make provision for inclusion of all relevant mitigation proposed in the EIS and NIS and shall in any event ensure that its scope extends to the following parameters:
- (a) surface water management during construction to prevent runoff from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers and the tributaries and watercourses of their catchments or other waters within and adjoining the site including groundwater in accordance with best practice
 - (b). Detail of treatment of stockpiled material arising from excavation during construction, management of peat storage and disposal
 - (c) dust minimisation including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles;
 - (d) management of public roads in the vicinity/ so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the planning authorities;
 - (e) provision of detailed plans for all temporary facilities and operations, including the storage of hydro-carbons, and proposals for reinstatement as appropriate on completion of the construction phase;
 - (f) preparation of a formal Project Construction and Demolition Waste Management Plan;
 - (g) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the relevant planning authorities. The developer shall satisfy the requirements of the planning authority in relation to measures to be proposed to prevent pollution run-off into water courses. The development shall thereafter be implemented in accordance with the agreed details.

Reason: In the interest of amenities, public health and safety, and to protect the adjoining surface watercourses and areas subject to environmental designations.

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

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

Bríd Maxwell
Planning Inspector
19th October 2017.