



An
Bord
Pleanála

Inspector's Report 02.248394.

Development	Laying of underground 20Kv electricity cable and associated works to facilitate the connection of Raragh windfarm to the national electricity.
Location	Townlands of Co. Cavan and Co. Meath.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	16/566.
Applicant(s)	Raragh Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Val Martin and Others.
Observer(s)	Peter Sweetman and Associates.
Date of Site Inspection	16 th of July 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

- 1.1. The site is located at Kingscourt town in County Cavan and comprises of a proposed 5.5km electricity line which runs from the townland of Raragh to the north of the town, through the main street to connect to a ESB substation to the south, in County Meath (c. 220m).
- 1.2. From the most northern point the line runs from a permitted windfarm development (PL.02.236608) along a lane adjacent to a derelict farm dwelling, through an agricultural field (c.400m) onto the main R162. The remainder of the line runs along the R162 until the end of the Main Street where it runs along Carrickleck Road, over the old disused Navan and Kingscourt railway line to connect into a substation at Kilnalun, Co. Meath.

2.0 Proposed Development

- 2.1. The proposed development is for a 20k V electricity grid connection of c. 5km (4.6km on Co. Cavan and 0.2km in Co. Meath), connecting an already permitted substation to the national electricity grid at Kingscourt Substation, for the purpose of connecting 5no wind turbine granted under PL02.2236608, which may be summarised as follows:

- Underground trench of c. 1m to accommodate cable ducting along the existing road infrastructure except for c. 400m at the start agricultural,
- The ducting will sit in a trench which will have a minimum width of c.325mm and depth of c. 925mm,
- Installation of 17 cable joint bays (concrete chambers) and ancillary marker posts and plates,
- 3 no bridge crossings,
- 3no culvert crossings.

3.0 Planning Authority Decision

3.1. Decision

Decision of grant permission subject to the inclusion of 9 conditions of which the following are of note:

C 2- Road opening licence;

C 3- Disposal of waste is required by an authorised waste collector,

C 4- Archaeological monitoring,

C 5- Implement the mitigation measures included in the EIS,

C 6- Submission of a traffic/ transport management plan,

C 8- Prior permission from Inland Fisheries Ireland (IFI) for any instream works,

C 9- Compliance with NRA guidance, in relation to treatment of otters on works to bridges over rivers and streams.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and may be summarised as follows:

- Further information on an alternative route, option 3 in the EIS, along the main street at Kingscourt was requested. The applicant responded to state this option was not feasible, therefore the original new ducting was required along the Main Street. An amendment to Fig 12.6, cabling options was submitted.
- The information contained within the EIS is noted and an EIA was undertaken and concluded that significant, cumulative and in-combination effects can be avoided through the implementation of appropriate mitigation measures.
- The Appropriate Assessment, principle of development, visual, heritage and traffic where addressed separately.

3.2.2. Other Technical Reports

Environment Section- No objection subject to conditions.

Roads Design- No objection to the proposal.

Municipal District Office (Roads)- No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs- No objection subject to the inclusion of archaeological monitoring.

3.3.2. Inland Fishers Ireland – No objection to the proposal subject to compliance with the following:

- There is a restriction of works during July and September. In the case of using trenchless crossings the restriction on timing would not be relevant.
- Guidance is provided for both trenchless crossings of waters and open cut or trench type crossings.
- Electrofishing is required to remove fish temporarily and IFI should be notified before instream works occur.
- The potential for discharge of deleterious matter and oils and fuels into the streams shall be removed by specific environmental mitigation measures.

3.4. Third Party Observations

Submissions received from Mary Martin & Others and Val Martin and the issues raised have been addressed in the grounds of appeal.

4.0 Planning History

Appeal Site

RL3375 & RL3369

Referral made by both Cavan County Council (RL3375) and Meath County Council (RL3369) under Section 5(4) of the Act for determination on a grid connection consisting of provision of a 20kV underground gable forming the grid connection between the permitted Raragh Windfarm and the existing ESB substation at Kilnalun, Co Meath. The decision of the Board, the said works are development but excepted development, was the subject of judicial review proceedings in *Martin v An*

Bord Pleanála and Others (High County Record No, 2016/460 J.R) which quashed the Section 5 determination by the Board.

15/164

Permission granted for an extension of duration of 5 no windfarms (PL02.236608) until 14th of November 2020.

PL02.236608 (Reg. Ref. No 09/270)

Permission granted for a wind farm with five turbines, anemometry mast, electrical substation, access tracks, underground cabling and ancillary works with 17 conditions, those of note include restriction of 5no turbines, 25yr permission, colour and rotation of blades, cables underground, restriction on noise levels. Condition No 9 states that the permission shall not be construed as any form of consent or agreement to connection to the National Grid or to the routing or nature of any such connection.

Remainder of grid connection in County Meath

KA/161358

Permission granted for 0.2km of electricity cable and associated ducting, the installation of 2 no cable joint bays and ancillary marker plates. Conditions of note included compliance with the mitigation measure sin the EIS, need for a road opening licence, submission of a comprehensive traffic/ transport management plan, submission of a comprehensive Construction and Environmental Management Plan (CEMP) including compliance with the IFI requirements.

5.0 Policy Context

5.1. Environmental Legislation

The European Union (Environmental Impact Assessment) (Planning and Development Act, 2000) Regulations 2012.

The Planning and Development Regulations 2001, as amended.

Environmental Impact Statement

Schedule 5- Part 2- "Agriculture, Silviculture and Aquaculture"

(3) Energy Industry (i) Installation for harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.

(15) Any project listed in the Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

Schedule 6- Information to be contained in an EIS.

5.2. **Wind Energy Development Guidelines for Planning Authorities 2006**

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

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

5.3. **Guidelines for the treatment of otters prior to the construction of national road schemes** (National Roads Authority)

Otters are included in Annex II and Annex IV of the Habitats Directive and the design guidance provides information to ensure the free passage of otters during and after works along the roads

5.4. **Guidelines on Protection of Fisheries During Construction works in and adjacent to Waters** (Inland Fisheries Ireland, 2016)

These guidelines set out the *inter alia* requirements in relation to bridges and culverts and the need for such structures and works to same, the need to allow for the unhindered upstream and downstream movement and flow of fish and aquatic life.

5.5. **National Renewable Energy Action Plan** (Department of Communications, Climate Action and Environment).

This action plan sets out Ireland's national targets for the share of energy from renewable sources to be consumed in transport, electricity and heating and cooling in 2020, and demonstrates how it will meet its overall national target.

5.6. **Cavan County Development Plan 2014-2020.**

The site is located in between the rural area of County Cavan and runs through the designated town of Kingscourt.

Section 4.7.1 Electricity

Objectives

- **PIO108:** To support the infrastructural renewal and development of electricity networks in the County and recognise the development of secure and reliable electricity transmission infrastructure as a key factor for supporting economic development and attracting investment to the area and to support the infrastructural renewal and development.
- **PIO110** To ensure that High Voltage electrical lines must be constructed and monitored in accordance with current "Guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP)" and Commission for Energy Regulation (CER).
- **PIO111** To support the undergrounding of HV powerlines, where technically feasible economically viable and environmentally appropriate.
- **PIO117** The following issues will be considered in the assessment of a wind energy development: (part of) 7. Cables connecting windfarms to the national grid should be located underground, where appropriate.

5.7. **Natural Heritage Designations**

The site is located c 15km from Killyconny Bog (Coughbally) SAC and c. 22km from Stabannon- Braganstown SPA.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been submitted by an environmental campaigner and land owner of lands adjoining the permitted wind farm, from Co. Cavan and 40 others who have listed addresses in both Kingscourt, Co Cavan and Magheracloone, Co. Monaghan, which may be summarised as follows:

- Part 1 of the submission includes a detailed background of all the objectors and the concerns of each such as:

Impact of the wind farm on the residential amenity such as shadow flicker, noise,

There is no legal authority to the granting of the original permission 02.236608,

Impact of the wind farm on livestock in farms adjacent,

Impact on the visual amenity of the wind farm,

Concern over the route of the cable and ownership of the lands,

Concern over emission from the cables,

Restriction on access to roads during construction,

There is no understanding of the exact route or the destination of the spoil,

The use of Corrinshigo, private lane, needs to be assessed.

There were inadequate site notices along the route with no notice along the Carrickleck Road,

EIS is silent on the proposed route of the cabling,

- Part 2: Reference to the planning inspectors report as follows:

The proposal should be invalid due to the inadequate site notices,

Raragh Development Ltd are not the operators of the cables (these are ESB and Eirgrid)

The hierarchy of Irish law and associated environmental legislation has been submitted which indicates that an energy plan requires an SEA.

- Part 3: All part of the Raragh wind farm are equal, including the cables and should be assessed under the national guidance and legislation, including the National Renewable Action Plan (NREAP) and SEA.
- Part 4: Lack of public participation. There was insufficient time for public representation on the NREAP.
- Part 5: Changes to the original design. The original EIS stated the existing ducting along the Main Street would be used although this is thought to be defective, therefore it is proposed new ducting will be provided. The persons who made submissions were not notified of the changes.
- Part 6: The application does not comply with the EIA Directive 2011/92/EU as the original EIA was carried out under the 2001 Regulations which CJEU ruling 50/09 ruled out.
- Part 7: Cumulative effects for phased projects. The entire wind farm should be assessed (09/270) in its entirety such as the O’Grianna judgement. This ensures there is no project splitting.
- Part 8: Technical omissions on the cable specification. It is questioned the use of underground cabling, restriction of voltage levels, the wattage capacity of the wind farm, number and heat generated from the cables. There are no details on the outgoing set of cables in the EIS (power from the wind farm).
- Part 9: Screening for Environmental Impact Assessment and cumulative effects. An EIA is required in this instance and the EIS fails as the design is not included in the technical report. The noise report submitted is not sufficient.
- Part 10: The validity of the original EIA for the wind farm is questioned. A 500m set back is now required and T1 is only 470m from a dwelling. Are new guidelines permitted to granted permissions?

- Part 11: Unauthorised development. The existing trenching along the Kingscourt Main Street, by ESB networks, was reported to the council as unauthorised development although nothing was done.
- Part 12: Appropriate Assessment, habitats and Wildlife Act. Wind farms kill bats and birds; therefore, it is a criminal offence under legislation. There is no exact route for the cables between the wind farm and R162 road.
- Part 13: Health and safety. The impact of falling turbines or those on fire has not been addressed. No information on emissions from the cabin. Licences have to be sought.
- Part 14: Wind farms are generally misunderstood and based on construction the farms will result in high greenhouse emissions.
- Part 15: Landscape. No account has been taken for the impact on Dun- Na- Ri and the submitted montage is not a true image of the visual effect. It is requested the inspector meet with the appellant and developer.
- Part 16: Laws on electricity transmission.
- Part 17: Effect on farming. The cattle ran away from the installed anemometer on site, the Nosie information requires proper investigation.
- Comments on planner's report: Issues already addressed including inadequate notices, issues relating to the status of the roads, overhead alternative, project construction, bats, construction traffic and land use and capacity of the wind farm.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response which may be summarised as follows:

- PL236608 has been extended until 14th of November 2020.
- This application has been submitted as the section 5 determination has been quashed.

- In compliance with the *O’Grianna* judgement, the submitted EIS includes the already permitted wind farm as a cumulative impact. The current permitted wind farm was subject to an EIA.
- This response related to both planning and non-planning matters raised in the appellant’s submission.
- The majority of Part 1 of the appellant’s submission relates to the already permitted wind farm and the validity of same cannot be revised.
- The initial 2010 EIS includes information on shadow flicker and noise levels shall not exceed 43d BA at any receptor, as accepted by the Board.
- PL02.236608 included an assessment of the visual impacts where it was concluded it would not unduly detract from the overall visual quality of the area. The submitted EIS references the cumulative impact of the grid connection including the permitted wind farm, North- South interconnector, 7 no turbines proposed in Taghart South (3.0km north) and permitted Teevurcher wind farm (6.8km south west).
- Electromagnetic Field (EMF). The WHO research does not suggest any health effects from the levels of ELF-EMF from the 20k V lines and the operating cable is fully compliance with the EU Guidelines on exposure of the general public to ELF-EMF.
- The applicant has submitted sufficient interest in the lands to submit an application and has authorisation to generate and supply electricity. Rathgar Development Ltd has been granted permission for the purposes of “electricity undertaking” therefore they may design and construct the proposed underground cable rid connection under supervision of ESNB.
- 6 no site notices were erected and Cavan County Council validated the application.
- In relation to the lack of SEA of national plans, it is submitted the policies and objectives of the Cavan County Development Plan, relevant to this application have been subject to an SEA and support underground grid connections for wind farms.

- The applicant were afforded adequate time to participate in the planning process.
- Further information was sought by Cavan County Council, a response to the Council stated that an alternative option for the ducting could not be utilised, therefore no change to the proposed development and required to be advertised under the Regulations.
- The cumulative impacts have been assessed and mitigation measures included in the EIS are in respect to the wind farm, grid connection and onsite infrastructure.
- A response to the appellants query on the technical specifications is submitted in detail on currents and materials for cabling. It is stated that the voltage is standard in Ireland and underground cabling is compliant with the development plan, the ESB will operate the cable and cannot comment on the North- South interconnector.
- A detailed EIS has been submitted to enable the Board to conduct a full and comprehensive EIA.
- Reference to the original duct along the main street and associated enforcement proceedings is not relevant to this application.
- In relation to the impact on bats and birds, a screening for Appropriate Assessment has been undertaken to conclude there will be no impact on any species of adjoining Natura 2000 sites, therefore stage 2 is not required.
- Drawing no PO477-C100-0004 includes the boundary of the proposed development including Corrinshigo Lane and the route will be in the carriageway, with no removal of hedgerows.
- All materials on site will be used to backfill or disposed of at a licensed waste facility.
- The Construction Environmental Management Plan (CEMP) deals with the health and safety and site works for both the wind farm and the grid connection.

- The wind farm will assist Ireland in meeting its emission reduction targets for 2020.
- The cumulative impacts of the grid connection and the wind farm on the visual amenity are dealt with in the EIS, to enable the Board to carry out an EIA. There are no additional impacts from the grid connection than the 5 turbines, already assessed by the Board.
- Reference is provided to the Electricity Supply Acts; consents are not relevant for the Board.
- The Marshal Day Report (2014) states that animals become accustomed to changes in noise, can adapt and therefore there is no negative impact.

6.3. Planning Authority Response

A response was received from the planning authority which may be summarised as follows:

- The site notices were erect upon site inspection.
- The planning authority is satisfied that Raragh Development Ltd is the developer in this case.
- The Cavan County Development Plan was subject to SEA.
- The planning authority deemed that the further information was not significant therefore no advertisement was necessary.
- The cumulative effects were considered in the EIS submitted and assessed in the EIA, which the PA carried out as part of the application.
- The technical issues with the cable specifications are not planning related.
- C 9 of the parent permission PL02.236608 (connection to the National Grid) does not preclude this application from being submitted.

6.4. Observations

One observation was received which may be summarised as follows:

- Section 37A of the Act states that any application for permission in the Seventh Schedule of the Act shall if the following condition is satisfied, be made to the Board under S37E: c) the development would have a significant effect on more than one planning authority. The development covers lands in both Cavan (16/566) and Meath (KA161358).
- Condition No 9 of the planning authority decision refers to compliance with the National Road Authority Guidelines for treatment of otters. The development requires a full Appropriate Assessment as Finlay Geoghegan L. *Kelly-v- An Bord Pleanála* 2013-802 JR, refers “*There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect.*” Therefore, if a condition is required to mitigate an effect, there is an effect and an AA is required.

6.5. Further Response

6.5.1. Transport Infrastructure Ireland- No objection.

6.5.2. Meath County Council

- Meath County Council considered both the EIA report and the NIS in their decision making process and this supporting file (KA1611358) was not appeal to the Board.
- A list of the archaeological monuments within 100m of the proposed cable is included in the submission, as per the submitted EIS.
- Meath County Council considered the nature, scale and location of the “entire project” and the likely effects on the environment.
- It is recommended that a condition relating to preservation, monitoring and recording of any archaeological materials or features is included in any grant of permission.

6.5.3. Department of Arts, Heritage, Regional, Rural and Gealtacht – No objection subject to archaeological monitoring condition.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Residential and Visual Amenity
- Environmental Impact Assessment
- Appropriate Assessment
- Other Matters

Principle of Development

7.2. The proposed development is for a 5.5km 20k V underground electricity cable connecting the permitted on-site substation to the national electricity grid at the existing Kingscourt substation in the townland of Raloaghan, Co. Meath. The proposed route begins on private lands at the permitted Raragh Wind Farm (02.236608) and traverses along a private road, through agricultural lands (440m) and onto the public road (R162) where it travels in a southern direction through the Kingscourt town and proceeds along the Carrickleck Road (L3527) across the Co. Meath border to connect to the substation. This application is for the cabling located within Co. Cavan, the remainder of the route has been dealt with Co. Meath under a separate application. The appellants submit that the entire proposed development is invalid based on the inadequate site notices, non-compliance with national policy, incorrect application of Environmental legislation and based on previous high court judgement the entire project, including the original wind farm application should be reassessed. I have assessed the principle of development in light of previous judgements, in addition to compliance with policy and planning history on the site.

7.3. O’Grianna: The O’Grianna case refers to a High Court judgement on Judicial Review of a permission granted on appeal by the Board for a development comprising 6 wind turbines and associated buildings/infrastructure in County Cork. The Board’s decision on the appeal (Ref. 242223) was made on 15th November, 2013 and the High Court judgement (Ref. 2014 No. 19 JR’ 2014 No. 10 COM) was delivered on 12th December, 2014. This High Court judgement quashed the Board’s decision, was based on the conclusion that the windfarm and the grid connection constituted a

single project and that both elements together would have to be subject to EIA in order to comply fully with the terms of the Directive. As a consequence of the judgement new applications for permissions for wind farms developments, and which require EIA, now include relevant information on proposed grid connections.

- 7.4. Planning History: PL02.236608 was granted permission in 2010, with an extension of duration granted until 2020. As the permission was prior to the above judgement it remains a valid permission. The proposed development for the grid connection has been accompanied by an EIS, in addition the EIA submitted with 236608 has accompanied the application. I am satisfied that due to the inclusion of both the original EIA (PL02.236608) and an EIS with the proposed development, a full and through assessment of the impact on the environment can be undertaken, therefore the issue of project splitting is not relevant in this instance.
- 7.5. Development Plan: The Cavan County Development Plan, 2014 – 2020 sets out detailed policy and objectives in relation to wind energy development. Objective PI0117 makes specific reference to the cables connecting windfarms to the national grid and the location undergrounds, where appropriate.
- 7.6. Therefore, based on the planning history on part of the site and the objectives of the development plan, I consider the principle of the proposed development is acceptable, subject to compliance with the issues raised below.

Residential and Visual Amenity

- 7.7. The proposed development stretches c. 5km from the north of Kingscourt town, though agricultural lands along the road to the south at the substation. The cabling will pass along the front of a number of residential properties both in Kingscourt town and the rural area. The EIS states that some of these dwellings are located less than 10m from the edge of the roadside, therefore they are included as noise sensitive locations and the impact of noise is addressed below.
- 7.8. Noise & Vibration: The 2006 Wind Energy Development Guidelines state that in general a lower fixed limit of 45 dB (A) or maximum increase of 5 dB(A) above background noise at nearby noise sensitive locations is considered appropriate to provide protection to wind energy development neighbours. It also states that in general, noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres and mostly

relates to the operational turbines, I note the Raragh wind farm (02.236608) had 67 noise sensitive receptor locations and condition no 4 restricted the noise levels to 43 dBA (15 minutes L_{eq}). The nearest noise sensitive locations have been identified as dwellings along the R162 and L3527, as they are less than 10m from the proposed grid connection works.

- 7.9. The British standards for appropriate noise levels for noise and vibration control on construction (*BS 5228-1:2009 +A1:2014*) have been used in the absence of Irish guidance which defines the maximum acceptable level as 70 d BA during the day, in towns and 65 d BA in rural locations. It is noted that the majority of the construction plant operates within these guidelines although the Mini excavator with hydraulic breaker will measure 77 L_{aeq} , dB at 10m from the nearest noise receptor. The applicant submits the use of these construction activities will not occur over an extended period in any one location (less than 3 days at any one location). I consider it reasonable that the impact from noise will be short term and having regard to the location of dwellings along the proposed route I consider it reasonable to restrict the construction activities during the day, Monday – Friday.
- 7.10. The impact of the proposed development on the visual amenity if the area is dealt with between the EIA section, therefore based on the scale of works during construction and the location of the cable route, I do not consider the proposed development would have a significant impact on the amenity of those residential properties along the proposed cable route.

Environmental Impact Assessment

- 7.11. An Environmental Impact Statement and non-technical summary, prepared by Fehily Timoney & Company, accompanied the proposed development for a grid connection. This application was submitted prior to 16 May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the application.
- 7.12. I am satisfied that the information contained in the EIS complies with article 94 of the Planning and Development Regulations 2000.
- 7.13. The grounds of appeal have submitted that an EIA of the entire project has not been undertaken, under the proposed development for the wind farm (PL02.236608)

therefore it is not adequate on the basis that it was prepared in accordance with EIA Directive 97/11/EC rather than EIA Directive 2011/92/EU and quotes ECJ case C-50/09, O’Grianna & Others v An Bord Pleanála (2014/19 JR). I note an Environmental Impact Statement was submitted with PL02.236608 and assessed as part of that application. I have addressed the cumulative environmental impact of the wind farm and grid connection in the assessment below.

7.14. Four cable route alternatives have been submitted with the EIS. Route option 4 was chosen for the proposed development as the shortest and most accessible route. The planning authority requested further consideration of route 3 (use of the existing ducting along the Main Street). Following investigation, the applicant confirmed the existing ducting within route 3 was not a sufficient standard to accommodate the cabling, therefore route 4 was retained.

7.15. In accordance with the EIA Directive I have included an assessment of the direct and indirect effects of the proposed development on the following:

- a) Human beings, Flora and Fauna
- b) Soil, water, air, climate and the landscape
- c) Material assets and the cultural heritage,
- d) The interaction between the factors above

7.16. Human beings

The potential impacts of the proposed development on human beings relates to the impact on land use and changes to socio economic circumstances. In the short term, during construction, the works will provide employment leading to an indirect positive impact. In the long term the operation of the grid connection will not change the land use or the economics of the community. The permitted wind farm will not alter the land use of the site in so far as it can no longer be used as agricultural and it will not alter the social- economics of the area. The issue of shadow flicker was addressed by the inspector in the assessment of the wind farm, and accepted by the Board, and it was concluded that the occurrence of shadow flicker arising from the 5 no turbines was within the acceptable limits (recommended 30hrs per annum or 30 minutes per day).

I have considered all of the written submissions made in relation to human beings, in addition to those specifically identified in this section of the report and having regard to the scale and location of the grid connection, I do not consider the proposed development would have any long-term direct or in-direct impact on human beings.

7.17. Flora and Fauna

Flora: Chapter 6 of the EIS deals with ecology. There are no Natura 2000 sites located within 15km of subject site and 14 proposed National Heritage Areas within the same area. The assessment of the impact of the proposed development on the Natura 2000 sites included in the Appropriate Assessment section below. I have assessed the attributes and location of each of the p NHAs and I consider that based on the absence of any hydrological connection and distance to the site (only the Ballyhoe Lough p NHA, 5km) the proposed development will not have the potential to impacted any p NHA. The EIS refers to the National Biodiversity Data Centre mapping system for records of rare or protected flora and fauna and invasive flora and fauna species. In addition to this data, a field survey was conducted. Particular reference to the aquatic species is dealt with in the following section on hydrology. The EIS does not report the inclusion of any protected flora or invasive species within the route selected. Upon site inspection I noted invasive species, Giant Hogweed along the verge, within 5m of the route selected. I consider it reasonable to include a condition for best practice methods during construction works to prevent the spread of invasive species.

Fauna: A bird, otter and bat survey was undertaken along the route of the proposed cable. The otter is a protected species under Annex II and Annex IV of the Habitats Directive. During the field survey no evidence of any otter spraints, holts or tracks where noted 100-150m up and down stream along the watercourse of the subject site, although it was noted that otters may move up or downstream. There are no permanent obstacles proposed over any of the watercourses. Condition No 9 requires compliance with NRA guidance, in relation to treatment of otters on works to bridges over rivers and streams. The NRA guidance provides guidance for the treatment of otters prior to the construction of national road schemes by survey methods to identify the presence of otters and methods to mitigate impact. It is argued in an observation that the inclusion of condition No 9 is not sufficient to afford protection for otters which is supported by a JR ruling Kelly-v- An Bord Pleanála

2013-802 JR, arguing that if a condition is required to mitigate an effect, there is an effect and an AA is required. Based on the information contained in the EIS and the mitigation measures in the CEMP relating to protection of the watercourse, I do not consider the proposed development would have a significant impact on the otter and consider the inclusion of mitigation measures in both the CEMP and those required to protect the watercourse, reasonable to prevent any impact on this species during construction.

An emergence survey for bats indicated the use of trees surrounding the bridge along the R162 traversing Drumasallagh Stream. Mitigation proposals include a preconstruction survey at the bridges and application for a bat derogation licence should any bats be identified. There were no Annex 1 bird species recorded although Snip and Starling were recorded they are considered of local value. The proposal does not include the removal of any hedgerows or trees along the route and works are proposed outside the bird breeding season. It is not considered the temporary works, along the roadway, would have a negative impact on these species.

An assessment of the ecology of the permitted wind farm site did not identify any rare or protect plant species or rare or threatened animal species. In addition, the loss of habitats for foraging during construction and operation will be minimal as the 5 no turbines are spread out over a 77-hectare site.

I have considered all of the written submissions made in relation to flora and fauna, in addition to those specifically identified in this section of the report. I am satisfied that spread of invasive species would be avoided, managed and mitigated by the inclusion of an invasive species action plan through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of flora or fauna.

7.18. Soil

Chapter 7 of the EIS deals with soils, geology and hydrogeology. There are been no Karst features identified on the site and no groundwater sourced drinking water protection areas within the study area. There is one geologically important site, Carrickleck (exposed face of disaggregated sandstone), located 3km from the study area. As the proposed trench is 1m in depth and in most located along the roadway I do not consider it would have an indirect impact on the soil. I consider a direct

impact includes the excavation of soil from the trenches is c. 3,163m³ . This material will be either used to backfill the trenches or removed to an authorised waste disposal.

Additional issues raised in the permitted windfarm application related to the slope stability during the construction, although as there are no karst features it was not deemed to be a significant issue. Soil contamination can be reduced through the implementation of a CEMP and condition no 6 of the wind farm development restricted stockpiling of materials on site, which I consider reasonable.

I have considered all of the written submissions made in relation to soil, in addition to those specifically identified in this section of the report and I am satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of soil.

7.19. Water

Chapter 8 of the EIS deals with the hydrological features on the site and the proposed development includes 3 bridge crossings and 3 culvert crossings detailed below:

- Bridge 1: Murphy's Bridge over Drumsallagh Stream. Proposed works include the use of open cut methods so as not to interfere with the stream bed.
- Bridge 2: Bridge crossing south of the railway over Mullantra River, directional drilling under the river.
- Bridge 3: Bridge crossing over the tributary of Mullantra River, at the Cavan/ Meath border, directional drilling under the stream.
- Culvert 1: Stream crossing at Annagh, tributary of Mullantra River.
- Culvert 2: Stream crossing at Annagh, tributary of Mullantra River.
- Culvert 3: Stream crossing at Lisanisky, tributary of Mullantra River.

The open cut method and the directional drilling, proposed at watercourses adjacent to the bridges are effective measures which can avoid a significant impact on the water courses. The proposed route will avoid any drainage ditches along the side of the road, although where it is not feasible drainage ditches may be utilised.

A submission from Inland Fisheries Ireland has indicated that works to watercourse will only be permitted between July- August, to prevent any impact on spawning or migrating fish species. In addition, the IFI require mitigation measures to prevent damage to the water quality by pollutants or sedimentation. The IFI have been provided recommendations for procedures for trenchless crossings and open cut or trench type crossings. The EIS confirms compliance with the IFI requirements which some have been integrated as mitigation measures in the outline Construction Environmental Management Plan (CEMP) and include:

- Restriction on the timing of works outside the spawning or migrating period,
- The use of settlement ponds to divert waters prior to disposal and use of silt traps and fences,
- Prior agreements of the design of culvert crossings with the planning authority and IFI,
- Compliance with the guidance from IFI for trenchless, open cut or trench type crossing of waters,
- The use of a CEMP for construction works, refuelling, access etc.

Natural streams are present within the site for the permitted wind-turbines although these are not significant watercourses. The most significant impact from construction of the permitted wind farm development is the increase of surface water run-off which I consider is addressed by Condition No 12 of PL02.236608, surface water protection measures.

The operation of the grid line will not have any impact on the hydrology of the area therefore I do not consider there are any indirect impacts. I have considered all of the written submissions made in relation to water in addition to those specifically identified in this section of the report. I am satisfied that any significant impact on the watercourse would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of water.

7.20. Air and Climate

The EIS provides reference to the reduction in greenhouse gas emissions due to the use of renewable energy such as wind farms. The subject site is located in Zone D where air quality is defined as good to very good. During the construction of the grid connection there is a potential for dust emissions. The EIS refers to the CEMP for mitigation measures with a specific dust control, although I found no reference for any dust control mitigation. I note condition No 6 of KA161358, the remainder of the grid cable in Co. Meath, requires the submission of a dust control plan. Based on the proposed works along the road, adjacent to dwellings and buildings along the Main Street, I consider this condition reasonable.

I have considered all of the written submissions made in relation to air and climate, in addition to those specifically identified in this section of the report. I am satisfied that these would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air and climate.

7.21. Landscape

A visual Impact assessment was submitted with 02.236608 and the Board considered that the proposed development would not unduly detract from the overall visual quality of the area or have an unacceptable impact on the rural character or visual amenities of the area and the impacts of the five turbines on the views from the designated scenic viewpoint at Lough an Lea Gap/ Mountain would be acceptable. The visual impact assessment has been updated and information contained in the EIS indicates that the short term impact relates to the construction traffic and on completion the grid connection will not be visual.

I have considered all of the written submissions made in relation to landscape in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

7.22. Material Assets

The potential or impact on material assets relates to the impact on underground services and the existing road network. In assessing the alternatives, it was

concluded that other ducting was not compatible for this connection, therefore a new trench is required. The direct impact on the road network from poor reinstatement can be mitigated by the requirement for the applicant to lodge a cash bond or security. I consider it reasonable to include this requirement as a condition.

I have considered all of the written submissions made in relation to material assets in addition to those specifically identified in this section of the report. I am satisfied that these would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets.

7.23. Archaeological Sites

The site of the Raragh Wind Farm contains two recorded monuments, a ring fort and a rath of which the impact of the proposed turbines was previously assessed. The proposed route for the grid connection runs along the edge of the zone of notification for four ringforts, Marahill, Lisasturrin, Enniskeen and Lisnahederna. Mitigation measures include archaeological monitoring of all subsurface works by a suitably qualified archaeologist. I note the report of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs had no objection to the proposed development subject to the inclusion of a condition requiring archaeological monitoring, which I consider reasonable. 5 ring forts and a megalithic tomb was identified as present on the windfarm site. A condition requiring archaeological monitoring was included on the permission for the wind farm based which I consider reasonable to mitigate against any impact on the archaeology.

I have considered all of the written submissions made in relation to archaeology in addition to those specifically identified in this section of the report. I am satisfied that these would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of archaeology.

7.24. Architectural Heritage

There is a significant amount of proposed structures along the Main Street close to the route although no Recorded Monuments, Protected Structures or NIAH

structures on the line of the grid connection. Since the cable will be located in the roadway I do not consider there is any likely direct impact. Indirect damage from any dust will be minimised by the mitigation measures proposed in the CEMP. A Built Heritage Assessment, prepared by Rob Goodbody, submitted with the wind farm development concluded that the proposed did not have an impact on any buildings of built heritage. I consider this report acceptable.

7.25. I have considered all of the written submissions made in relation to architectural heritage, in addition to those specifically identified in this section of the report. I am satisfied that these would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of architectural heritage.

7.26. The interaction between the factors above

Chapter 14 of the EIS provides an assessment of the interaction between the various elements of the environment listed above and refers to both the permitted wind farm and the infrastructure required for the grid connection. The following interactions are identified:

- Human Environment/ Air quality & Climate/ Traffic & Transportation,
- Noise & Vibration/ Human Environment/ Traffic & Transportation,
- Flora & Fauna/ Soils & geology/ Hydrology & Water Quality,
- Noise & Vibration/ Flora & Fauna,
- Landscape & Visual/ Human Environment,
- Archaeological/ Architectural & Cultural Heritage/ Human Environment,
- Hydrology & Water Quality/ Human Environment,
- Traffic & Transportation/ Hydrology & Water Quality,
- Traffic & Transportation/ Flora & Fauna,
- Noise & Vibration/ Archaeological/ Architectural & Cultural Heritage.

I have assessed the impact of the proposed development and the interrelationship between each of the factors and I consider that based on the inclusion of mitigation measures during the construction phase, as detailed in each of the sections above, there will be no significant direct or in- direct impact on the environment from the proposed development.

7.27. Other projects.

The cumulative impacts of the proposed development in conjunction with the following proposed schemes have been considered. I have referenced throughout my EIA:

1. Raragh Wind Farm (permitted PL02.236608)

The EIS makes reference to the permitted wind farm through the chapters. In terms of cumulative impact during construction, the application states the grid connection will begin once the wind farm is complete. The proposed development will not have a significant negative impact on the environment, therefore the cumulative impact will not be over and above that impact for the permitted wind farm.

2. North- South Interconnector (02.VA0017)

400Kv transmitter running 2km to the west of the proposed cable route. This proposed development was subject to an EIS and a Stage 2 Appropriate Assessment.

3. Permitted school in Kingscourt Town (Colaiste Dun na Ri Reg Ref 15/277)

Works are ongoing and it is anticipated the development will be completed prior to the start of the proposed development.

4. Decision pending Taghart South Wind Farm (PL02.239141) 3.5km to the northwest of the permitted Ragart Wind Farm.

The erection of 7 no wind turbines with a maximum height of up to 125m the development will replace permitted development 10/154 and did not include a connection to the national grid.

5. Permitted Teevurcher Wind Farm (Reg Ref. KA120679, 5 turbines, 7km to the north wind of Raragh Wind Farm)

The erection of 5 wind turbines not exceeding a height of 121.5m and it is proposed to connect to the Bailieborough substation.

6. Decision pending Castletownmoore wind farm (PL17.PA00046, 25 turbines, 17.2km south of the Raragh Wind farm)

7. Kingscourt substation (KA151024/ KA160737)

Works ongoing and anticipated to be completed prior to the start of works for the proposed development.

In conclusion, I am satisfied that there are no such effects from the proposed development in conjunction with those projects listed above which form part of the proposed development, mitigations measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

7.28. Conclusion

Having regard to the examination of environmental information contained above, and in particular to the EIS and supplementary information provided by the developer, and the submission from the planning authority, prescribed bodies, appellants, and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Impact on water quality and aquatic species which will be mitigated by the compliance with the construction requirements of the Inland Fisheries Ireland and compliance with the *Guidelines on Protection of Fisheries During Construction works in and adjacent to Waters* (IFI).

I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

Screening for Appropriate Assessment

7.29. The site is located c 15km from Killyconny Bog (Coughbally) SAC and c. 22km from Stabannon- Braganstown SPA. A screening for appropriate assessment has been submitted with the application which concludes that the Killyconny Bog is not hydrologically linked, therefore the proposed development will not have significant effects on conservation objectives of this site, which I consider reasonable.

- 7.30. The Drumsalla Stream, to the north of the site at Murphy's Bridge, flows east downstream into the River Glyde, which forms part of the hydrological support of the Dundalk Bay SAC (c. 45km downstream) and Dundalk Bay SPA (c. 45km downstream). The CEMP submitted includes measures to prevent any negative impact on the watercourses, which I consider reasonable.
- 7.31. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives of and distance from the European sites, it is reasonable to conclude that on the basis of the information on the file, 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 either the Stabannon- Braganstown SPA (Site Code 004091) or the Killyconny Bog (Cloughbally) (Site Code 0000006), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

Other Matters

- 7.32. Procedural: The proposed cabling is 5.5km in length, with 4.9 km in Co Cavan and c. 220m in Co Meath, connecting to the Kingscourt ESB Substation. It is submitted by an observer that this application is more appropriately dealt with as a Section 37A application as the development would have a significant effect on the area of more than one planning authority and both applications are accompanied by an Environmental Impact Statement. My EIA above concluded that the proposed development did not have any direct or indirect significant effects on the environment, either on its own or in combination with other plans or projects. Therefore, having regard to the location and length of the proposed cable, I do not consider the proposed development should have been assessed as a Section 37A application as it would not have a significant impact on more than one Local Authority.
- 7.33. Site Notice: The grounds of appeal argue that there were insufficient site notices erected along the route of the proposed grid connection to inform the public and allow public participation. I note 7 site notices were erected and inspected by the planning authority, who considered them reasonable. Therefore, based on the report

of the area planner, the number and location of these site notices, I consider the site notices were sufficient to reasonably inform the public of the proposed development.

- 7.34. Traffic: The proposed development includes the installation of a trench along the existing road infrastructure and it is submitted the active construction area will generally be along a 300m stretch of the road. Condition no 6 requires the submission of a Traffic/ Transport Management Plan outlining construction staging, traffic diversions etc., which I consider reasonable.
- 7.35. Bond: Condition No 16 of 02.236608 required the submission of a cash deposit or other security to the planning authority to ensure the reinstatement of the public road. Having regard to the significant length of proposed works along the roadway, I consider it reasonable to include a similar condition.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the planning history, the site location, the pattern of development in the vicinity and Environmental Impact Assessment and the mitigation measures contained within, it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may

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

Reason: In the interest of clarity.

2. Road breaking operations (use of the Mini excavator with hydraulic breaker) shall take place only between 1000 hours and 1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays.

Reason: In the interest of public safety and residential amenity

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 residential amenities of property in the vicinity.

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) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

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

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

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

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All environmental mitigation measures set out in the Environmental Impact Statement and associated documentation shall be included in the plan. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
 - (b) Location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network (including the installation of wheelwash facilities on the site);
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Details of construction hours, including for deliveries of materials to the site.
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels (where not already provided for in documentation submitted with the application and appeal). The dust control plan shall include a dust monitoring regime for the duration of the work and methodology for dust monitoring.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soils.
- (m) Details of a site drainage management plan, in accordance with the documentation and mitigation measures provided in the Environmental Impact Statement, as amended, and the other documentation submitted with the application and appeal, incorporating a detailed silt management plan and pollution prevention plan, and including appropriately-sized silt traps and/or settlement ponds as required, to be prepared by a suitably qualified drainage engineer or equivalent professional with experience of drainage design, to the satisfaction of the planning authority.

(n) A programme for the on-going monitoring of water quality during the construction period.

(o) An action plan for the prevention or spread of any invasive species along the subject site or within 10m either side of the route,

(p) Compliance with the Guidelines on Protection of Fisheries During Construction works in and adjacent to Waters and compliance with the requirements of construction methods for both open cut/ trench type crossings and directional drilling,

Prior to the commencement of construction, proposals for environmental monitoring of construction works on site by an ecologist and by an environmental scientist or equivalent professional, including the monitoring and implementation of construction stage mitigation measures and illustrating compliance with the requirements set out above shall be submitted to, and agreed in writing with, the planning authority, together with associated reporting requirements. 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 planning authority.

Reason: In the interest of amenities and safety.

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

8. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority: -
- a Transport Management Plan, outlining construction staging, traffic controlled measures, traffic diversion etc.
 - detailed arrangements for temporary traffic arrangements/controls on roads, and
 - a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.
 - All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

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

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

Karen Hamilton
Planning Inspector

28th of August 2017