



An
Bord
Pleanála

Inspector's Report PL03.248957

Development	The development of 1no. 100m temporary mast, of latticed design anchored by guy wires, erected for up to 5 years for the purpose of collecting meteorological data.
Location	Slaghbooly, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	P17/348
Applicant(s)	Brookfield Renewables Ireland Ltd
Type of Application	Permission
Planning Authority Decision	GRANT with 8no. conditions.
Type of Appeal	Third Party
Appellant(s)	Noel McGuane.
Observer(s)	None
Date of Site Inspection	29/11/17
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located in southwest County Clare, south of the R474 approximately midway between Ennis and Miltown Malbay. The site is situated c.15km southwest of the centre of Ennis, c.7.25km west-southwest of the settlement of Kilmaley, and c.3.3km southwest of the settlement of Connolly.
- 1.2. In terms of topography the application site forms part of a spine of hills centrally situated within southwest Clare, with Slaghbooly (226mOD) located at the eastern side of the range. The application site has a stated area of 1.33ha, but it is within an area of 187.7ha indicated as under the control of the applicant and within which a number of applications for permission for wind farm development have been granted or are currently subject of appeal. The site is within a recently deforested commercial plantations of coniferous trees, on the northern slopes of Slaghbooly hill at about the 165m contour.
- 1.3. There is an existing operational wind farm (Booltiagh I and II), to the southwest of the proposed development, comprising 19no. wind turbines. A wind farm of 11no. turbines is proposed at Slaghbooly, currently under appeal and the site of the mast is contained within the boundary to the application site. There are several wind energy developments currently under construction to the south and north of the site.
- 1.4. There are 8no. European sites (2no. Special Protection Areas and 6no. Special Areas of Conservation) and 4no. Natural Heritage Areas within c.15km of the site.

2.0 Proposed Development

- 2.1. The development of 1no. 100m temporary mast, of latticed design anchored by guy wires, erected for up to 5 years for the purpose of collecting meteorological data.

3.0 Planning Authority Decision

3.1. Decision

GRANT permission subject to 8no. standard type conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report is consistent with the decision of the Planning Authority.

3.2.2. Other Technical Reports

AA Screening Report (30/06/17) – Concludes that there is no potential for significant effects on European sites.

Environmental Assessment Officer (09/06/17) - Concludes that there is no potential for significant effects on European sites.

3.3. **Prescribed Bodies**

IAA (20/06/17) – No objection. Standard condition re obstacle lighting.

3.4. **Third Party Observations**

A letter of observation was received from Noel McGuane (13/06/17). The main points raised are repeated in the grounds of appeal.

4.0 **Planning History**

PL03.248008 / Ref.15/860 – Current third party (3no.) **APPEAL** against Planning Authority decision to grant permission for a proposed development to construction of a wind farm comprising 11 no. turbines (1no. omitted by condition) of up to 131m tip-height, and associated works, for a ten-year planning permission, at Doolough, Booltiagh, Glenmore, Carncreagh, Furroor, Slaghbooly, Tullaghboy, Kinturk, Glenletternafinny, Knocknalassa, Cloonlaheen East, Cloonlaheen Middle and Shanavogh East, Co. Clare.

PL03.PC0184 – The Board determined (24/11/14) that the proposed development, comprising Slaghbooly wind farm project of up to 16no. turbines with a maximum output of 3MW, is not strategic infrastructure.

Overlapping indicated lands under applicant's control - Booltiagh Wind Farm I & II - total 19no. turbines at 92m and 120m tip height, constructed.

PL03.120616 / P00/567 – Permission **GRANTED** by the Board (**08/03/01**) for 15no. turbines (reduced from 26no. by condition omitting 11no. turbines) of up to c.92m in height. PL03.PC0184 (see above) indicates that only 13no. were built and that that development was complete and operational.

P07/2900 – Permission **GRANTED** (**17/10/08**) by Clare County Planning Authority for the erection of 6no. wind turbines of 120m tip height.

P08/1678 - Permission **GRANTED** (**24/01/09**) by Clare County Planning Authority for modification of Condition 2 of permission PA.ref.07/2900 to extend the permitted lifetime of the wind farm to a twenty-year operational lifetime from the date of commissioning.

PL03.236950 / P09/828 – Permissioned **REFUSED** by the Board (**18/10/10**) for the erection of 2no. wind turbines of 115m tip-height and associated works at Booltiagh, Co. Clare. The two reasons related to contravention of policy CDP53 of the CCDP 2005-2011 and ENV 3 of WCLAP 2009-2015, and inadequate information contained in the EIS.

PL03.245273 / P14/761 – Permission **GRANTED** by the Board (**09/12/15**) for the extension of Booltiagh 110kV electricity substation and associated works (including the removal of c.12,000m³ of subsoil and peat, adjacent the site entrance to the current application under appeal.

South - Letteragh Wind Farm – total 6no. turbines at 136.5m tip height, under construction

PL03.239933 / P11/361 – Permission **GRANTED** by the Board (**21/02/13 – 10-year permission**) for the erection of six wind turbines of 136.5m tip-height and all associated site works, all in the townlands of Letteragh, Booltiagh and Boolyneaska, Kilmaley, c.0.875km south of the current application site.

5.0 Policy Context

5.1. Development Plan

Clare County Development Plan 2017-2023 – Effective 25/01/17

Chapter 8 Physical Infrastructure, Environment and Energy:

Objective CDP8.40 Renewable Energy

Chapter 10 Rural Development and Natural Resources

10.1 The strategic aims include *‘To ensure that key assets of rural areas such as the natural and built environment are protected and enhanced, and rural areas with resources such as wind energy, water sources, and aggregates are sustainably developed;’*

10.4.4. *...the development and siting of wind energy projects must be balanced with the potential impacts on the landscape, ecology and the amenities of local communities. Areas that are considered suitable for commercial wind energy developments are set out in Volume 5 of this plan.*

Objective 10.11 It is an objective of the development plan: *To facilitate the development of renewable energy developments in rural areas in accordance with the adopted Clare Wind Energy Strategy and Renewable Energy Strategy and the associated SEA and NIR (and any subsequent strategies).*

Chapter 18 Climate Change Adaptation, Flood Risk and Low Carbon Strategy

18.3 *...Having regard to the county’s significant available renewable resources, Clare County Council will seek to take a lead role in respect of renewable energy technology to assist in meeting national, regional and county targets in energy consumption and CO2 reduction.*

Table 18.1 Renewable Energy Resource Targets for County Clare for 2020: *Onshore wind – 1,590.0 GWh/y (total all electric 2,479.2); 550MW (total all electric 720.8MW).*

Map E - Renewable Energy Designations – Strategic Areas (Wind Energy);

Acceptable in Principle (Wind Energy)

CDP Vol.5 - Clare Wind Energy Strategy

5.2. Natural Heritage Designations

Special Protection Areas

Site no.004182 Mid-Clare Coast SPA

Site no.004077 River Shannon and River Fergus Estuaries SPA

Site no.004168 Slieve Aughty Mountains SPA (located >15km distant)

Special Areas of Conservation

Site no.000036 Inagh River Estuary SAC (located >15km distant)

Site no.001021 Carrowmore Point to Spanish SAC

Site no.002091 Newhall and Edenvale Complex SAC

Site no.002165 Lower River Shannon SAC

Site no.000047 Pouladitig Cave SAC

Site no.002318 Knockanira House SAC

Natural Heritage Areas

Site no.002367 Lough Naminna Bog NHA

Site no.002397 Slievecallan Mountain Bog NHA

Site no.002400 Cragnashinguan Bogs NHA

Site no.002421 Lough Acrow Bogs NHA

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal of Mr Noel McGuane, Kilmaley, Co. Clare, may be summarised as follows:

- Disagrees with the permitting of a 300-foot mast in an area of high importance for protection of wildlife and habitats

- The Council's opinion that the area is a strategic area will be proved wrong in the courts
- The Board has a duty to consider urgently the impact of windfarms on the area
- No proper EIS has ever been done
- Reject the application

6.2. Applicant Response

The main points of the response to the appeal may be summarised as follows:

Environmental

- The AA Screening Report did not find any significant impact on the environment in general or on any Natura site.
- A detailed overview of the footprint of the works proposed, the construction methods and duration of works is provided, including temporary.
- The likely impacts were discussed in the screening report in terms of: size, scale and land-take; distance to Natura site or its key features; resource requirements; emissions; excavation requirements; transportation requirements; duration of construction, operation, etc.; others.
- The screening report found that none of the habitats within the footprint of the proposed works conform to any of the habitats listed on Annex I of the Habitats Directive and are of low ecological value, relatively unsuitable for ground nesting birds.
- Hen Harrier (Annex I) have not been recorded roosting or foraging within the direct vicinity of the proposed mast and the area is not proximate to any historic nest site or along a regular foraging or commuting route recorded in recent years.

Policy

- It is appropriate that the Council have adopted a plan-led approach to wind energy development, as they are obliged to do so.

- In accordance with Circular PL20-13, the Clare Wind Energy Strategy 2011-2017 has been adopted into the current Development Plan 2017-2023, which identifies the site with the strategic area, eminently suitable for wind farm development.
- The Clare Renewable Energy Strategy is complementary to the WES and aims to support and exceed the targets and commitments to renewable energy where possible.
- The proposed development is supported by the national planning framework.

Cumulative impact on wind farms

- The Planning Authority considered the potential impacts of any other proposals for this area in making its decisions.
- The Natural Screening report outlines cumulative and in-combination effects of the proposed temporary (5-years) mast and concluded that there are no known significant plans or projects in the locality that may give rise to cumulative and in-combinations effects.

EIA

- The proposed development does not trigger EIS.
- Significant planning and environmental details were submitted as part of the planning application, in addition to the Natura Screening report which screened out potential for significant effects on the immediate environment and / or Natura sites.
- Clare County Council would have sought further information if it was needed to make a decision.
- It is evident from the detailed plans, particulars and documentation provided to the Planning Authority that a full and complete assessment of the proposed development could be undertaken by the Planning Authority as per statutory requirements.

6.3. Planning Authority Response

The response to the appeal makes no new points but reiterates 6 points (a-f) to which the Planning Authority had regard in making its decision, as set out under the first schedule of the decision.

7.0 Assessment

The main issues arising in this appeal may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Environmental impacts
- 7.3 Visual impacts
- 7.4 Appropriate Assessment

7.1. Policy / principle

7.1.1 The Clare County Development Plan 2017-2023 (CCDP) provides a strong policy basis for renewable energy, incorporating the Clare Wind Energy Strategy (CWES) as vol.5, and the Clare Renewable Energy Strategy (CRES), which supports the implementation of the former strategy, as vol.6 of the Plan.

7.1.2 It is a strategic aim of the CCDP (s.10.1) to develop wind energy (and other natural resources) sustainably and it is an objective (10.11) of the CCDP to facilitate the development of renewable energy development in rural areas in accordance with the adopted CWES and CRES (and the associated SEA and NIR) and sets out specific targets to be attained for renewable energy and for different types of renewables, including onshore wind (*1,590.0 GWh/y (total all electric 2,479.2); 550MW (total all electric 720.8MW)*) under table 18.1. The application site appears to be located fully within that area designated Strategic Area (Wind Energy) on Map E. The plan-led approach adopted by the County Council is consistent with the approach recommended under the current WEDG 2006. The grounds of appeal include that the designation of the area as strategic for wind energy development will be proved wrong by the courts, however this is a matter for the courts and not the Board. The

Board can only have regard to the matters provided for under the Planning and Development Act, 2000, as amended.

7.1.3 Having regard to the provisions of the CWES, the proposed development of a meteorological mas for a temporary period of 5 years may be considered acceptable in principle in terms of policy context, subject to consideration of the proper planning and sustainable development of the area and to the relevant environmental considerations, as necessary.

7.2. Environmental impacts

7.2.1. The grounds of appeal include concern for the potential impact on an area of high importance for protection of wildlife and habitats and the submission that no proper EIS has ever been done.

7.2.2. As submitted by the applicant, the proposed development does not trigger EIA, not being development for the purposes of Part X of the Planning and Development Act, 2000, as amended.

7.2.3. Environmental impacts have been considered by the applicant in the Appropriate Assessment Screening Report, which I address under Appropriate Assessment below. The location of the site is within a recently clear-felled coniferous plantation forest in an elevated location within the upland area of central Clare. The site is accessible by existing forestry tracks. Given the nature and scale of the proposed development and the site context, I am satisfied that the proposed temporary development is not likely to have a significant impact on the immediate environment or on the wider environment.

7.3. Visual impacts

7.3.1. The proposed development will have a visual impact on the immediate and wider area due to its height. Within the site's topographical context and development context, which includes extensive wind energy developments provided for under the County Development Plan, I do not consider the likely visual impact to be excessive.

7.4. Appropriate Assessment

- 7.4.1. The applicant submitted an Appropriate Assessment Screening Report. The report had regard to 9no. European sites - Knockanira House SAC 002318, Pouladatig Cave SAC 000037, Newhall and Edenvale Complex SAC 002091, Lower River Shannon SAC 002165, River Shannon and River Fergus Estuaries SPA 004077 and Carrowmore Point to Spanish Point and Islands SAC 001021 located within 15km of the application site; and Slieve Aughty Mountains SPA 004168 and Inagh River Estuary SAC000036 which are located at a distance of greater than 15km from the proposed development but are otherwise connected to the site in terms of source-pathway-receptor linkages. I consider these to be the relevant sites for consideration.
- 7.4.2. I note the Features of Interest for the European sites, set out in table 2 of the Screening Report, and the conservation objectives for those site – generic conservation objectives for Knockanira House SAC 002318, Pouladatig Cave SAC 000037, Newhall and Edenvale Complex SAC 002091, Inagh River Estuary SAC 000036 and Slieve Aughty Mountains SPA 004168; and specific conservation objectives for the Lower River Shannon SAC 002165, River Shannon and River Fergus Estuaries SPA 004077 and Carrowmore Point to Spanish Point and Islands SAC 001021 – which are included as appendix 1 of the Screening Report. In the interest of brevity, I will not repeat the information here, due to its extensive nature.
- 7.4.3. As the site is not located within, but at a considerable distance from any European site, and does not contain any habitats relating to the conservation objectives of the European sites in question and will not require any resources from those sites, the proposed development will have no direct impact on a European site through habitat loss.
- 7.4.4. Due to the relatively small scale and nature of the project and the distance via watercourse to hydrologically connected European sites, combined with the embedded environmental controls, there is negligible risk of significant hydrological impacts on any European site.
- 7.4.5. No disturbance or displacement impacts are anticipated on Lesser Horseshoe bat (SAC sites 0002318, 000037, and 002091 refer) from works proposed. The

proposed development lacks connectivity to the relevant SPAs (004182 and 004077) and there is no significant risk of adverse impact on the SPA conservation objectives through collision impacts between the mast and foraging wader / wildfowl. Given the relatively low activity of Hen Harrier (concerning SPA 004168, in particular) proximate to the proposed mast, the potential for disturbance, displacement or collision with guy wires is negligible. In addition, no significant effects are anticipated on European sites arising from size, scale and land-take, resource requirements, emissions, transportation requirements, construction and operation or in-combination effects. The Screening Report concludes that there will be no significant effects on any European site arising from the proposed development of the temporary mast.

- 7.4.6. 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 any European site, in view of those sites' Conservation Objectives, and a s Stage 2 Appropriate Assessment (and submission of a NIA) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0, below.

9.0 Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2017-2023, including the Clare Wind Energy Strategy and Clare Renewable Energy Strategy, it is considered that subject to compliance with the conditions set out in section 10.0, the proposed temporary meteorological mast would not seriously injure the amenities of the area, would not significantly impact on the factors of the environment or adversely affect any European site in view of its conservation objectives and would be consistent 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. (a) This permission shall apply for a period of five years from the date of this order. The mast structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

(b) The site shall be reinstated on removal of the mast structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this permission.

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

3. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

4. (a) Aeronautical obstacle lighting shall be fitted to the mast as practicable to the standard required by and agreed with the IAA. Prior to commencement of development the developer shall submit full details of the obstacle lighting, and written confirmation of the agreement of the IAA, to the Planning Authority for its written agreement.

(b) The developer shall submit written confirmation of the coordinates and elevations details of the mast, as constructed, to the IAA, prior to first operation of the meteorological mast.

Reason: In the interest of public safety.

5. In the event that the proposed development causes interference with radio / television / aviation transmission, the developer shall install facilities at their own expense to rectify same, the details of which shall be submitted to and agreed in writing with the Planning Authority prior to commissioning the meteorological mast.

Reason: To prevent interference with transmission signals in the interest of protecting the amenities of the area.

6. 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 the sum of €10,000 (ten thousand euro), to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement.

Reason: To ensure satisfactory reinstatement of the site.

John Desmond
Senior Planning Inspector

19 December 2017