



An
Bord
Pleanála

Inspector's Report ABP-300811-18

Development	Grid connection from consented Derrysallagh Windfarm Substation to Garvagh Glebe Substation.
Location	Townlands of Seltyan and Boleymaguire (Co. Leitrim), the townland of Gubbarudda (Co. Roscommon); the townlands of Carrowcashel, Tullynure, Straduff, Glen and Ballynashee (Co. Sligo)
Planning Authorities	Sligo County Council, Leitrim County Council and Roscommon County Council
Applicants	Derrysallagh Windfarm Ltd.
Type of Application	Substitute Consent under section 177E of the Planning and Development Acts 2000-2017.
Observers	Patrick Daly Thomas Lavin
Date of Site Inspection	30 th May 2018
Inspector	Stephen J. O'Sullivan

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1.0 Site Location and Description

- 1.1. This is a linear site that links the location of a substation serving an authorised windfarm of 10 turbines at Derrysallagh, Co. Sligo, with the national grid to the north at an existing substation on the site of a windfarm at Garvagh Glebe, Co. Leitrim. The southern end of the route is beside a quarry. The route extends for a stated distance of 9.58km, a short part of which is in Co. Roscommon. The area through which the line passes is hilly and elevated. Coniferous forestry and blanket bog are the predominant landcover, although the land around the southern part of the route is more pastoral, with grassland and one-off houses. This part of the route runs along a county road that has a tarred surface c3.6m wide. The central part of the route crosses the Arigna River and its valley along forest tracks and a concrete bridge over the river. The northern part of the route runs along a county road that has a tarred surface c3.6m wide. There are numerous wind turbines near this part of the route which terminates at an existing sub-station within the curtilage of a wind farm.
- 1.2. The application site lies within county or forest roads, apart from short runs at either end connecting between the sub-stations and the public road. The roads and tracks show signs of recent work consistent with the laying of a 38kV line beneath them, although there was no apparent indication of works having taken place since the inspection for the application for leave to apply for substitute consent was conducted on 15th November 2017.

2.0 Development

- 2.1. The development consists of those works to provide the electricity connection from the Derrysallagh windfarm to the substation at Garvagh that have already been carried out. The completed connection would include a 38kV electrical cable laid underground with other associated infrastructure. The connection comprises 3no. 110mm cable ducts, generally in a trefoil formation, with 2 ducts for pull ropes and a warning tape above. The standard cross section provides a minimum cover of 950mm over the cable ducts, although this is altered where the ducts are above or below culverts. The connection includes 9 joint bays, which are below-ground concrete structures with plan dimensions of 4.5, by c1.815m, and a depth of 1.21m.

2.2. The rEIAR states that 8.8km of the ducting has been installed, including 2.52km in Co. Leitrim, 5.5km in County Sligo and 780m in Co. Roscommon. This amounts to 92% of the ducting required for the connection, although remedial works would be required on 1.96km. This may be compared to the application for leave to apply for substitute consent which stated that 73% of the required ducting had been installed when it was made in July 2017. The current application states that 8 joint bays have been installed. Ducting will need to be laid within 20m of those bays. 16 culvert crossings, with one more to be installed. A crossing of the Arigna River across the bridge at Boleymaguire Bridge is also required.

3.0 Planning History

- 3.1. Reg. Ref. 12/133: Sligo County Council granted permission for a windfarm of 10 turbines at Derrysallagh in 2013 with an appropriate period of 10 years. The consent was granted after an EIA of the windfarm (but not of any grid connection) had been completed. The planning authority did not carry out an appropriate assessment.
- 3.2. Reg. Ref. 15/35: Leitrim County Council granted permission to extend the 110kV substation at Garvagh Glebe.
- 3.3. Reg. Ref. ED-16-05: Leitrim County Council made a declaration under section 5 of the act on 24th March 2016 that the laying of a 38kV cable for 2.8km to connect the authorised windfarm at Derrysallagh to the substation at Garvagh Glebe would be exempted development under Class 26 of Part 1 of Schedule 2 to the planning regulations, after screening out a requirement for EIA or appropriate assessment.
- 3.4. 2017 IEHC 308, Daly vs. Kilronan – The High Court made an order on 11th May 2017 under section 160 of the planning act to cease works on the grid connection to the authorised windfarm at Derrysallagh and to prohibit further works on the grounds that they were an integral part of the windfarm development that required EIA and so could not be exempted development. The order did not require the reinstatement of works that had already been carried out.
- 3.5. 21. LS0032 – The board granted leave to apply for substitute consent for the partially constructed grid connection from the Derrysallagh Windfarm to the Garvagh Glebe 100kV substation on 21st December 2017 and directed that the application be accompanied by a remedial Environmental Impact Assessment report.

- 3.6. ABP-302422-18, PL18/64 – An application for permission was made to Sligo County Council to complete part of the grid connection between the Derrysallagh Windfarm and the Garvagh substation within that county which would include the laying of c690m of cable ducting and remedial works to c1.28km of ducting previously laid. The planning authority refused permission on 10th August 2018 because substitute consent had not been granted by the board for the prior works on the grid connection. An appeal against this decision is currently before the board.
- 3.7. ABP-302722-18, PD/18/102 – Roscommon County Council refused permission to complete part of the grid connection between Derrysallagh Windfarm and Garvagh substation within that county which would include c380m of underground cabling. The reasons for refusal stated that the development would be premature pending the determination of the application for substitute consent for the same grid connection. An appeal is currently before the board.
- 3.8. ABP-301812-18, P18/45 – Leitrim County Council refused permission to complete part of the grid connection between Derrysallagh Windfarm and Garvagh substation. The reasons for refusal stated that the development would be premature pending the determination of the application for substitute consent for the same grid connection. An appeal is currently before the board.

4.0 Legislative Context

- 4.1. Under section 177K(2) of the Planning and Development Act 2000, as amended, a decision of an application for a substitute consent shall be made after consideration of the proper planning and sustainable development of the area, regard being had to-
- (a) the provisions of the development plan or any local area plan for the area;
 - (b) the provisions of any special amenity area order relating to the area;
 - (c) the remedial environmental impact statement, or remedial Natura impact statement, or both of those statements, as the case may be, and, where section 177E(2A)(b) applies, the environmental impact statement or Natura impact statement or both of those statements, as the case may be, submitted with the application;

- (d) the significant effects on the environment, or on a European site, which have occurred or which are occurring or could reasonably be expected to occur because the development concerned was or is proposed to be carried out;
- (e) the report and the opinion of the planning authority under section 177I;
- (f) any submissions or observations made in accordance with regulations made under section 177N;
- (g) any report or recommendation prepared in relation to the application by or on behalf of the Board, including the report of the person conducting any oral hearing on behalf of the Board;
- (h) if the area or part of the area is a European site or an area prescribed for the purposes of section 10(2)(c), that fact;
- (i) conditions that may be imposed in relation to a grant of permission under section 34(4);
- (j) the matters referred to in section 143;
- (k) the views of a Member State where the Member State is notified in accordance with regulations under this Act;
- (l) any relevant provisions of this Act and regulations made thereunder.

5.0 Policy Context

5.1. National Policy

The minister issued **Guidelines for Planning Authorities on Wind Energy Development** in June 2006. Section 1.2 refers to public policy in favour of the development of renewable energy resources, including wind energy development. These or similar public policies remain in favour of wind energy development in general. Section 4.3 refers to access to the electricity grid. It does not provide substantive guidance on the means or location of connections between windfarms and the electricity grid. Its procedural advice regarding windfarms which require EIA has largely been overtaken by the statement of the law by the High Court in the O Grianna case.

5.2. Development Plans

The Sligo County Development Plan 2017-2023 applies. Section 11.1.2 refers to wind energy. It refers to the guidelines issued by the minister in 2006. Section 13.9.3 states that proposals will generally be discouraged in or close to pNHAs, cSACs, SPAs, designated Sensitive Rural Landscapes, Visually Vulnerable Areas, Scenic Routes, protected views, Zones of Archaeological Potential. The area around the development in Co. Sligo is identified as a sensitive rural landscape and a visually vulnerable area, while the public road along the southern part of the site is designated as a scenic route.

The Roscommon County Development Plan 2014-2020 applies. Section 4.6.2 refers to wind energy development. It cites the 2006 guidelines. A renewable energy strategy prepared as part of the plan identifies the area of the county which the current site crosses as most favoured for wind energy development.

The Leitrim County Development Plan 2015-2021 applies. Policy 128 is to consider proposals for windfarms against the criteria set out in the 2006 guidelines and those cited in the development plan.

5.3. Natural Heritage Designations

The site is not in or immediately adjacent to any Natura 2000 sites. The Natural Heritage Areas at Corry County Bog, sitecode 002321, and Carrane Hill Bog, sitecode 000617, adjoin the route of the grid connection. The NHAs are both areas of upland blanket bog.

6.0 Submissions

6.1. The submission from **Mr Thomas Lavin** stated that the developer did not have permission to carry out works on his land at Ballynashee, Co. Sligo and that he objects to any permission that affects his lands in any way. It has been proved to the developer that the works are on his private land. The submission was circulated from comment.

6.2. The submission from **Mr Patrick Daly** stated that his lands and dwelling adjoin the Derrysallagh windfarm. The only route that the development could be constructed

crosses his lands and so his consent would have been required to make a valid application for permission. His consent is not likely to be forthcoming due to the impact of the windfarm on his property. A road opening licence does not amount to authorisation of permission to enter private land, as stated by Ms Justice Baker in *Daly vs. Kilronan*. It would therefore be futile for the board to grant substitute consent in this case. The submission was circulated for comment.

- 6.3. A submission from **Leitrim County Council** received on the 26th March 2018 stated that it had already submitted details of the section 5 declaration made under Reg. Ref. ED16/05, the permission granted under Reg. Ref. P15/35 to extend the Garvagh Glebe substation and a copy of the road opening licence in connection with the application for leave to appeal for substitute consent.
- 6.4. A submission from **Inland Fisheries Ireland (IFI)** received on the 10th April 2018 made general points about the importance of inland fisheries and water quality. It requested that all previously agreed watercourse protection measures agreed for the windfarm construction are in place for the remaining grid connection, with particular attention to the measures to prevent silt input into watercourses. A method statement with detail of the proposed mitigation measures should be agreed prior to works recommencing. IFI contact details should be included in the emergency plan. the submission was circulated for comment.
- 6.5. A submission from **Leitrim County Council** received on the 21st May 2018 stated that the submissions from Mr Lavin and Mr Daly referred to issues of land ownership that are beyond the remit of the planning authority.
- 6.6. A submission from **Sligo County Council** received on the 21st May 2018 stated that it had no observations on the submissions from the IFI, Mr Lavin or Mr Daly.
- 6.7. A submission from the **applicant** was received on the 21st May 2018. With regard to the submission from Mr Daly and Mr Lavin, it states that the works near their lands were carried out within the public road corridor and no remedial works or new installation of ducting is required there. A letter from the applicant's solicitor is appended to the submission which states the legal interest required for such works in the public road was provided by a consent given by the Commission for the Regulation of Utilities under section 48 of the Electricity Act 1999 to allow the applicant to exercise the powers of the ESB to build an underground grid connection

between the Derrysallagh Windfarm and the substation at Garvagh, and that it is not the board's role to determine disputes relating to the ownership of land. With regard to the submission from Inland Fisheries Ireland, the applicant states that the substitute consent regularises works already carried out rather than prospective works. The watercourse crossings completed to date have not involved any in-stream works and mitigation measures were put in place in accordance with section 8 of the construction environment management submitted to IFI. The submission was circulated for comment.

- 6.8. A submission from **Leitrim County Council** received on the 22nd May 2018 concurred with the submission from IFI.
- 6.9. A submission from **Sligo County Council** received on 21st May 2018. It reviewed the planning history of the windfarm and grid connection, and cited general policies from the county development plan. The grant of permission for the windfarm under PL12-33 supports the principle of the retention of part of the grid connection, which is considered acceptable having regard to national and local policies. The council has no record of any previous significant effects on the environment or on any European site associated with the grid connection. The grid connection will have no impact on air quality or climate, and as part of the overall windfarm would have a long term positive impact on air quality. There would not be a significant residual impact on sensitive receptors due to noise or vibration. There will not be significant direct impacts on biodiversity as protected flora are present along the route. Adequate measures were in place to protect the quality of watercourses during works and the development should not have residual impacts subject to the submission of satisfactory method statement as requested by the council's environment section. The section is also satisfied with the mitigations measure in the EIAR regarding soil contamination and hydrogeology, subject to a dedicated refuelling point and the application carrying out an assessment of the proposed cabling route to avoid any impact on the drainage from the quarry. The development is not likely to have a significant effect on cultural heritage. The conclusion of the appropriate assessment screening report that the development would pose no risk of likely significant effects on the SAC and SPA at Lough Arrow are accepted. The council is not in a position to advise whether substitute consent should be granted, as to do so would prejudice

their consideration of the current application PL18/64. The submission was circulated for comment.

6.10. A submission from **Leitrim County Council** received on the 25th May 2018 expanded on the consideration of the application P18/45 for which sought permission to complete the connection through the county, and the reasons why the council refused it. With regard to the current application for substitute consent, the submission refers to general policies in the county development plan in favour of renewable energy and the objective no. 126 to prepare an energy strategy for the county. The connection traverses an designated area of high visual amenity. A stage 2 appropriate assessment is not required. The council would concur with the conclusions in the rEIAR that the development would have a beneficial impact on air quality; that it would not be likely to have significant impacts with respect to noise or vibration; that its impact on biodiversity would be neutral, provided proper measures were put in place to prevent silt entering watercourses, as advised by IFI. No significant impact is likely to occur on the adjacent NHAs at Kilronan Mountain Bog and Corry Mountain Bog. Significant impacts are not likely to arise on surface or ground water, or on the population and human health. The impact on road users would be temporary. There would be no additional impact on the landscape over that caused by the windfarm. There is not likely to be any significant impact on cultural heritage. The consideration of alternatives was properly addressed in the rEIAR. The council has no issue with the principle of the development, but the logical sequence of consideration for the overall project would be that the board considers the likely effects on the environment of the prior works under the substitute consent procedure before the councils considered those of prospective works under applications for permission. The council would support a grant of substitute consent. The submission was circulated for comment.

6.11. A submission from **Roscommon County Council** received on the 30th May 2018 stated that the area of the county within which part of the development lay is classified as being of very high landscape value in the relevant county development plan. The plan also recognises the importance of renewable energy generation. The environment effects of the development are generally of a temporary and relatively minor nature. There may have been some dust emissions during works, but the statement in the rEIAR that these would have been limited to 25m from the

source is considered reasonable. The impact of noise or vibration at any particular sensitive receptor would have been for a limited duration as the location of the works progressed. The council considers that the information in the rEIAR is likely to be correct and has no information that the works would have had an adverse effect on the environment, and is of the opinion that substitute consent should be granted. This submission was circulated for comment.

- 6.12. A submission from **Roscommon County Council** was received on 25th June 2018 which stated that it has no comments on the submission from the applicant.
- 6.13. A submission from **Roscommon County Council** was received on the 28th June 2018 which stated that it had no comments to make on a submission from Sligo County Council.
- 6.14. A submission from **Sligo County Council** was received on the 29th June 2018 which stated that it had no comments on a submission from Leitrim County Council.
- 6.15. A submission from **Sligo County Council** was received on 2nd July 2018 which stated that it no comments on a submission from the applicant.
- 6.16. A submission was received from **Leitrim County Council** on 10th July 2018 which stated that it was not its role to comment on the legal interest of the applicant in land and that it was satisfied that with the mitigation measures required by Inland Fisheries Ireland.
- 6.17. A submission was received from **Patrick Daly** on 16th July 2018 which expressed disappointment that Leitrim and Roscommon County Councils had not objected to the grant of substitute consent as both had refused permission for associated works for reasons that referred to prematurity pending a grant of substitute consent as well as other issues that would not be overcome by a grant of substitute consent, and reiterated previous concerns regarding the proposed development.
- 6.18. A submission was received from **Leitrim County Council** on 17th July 2018 which stated that it did not object to a grant of substitute consent subject to conditions including those requiring a restoration scheme for the site, a bond to that end and a payment under the county's contribution scheme.
- 6.19. A submission was received from the **applicant** on 17th July 2018. Its response to a submission from Roscommon County Council it stated that the substitute consent

application did not seek consent from prospective remedial works between junction bays nos. 1 and 2 and that such works are the subject of an application for planning permission. An addendum to the rEIAR to that effect was submitted. In response to a submission from Sligo County Council it notes that latter's conclusions with regard to policy and likely effects on the environment. The response to a request for further information made by that council with respect to an application for permission was appended which includes a construction and environment management plan. In response to a submission from Leitrim County Council it queries the appropriateness of requiring a bond pending the reinstatement of the site under a substitute consent which would refer only to prior works. The submission was circulated to the other parties from comment.

- 6.20. A submission was received from **Sligo County Council** on 7th August 2018 which stated that it had no further observations.
- 6.21. A submission was received from **Leitrim County Council** on 20th August 2018 which reiterated its opinion that there was no issue with the principle of the development but that the unauthorised nature of the previous works meant that the planning authority could not complete an EIA of the overall project including the prospective works that are the subject of an application for planning permission. The board should therefore make a prompt decision on the application for substitute consent. Proposals from the applicant for road restoration are acceptable but a restoration plan based on the principles set out in the EIA/EIAR should be required.
- 6.22. A submission was received from **Roscommon County Council** on 31st August 2018 which stated that it had no further comment on the case.
- 6.23. A submission was received from **Sligo County Council** on 7th September 2018 which stated that it had no further submissions in this case.
- 6.24. A submission was received from **Inland Fisheries Ireland** on 7th September 2018. It stated that the Arigna River is a salmonid watercourse and holds good stocks of brown trout. The stated intention to take cognisance of the IFI's guidelines is noted. Assuming this is adhered to the primary concern of the IFI is in relation to watercourse crossings. They should be described more clearly. The IFI was not consulted in regard to the methods of the crossings that have been completed and the report does not state how they were completed. Japanese Knotweed is present

on the Arigna River and biosecurity should have been an important part of any works already carried out and precautions should be taken for all plant, machinery and equipment entering the watercourses. In relation to the proposed water crossings the IFI would require confirmation as to the type of crossing at each location and it would then agree method statements with relevant environmental mitigation measures.

- 6.25. A submission was received from **Mr Patrick Daly** on 13th September 2018 stating that he withdrew his previous observations and submissions.
- 6.26. A submission was received from **Mr Thomas Lavin** on 12th November 2018 which stated that he withdrew his previous observations and submissions on this application.
- 6.27. A submission was received from the **applicant** on 13th November 2018 requesting that the application be given prompt attention.
- 6.28. A submission was received from the **applicant** on 14th November 2018 which stated that is believed that the submission from Mr Lavin had been withdrawn.

7.0 **Environmental Impact Assessment**

7.1. **Statutory Provisions**

- 7.1.1. This application was submitted to the Board after 16th May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. The Directive was not, however, been transposed into Irish legislation when the application was submitted. In accordance with the advice on administrative provisions in advance of transposition contained in Circular Letter PL1/2017, it is proposed to apply the requirements of Directive 2014/52/EU. The board had directed that the current application for substitute consent for the prior works on the grid connection to the Derrysallagh windfarm be accompanied by an rEIAR in its grant of leave to apply for substitute consent. The consent for the windfarm itself was the grant of permission given by Sligo County Council under Reg. Ref. 12/133 and the environmental impact which preceded it is not subject to challenge or revision at this stage by virtue of article 50(2) of the Planning and Development Act, 2000 as amended. The likely significant effects on the environment of the windfarm are relevant to the extent that might give rise to a cumulation of effects with those arising

from the grid connection which is the subject of the current application and EIA. As the application was made subsequent to a grant of leave to apply under section 177D(1)(b) of the planning act, it refers only to works which have been carried out and not to prospective works required to complete the grid connection. However the previous works create the context for any future works to complete the connection and substantially constrain the location and manner in which they can be carried out. The prior works which are the subject to this application might therefore have indirect effects in this regard, and to this extent the prospective works needed to complete the connection to the grid would be relevant to the current EIA.

7.1.2. A remedial Environmental Impact Assessment Report (rEIAR) was submitted with the application. It is laid out in four volumes. The first volume contains a Non-Technical Summary. Volume 2 is the main volume of the rEIAR. Section 1 indicates the expertise of various people who were responsible for particular sections of the rEIAR, as does appendix 1.2 in volume 3. Section 2 provides a description of the development. Section 12 provides a description of the reasonable alternatives studied by the developer. The various other sections of volume 2 provide a description of the current state of the environment, the factors likely to be significantly affected by the development, the likely significant effects of the development, the methods by which they were identified, and of the measures intended to mitigate them. Volume 3 provides various supporting documentation, which volume 4 provides a copy of the EIS that was submitted for the Derrysallagh Windfarm. .

7.1.3. I am satisfied that the information contained in the rEIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authorities, prescribed bodies and observers has been set out at Section 6 of this report. This EIA has had regard to the application documentation, including the rEIAR and the observations received from the planning authorities and others.

7.2. Alternatives

Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

Chapter 9 of the rEIAR presents a such a description of the reasonable alternatives studied by the developer, including different routes and the installation of an overground cable. The installation of an underground cable along the road was deemed to have lesser environmental impact, and no other route was regarded as preferable to the one chosen. The description of the consideration of alternatives in the EIAR is reasonable and coherent, and the requirements of the directive in this regard have been properly addressed.

7.3. Likely Significant Direct and Indirect Effects

7.3.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;

- material assets, cultural heritage and the landscape; and
- the interaction between those factors

7.3.2. **Population and human health**

The installation of a cable of this size and capacity under a road is commonplace. The development would not have been likely to have had any significant effect on population or human health during construction nor would it be likely to have such an effect during its operation.

7.3.3. **Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

The development is not in or immediately adjacent to any Natura 2000 site, and the need for an appropriate assessment was screened out before leave to apply was granted. No information has arisen in the course of this application that would support a different conclusion. The works that are the subject of this application occurred along and within roads, so they did not result in the loss of habitats or species protected under Directive 92/43/EEC and Directive 2009/147/EC, or any other natural habitats supporting flora or fauna. The potential for indirect effects on habitats arises from the potential for an effect on the quality of waters downstream of the site or the drainage of adjoining land, much of which is bog, that might have arisen during construction. However, as set out in section 7.3.6 of this assessment below, the evidence available from the rEIAR and the inspection of the site shows that the development did not have a significant effect on water. Therefore it can be concluded that so no such indirect effect on adjoining habitats, including the bogs that are designated as Natural Heritage Areas sitecodes 002321 and 000617, or on downstream aquatic habitats occurred as a result of the development. It is therefore concluded that the development was not likely to have had a significant effect on biodiversity. No such effect is likely to arise from its operation or decommissioning either.

7.3.4. **Land**

The development was carried out within a road and did not alter its use as a road. It did not have any effect on land.

7.3.5. **Soil.**

The development was carried out within a road. It was apparent at the time of inspection that the construction of the proposed development did not have a significant effect on soil. Its operation would not be likely to have such an effect either.

7.3.6. **Water**

Chapter 8 of the submitted rEIAR refers to the potential effects of the development on water. It notes that the road would be reinstated after the works to provide the grid connection have been completed and so the operational phase of the development would have no impact on drainage or water quality. This conclusion is accepted. The grid connection will be left in place after its use ceases, and so the decommissioning phase would have no impact on drainage or water quality. The construction of the development would have had the potential to effect water quality through the release of sediments during ground works or the emission to water of fuels, lubricants or cement. It might also have interfered with drainage patterns by establishing preferential flow paths. This potential arises in nearly all building works in rural areas not served by municipal sewers. It can be properly mitigated by standard measures that represent good construction practice and which are described in section 8.6 of the rEIAR. It is noted that these are described as measures for the proposed completion of the grid connection. However if the prior works were carried out in a competent manner then similar measures would have been implemented in the carrying out of the development which is the subject of this application. The rEIAR states that a walkover survey of the site indicated that the drainage along the road containing the grid connection had not been negatively affected by the carrying out of the previous works, and so remedial works are not necessary to mitigate negative effects on water because no such negative effects had occurred. This is consistent with my observations on inspection of the site. The line of the grid connection crosses 18 watercourses. 16 of the crossings have been

completed and are the subject of this application. The rEIAR states that there was sufficient cover to cross all of them within the structure of the road. So no impact upon them would be expected from the works that have been carried out. The inspection of the site and the information submitted with the rEIAR indicates that there was no effect on the watercourses from the works. No evidence to the contrary appears in any submission, including those from Inland Fisheries Ireland. This EIA therefore concludes that the proposed development did not have any negative effect on those watercourses. There are two other watercourses which remain to be crossed by the proposed grid connection. There is adequate cover to cross one of them within the structure of the road while the other crossing would be over the Arigna River on the side of a concrete bridge, so neither would involve in-stream works. The route of the grid connection established by the prior works would not render significant effects on watercourses likely during the completion of the connection, therefore. Having regard to the foregoing, this assessment concludes that it is unlikely that the development had a significant effect on water, and that the development would not render a future effect on water more likely.

7.3.7. **Air**

The laying and use of a cable in the road would not be likely to have had a significant effect on air. Its operation would not have any such effect either.

7.3.8. **Climate**

The development would not have been likely to have had a significant effect on climate. It would facilitate the operation of a windfarm which might give rise to an indirect positive effect on climate due by reducing the demand to burn fossil fuels, but the magnitude of this effect would not be significant.

7.3.9. **Material assets**

The grid connection would not alter the use of the road in which it is laid. It would allow the permitted windfarm to operate. Its impact on material assets would be positive to the extent that the operation of the permitted windfarm would have a positive environmental impact, therefore. This would have been addressed in the completed EIA for the windfarm.

7.3.10. Cultural heritage

The grid connection was laid within roads and its construction would not have been likely to have had a significant effect on cultural heritage. Its operation would not be likely to have such an effect either.

7.3.11. The landscape

The grid connection is underground within roads. It did not and will not affect the landscape.

7.3.12. The interaction between the above factors and cumulative impact with other development

As the development is unlikely to have had or to have a significant effect on: population and human health; biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; land, soil, water, air or climate; material assets, cultural heritage or the landscape, there are no other significant effects on the environment that are likely to have arisen or to arise from the development due to the interaction between those factors or due to cumulative impact with other development, including the permitted windfarm at Derrysallagh or the proposed completion of the grid connection to it.

7.3.13. Reasoned Conclusion on Significant Effects

Having regard to the nature and scale of the development, which consists of the larger part of a 38kV grid connection laid underground within county and forest roads, to the environmental information available in connection with the current application, including rEIAR and other information provided by the developer and the submissions from the planning authorities, prescribed bodies and observers, as well as to the condition of the site and adjoining land observed at the time of inspection, it is concluded that the development which is the subject of the current application is not likely to have had significant effects on the environment and that it is not likely to have significant effects on the environment in the future, either directly or indirectly or cumulatively with other developments including the permitted windfarm at Derrysallagh and the completion of the grid connection to it.

The development is an underground electrical connection laid within roads, and its legal status does not alter the conclusion of this environmental impact assessment that it is not likely to have had or to have significant effects on any of the factors set out in 171A(b) of the Planning and Development Act 2000 as amended.

7.4. Assessment of other issues

- 7.4.1. The development would facilitate the operation of a permitted windfarm which itself was deemed to be compliant with national policy and the provisions of the Sligo County Development Plan on renewable energy. Similar provisions are set out in the development plans for Leitrim and Roscommon that would support the proposed development. It is therefore in accordance with relevant planning policy. The development is not a threat to road safety, or to the amenities of property in the vicinity. It is noted that the members of the public who made submissions in subsequently made submissions withdrawing their objections to the application.
- 7.4.2. As substitute consent relates only to works that have previously been carried out, and applications for permissions to complete the grid connection are outstanding, it is not recommended that conditions requiring the payment of a bond or the agreement of restoration plans are imposed in this case.

8.0 Recommendation

- 8.1. I recommend that substitute consent be granted for the development.

9.0 Reasons and Considerations

It is evident from the nature, scale and location of the development, and from the rEIAR and the submissions made in connection with the current application, that the construction of the development would not have had significant effects on the environment and that its operation and decommissioning are not likely to have significant effects on the environment, either when considered in isolation or in cumulation with other development including the permitted windfarm at Derrysallagh and the completion of its connection to the national grid. The development would facilitate the operation of the windfarm at Derrysallagh and so would be in accordance with national policy regarding the exploitation of renewable energy

resources and with the provisions on the issue set out in the development plans for Counties Sligo, Leitrim and Roscommon.

10.0 Conditions

1. This grant of substitute consent shall be in accordance with, the plans and particulars submitted to An Bord Pleanála with the application, except as may otherwise be required to comply with the following condition. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be in accordance with the agreed particulars.

The grant of substitute consent relates only to past works and does not authorise any future development, including further quarrying or any further excavation on the subject site.

Reason: In the interests of conservation of the environment.

2. All environmental mitigation measures identified within the remedial Environmental Impact Assessment Report and associated documentation shall be implemented in full.

Reason: In the interest of clarity

3. The developer shall pay to each of the planning authorities 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 that authority in accordance with the terms of the Development Contribution Scheme made which it made under section 48 of the Planning and Development Act 2000, as amended. The contributions shall be paid within 6 months of the date of this order or in such phased payments as the relevant 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 each of the Schemes shall be agreed between the relevant planning authority and the

developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

. Stephen J. O'Sullivan
Planning Inspector

5th December 2018