



An  
Bord  
Pleanála

## Inspector's Report ABP-301000-18

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<b>Development</b>	Works to connect the permitted Boolard Wind Farm to the Charleville 110 kV ESNB sub-station and alterations to the site layout of this Farm
<b>Location</b>	Townlands to the SW of Charleville, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	17/5292
<b>Applicant(s)</b>	B & R Wind Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 29 conditions
<b>Type of Appeal</b>	Third party -v- Decision
<b>Appellant(s)</b>	Joe Boles
<b>Observer(s)</b>	Friends of the North Cork Environment
<b>Date of Site Inspection</b>	26 <sup>th</sup> July 2018
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located to the south west of Charleville. This site comprises the Boolard Wind Farm site and a farm track to the north east. It also comprises that portion of the local roads (L-1309 & L-1313), which run between the said farm track, in the west, and the Charleville 110 kV ESNB sub-station, in the east. The Wind Farm is set within an area of open countryside, which is dissected by hedgerows and mature trees denoting field boundaries. The local roads pass through this countryside and they are punctuated by one-off dwelling houses and occasional farm buildings.
- 1.2. The Wind Farm portion of the application site is amorphous, and the road portion is elongated. This site extends over an area of 18.23 hectares and it is situated in the following townlands: Boolard, Shinanagh, Clyderragh, Cloghanughera, Killaree, Ardmore, Kiltass, Milltown, Garrynagranoge, Ballypierce, Clashganniv and Rathnacally.

## 2.0 Proposed Development

- 2.1. The development will consist of works to connect the permitted Boolard Wind Farm (12/5997 and 15/5521 & PL04.245560) to the existing Charleville 110 kV ESNB sub-station comprising as follows:
  - Installation of c. 5.694 km of 20 kV underground electricity cable and fibre communications cable in ducting;
  - 12 joint bays, 12 communications chambers and 2 earth link boxes (all underground);
  - Access covers to chambers and boxes at finished surface level;
  - Ancillary marker post and marker plates as necessary;
  - The replacement of an existing concrete pipe with a box culvert under an existing agricultural track and the construction of new parapet walls above the track; and
  - All associated site development and reinstatement works.

2.2. The development will also consist of alterations to permitted wind farm site layout (12/5997 and 15/5521 & PL04.245560) as follows:

- Widening of permitted vehicular site entrance,
- Provision of 2 turning areas/overrun areas for turbine delivery/construction vehicles off the permitted wind farm site road,
- Localised realignment and refinement of internal wind farm site road network,
- Increased crane pad size at permitted turbine locations, and
- Also, construction of control building (53.7 sqm) (minor change of location from 15/5521 & PL04.245560).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following the receipt of further information, permission granted, subject to 29 conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Further information requested in accordance with the advice of the Area Engineer set out below.

##### **3.2.2. Other Technical Reports:**

- Cork NRO: No objection.
- IFI: No objection.
- Irish Water: No objection.
- Environment: No objection.

- Archaeologist: Conditions with respect to pre-development testing of the site in the vicinity of Ringfort CO002-091 and the monitoring of the remainder of the site requested.
- Area Engineer: Further information requested re. the proposed access point and the loss of well-established hedgerows.
- Ecologist: Following receipt of further information, no objection, subject to conditions.

### 3.3. Prescribed Bodies

- DoCHG: Supports the two archaeological conditions attached to the draft permission.

### 3.3. Third Party Observations

- See grounds of appeal.

## 4.0 Planning History

### Boolard Wind Farm

- **12/5997**: Aerie Renewables Ltd: Construction of 2 wind turbines with tip heights of up to 150.5m, a control building, a 100m high meteorological monitoring mast, and associated works. (Included within this proposal were changes to a preceding permitted proposal **11/4974**): Permitted, subject to 41 conditions including the following two that relate to the connection to the national grid:

1. *Connection to the National Electricity Grid shall be to the satisfaction of the Planning Authority and the proposal shall use the existing infrastructure which is in place on the site.*

*Reason: In the interests of orderly development.*

2. *Commissioning of the wind farm shall be subject to an approved connection to the national electricity transmission grid and shall be subject to the prior grant of permission of the Planning Authority.*

*Reason: In the interests of orderly development.*

- **15/5521 & PL04.245560:** Aerie Renewables Ltd: Revisions to control building to comply with ESBN's design standards: Permitted, subject to 6 conditions.
- **16/6938:** B & R Wind Ltd: Similar proposal to the current one, withdrawn following a request for further information.

### **Charlesville sub-station**

- **00/1843:** Sub-station permitted.
- **08/8950:** Free-standing lattice tower type telecommunications structure: Permitted.
- **14/5836 & PL04.244096:** Alterations to the existing Charleville 110 kV Station consisting of single storey extension to front and rear of existing control building, new 38/20 kV transformer and associated transformer bay, new arc suppression coil and change over disconnecter, new 110/38kV transformer and associated transformer bay, new 110kV sectionaliser bay, new combined 38kV line/transformer bay, existing compound palisade fence to be extended, installation of septic tank with reed bed, constructed wetland and polishing filter, new oil interceptor and associated drainage and site works: Permitted.

### **Rathnacally Wind Farm**

- **12/4446:** Aerie Renewables Ltd: A two-turbine wind farm (changes to that which was permitted under **09/6555**): Permitted.
- **16/6718:** B & R Wind Ltd: Grid connection to Charlesville sub-station: Permitted.

## **5.0 Policy Context**

### **5.1. Development Plan**

Under the Cork County Development Plan 2014 – 2020 (CDP), the eastern portion of the site is shown as lying within green belt 1 and the western portion as lying within a rural area. This Plan also shows the site as lying within an area where wind farms are “open to consideration” (Objective ED 3-5 is thus of relevance) and it shows this

site as lying within the landscape character type known as Fertile Plain with Moorland Ridge, which is deemed to have a very high landscape value and sensitivity and to be of County landscape importance.

## 5.2. Natural Heritage Designations

Blackwater River SAC (Cork/Waterford) (site code 002170)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant begins by reviewing the above cited planning histories of the site and related sites. He then cites the following grounds of appeal:

- Impact of wind turbine noise on residential amenity
  - Attention is drawn to the High Court case no. 2011/9955P. This case involved 7 families who left their homes due to noise from a wind farm at Banteer, Co. Cork, which had a greater than predicted impact upon residential amenity.
  - Concern is expressed that a similar scenario could arise in the case of the Boolard Wind Farm, as there are 74 dwelling houses within 1 km of it, 3 of which are within 500m.
- EIA Screening and project splitting
  - Attention is drawn to the wind farm proposals for the townlands of Boolard and Rathnacally. These wind farms and their respective grid connections should have been assessed together for the purpose of EIA. This has not happened and so project splitting has occurred.
- Validity of the application
  - Attention is drawn to the High Court case of Daly -v- Kilronan Wind Farm, which addressed the question of landowner consent for applications. Residential property owners along the route of the proposed grid

connection have not consented to the current application and so it should be invalidated.

- Inadequate assessment
  - In the absence of EIA, the proposals for the two wind farms have not been jointly assessed, notwithstanding the applicant's name B & R Wind Ltd, i.e. Boolard and Rathnacally.
  - The earlier Environmental Report for the Boolard Wind Farm did not take into account the grid connection and the current EIA Screening Report only considers the current proposal and not all of the proposals for the two wind farms, which have now been the subject of a total of 10 applications.
  - In the absence of a comprehensive EIA a proper assessment of cumulative impact is not possible.
  - The O'Grianna -v- An Bord Pleanala case is cited.
- Japanese knotweed
  - Concern is expressed over the effectiveness of the proposed removal of Japanese knotweed during the construction stage. Instead removal should occur in advance of this stage and the 4-year period for monitoring allowed to elapse before construction commences.
- Red squirrel
  - Concern is expressed that the additional tree removal now proposed for the entrance to the site would impact upon the habitat of red squirrels, which are a protected species.
- Community consultation
  - The applicant's references to community consultation are critiqued on several grounds as being inadequate. Any suggestion that those present at public meetings were "satisfied" with the current proposal is challenged.
- Water quality



- Attention is drawn to the risk posed to water quality by the 5 watercourse crossings that would occur along the proposed route. As these watercourses flow into the Awbeg River, which is a tributary of the Blackwater River, a designated SAC, any deterioration in water quality might have a significant effect on the conservation objectives of this Natura 2000 site.
- Archaeology
  - The proposed route would pass close to two ringforts and it would pass over one such fort. Adverse impacts upon archaeological remains could thus occur.

## 6.2. Applicant Response

The applicant begins by summarising the planning history of the site, the rationale for the current proposal in all its aspects, the further information stage of this proposal, and the planning policy context of the site. He then proceeds to respond to each of the above cited grounds of appeal as follows:

- Impact of wind turbine noise on residential amenity
  - The current proposal does not refer to wind turbines, as these would be constructed under extant permissions. Thus, it does not present an opportunity to revisit the impact of wind turbine noise on residential amenity.
  - Nevertheless, cumulative noise from the overall project is considered under the EIA Screening Report and the Planning Authority's condition 21 attached to the draft permission does address noise during the construction phase of the current proposal.
- EIA Screening and project splitting
  - The Boolard and Rathnacally wind farms are on distinctive geographical sites and, although the same company is involved in each of them, they are the subject of separate control buildings and grid connections.

- The two wind farms are not large scale either individually or together, both comprising only 2 wind turbines, the output from which is capped at 4.45 MW and thus below the threshold for EIA.
  - The only other extant permission for wind energy development is a single wind turbine for Charleville Foods. This one, too, was considered as part of cumulative impact under the EIA Screening Report.
  - Under each application hitherto submitted the Planning Authority has screened out the need for EIA. Likewise, with the current one, it would be required to be the subject of neither a mandatory nor a sub-threshold EIA.
  - Grid connections are often constructed as exempted development.
  - With respect to the O’Grianna case, judgement was delivered on 12<sup>th</sup> December 2014, whereas 12/5997 was permitted prior to this in 2012, a time during which the law was not understood as requiring that wind farm and grid connection proposals be combined for planning purposes.
  - The need for planning permission for the proposed grid connection arises from an earlier condition, otherwise it may be exempted development (cf. RL3436).
  - The JR application of O’Grianna on the second application, which was the subject of a revised EIA and AA, was turned down.
  - On the question of project splitting, attention is drawn to the judgement in the case of Sweetman -v- An Bord Pleanala, in which the test cited was that of whether project splitting had occurred in order to avoid the need for EIA. The current applicant has not attempted such avoidance and it is supported in this contention by the Planning Authority’s commentary on the said question.
  - The ESB’s works to the Charleville sub-station (14/5836 & PL04.244096) were undertaken in order to improve its transmission of electricity to the surrounding locality. These works do not constitute project splitting with respect to the proposed Boolard wind farm.
- Validity of the application

- The proposed grid connection is the subject of a non-contestable grid offer, i.e. the ESB would oversee the construction of the ducting and be directly responsible for the installation of the cable.
- Attention is drawn to Section 34(13) of the Planning and Development Act, 2000 – 2018, and Sections 51 and 52 of the Electricity Supply Act 1927 (as amended), the former of which effectively states that a planning permission does not divest a developer of the need to obtain whatever other consents maybe required to facilitate development and the latter of which empowers the ESB to, amongst other things, lay electricity cables.
- Attention is also drawn to the consent that was obtained from the County Council to the current application and its subsequent validation by the Planning Authority.
- The Daly -v- Kilronan case is cited and distinguished from the current case.
- Inadequate assessment
  - The applicant reiterates that the current application is not a vehicle by which to revisit previously granted extant permissions.
  - The applicant contends that the current proposal has been the subject of wholly adequate assessment. In this respect, he refers to the considerable amount of documentation that accompanies the current application and which addresses a wider range of subjects.
  - Of the 10 applications cited by the appellant, the applicant identifies the 6 which are relevant to the EIA Screening Exercise that accompanies the current application.
- Japanese knotweed
  - The submitted Japanese Knotweed Management Plan (JKMP) sets out details of a current management programme that is independent of the current proposal. It also sets out details as to measures to be taken if Japanese Knotweed is encountered at the construction stage and future monitoring/management of any future regrowth. The applicant would be responsible for the implementation of the JKMP.

- Conditions 9, 11, and 15 of the draft permission address JKMP, too.
- Red squirrel
  - The submitted Ecological Report states that red squirrels have been sighted in the locality, but not in the site itself. Nevertheless, habitat in and adjacent to the site would be favourable to this species. That said the additional tree loss at the site entrance would have a negligible impact upon this habitat and, by extension, upon this species.
  - Conditions 5 – 8 of the draft permission relate to tree retention and tree planting and so they relate to the said habitat.
- Community consultation
  - The applicant itemises the various initiatives taken, both statutory and non-statutory, to consult with the local community.
- Water quality
  - The applicant acknowledges the potential risk and to this end has undertaken an Aquatic Ecology Report the recommendations of which are reflected in the submitted Construction and Environmental Management Plan (CEMP), which includes the Surface Water Management Plan (SWMP).
  - The applicant's Stage 1 AA Screening Exercise concludes that, based on standard construction measures that are intrinsic to the design of the project, no significant effect on the conservation objectives of the Blackwater River SAC would arise.
  - Conditions 9, 14, 15, and 16 of the draft permission address this risk, too.
- Archaeology
  - The applicant undertook a Cultural Heritage Assessment which identified the presence of two ringforts adjacent to the proposed route and one over which it would pass. Recommended mitigation measures are reflected in the submitted CEMP and these were clarified under further information, i.e. a shallower trench would be utilised in the case of the latter ringfort.

- Conditions 17 and 18 of the draft permission address archaeology.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

The observer reiterates the appellant's grounds of appeal.

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Procedures,
- (ii) Land use and archaeology,
- (iii) Access, ecology and amenity,
- (iv) Water,
- (v) EIA Screening, and
- (vi) AA Screening.

### **(i) Procedures**

7.2. The appellant draws attention to the absence of consent from landowners along the local roads to the laying of the underground cables proposed. In this respect, he cites the case of Daly -v- Kilronan Wind Farm and he contends that the application should have been invalidated.

7.3. The applicant has responded by drawing attention to the ESB's involvement in the laying of the said underground cables and to the consent of the County Council to

the current application. It also draws attention to the onus that would be upon it to obtain all relevant consents, in addition to that of planning permission. In this respect, the case cited is distinguished from that of the current proposal insofar as there was a need for planning permission for the grid connection, as the wind farm in question had been the subject of EIA and AA, and yet such permission had not been obtained.

- 7.4. I note that the Planning Authority validated the current application. I note, too, that Section 34(13) of the Planning and Development Act, 2000 – 2018, advises that a planning permission alone does not divest a developer from the need to obtain all other relevant consents. I, therefore, conclude that there is no legal impediment to the Board proceeding to assess/determine this application in the normal way.

**(ii) Land use and archaeology**

- 7.5. The site lies within a rural area composed of farmland, which is punctuated by one-off dwelling houses and occasional farm buildings. To the east of this site, the Rathnacally Wind Farm, which comprises two wind turbines, has recently been constructed and is now operational. This Wind Farm is within the vicinity of the Charleville 110 kV ESN sub-station. Extant permission exists, on the western portion of the current application site, for the Boolard Wind Farm (12/5997 and 15/5521 & PL04.245560), which would likewise comprise two wind turbines.
- 7.6. Under the Cork County Development Plan 2014 – 2020 (CDP), the eastern portion of the site is shown as lying within green belt 1 and the western portion as lying within a rural area. This Plan also shows the site as lying within an area where wind farms are “open to consideration” (Objective ED 3-5 is thus of relevance) and it shows this site as lying within the landscape character type known as Fertile Plain with Moorland Ridge, which is deemed to have a very high landscape value and sensitivity and to be of County landscape importance.
- 7.7. Accordingly, from a land use perspective, the policy context of the site raises no in principle objection to wind farms and the western portion of the site has the benefit of an extant permission for a wind farm. The corollary of these factors is that the permitted wind farm needs to be connected to the national grid. Thus, the current proposal addresses this need, which would be met by means of underground cables

that would be routed along an existing farm track and local roads to the aforementioned sub-station.

- 7.8. The applicant has submitted a Cultural Heritage Assessment of the proposal. This Assessment identifies the presence of two ringforts CO002-100 & 108 close, i.e. 25m and 15m, respectively, to the route of the proposed underground cable. It also identifies the presence of a ringfort CO002-091, which would straddle the L1309 at a point to the west of Milltown Cross Roads. The Assessment draws attention to a rise in the road at this point of c. 1m above the interior of the ringfort. It thus recommends that the depth of the trench dug for the underground cables be restricted to between 600 and 700 mm to reduce or eliminate the possibility of any impact upon the ringfort. ESNB as confirmed that such restriction would be technically acceptable and so the applicant undertakes to follow this recommendation.
- 7.9. The County Archaeologist considers that the aforementioned recommendation would be “acceptable though not ideal” and she advised that conditions be attached that would require pre-development archaeological testing in the case of CO002-091 and a watching brief in the cases of CO002-100 & 108. The DoCHG endorses these conditions and advises that they be reproduced by the Board as drafted by the County Archaeologist.
- 7.10. I conclude that, as there is no in principle land use objection to wind farms in the area of the site and the western portion of the site is the subject of an extant permission for the Boolard Wind Farm, the current proposal, as a necessary corollary to this wind farm, is, from a land use perspective, acceptable in principle, too. Any impact on sites of archaeological interest either under or within the vicinity of the site would be capable of being satisfactorily addressed by means of reproducing the relevant conditions attached to the Planning Authority’s draft permission.

**(iii) Access, ecology and amenity**

- 7.11. The proposal would entail the widening of the existing access off the LS-5476 beyond that which was previously envisaged under the extant permission for the Boolard Wind Farm. The additional widening would be necessary to facilitate the delivery of the two wind turbines to this wind farm. The implications of this additional widening for the removal and trimming of trees and hedgerows is delineated in Table

2 of the applicant's response to the Planning Authority's request for further information. This Table presents the extent of removal and trimming that would arise under the extant permission and under the current application, as originally submitted and subsequently revised. A comparison of the extant and revised scenarios indicates that an additional 3 trees would be felled along with an additional 43m of roadside hedgerow and an additional 23m of internal hedgerow would be removed. Trimming of roadside hedgerow would, however, be reduced by 47m.

- 7.12. Under further information the applicant was requested to consider an alternative means of access, e.g. from the L-1309 and along the farm track that would be utilised in the proposed undergrounding of the cables. The applicant responded by stating that, whereas consent from the landowner is available for the undergrounding, it is not available for access purposes during the construction phase, as it would interfere unduly with his farming practice.
- 7.13. The appellant expresses concern over the loss of trees, as this would impact upon the habitat of red squirrels, which are a protected species. The applicant has responded by drawing attention to its Ecological Report, which advises that while red squirrels have been sighted in the locality, they have not been sighted on the site itself. The view is expressed that the tree and hedgerow loss would be slight within the context of trees and hedgerows in this locality and so the impact upon habitat would be negligible. In time, proposed tree and hedgerow planting would provide new habitat.
- 7.14. Given that there is no realistic alternative means of access available to the applicant and given, too, the findings of its Ecological Report, I consider that the additional loss would be justifiable in ensuring that the site can be satisfactorily accessed.
- 7.15. On the southern side of the L-1313 to the east of Milltown Cross Roads, there is an identified patch of Japanese knotweed, which is accompanied by a warning sign erected by the County Council. As the proposed underground cables would pass within the vicinity of this patch, the applicant has prepared a Japanese Knotweed Management Plan (JKMP).
- 7.16. The appellant questions how effective the JKMP would be, in practise, and he expresses the view that it should be implemented prior to the development rather than in tandem with it. The applicant has responded by stating that spraying of the



said patch of Japanese knotweed by an authorised body commenced in 2016 and that the purpose of the JKMP is to minimise the risk of propagation during the construction phase.

7.17. The appellant expresses concern that noise from the proposed wind farm could lead to the relocation of local residents from their homes, as has occurred in Banteer, Co. Cork. The applicant has responded to this concern by drawing attention to the extant permissions for the Boolard Wind Farm and to the corollary nature of the current proposal, which does not afford the opportunity for wind turbine noise to be revisited.

7.18. The proposal would entail the laying of underground cables between the aforementioned wind farm site and the Charleville 110 kV ESNB sub-station and certain alterations to the layout of this wind farm.

- The former, once laid, would be out of sight. During the construction phase, there would be some environmental impacts in terms of noise, dust, and general disturbance associated with the digging of the necessary trench and the laying of cables. These would have some temporary impacts upon the amenities of dwelling houses along the route of the cables. The applicant has prepared a Construction and Environmental Management Plan (CEMP), which brings forward methodologies that would mitigate these impacts.
- The latter would, apart from the aforementioned additional widening of the access, be difficult to decipher from public vantage points. Likewise, during the construction phase, the aforementioned environmental impacts would be mitigated by the distance between the site of the wind farm and dwelling houses in the wider area.

7.19. I conclude that the proposed access to the site would be satisfactory. I conclude, too, that this access, the alterations to the permitted wind farm, and the laying of cables between this farm and the sub-station to the east would all be capable of being undertaken in a manner compatible with ecology and amenity.

#### **(iv) Water**

7.20. The route of the proposed underground cables would entail the crossing of a drain and four water courses. The drain and the first of these water course crossings would be on the farm track section and it would, variously, involve the installation of

a concrete pipe and the replacement of an existing concrete pipe with a box culvert, which would be accompanied by new parapet walls. The remaining three crossings are on the local road network.

- 7.21. The appellant draws attention to the fact that these water courses flow into the Awbeg River, which is a tributary of the Blackwater River, and so if they were to be polluted then there would be adverse implications for the water quality of these Rivers.
- 7.22. The applicant has responded by acknowledging the potential risk and by drawing attention to its Aquatic Ecology Report and its Surface Water Management Plan (SWMP). This Report and Plan identify in Table 3 and Table 2.1, respectively, the level of risk that would arise. Thus, insofar as two of the four water course crossings would entail the excavation of a duct trench for the cables in the road deck of existing bridges, the impact of these works is categorised as being neutral. The drain crossing and the remaining two water course crossings would be likely to entail damming to permit work to proceed on the routing of ducting for the cables in dry conditions. The impact of these works is categorised as being imperceptible to neutral.
- 7.23. I consider that the standard construction methods set out in the SWMP, which would be integral to the design of the project, would provide a basis upon which the proposal could proceed with minimal risk of pollution to the water courses in question.
- 7.24. Neither the OPW's flooding web site nor its flood maps web site identify any flood risk to the site.
- 7.25. The proposal would be capable of being developed in manner that would minimise the risk of pollution to local water courses. The site is not the subject of any identified flood risk.
- 7.26. I, therefore, conclude that the risk posed to water quality by the proposal would be capable of being satisfactorily addressed.

#### **(v) EIA Screening**

- 7.27. The current proposal comprises two main parts, i.e. works to connect the permitted Boolard Wind Farm to the Charleville 110 kV ESNB sub-station and alterations to the

site layout of this farm. In relation to the former, a 20 kV electricity cable would be laid underground between the said wind farm and the said sub-station. In relation to the latter, site access and on-site standing and manoeuvring spaces would be altered, as would the siting of the control building.

- 7.28. The applicant has screened the current proposal for EIA. I will draw upon this screening exercise in carrying out my own one below.
- 7.29. The appellant objects to the applicant's screening exercise. He does so because he considers that it involves project splitting, i.e. the same applicant has proposed the wind farms at Boolard and Rathnacally and their respective grid connections and these wind farms are sited relatively close together.
- 7.30. The applicant has responded to this objection by acknowledging that, whereas it is involved in both wind farms, they are on geographically distinct sites and they are/would be served by separate control buildings and grid connections. During my site visit I was able to confirm these distinctives, as the Rathnacally Wind Farm is now operational.
- 7.31. The applicant draws attention to the chronology of the planning history of the Boolard Wind Farm. Thus, the parent permission (12/5997) was granted before the case of O'Grianna -v- An Bord Pleanala, which ruled that wind farms and their grid connections need to be assessed together under EIA. As the parent permission is extant and dates from before this ruling, the need to now propose/assess a grid connection arises. No project splitting was intended by the applicant, as it was just following the normal practise at the time of seeking permission for the wind farm in advance of seeking permission for the needed grid connection.
- 7.32. I consider that the said chronology is relevant to any assessment of the current application/appeal and so I conclude that it is reasonable for the Board to proceed to determine this application/appeal.
- 7.33. Turning to the screening exercise for EIA:
- In relation to the 20 kV electricity cable, it would be laid underground between the said wind farm and the said sub-station over a distance of 5.694 km. Under Item 20 of Part 1 and Item 3(b) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, this part of the

proposal would not need to be the subject of a mandatory EIA, as it would entail neither the construction of overhead lines with a voltage of 220 kV or more over a length of 15 km or more nor the construction of overhead lines with a voltage of 200 kV or more.

- In relation to the altered site access and on-site standing and manoeuvring spaces and the altered siting of the control building, these alterations would not impinge upon either the number of wind turbines, which would remain at 2 and so below the threshold of 5, or the maximum generating capacity, which would remain at 4.45 MW and so below the threshold of 5 MW. Accordingly, under Item 3(i) of Part 2 of Schedule 5 to Article 93 of the aforementioned Regulations, the proposal would not need to be the subject of a mandatory EIA.

I, therefore, conclude that the current proposal would not need to be the subject of a mandatory EIA.

7.34. With respect to the possibility that a sub-threshold EIA may be needed, Article 92 of the aforementioned Regulations states that ““sub-threshold development” means development of a type set out in Schedule 5 which does not exceed quantity, area or other limit specified in that Schedule in respect of the relevant class of development.” Advice on assessing sub-threshold development is set out in the DoHPLG’s document entitled “EIA: Guidance for Consenting Authorities on Sub-Threshold Development.” The key test is whether significant effects on the environment would arise and Schedule 7 to these Regulations sets out criteria for determining whether a development would or would not be likely to have such effects.

7.35. The current proposal is a “sub-threshold development” and so it falls to be assessed under the aforementioned criteria, as follows:

(i) Characteristics of proposed development

- The size of the proposed development

The proposal would entail the laying of underground cables over a distance of c. 5.7 km and alterations to the layout of the Boolard Wind Farm. It would thus be linked to this Wind Farm, which would comprise two wind turbines.

- The cumulation with other proposed development

The proposal would be undertaken in conjunction with the Boolard Wind Farm. Under Appendix 1 of the applicant's Screening for EIA, extant permissions and proposed projects in the wider area of the current application site are listed. Since this Appendix was compiled, Rathnacally Wind Farm has been constructed and it is now operational. Other extant permissions remain to be implemented. They are small scale with limited environmental impact. The only major project identified is that of the M20, but this is at too early a stage to overlap with the current proposal.

- The use of natural resources

The proposal would entail the use of concrete, ducting and back-filling material. The Environmental Report submitted as part of the parent application outlines the materials that would be comprised in the construction of the Boolard Wind Farm.

- The production of waste

The proposal would lead to the creation of minimal levels of waste insofar as material excavated would largely be used for back-filling. The Environmental Report submitted as part of the parent application outlines the applicant's commitment to, wherever possible, re-using/re-cycling waste generated by the construction of the Boolard Wind Farm.

- Pollution and nuisances

During the construction phase of the proposal, the risk of polluting water courses would be allayed by standard construction methods integral to the design of the project and set out in the Surface Water Management Plan. Noise, fumes and dust would be mitigated by means of good construction practice.

During the construction phase of the Boolard Wind Farm, noise, fumes and dust would be mitigated by means of a Construction Traffic Management Plan and good construction practice.

During the operational phase of the proposal, there would be no pollution and nuisances, and, during the operational phase of the Boolard Wind Farm, noise generated thereby would be required to comply with the parameters set out

in condition 38 attached to the permission granted to application reg. no. 12/5997.

- The risk of accidents, having regard to substances or technologies used  
Accidents arising from substances or technologies are not anticipated as posing a risk. During the construction phase, the proposal and the Boolard Wind Farm would be developed in accordance with good construction practices and all relevant health and safety regulations.

(ii) Location of proposed development

- The existing land use

The proposal and the Boolard Wind farm would be constructed on farmland or within the public road.

- The relative abundance, quality and regenerative capacity of natural resources in the area

During the construction phase, the proposal and the Boolard Wind Farm would entail the temporary use of farmland, which would be restored thereafter. Likewise, following the operational phase and de-commissioning, restoration of farmland would occur.

- The absorption capacity of the natural environment

Under this heading eight types of area are cited none of which are applicable to the site of the proposal, which includes that of the Boolard Wind Farm.

Given the nature of the proposal and the Boolard Wind Farm, they would not threaten the absorption capacity of the natural environment.

(iii) Characteristics of potential impacts

The potential significant effects of proposed development in relation to criteria set out under paragraphs (i) and (ii) above and having particular regard to:

- The extent of the impact (geographical area and size of the affected population),
- The trans-frontier nature of the impact,
- The magnitude and complexity of the impact,

- The probability of the impact, and
- The duration, frequency and reversibility of the impact.

I will discuss likely impacts of the proposal and the Boolard Wind Farm in the light of the aforementioned points, with the exception of the second, which is not applicable to a site in North Cork.

- Population and human health

During the construction phase, noise, fumes and dust impacts from construction traffic and construction activities would affect local residents.

These impacts would be limited in their extent, temporary in their duration and slight in their magnitude and they would be mitigated by measures outlined in the Construction Traffic Management Plan and the Construction Environmental Management Plan and other measures identified in permitted application 12/5997.

During the operational phase, the impact of the proposal would be neutral and so no increase in impact over that which would arise from the permitted wind farm would arise.

- Biodiversity

During the construction phase, some tree and hedgerow removal would occur, and several water course crossings would entail in-channel workings.

The former impact would be limited in its extent, permanent in its duration and slight in its magnitude and it would be addressed by tree and hedgerow planting as outlined in the Landscaping and Reinstatement Plan and other measures identified in permitted application 12/5997.

The latter impact would be limited in its extent, temporary in its duration and negligible in its magnitude and it would be addressed by standard construction measures integral to the design of the project, which are outlined in the Surface Water Management Plan and the Construction Environmental Management Plan and other measures identified in permitted application 12/5997.

During the operational phase, the impact of the proposal would tend towards neutral, as the replacement planting becomes established, and so no increase in impact over that which would arise from the permitted Boolard Wind Farm would occur.

- Soil and Water

During the construction phase, some sub-soil would be removed and some risk of pollutants entering the ground and water courses would arise. These impacts would be limited in their extent, temporary in their duration and negligible in their magnitude and they would be addressed by standard construction measures integral to the design of the project, which are outlined in the Surface Water Management Plan and the Construction Environmental Management Plan and other measures identified in permitted application 12/5997.

During the operational phase, the impact of the proposal would be neutral and so no increase in impact over that which would arise from the permitted Boolard Wind Farm would arise.

- Climate (Air Quality)

During the construction phase, dust impacts from construction activities would arise. This impact would be limited in its extent, temporary in its duration and negligible in its magnitude and it would be mitigated by measures outlined in the Construction Environmental Management Plan and other measures identified in permitted application 12/5997.

During the operational phase, the impact of the proposal would be neutral and so no increase in impact over that which would arise from the permitted wind farm would arise.

- Landscape

During the construction phase, some tree and hedgerow removal would occur. This impact would be limited in its extent, permanent in its duration and slight in its magnitude and it would be mitigated by replacement tree and hedgerow planting as outlined in the Landscaping and Reinstatement Plan and other measures identified in permitted application 12/5997.



During the operational phase, the impact of the proposal would tend towards neutral, as the replacement planting becomes established, and so no increase in impact over that which would arise from the permitted Boolard Wind Farm would occur.

- Material Assets

During the construction period, construction traffic movements on the surrounding road network would be generated. The resulting noise and vibration impacts would be limited in their extent, temporary in their duration and slight in their magnitude and they would be mitigated by measures outlined in the Construction Traffic Management Plan and other measures identified in permitted application 12/5997.

During the operational phase, the impact of the proposal would be neutral and so no increase in impact over that which would arise from the permitted wind farm would arise.

- Cultural Heritage

During the construction phase, the Ring Fort CO002-091 could be affected, as the laying of underground cables in the L-1309 would cross over it. However, mitigation measures outlined in the Cultural Heritage Assessment would reduce or eliminate this risk.

During the operational phase, the impact of the proposal would be neutral and so no increase in impact over that which would arise from the permitted wind farm would arise.

- Inter-relationship between the above factors

A comparison of the above factors indicates that there would be a correspondence in certain impacts arising under the following headings:

- Population and human health and climate (air quality) and material assets, and
- Biodiversity and soil and water.

7.36. In the light of the above engagement with the criteria for determining whether a development would or would not be likely to have significant effects on the

environment, I consider that the current proposal would not have such effects and so it is not a sub-threshold development that needs to be the subject of EIA.

7.37. I conclude that the current proposal does not need to be the subject of EIA.

**(vi) AA Screening**

7.38. The site is neither in nor adjacent to a Natura 2000 site. The applicant has undertaken a Screening for Appropriate Assessment (SAA), which I will draw upon in my own screening exercise below. I note that in this Screening the term “mitigation” is used. I have reviewed this usage and I conclude that what is being referred to thereby constitute standard construction methods that are integral to the design of the project rather than mitigation measures *per se*.

7.39. Table 3.1 of the SAA identifies the two SACs and the single SPA within a 15 km radius of the site, i.e. Ballyhoura Mountains SAC (site code 002036) and Blackwater River (Cork/Waterford) SAC (site code 002170) and Kilcolman Bog SPA (site code 004095).

7.40. With respect to the two SACs, I recognise that, whereas there is no source/pathway/receptor route between the site and the first of these SACs, there is one between the site and the second, i.e. as described above under the fifth heading of my assessment, the water courses that traverse the site flow into the Awbeg River, which is a tributary of the Blackwater River. Accordingly, during the construction phase, there is a risk that pollutants could be conveyed into this SAC with adverse implications for features of interest and conservation objectives.

7.41. The SAA acknowledges the aforementioned risk, which would be addressed by the following considerations:

- The low-key nature of the works, i.e. minor alterations to the layout of the site and trench digging to facilitate cable laying under an existing farm track and local roads. Cable laying would occur either in or under bridges and culverts along this track and these roads,
- The construction phase would be undertaken in accordance with best practice methodologies,
- The existing poor quality in-stream habitat of the said water courses, and

- The distance of c. 2.7 km between the site and the SAC.

Accordingly, no significant effect upon the conservation objectives of the SAC would be likely to occur.

- 7.42. With respect to the SPA, the following bird species are the relevant features of interest: whopper swan, teal, shoveler, and wetland and water birds. This SPA lies at a distance of 10.29 km to the south east of the application site. The bird species in question are ones that inhabit wetland areas. The application site is not a wetland area and so it would be most unlikely to attract these species.
- 7.43. 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 proposal, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002170, or any other European site, in view of the site's conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

- 8.1. That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020 and the planning history of the site, it is considered that, subject to conditions, the proposal would be appropriate from a land use perspective and it would be compatible with identified archaeological features and ecological interests. The proposal would also be compatible with the amenities of the area. Access arrangements would be satisfactory and any risk to water quality would be capable of being addressed by standard construction methods, which would be integral to the design of the project. With respect to Environmental Impact Assessment, the proposal would be a sub-threshold development, which would not need to be the subject of such Assessment. With respect to Appropriate Assessment, the need for a Stage 2 Natura Impact Study would not arise. The proposal would thus accord 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, as amended by the further plans and particulars submitted on the 21<sup>st</sup> day of December 2017, 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. The proposal hereby permitted shall comply with the terms and conditions of planning permission reg. no. 12/5997, as amended by planning permission reg. nos. 15/5521 and PL04.245560, which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

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

3. All trees and hedgerows within and on the boundaries of the site, save those trees and hedgerows whose removal is shown on drawing nos. 05607-B152 and DC/BW/02-A, shall be protected during building operations and retained thereafter.

The temporary hoarding shown on the former plan and the tree protective fence shown in the latter plan shall be erected and retained insitu for the entirety of the construction phase.

**Reason:** In the interest of visual amenity.

4. An Ecological Clerk of Works shall be appointed. The removal of trees and hedgerows and the trimming of trees and hedgerows shall only be undertaken at times outside the bird breeding season. Such removal and trimming shall only proceed under the supervision of the Ecological Clerk of

Works and mature trees shall only be removed or trimmed once he/she has surveyed them for the presence of bats.

**Reason:** To safeguard breeding birds and bats.

5. (a) Prior to the commencement of development, a detailed landscaping scheme, including an implementation timetable, for replacement planting of trees and hedgerows adjacent to the site access off the LS-5476 and the formation of a replacement earthen mound adjacent to the junction between the farm track and the L-1309 shall be submitted to and agreed in writing with the Planning Authority.

(b) Prior to the commencement of operation of the control building, the perimeter landscaping to its surrounding hardstanding shall be planted in accordance with the scheme shown on drawing no. IE201035\_M\_011\_B.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

6. An Ecological Clerk of Works shall be appointed to supervise the implementation of the Surface Water Management Plan and the Japanese Knotweed Management Plan. Any water pollution incidences shall be the subject of a written report to the Planning Authority and a written compliance monitoring report shall, likewise, be submitted to the Planning Authority at the end of the construction period.

**Reason:** To safeguard the environment.

7. Prior to the commencement of development, a scheme identifying the number and location of marker posts shall be submitted to and agreed in writing with the Planning Authority.

**Reason:** In the interest of orderly development.

8. (a) Prior to the commencement of development, a Construction Traffic

Management Plan shall be submitted to and agreed in writing with the Planning Authority.

(b) Site Management Procedures and Construction Work Methodologies set out in the Outline Construction Environmental Management Plan shall be followed during the construction phase of the development.

(c) Methodologies identified in the Construction and Environmental Management Plan submitted to the Planning Authority on the 21<sup>st</sup> day of December 2017 shall be fully implemented throughout the construction phase.

**Reason:** To promote good traffic management and to safeguard the environment and the amenities of the area.

9. The applicant shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to carry out pre-development archaeological testing in the area where the cable route crosses Ringfort CO002-091 and its Zone of Notification.

No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.

The archaeologist shall notify the Local Authority Archaeologist and the National Monument Service of the Department of Culture, Heritage and the Gaeltacht (DoCHG) in writing at least four weeks prior to the commencement of site preparations.

The archaeologist shall excavate the test trenches, by hand in undisturbed ground, to the depth of the cable trench. Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the National Monuments Service (DoCHG) for consideration.

Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) may be required and the Planning Authority and the National Monuments Service (DoCHG) will advise the applicant/developer with regard to these matters.

No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has

been received in writing from the Planning Authority and the National Monuments Service (DoCHG).

**Reason:** To identify and preserve items of archaeological importance.

10. The applicant shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to monitor under license from the Department of Culture, Heritage and the Gaeltacht (DoCHG) the excavation of the cable trench and top soil removal in all areas of undisturbed ground both along the cable route and within the development site and in the Zone of Notification associated with Ringforts CO002-100 & 108.

The remainder of the cable route shall be subject to intermittent monitoring/watching brief.

In the event that archaeological material is found during the course of monitoring, the archaeologist shall have work on the site immediately stopped and notify the Local Authority Archaeologist and National Monuments Service (DoCHG).

No further surface clearance shall take place, pending a decision as to how best to deal with the archaeology.

The applicant/developer shall be prepared to be advised by the Local Authority Archaeologist in regard to any necessary mitigating action (e.g. preservation in situ or excavation). The applicant/developer shall facilitate the archaeologist in recording any material found.

The Planning Authority and National Monuments Service (DoCHG) shall be furnished with a written report describing the results of the monitoring.

**Reason:** In the interest of preserving items of archaeological interest.

11. (a) During the construction phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:
  - (i) An Leq, 1-hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

(ii) An Leq, 15-minute value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996 – 2007: Acoustics - Description and Measurement of Environmental Noise.

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

12. Prior to the commencement of development, a baseline road condition survey of the roads comprised within the red edge of the application site shall be undertaken, submitted to and agreed in writing with the Planning Authority.

**Reason:** In the interest of orderly development.

13. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory restoration of public roads, following the completion of the construction period, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any such restoration. The security to be lodged shall be as follows -

(a) An approved insurance company bond in the sum of €125,425 (one hundred and twenty-five thousand, four hundred and twenty-five euro), or

(b) A cash sum of €125,425 (one hundred and twenty-five thousand, four hundred and twenty-five euro) to be applied by the planning authority at its absolute discretion if such restoration works are not provided to its satisfaction, or

(c) Such other security as may be accepted in writing by the planning authority.



**Reason:** To ensure the satisfactory restoration of public roads in the interest of road safety.

14. The developer shall pay to the planning authority a financial contribution of €876 (eight hundred and seventy-six euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**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 Scheme made under section 48 of the Act be applied to the permission.

15. The developer shall pay the sum of € 10,000 (ten thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works proposed to be carried out, for the provision of upgrade works to the public roads. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is considered reasonable that the developer should contribute

towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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Hugh D. Morrison  
Planning Inspector

13<sup>th</sup> August 2018