



An  
Bord  
Pleanála

## Inspector's Report ABP-301812-18

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<b>Development</b>	Works in County Leitrim to complete an underground grid connection to the existing sub-station at Garvagh from a permitted windfarm at Derrysallagh, Co. Sligo
<b>Location</b>	Seltan and Boleymaguire, Co. Leitrim
<b>Planning Authority</b>	Leitrim County Council
<b>Planning Authority Reg. Ref.</b>	P18/45
<b>Applicant</b>	Derrysallagh Windfarm Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Derrysallagh Windfarm Ltd
<b>Observers</b>	Sligo County Council
<b>Date of Site Inspection</b>	30 <sup>th</sup> November 2018
<b>Inspector</b>	Stephen J. O'Sullivan

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. National Policy .....	8
5.2. Development Plans .....	8
5.3. Natural Heritage Designations .....	8
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Planning Authority Response .....	10
6.3. Observations .....	11
7.0 Environmental Impact Assessment.....	11
7.2. Alternatives .....	13
7.3. Likely Significant Direct and Indirect Effects .....	14
8.0 Screening for Appropriate Assessment .....	19
9.0 Assessment of other issues.....	20
10.0 Recommendation .....	20
11.0 Reasons and Considerations .....	20
12.0 Conditions .....	21

## 1.0 Site Location and Description

1.1. The site is a linear site c3km long in an upland area of north Co. Leitrim. The northern end of the site is at the sub-station at Garvagh and crosses the wet grassland between it and a narrow county road c3.6m wide. It continues south along that road for c2km, and then for c1km along a forest track to a concrete bridge over the Arigna River. The surrounding landscape is characterised by hills, with the ridgelines and the valley of the Arigna River running NW-SE. The higher land near the ridge line is covered with bog or rough pasture and has numerous wind turbines. The lower land in the valley has been planted with coniferous forestry. Settlement is sparse.

## 2.0 Proposed Development

2.1. The development is part of an overall project to provide a 38kV grid connection from the authorised Derrysallagh windfarm to the existing substation at Garvagh over a distance of 9.57km. The completed connection would include a 38kV electrical cable laid underground with 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 4.5m by c1.815m, and a depth of 1.21m. The EIAR 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 over the existing ducting. The structures will be left in situ when the use of the cable ceases and it is decommissioned.

2.2. The works to which this application refers are those in Co. Leitrim to complete of the 38kV grid connection. They would comprise the laying of new ducting from the existing sub-station at Garvagh for c380m across privately owned land for c60m and into the public road to connect with the previously installed ducting there; the

installation of a new joint bay at JB9; the installation of new ducting for 20m on both sides of joint bay JB8; remedial works to previously installed ducting for 460m involving the replacement of previously laid backfill and its incorporation into the public road; and the installation of new ducting to cross the Arigna River attached to the side of the concrete bridge at Boleymaguire.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to refuse permission for 3 reasons –

Reason no. 1 stated that it would be inappropriate to grant permission for works to complete the grid connection that are a direct component of other works which are the subject of an application for substitute consent (ABP-300811-18) before the board in the absence of a decision by the board to regularise the prior works.

Reason no. 2 stated that an EIA of the development including its cumulative impact with the prior works on the grid connection could not be completed until the EIA of the prior works under the current application for substitute consent had been completed by the board.

Reason no. 3 stated that the planning authority could not conclude that the proposed development would not be likely to have significant effects on a Natura 2000 site either alone or in combination with other plans or projects including that which is the subject of the application for substitute consent.

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

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

- Screening for appropriate assessment requires consideration of the combined impact of the prior works on the grid connection and the proposed works in three counties. Consent for these is being sought under four applications to different authorities. Therefore the planning authority cannot determine whether the proposed development would be likely to have significant effects on any Natura 2000 site, and so whether a stage 2 appropriate assessment is

required, until the board has addressed the substantive element of the overall grid connection and whether it requires appropriate assessment.

- With regard to EIA, the report notes that the applicant submitted an EIAR that refers to the overall project for a grid connection. Only a minor part of the project is in County Leitrim with a route length of 2.8km. The element for which permission is sought in this application is lesser still, consisting of 0.44km of ducting and remedial works to a further 0.46km. The planning authority remains of the opinion that the part of the project in its area would not be likely to have a significant effect on the environment. Nevertheless as the application was accompanied by an EIAR the planning authority is required to complete the EIA process. The planning authority conclude that the EIAR complies with the legal requirements. The proposed development would not have a significant adverse impact on the environment with respect to air quality and climate change; noise and vibrations; biodiversity; soils, geology or hydrogeology; hydrology and water quality; population and human health; traffic and transportation; landscape; or archaeology, architecture and cultural heritage. The report refers to the interaction between these factors and the consideration of alternatives in the EIAR. In the absence of a determination by the board on the possible environmental effects of the substantive element of the grid connection under the application for substitute consent, the planning authority cannot determine whether that the development proposed in this application when taken cumulatively with other development would not have an adverse impact on the receiving environment. A determination in this regard would therefore be premature.
- While the permission for the Derrysallagh windfarm remains valid, the grid connection requires assessment and consent from four different authorities. A logical approach would involve the board determining the application for substitute consent for the prior works before consideration was given to the proposed subsequent works to complete the grid connection.
- It was recommended that permission be refused.

### 3.2.2. Other Technical Reports

Environment Department – The planning application considers and references most environmental concerns but there is little detail on how works are to be carried out or mitigation measures. Further information should be sought including a construction waste management plan, a specific construction environment response management plan, and further details of dust control and other matters.

District Engineer – No objection

### 3.3. **Prescribed Bodies**

HSE – it is recommended that noise restrictions, water sampling and a decommissioning programme are sought.

### 3.4. **Third Party Observations**

A submission from Mr Patrick Daly stated that the grid connection crossed his property in County Sligo and he had not consented to any application to authorise works to provide it, which raises implications for his property rights. The application is premature pending the determination of the substitute consent application. The grid connection is part of a windfarm project that will have significant environmental effects.

A submission stated that the EIAR was not available electronically as required by Directive 2014/52, and that further submissions will be made when it is.

## 4.0 **Planning History**

- 4.1. 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.
- 4.2. Reg. Ref. 15/35: Leitrim County Council granted permission to extend the 110kV substation at Garvagh Glebe.
- 4.3. 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.

- 4.4. 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.
- 4.5. 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 110kV substation on 21st December 2017 and directed that the application be accompanied by a remedial Environmental Impact Assessment report.
- 4.6. ABP-300811-18 - Substitute consent in respect of the previous works to provide the grid connection was granted by the board on 5<sup>th</sup> February 2019. The application was accompanied by an EIAR.
- 4.7. 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 10<sup>th</sup> 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.
- 4.8. ABP-302722-18, PD/18/397 – Roscommon County Council refused permission to complete part of the grid connection between the Derrysallagh Windfarm and the 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 against this decision is currently before the board.

## 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 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 Area at Corry County Bog, sitecode 002321 adjoins the route of the grid connection. It is designated for its upland blanket bog.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The proposed development is part of the overall grid connection project which was described and analysed in the submitted EIAR
- The issues referred to in the report from the Environment Section of the council can be properly addressed by standard techniques that can properly be made the subject of conditions in an EIA case in accordance with the



judgment in *People over Wind vs. An Bord Pleanála* 2015 IECA 272. In any event the issues raised were addressed in the EIAR which included an Outline Construction Environmental Management Plan at appendix 2.2 which described fuel handling, waste management, a silt filtration system, various method statements, the location of the construction compound at the Derrysallagh Windfarm and communication with the public. Section 14 of the plan sets out an emergency environmental response plan.

- With regard to reason no 1 of the planning authority's decision, the existence of concurrent planning applications is not a good reason to refuse permission for the works proposed in this planning application. The board could grant permission subject to a condition that would ensure that the existing development is not unauthorised at the date the proposed development is commenced. In any event prematurity or the status of previous works is not an issue as this application and the one for the substitute consent for the prior works are both before the board.
- With regard to reason no. 2 the submitted EIAR provided for a comprehensive assessment of the overall grid connection which would allow each competent authority to properly assess the cumulative impact of its various parts under different applications. The information before Leitrim County Council allowed it to carry out an EIA of the entire project, as can the board can now do at appeal stage. It was therefore incorrect of the council to refuse permission on the basis that only the board could carry out a comprehensive assessment of the grid connection project.
- With regard to reason no. 3, a screening report for appropriate assessment was submitted which described and evaluated the entire grid connection project. It established that there would be no linkages or connectivity between any of the works and any Natura 2000 site, and so there was no potential for any significant effects on such a site and a stage 2 appropriate assessment is not required. The grant of leave to apply for substitute consent by the board under 21.LS0032. concluded that the previous grid connection works did not require appropriate assessment. The council was therefore in a position to carry out an screening for appropriate assessment on this application, as the board can now.

- There is a minor discrepancy in the drawings submitted in the drawings submitted with the substitute consent application with regard to works in Co. Roscommon, in that they showed remedial works in blue on 230m of cable between junction bays 1 and 2 that were proposed rather than completed. The applicant wishes to clarify that the proposed works for which permission is being sought under the concurrent planning application in Co. Roscommon are shown in purple on the drawings submitted with that application and the planning applications in Cos. Leitrim and Sligo.
- The appeal is accompanied by a letter from a solicitor which states that the applicant does not accept that the previous works were unauthorised, having regard to the valid section 5 declaration on the matter, and that the decision of the High Court in *Daly vs. Kilronan Windfarm Ltd* is under appeal. It referred to other planning cases where adjoining planning authorities had granted separate permissions after EIA of projects that crossed their boundaries. It stated that it was lawful for EIA and appropriate assessments of separate parts of project to be carried out by different consent authorities, referring to the interaction between planning permission and IED licences which the courts have accepted.

## 6.2. Planning Authority Response

- The planning authority do not accept that it erred in law in refusing the application or that the section 5 declaration can be relied upon to conclude that the previous works on the grid connection were lawful. It reiterates its position on the current application as set out in its planner's report on the application and the reasons for its decision. The planning authority does not object to the overall project but is mindful of its obligations under national and European law. The board may consider and determine the applications for substitute consent and permission together, which the planning authority could not.
- The discrepancies in drawings identified by the applicant are minor. The planning authority agrees that the issues raised in the report from its Environment Section can be properly addressed by condition.

- The planning authority were not able to upload the EIAR to its website until April 12<sup>th</sup> 2018. The board should be satisfied that there is no requirement for it to be re-advertised

### 6.3. Observations

Sligo County Council stated that it had no observations on the application.

## 7.0 Environmental Impact Assessment

### 7.1. Statutory Provisions

- 7.1.1. This application was submitted to the planning authority after 16th May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. The Directive had 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 consent for the windfarm to which the works proposed in this application would facilitate a grid connection was the grant of permission given by Sligo County Council under Reg. Ref. 12/133. The consent and the environmental impact assessment which preceded it are 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 they might give rise to a cumulation of effects with those arising from the proposed works which are the subject of this application and EIA. Similarly the substitute consent for prior works to provide the grid connection, granted by the board under ABP-300811-18, and the two other applications for proposed works to complete the grid connection in counties Sligo and Roscommon, which are before the board under ABP-302422-18 and ABP-302722-18, are relevant to this application and EIA inasmuch as they might also give rise to cumulation of effects on the environment that would be significant .
- 7.1.2. A Environmental Impact Assessment Report (EIAR) 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 EIAR. Section 1 indicates the expertise of various people who were responsible for particular sections of the EIAR,

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, while volume 4 provides a copy of the EIS that was submitted for the Derrysallagh Windfarm. The EIAR describes the previously authorised windfarm and its effects. It also describes and analyses the other works required to provide the grid connection to the windfarm including the prior works that are the subject of the application for substitute consent and the proposed works in counties Roscommon and Sligo that are the subject of application for permission. The content of the EIARs submitted with each of the four current applications is therefore similar. This is appropriate as the applications refers to the same project, and allows the identification of any possible significant direct or indirect effects that might arise from the cumulation of the various elements of the grid connection and the authorised windfarm.

- 7.1.3. I am satisfied that the information contained in the EIAR 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 EIAR and the observations received from the planning authority and others.
- 7.1.4. The application was made to the planning authority on the 14<sup>th</sup> March 2018. However the planning authority did not succeed in uploading the EIAR to its website until 12<sup>th</sup> April 2018. There was no requirement under national law at that time for the EIAR to be uploaded. However article 6.2 of the EIA directive as amended in 2014 requires the public to be informed electronically of various matters including ‘an indication of the availability of the information gathered pursuant to Article 5’ (which

is the EIAR). Circular 8/2017 from the minister advised planning authorities that they should comply with article 6 of the directive by placing any EIAR on its website within 3 days of an applications receipt, pending the implementation of the directive by national legislation and the creation of a national portal. The planning authority failed to comply with the circular letter in this case, despite its attempts to do so. It is not clear that article 6.2 of the directive was breached, as the public was informed electronically of the availability of the EIAR at the planning authority's offices. The EIAR was available on the website within the period the planning authority's decision was subject to appeal by the applicant and by those who had made submissions on the application, and during the period during in which observations on the first party appeal could have been made to the board. Substantive or procedural concerns could have been raised by either an appeal of the planning authority's decision or an observation on the applicant's appeal before the EIA for this application had been completed and before a decision was made by the board on whether to give consent. In these circumstances it is not considered that the public's right to participate in the process of environmental impact assessment has been impeded in a manner that would preclude consideration of the application and the making of a decision on it by the board at this time.

## 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 EIAR presents a such a description of the reasonable alternatives studied by the developer for a grid connection from the substation to the authorised windfarm, 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. The works for which permission are sought in this application are minor and contingent on the approval of the route of the grid connection and the prior works of greater scale that have been carried out along that route. It is therefore appropriate that the developer's consideration of alternatives is based on alternative means and routes for that grid connection. 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 direct and 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 proposed development involve roadworks of a common type and limited extent. It would not be likely to have 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 proposed development is not in or immediately adjacent to any Natura 2000 sites. The works that are the subject of this application would occur along and within roads and a short stretch of wet grassland beside the Garvagh substation that is not of high ecological value, so they would 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. However, as set out in section 7.3.6 of this assessment below, the evidence available from the EIAR and the inspection of the site shows that the development would not be likely to 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 part of the Natural Heritage Areas sitecodes 002321, or on downstream aquatic habitats is likely to result from the proposed development. It is therefore concluded that the carrying out of the proposed development is not likely to have a significant effect on biodiversity. No such effect is likely to arise from its operation or decommissioning either.

### **7.3.4. Land**

The proposed development would be carried out within roads and would not alter their use as roads. The laying of a connection under grassland beside the substation would not alter the character of use of that land. Therefore the proposed development would not have any significant effect on land.

### **7.3.5. Soil.**

Section 7.5.2.2 of the EIAR states that the proposed works over three counties would involve the excavation of 1,331m<sup>3</sup> of material for the completion of the cable ducting and 33m<sup>3</sup> for the joint bays. The excavated soil and tarmac would be taken to a licensed waste facility for disposal. The ensuing voids would be filled with imported gravel and the road surface replaced. The proposed development would

be carried out largely within roads. The replacement of soil with granulated fill in those roads would not have significant environmental effects with respect to soil. The grassland beside the substation under which part of the connection would be laid would be reinstated after the works, and no significant environment effects in relation to soil are likely to arise there. The operation of the grid connection would not have effects with respect to soil, and no works to the soil are proposed when the grid connection is decommissioned so that would not give rise to significant environment effects either.

#### 7.3.6. **Water**

The proposed development involves the crossing of 2 watercourses. The crossing of the Arigna River would be achieved by placing the cables in a steel box attached to the structure of the existing concrete bridge. No works are proposed within the channel of the river and so it is not likely that the proposed development would give rise to emissions of sediment or other pollutants that would have an effect on the quality of water in the river. As no works are proposed in the channel of the river it is not likely that the proposed development would have an effect on the flow regime in the river or the drainage characteristics of the surrounding area. The other proposed crossing is over a drain under the road near the Garvagh substation. The EIAR states that this drain has a cover depth of 1m, so the connection will be laid in the road above it. As no works are proposed to the drain itself, it is not likely that the proposed development would have a significant effect on the quality of the water or its flow in that drain. The remainder of the development that is proposed in this application involve works to the roads to provide a new joint bay, ducting in the immediate vicinity of an existing joint bay and remedial works to the cover above previously laid ducting, and the laying of c60m of ducting under grassland. The nature and extent of these works are similar to those which would be frequently carried out by the roads authority or utility providers in rural areas. They would not have the potential to affect the drainage regime of the ground in the area. They would have the potential to cause emissions of sediment or hydrocarbons if they are not carried out in a competent manner in accordance with standard practices. Section 8.6.1.1 of the EIAR sets out mitigation measures which involve carrying out the works in accordance with such practices, with proper controls on the handling of



soil, fuels and lubricants and the installation of silt fences and petrol interceptors. The efficacy of these measures in protecting water quality has been established by their widespread use. Subject to their implementation, the proposed development is not likely to have significant effects on the environment with respect to water. Similar measures have been stipulated for the works proposed to complete the grid connection in Cos. Sligo and Roscommon which are also likely to avoid any significant environmental effect to water. As stated in the EIA in the inspector's report for ABP-300811-18, it is not likely that the previous works to provide the grid connection had significant effects on water. It is therefore concluded that the proposed development would not be likely to have significant effects on the environment in respect of water, either by itself or in cumulation with the other works to provide the grid connection or other projects

#### **7.3.7. Air**

The carrying out of the works has the potential to cause the emissions of dust to air. The potential effect is similar to that which would arise in minor and routine roadworks and can be properly mitigated by common practices which are set out in section 4.5.1 of the EIAR and section 2.2 of the Outline Construction Environmental Management Plan appended to it. Subject to the implementation of such measures, the proposed development would not be likely to have a significant effect on the environment with respect to air.

#### **7.3.8. Climate**

The development would not have 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 completion of the grid connection would not alter the use of the roads 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. This would have been addressed in the completed EIA for the windfarm.

#### **7.3.10. Cultural heritage**

The grid connection is within roads, with a short stretch under grassland beside an existing substation. Its construction would not be likely to have a significant effect on cultural heritage. Its operation and decommissioning would not be likely to have such an effect either.

#### **7.3.11. The landscape**

The grid connection is underground within roads or under grass that would be reinstated. Its completion 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 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 prior works to the grid connection or the proposed works to complete it in Counties Roscommon and Sligo. This conclusion is made having regard to the information submitted in connection with the concurrent applications submitted for substitute consent for the prior works to the grid connection and for permission to works to complete them in the other counties. As a grant of substitute consent for the prior works on the grid connection has been issued and a decision on whether or not to issue any of the planning permissions for prospective works to complete can now be made by board, the constraints that were cited in reason no. 2 of the planning authority's refusal would not apply to the board's EIA in this case.

#### **7.3.13. Reasoned Conclusion on Significant Effects**

Having regard to the nature and scale of the development, which consists of the works to install part of a 38kV grid connection laid underground within county and forest roads and across a short stretch of wet grassland, to the environmental information available in connection with the current application, including the EIAR and other information provided by the developer and the submissions from the planning authorities, prescribed bodies and observers, it is concluded that the development which is the subject of the current application is not likely to have significant effects on the environment, either directly or indirectly or cumulatively with other developments including the permitted windfarm at Derrysallagh and the completion of the grid connection to it.

## **8.0 Screening for Appropriate Assessment**

8.1. As a grant of substitute consent for the prior works on the grid connection has been issued and a decision on whether or not to issue any of the planning permissions for prospective works to complete can now be made by board, the circumstances to which reason no. 3 of the planning authority's decision refers do not apply to the board's consideration of this application. The proposed development would not be in or adjacent to any Natura 2000 site. Neither would the other works to complete the grid connection of which the proposed development is a part. The proposed development would not be likely to have a direct effect on any Natura 2000 site, therefore. As concluded in the EIA at section 7.3.6 above, the proposed development would not be likely to have significant effects on water quality, and there is no pathway by which the proposed development could have a significant indirect effect on any Natura 2000 site. There are no effects that are likely to arise from the proposed development that could be significant in combination with any other plan or project. Therefore it is unlikely that the proposed development would have any significant effect on any Natura 2000 site, either individually or in combination with any other plan or project. It is therefore reasonable to conclude that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site in view of the site's conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. This

conclusion is consistent with the board's decision not to require the submission of an NIS for the application for substitute consent for the prior works to the grid connection, which were substantially greater in extent than the proposed works to complete it.

## **9.0 Assessment of other issues**

- 9.1. As the board has granted substitute consent for the prior works to the grid connection, the circumstances to which reason no. 1 of the planning authority's decision refers do not apply to its consideration of this application.
- 9.2. The proposed completion of a grid connection to an authorised windfarm would be in keeping with national and local policy on the exploitation of renewable energy resources, and with the proper planning and sustainable development of the area.

## **10.0 Recommendation**

- 10.1. I recommend that permission be granted.

## **11.0 Reasons and Considerations**

- 11.1. Having regard to the nature, scale and location of the development, and to the EIAR and the submissions made in connection with the application and appeal, it is considered that the carrying out of the development would not be likely to have significant effects on the environment and that its operation and decommissioning are not likely to have significant effects on the environment, either when considered individually or in cumulation with other development including the permitted windfarm at Derrysallagh, the prior works to provide the grid connection that are the subject of the substitute consent granted under ABP-300811 or the works to complete the grid connection that are proposed in Counties Roscommon and Sligo under applications Nos. ABP-302722-18, PD/18/397 and ABP-302422-18, PL18/64. 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 of the development plan.

## 12.0 Conditions

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

**Reason:** In the interest of clarity

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

**Reason:** In the interest of clarity and to protect the environment

3. Prior to the commencement of development the developer shall submit a Construction Environmental Management Plan for the written agreement of the planning authority which shall generally be in accordance with the draft plan set out at appendix 2.2 of the submitted EIAR. The agreed plan shall include the measures necessary for the carrying out of the development to comply noise limits set out in BS5228 "Noise Control on Construction and Open Sites", and to limit the deposition of dust on the boundary of the site to no more than 350mg/m<sup>2</sup> per day. Working hours shall be restricted to between 0800 and 2000, unless the prior written consent of the planning authority has been obtained.

**Reason:** To protect the environment and the amenities of the area

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of 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 prior to the commencement of development 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

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. Stephen J. O'Sullivan  
Planning Inspector

14<sup>th</sup> February 2019