



An  
Bord  
Pleanála

## Inspector's Report ABP-302422-18

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| <b>Development</b>                  | Works in County Sligo to complete an underground grid connection from a permitted windfarm at Derrysallagh to the existing sub-station at Garvagh, Co. Leitrim |
| <b>Location</b>                     | Carrowcashel, Tullynure, Glen, Straduff and Ballynashee, Co. Sligo   |
| <b>Planning Authority</b>           | Sligo County Council   |
| <b>Planning Authority Reg. Ref.</b> | 18/64  |
| <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>                    | None   |
| <b>Date of Site Inspection</b>      | 30 <sup>th</sup> November 2018   |
| <b>Inspector</b>                    | Stephen J. O'Sullivan  |

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## 1.0 Site Location and Description

1.1. The site is a linear site in an upland area of south Co. Sligo. It is in two parts, The southern part is c0.4km long and runs by a track within the site of a quarry and the authorised Derrysallagh windfarm. The main part of the site is c5.5km long. It follows the line of a county road from a point c300m north of the other part of the site towards the north-west for c3.1km, and then follows the line of a forest track as far as the Arigna River. Both parts of the site meet the linear site of the concurrent application in Co. Roscommon ABP-302722-18, PD/18/102. The surrounding landscape is characterised by hills, with the ridgelines and the valley of the Arigna River running NW-SE. The higher land around the county road is characterised by pasture and forestry with sporadic housing, although there is a node of settlement around the chapel at Glen. The lower land in the valley beside the track has been planted with coniferous forestry.

## 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. Sligo required to complete of the 38kV grid connection. They would comprise the laying of new ducting for c380m within the site of the Derrysallagh windfarm from the authorised substation there to joint bay No. 1 on the county boundary, the installation of 224m of ducting to the north-west of joint bay no. 4 in proximity to existing ducting, and the installation of new ducting for 20m on either side of joint bays 2, 3, 4, 6 and 7; the installation of two new joints bays number 1 and 5; and remedial works to c1.27km of installed ducting 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 1 reason which stated that the 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) in the absence of a decision by the board to regularise the unauthorised nature of the prior works.

The decision was prefaced by statements that the planning authority considered that screening of the proposed development for EIA and appropriate assessment would be premature pending the determination by the board of the application for substitute consent for the prior works on the grid connection under the application for substitute consent ABP-300811-18 by the board.

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

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

- The report on the initial application reviewed the planning history of the overall project and policy pertaining to wind energy development. In relation to third party submissions, the report commented referred to the fact that a substitute consent had been made with regard to previous works to the grid connection that may require EIA. The conclusions of the appropriate assessment

screening report submitted with the application are accepted and the need for a stage 2 assessment is screened out. The EIAR complies with the statutory requirements. The principle of the proposed development accords with local and national policy on renewable energy. Significant effects on air and climate are not likely. Dust emissions can be addressed through a construction management plan. Short terms effects may arise with regard to noise, but residual effects are unlikely to be significant even when arising in cumulation with the noise emanating from the windfarm and the quarry. As the connection is within the road corridor, and along the bridge over the Arigna River, no significant effects on biodiversity are likely. Specific method statements should be submitted with regard to the use of silt fences and filters. Details of a refuelling point along the route should be submitted. The proposed grid connection will not have an adverse impact on the hydrology or water quality of the NHA by the route. The proposal to cross the Arigna River over the bridge at Boleymaguire is acceptable. The proposed development is on a road and will not impact surface water if suitable silt control measures are installed. The proposed development may cause short terms effects due to noise and dust emissions and traffic delay during construction, but would not have a significant effect on human health or population. The proposed development is not likely to result in significant effects on the road network or on the landscape, or on cultural heritage. The proposed development is in compliance with the development plan, EU legislation and national planning and environmental guidance. Further information should be sought in accordance with the report from the Environment Section regarding a construction and environment management plan, silt control, any impact on the drainage from the adjoining quarry, the use of excavated material, and various elements of the EIA of the authorised windfarm.

- The subsequent report on the further information dated 7<sup>th</sup> August 2018 noted the second report from the Environment Section that had objection to the submitted information. It repeated an EIA of the project. However it noted the proposed development was part of a grid connection that was the subject of a substitute consent application (ABP-300811-18) and appeal (ABP-301812-18) to the board and an application to Roscommon County Council. A

substantive part of the grid connection is unauthorised and it would be premature to grant permission for the proposed development unless its position was regularised. An environmental impact assessment or screening for appropriate assessment therefore cannot be completed by the planning authority. Permission should be refused.

### 3.2.2. Other Technical Reports

Environment Department – The report on the initial application stated that development should be carried out in a manner that prevents the entry of sediments and pollutants to watercourses. There is no objection to the proposed development but further information should be sought on various details including the proposed site compound and storage of materials, supervision of mitigation measures, construction and environmental management plans, method statements for silt control, a refuelling point and an assessment of the impact on the drainage system for the quarry. The subsequent report after the submission of the further information stated that it had no objection to the proposed development and recited conditions to be attached to any grant.

Area Engineer – No objection subject to conditions

### 3.3. Prescribed Bodies

The Department of Arts, Heritage and the Gaeltacht recommended that no ground works, storage or machinery impinge on a buffer zone of 25m around the recorded monuments at SL035-073 and that works be monitored by an archaeologist.

Inland Fisheries Ireland stated that it would require details of watercourse crossings and method statements.

### 3.4. Third Party Observations

A submission from Mr Patrick Daly stated that the works to the grid connection had been declared to be unauthorised. The grid connection, although not the part which is the subject of the current application, crosses his property and he had not consented 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 which may result in changes to the route of the grid connection. A grant of permission would prejudice Mr Daly's position regarding the previous works on his land. The grid connection is part of a windfarm project that will have significant environmental effects. Mr Daly wrote to the board after the making of the appeal to state that he withdrew his submission on the application.

A submission from Thomas Lavin stated that the applicant did not have consent to carry out works on his land.

A submission stated the whole project must be subject to one application otherwise it is project slicing. The copy of the judgment of the ECJ C-323-17 was submitted.

## **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 – The board granted substitute consent in respect of the previous works to provide the grid connection on 5<sup>th</sup> February 2019. The application was accompanied by an EIAR.
- 4.7. ABP-301812-18, PL18/45 – An application for permission was made to Leitrim 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 c380m of cable ducting (as well as for 20m on either side of joint bays) and remedial works to c460m of ducting previously laid, as well as the installation of a new joint bay. The planning authority refused permission on 8<sup>th</sup> May 2018 because it was part of a grid connection project that had not been regularised and the council could not complete an EIA or AA screening in respect of it. 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 Sligo County Development Plan 2017-2023 applies. Section 11.1.2 refers to wind energy. It refers to the guidelines issued by the minister in 2006. Section 13.9.3 states that proposals will generally be discouraged in or close to pNHAs, cSACs, SPAs, designated Sensitive Rural Landscapes, Visually Vulnerable Areas, Scenic Routes, protected views, Zones of Archaeological Potential. The area around the development in Co. Sligo is identified as a sensitive rural landscape and a visually vulnerable area, while the public road along the southern part of the site is designated as a scenic route.

## 5.3. **Natural Heritage Designations**

The site is not in or immediately adjacent to any Natura 2000 sites. The Natural Heritage Area at Carrane Hill Bog, sitecode 002415, adjoins the route of the grid connection. The NHA is an area of 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 planning authority erred in law by refusing permission on the basis of prematurity. It had sufficient information before it to complete an EIA of the project as a whole and it was permissible for it to have regard to the fact that applications for the other elements of the project decision. There was also enough information to carry out screening for appropriate assessment. Permission could be granted subject to a condition that the works would not proceed unless a substitute consent was granted for the previous works. Therefore the existence of concurrent applications would not justify refusing

permission for this one. In any event all the relevant applications are now before the board so the issue is moot. .

- 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 council's planner reported that the proposed development was acceptable in principle and agreed with the conclusions of the EIAR that the it would not be likely to have significant adverse effects on the environment.
- The appeal is accompanied by a letter from a solicitor which re-iterates the applicant's position that there is no legal impediment to a grant of permission in this case in relation to EIA, appropriate assessment or prematurity pending the determination of the application for substitute consent. 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's response referred to its planner's report of the 7<sup>th</sup> August 2018 on the application and stated that it had no further comments.

## 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 Leitrim and Roscommon, which are before the board under ABP-301812-18 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 Leitrim 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.

## 7.2. **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 land previously subject to works within the site of the authorised Derrysallagh Windfarm and the existing quarry, 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 indirect effect on adjoining habitats, including the bogs that are part of the Natural Heritage Areas sitecode 002415, 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 the access to a quarry and would not alter their use or character. 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 within roads and lands previously subject to works. The replacement of soil with granulated fill in those roads would not have significant environmental effects with respect to soil. The operation of the grid connection would not have effects with respect to soil. No works are proposed when the grid connection is decommissioned so that would not give rise to significant environment effects to soil either.

#### 7.3.6. **Water**

The proposed development involves the crossing of the Arigna River. 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 remainder of the development that is proposed in this application involve works to the roads and to lands previously subject to works that would comprise the laying of new ducting for c380m, the installation of 224m of ducting to the north-west of joint bay no. 4 in proximity to existing ducting, and the installation of new ducting for 20m on either side of joint bays 2, 3, 4, 6 and 7, the installation of two new joints bays number 1 and ; and remedial works to c1.27km of installed ducting involving the replacement of previously laid backfill and its incorporation into the public road. 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 given that they would be on land previously subject to work. 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 or lands within the windfarm and quarry site previously subject to work. 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. It is noted that the report from the Department of Culture, Heritage and the Gaeltacht referred to a cluster of recorded monuments at SL035-73. The proposed development is not in the vicinity of those monuments, although parts of the authorised windfarm are. The report also recommended archaeological monitoring of works, which is set out as a mitigation measure in section 13.6.1 of the EIAR.

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

The grid connection is underground on land that will be reinstated when it is built. 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 arise from the proposed 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 Leitrim. 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 the substitute consent for the prior works on the grid connection has been issued and the planning applications to complete it in the other counties are before the board, the constraints that were cited in preface to the planning authority's decision regarding EIA 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 on lands previously subject to works, 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 for substitute consent for the prior works on the grid connection has been issued and the planning applications to complete it in the other counties are before the board, the circumstances regarding appropriate assessment referred to in the preface to the planning authority's decision 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 substitute consent for the prior works to the grid connection has been granted, the circumstances to which the reason for the planning authority's decision refers do not apply to the board's 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 issued under ABP-300811 or the works to complete the grid connection that are proposed in Counties Roscommon and Leitrim under applications Nos. ABP-302722-18, PD/18/397 and ABP-301812-18, PL18/45. 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