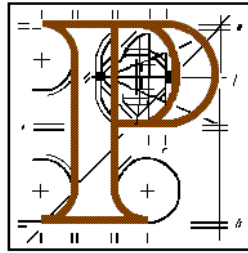


An Bord Pleanála



Inspector's Report

**Application under section 146B of the Planning & Development Act 2000
as amended.**

Proposal: Proposed alterations to previously permitted
windfarm development (ABP-300460-17)

Planning Authority: Donegal County Council

Requester: Planree Limited

Location: Meenbog, Croaghonagh and Casheinavean,
County Donegal

Inspector: Karla Mc Bride

1.0 INTRODUCTION

Planning permission was granted under ABP-300460-17 for a 19-turbine windfarm with ancillary development and associated site works at Meenbog, Croaghonagh and Cashelnavean in SE County Donegal. The Requester has submitted this request to An Bord Pleanála, pursuant to section 146B of the Planning & Development Act 2000 (as amended), for alterations to the terms of that permission. It is proposed to increase the rotor blade diameter from 126m to 136m whilst retaining the permitted layout and tip height of 156.5m.

2.0 PLANNING HISTORY

ABP-300460-17: Permission granted for a windfarm subject to 20 conditions:

- 19 wind turbines with a generating capacity in excess of 50MW.
- No specific design but with a tip height of 156.5m.
- 1 x permanent c.110m high meteorological mast.
- 1 x 110kV electrical sub-station and 2 x control buildings.
- Internal and external underground cabling (including grid connection)
- Upgrade of access junctions, existing tracks and roads.
- 3 x borrow pits and 2 x temporary construction compounds.
- Public amenity area, forestry felling and replacement planting.

A total of 42 submissions were received from Prescribed Bodies, the NI office, interest groups and the public who raised concerns in relation to the following:

- Landscape character, visual amenity & tourism
- Residential amenity (height, noise & shadow flicker)
- Ecology (habitats, flora, fauna, birds, fisheries & FWPM)
- European Sites, Priority habitats & protected species
- Drainage, peat stability & water quality
- Roads, telecommunications & aeronautics

Similar case types:

ABP-303313-19: Section 146B request to make alterations to previously permitted SID windfarm to lengthen the blade of the turbines while remaining within the previously permitted tip height of 170m. The Board decided that the making of the alterations did not constitute the making of a material alteration of the terms of the development as granted permission under 19.PA0047.

PL04.RP2104: Point of dispute under section 34(5) in relation to compliance with condition 6(a) of a permitted windfarm which required turbine details to be agreed with the planning authority. The developer and planning authority failed to reach an agreement and the Board was requested to adjudicate. It concluded that the additional increase in blade length was not material.

3.0 LEGISLATIVE PROVISIONS

- 3.1 Section 146B. — (1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.
- 3.2 (2)(a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.
- (b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

- 3.3 (3)(a) If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.
- (b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall —
- (i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II) , unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and
- (ii) following the receipt of such information or report, as the case may be, determine whether to —
- (I) make the alteration,
- (II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or
- (III) refuse to make the alteration.
- 3.4 (3A) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to

European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

- 4.5 (3B) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration.
- 4.6 (4) Before making a determination under subsection (3)(b)(iii), the Board shall determine whether the extent and character of —
- (a) the alteration requested under subsection (1), and
 - (b) any alternative alteration it is considering under subsection (3)(b)(ii)(II)
- are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

4.0 PROPOSED ALTERATION

The following documents accompanied the request:

- Planning Report
- Environmental Report
- AA Screening Report
- Photomontage Booklet

Background:

- Permission granted for a 19-turbine windfarm with a generating capacity > 50MW & overall ground to blade tip height of up to 156.5m.
- Non-prescriptive in terms of the length of the rotor blade or hub height.

- Inspector noted “no specific design but with a tip height of 156.5m.”
- EIAR provided for consideration of several different variations.
- Maximum 126m rotor diameter considered in the assessment, although it was noted that the final details would reflect turbine design market.
- Larger rotor diameters are preferable in terms of generating efficiency.
- Can be achieved without altering EIAR conclusions, EIA or conditions.

Planning context:

- Complies with national, regional & local planning and energy policy.
- Site is now “Unfavourable” for windfarms under the 2018 CDP & WES but EIAR, PA and ABP considered the site to be suitable.
- CDP & WES were subject to judicial review with regard to WES maps & CDP 10 x tip height separation, and the Court directed their removal.

Materiality of Alteration:

- Seek confirmation that the installation of a turbine with a rotor diameter of up to 136m does not constitute the making of a material alteration.
- Overall terms & conditions of the permitted windfarm can still be met.
- Windfarm will still comprise 19-turbines with tip height of 156.5m.
- The 7.9% increase in rotor diameter is minor in nature.
- Any potential adverse environmental impacts would be nil or negligible.

Precedent:

- ABP previously considered a similar matter (RP2104) in relation to turbine type & extended blade length with no overall increase in height.
- The Board considered all potential impacts and concluded that the 11% increase in blade length would not be deemed material.
- Proposed 7.9% increase in rotor diameter would not give rise to a material change or any increase in potential environmental impact.
- The alteration could not be construed as material in terms of the Act.

Potential for Environmental Impact:

- No alterations to the site layout, turbine locations and overall height, vehicular access arrangements, drainage provisions, construction activities or mitigation measures.
- No significant additional impacts predicted on Human Beings, Population & Human Health; Flora, Fauna & Biodiversity; Ornithology (updated collision risk assessment submitted); Land, Soils & Geology; Water; Air & Climate (minor positive impact on air quality & climate as a result of greater turbine efficiency); Noise & Vibration (compliance with established noise criteria still required); Landscape & Visual (updated photomontages submitted); Archaeology & Cultural heritage; or Material Assets (revised swept path analysis submitted).
- No significant additional impacts predicted with respect of interactions or cumulative impacts.

Appropriate Assessment Screening:

- Proposed alteration, individually or in combination with other plans and projects, will not have a significant effect on European sites.
- No requirement for AA.

5.0 BOARD CORRESPONDENCE

The Board informed Donegal County Council on 25th February 2019 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection. The planning authority was not invited to make any submission at this stage.

5.0 ASSESSMENT

The issues arising relate to:

- Consideration of materiality
- Public consultation
- Appropriate Assessment

5.1 Consideration of materiality

The first consideration in relation to this request to alter the terms of ABP-300460-17 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the Meenbog Windfarm development as granted. The requester proposes to install a type of turbine that would differ from the turbine type that formed the basis of the EIA under ABP-300460-17. The requester states that ongoing discussions with turbine manufacturers and additional reviews of wind data for the site suggest that a larger rotor diameter of up to 136m would represent the most efficient turbine configuration to install in terms of energy generating capacity.

Original application:

Under the original application, several turbine types comprising various combinations of hub height and rotor blade diameter were considered. The model that had an overall tip height of 156.5m and rotor blade diameter of 126m formed the basis of the applicant's EIAR assessment and the Board's environmental impact assessment of the proposed development. Condition no.1 required that the development be carried out in accordance with the plans and particulars lodged with the application subject to any requirements necessary to comply with the other 19 conditions. The application did not specify a particular turbine type and the planning permission did not specify blade length or hub height.

Proposed alterations:

The proposed alterations would increase the rotor blade diameter by 10m from 126m to 136m whilst retaining the permitted tip height of 156.5m, with a corresponding reduction in the height of the turbine hub. The proposed alterations will not require any alterations to the overall site layout, turbine locations, drainage provisions or associated infrastructure.

The Environmental Report submitted with the request refers to the topics addressed in the EIA on ABP-300460-17 in the context of the proposed alterations. The report states that there would be no change to the overall height of the turbines, the layout and configuration of the site, the drainage provisions, vehicular access arrangements or mitigation measures. The report concludes that there would be no significant additional impacts over those already identified in the original EIA as a result of the proposed alterations on all aspects of the environment as outlined in the original EIAR. The report also concluded that there would be no change to the original EIA on ABP-300460-17 with respect to interactions and cumulative impacts.

Therefore, the main issue is whether the proposed turbine configuration is materially different compared with that subject of the previous assessment.

The proposed alterations would result in the turbines having a lower hub height, longer blade length and wider rotor diameter than the indicative turbine type reviewed at the time of application. The rotor blade diameter would be increased by 10m from the permitted diameter of 126m to the increased diameter of 136m. This would represent an increase of c.7.9% in rotor blade diameter from that reviewed in the EIAR and assessed in the EIA. The hub height would be correspondingly reduced and the overall maximum permitted height of 156.5m would not be exceeded.

Environmental Assessment:

Human Beings, Population & Human Health: There would be no alterations to the location and overall height of the turbines, the construction phase activities or transport arrangements. Thus, the predicted impacts of noise, dust, shadow flicker, transport and construction activities will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 7, 8, 9, 12, 13 and 15 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on human beings, population and human health.

Flora, Fauna & Biodiversity: There would be no alterations to the site layout, the location or height of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures (with particular respect to water quality). Thus, the predicted impacts on habitats, and terrestrial and aquatic ecology will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 4, 5, 7 and 15 of Board's decision on ABP-300460-17. The Environment Report noted that the proposed change in rotor diameter could potentially affects bats, however it is noted that both the EIAR and EIA acknowledged that the site has limited value for bats. I am therefore satisfied that there would be no additional significant impacts on flora, fauna and biodiversity.

Ornithology: There would be no alterations to the location or height of the turbines, however the Environment Report acknowledges that the longer blade lengths could potentially have an impact on birds as a result of the larger rotor area, which would be either positive or negative. The Environment Report carried out a re-run of the Collision Risk Assessment model which anticipates a very slight but negligible increase in collision risk over the projects lifespan. The increased risk is not significant and the predicted

impacts on birds will remain unchanged and subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition no.16 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on ornithology.

Land, Soils & Geology: There would be no alterations to the site layout or footprint of the development, the location of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures. Thus, the predicted impacts on land, soil and geology (including peat stability) will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 6, 7, 12 and 18 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on land, soils and geology.

Water: There would be no alterations to the site layout or footprint of the development, the location of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures. Thus, the predicted impacts on site drainage and water quality (including water dependent habitats and the Lough Mourne public water augmentation project) will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 5, 6, 7 and 12 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on water.

Air & Climate: There would be no alterations to the site layout or the location and height of the turbines. There could be a minor positive impact on air quality and climate as a result of the increased energy generating capacity of the turbines because of the larger rotor blade diameter and the corresponding reduction in fossil fuel energy production. I am therefore satisfied that there would be no additional significant impacts on air and climate.

Noise & Vibration: There would be no alterations to the site layout or the location and height of the turbines. Irrespective of turbine type, the development will continue to be subject to compliance with the criteria set out in the EIAR noise impact assessment, the relevant mitigation measures and planning conditions, and in particular Condition nos.7 and 13 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts as a result of noise and vibration.

Landscape & Visual: There would be no alterations to the site layout, footprint of the development or the location and overall height of the turbines. The Environment Report carried out an additional visual impact assessment which included updated photomontages that superimpose the preferred turbine configuration on to the previously permitted images. There would be no additional visual impacts on the landscape and visual amenity, having regard to the scale of the proposed alterations, the nature of the overall project and the extent of the receiving environment. The development will continue to be subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition no. 8 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on the landscape or visual amenity.

Archaeology & Cultural heritage: There would be no alterations to the site layout, location of the turbines or infrastructure arrangements. Thus, the predicted impacts on archaeology and cultural heritage will remain unchanged. The development will continue to be subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition no.17 of Board's decision on ABP-300460-17. I am therefore satisfied that there would be no additional significant impacts on archaeology and cultural heritage.

Material Assets: There would be no alterations to the site layout or turbine locations and the predicted impacts on telecommunications and aeronautics will remain unchanged, subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition nos.10 and 11 of Board's decision. There would be no alterations to the traffic and transport arrangements. The Environment Report assessed any impacts arising from the transport of longer rotor blades and it concluded that there would be no significant change with respect to the original swept path analysis. Thus, the predicted impacts on the road network will remain unchanged, subject to compliance with mitigation measures and planning conditions, and in particular Condition no.14 of Board's decision on ABP-300460-17. I am satisfied that there would be no additional significant impacts material assets.

Interactions: Having regard to the foregoing, I am satisfied that there would be no significant additional interactions as a result of the alterations.

Cumulative impacts: Having regard to the foregoing, and to the additional visual impact studies that accompanied this submission, I am satisfied that there would be no significant additional cumulative impacts.

Conclusion on materiality:

Having regard to the foregoing, I am satisfied that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for ABP-300460-17. Any impact on the landscape, visual amenity, birds, bats and the road network would be marginal. Having regard to the nature and scale of the proposed alterations and the development as granted under ABP-300460-17, I am satisfied that the Board would not have determined the proposal differently had the rotor blade diameter blade now proposed in the alteration formed part of the original application. Therefore, the proposed alteration does not constitute the making of a material alteration of the development as granted under ABP-300460-17.

5.3 Public consultation

The provisions of section 146B(2)(b) provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration and the information on file; the nature, scale and extent of the windfarm development granted permission under ABP-300460-17 and the accompanying information, including the submissions from the public and prescribed bodies; and the nature of the site and surrounding area; I am satisfied that the inviting of submissions from the public in this instance is not necessary or required for the purposes of the Board determining the matter.

5.4 Appropriate Assessment

The Board completed an Appropriate Assessment Screening exercise under ABP-300460-17 in relation to 17 European sites within a 15km radius of the application site which resulted in 12 of the sites being screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under ABP-300460-17 on the 5 sites that were not screened out: Croagnonagh Bog SAC (Site code: 000129), River Finn SAC (Site code: 002301), River Foyle & Tributaries SAC (UK 030320), Lough Eske & Ardnamona Wood SAC (Site code: 000163) and Pettigo Plateau Nature Reserve SPA (Site code: 004099). The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of the sites' conservation objectives.

A NIS was prepared and submitted as part of the application in relation to ABP-300460-17. The requester has submitted an AA Screening Report in relation to the alterations that are the subject of this section 146B request. The 17 sites that were subject of the AA Screening in ABP-300460-17 are again considered in the context of the alterations subject of this section 146B request. The AA Screening report holds that, in relation to the European sites that were subject of the Appropriate Assessment in ABP-300460-17, the

proposed amendments are minor changes to the permitted windfarm project and are all within the existing enclosing perimeter for impacts of the permitted project. It concludes that any potential pathways for impacts of the permitted windfarm project have already been assessed under an Appropriate Assessment of that application and that the proposed amendments do not give rise to any new or different issues or impact pathways that would now need to be assessed.

Having considered the Board's determination on Appropriate Assessment on ABP-300460-17; section 11 of the Inspector's Report on ABP-300460-17; the nature, scale and extent of the alterations relative to the development subject of ABP-300460-17, and the information on file (which I consider adequate to carry out AA Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on the European sites located within a 15 km radius in view of the sites' conservation objectives.

6.0 RECOMMENDATION

I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration of the terms of the development as granted permission under ABP-300460-17.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the ABP-300460-17 from Planree c/o McCarthy Keville O’Sullivan, Block 1, G.F.S.C., Moneenageisha Road, Galway under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Meenbog Wind Farm strategic infrastructure development the subject of a permission under An Bord Pleanála reference number ABP-300460-17.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the ABP-300460-17.

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

Lengthen the blade of the turbines while remaining within the previously permitted tip height of 156.5m

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector’s report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the permitted development shall be altered in accordance with the plans and particulars

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature and scale of the wind farm development permitted under An Bord Pleanála Reference Number ABP-300460-17 for this site, which includes 19 turbines with an overall tip height of 156.5m,
- (ii) the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- (iii) the limited nature and scale of the alterations when considered in relation to the overall permitted tip height of 156.5m
- (iv) the absence of any significant new or additional environmental concerns (including in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's inspector, which is adopted,

It is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations.

Karla Mc Bride

Senior Planning Inspector

10th April 2019