



An  
Bord  
Pleanála

## Inspector's Report

**ABP-303993-19**

---

<b>Development</b>	Construction of an access track & associated site works to serve permitted single wind turbine.
<b>Location</b>	Garrymore, Kerrykeel, Letterkenny, Co Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	1851455
<b>Applicant(s)</b>	Patrick Sweeney
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tirhomin Group Water Scheme.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> June 2019
<b>Inspector</b>	Sarah Lynch

## 1.0 Site Location and Description

- 1.1. The appeal site is located in an upland location to the south of Kerrykeel and east of the Mulroy Bay. The site comprises a narrow route which partially follows the public road. The route commences on a local road and turns to the north into an open field which is currently under grass. The route will then tie in with an existing public road to the north and turn east where it will tie in with an existing gated track towards the permitted turbine.
- 1.2. The existing track is predominantly under grass and is currently utilised for sheep grazing. An existing house is situated to the north west of the track but is removed from the site by c. 80 metres. The surrounding area is sparsely developed and once off the public road the proposed track follows a remote route along the foot of the hills and upland area which is largely open and interspersed with small pockets of forestry.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the following:
  - Provision of new/upgraded 1.347km access road comprising of new junction with local road;
  - Upgrade of previously permitted windfarm access track;
  - Provision of controlled temporary access to facilitate construction;

## 3.0 Planning Authority Decision

### 3.1. Decision

Donegal County Council **granted** permission for the proposed development.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority.

- Unsolicited further information was submitted in relation to a road traffic survey, the relocation of the proposed entrance and the provision of lockable gates at each end of the access road.

### 3.2.2. Other Technical Reports

- Roads – Four reports were received as follows:

#### **18/10/18**

- proposed cross roads is a standard departure.
- Traffic survey not carried out.

#### **2/11/18**

- Road opening licence required.
- Further information required to show how sight lines are in compliance.

#### **11/05/19**

- one set of results in relation to the road traffic survey is insufficient.

#### **01/03/19**

- no objection

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

5 no. observations were received from a group water scheme representative and local residents. The issues raised can be summarised as follows:

- Development will interfere with existing water pipes.
- Existing access track on coillte lands to the east of the appeal site.
- Extension of coillte road would be preferable to proposed road.
- Site notice was not erected correctly.
- Eagle has been recorded in area.
- Proposal would give rise to potential landslides.

## 4.0 Planning History

- 16/50297 Extension of duration was permitted for 11/40003.
- 11/40003 Permission was **granted** for the construction of a single wind turbine.

Adjoining sites:

- 17/511158 – Permission was granted 20kv overhead & underground electricity cable to serve approved windfarm.
- 16/5093 – Permission was granted for a substation and associated works.
- 12/40093 EOD for above file 07/50478.
- 07/50478 – Permission was granted for the development of 8 no. wind turbines

## 5.0 Policy Context

### 5.1. Development Plan

#### **Donegal County Development Plan 2018-2024**

The appeal site is located in a strong rural area part of which has been identified as Especially High Scenic Amenity (EHSA) and Moderate Scenic Amenity (MSA).

- Chapter 8 – Natural Resource Development
- Section 8.2.2 – Objectives

#### **Areas of Especially High Scenic Amenity (EHSA)**

Areas of Especially High Scenic Amenity are sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development.

#### **Areas of Moderate Scenic Amenity (MSA)**

Areas of Moderate Scenic Amenity are primarily landscapes outside Local Area Plan Boundaries and Settlement framework boundaries, that have a unique, rural and generally agricultural quality. These areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan.

## **Aim**

To facilitate the development of a diverse energy portfolio by the sustainable harnessing of the potential of renewable energy including ocean energy, bioenergy, solar, wind and geothermal, along with the sustainable use of oil and gas, and other emerging energy sources in accordance with National Energy policy and guidance. It is also an aim to facilitate the appropriate development of associated infrastructure to enable the harnessing of these energy resources and to promote and facilitate the development of Donegal as a Centre of Excellence for Renewable Energy.

### **Wind Energy Development Guidelines 2006**

- Section 7.10 Roads and Access Tracks

## **5.2. Natural Heritage Designations**

The Mulroy Bay SAC which is located c. 1.67km west of the appeal site the closest Natura 2000 site within the area.

## **5.3. EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal has been submitted by Tirhomin Group Water Scheme c/o Dolores MGee. Four letters have been submitted with the appeal from local residents. The issues raised can be summarised as follows:

- Development will interfere with existing water pipes.
- Existing access track on coillte lands to the east of the appeal site.
- Extension of coillte road would be preferable to proposed road.
- Site notice was not erected correctly.

- Eagle has been recorded in area.
- Proposal would give rise to potential landslides.
- Construction would interfere with local children playing.
- Construction would have negative affect on well being of children by virtue of construction noise.
- Construction works would negatively impact local cake business and accounting business ran from residential property.
- No permission to upgrade haul route.
- Existing public road should be used.
- Original application for turbine required road realignment.
- Close proximity to historical monuments.
- The proposed development would visually detract from the surrounding scenic landscape.

## 6.2. Applicant Response

Canavan Associates have submitted a response to the third-party appeal on behalf of the applicant. The response can be summarised as follows:

- The proposed development was the access track for a permitted windfarm and will now serve one turbine.
- The turbine has a grid connection offer.
- 521m will be new track, the remaining track will be an upgrade to an existing farm track.
- The proposed track originally intended to serve the Garrymore 8-turbine wind farm which is now lapsed.
- This is not an EIA project.
- Other road works may not require planning permission.
- The original track as approved under 11/40003 is not suitable for turbine delivery vehicles.

- Site notice was removed several times after erection.
- Location of existing group water main is known and will be taken into account prior to construction.
- Construction will be carried out in safe manner as per agreed details with the Local Authority and should not give rise to landslides.
- Both traffic surveys are in accordance with Section 4.2 TA22/81 and obtained similar results.
- Sight lines of 50 metres are provided for based on actual road speeds.
- The proposed track will have limited operational traffic.
- Previously permitted haul route was deemed to be unsuitable by Collett Consulting in April 2014.
- Passing bays and wayleaves have been agreed for the proposed route.
- Developer will seek to minimise the disruption to residents.
- The Development Plan supports the development of wind energy and renewable sources.
- The proposed route is largely out of sight when viewed from surrounding landscape and will be screened by additional planting.
- Access track can be used as a walking route.
- The development will have limited impact on tourism to the area.
- Ornithologist whom carried out bird survey in area for 2-year period has not encountered any eagles in the area.
- Buzzards are present, there are no likely pathways for impacts on this species arising from the development.
- Appellants concerns can be dealt with by way of condition.

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

- No further response.

## 7.0 Assessment

7.1. The appeal site is located in a strong rural area part of which has been identified as Especially High Scenic Amenity (EHSA) and Moderate Scenic Amenity (MSA). The issues for consideration before the Board are those raised within the grounds of appeal and are summarised as follows:

- Impact on existing water pipes.
- Visual impact.
- Impact on residential amenity.
- Archaeology.
- Appropriate Assessment.
- Other matters

### **Impact on existing water pipes**

7.2. It is contended by the appellant that the proposed road will be partially located above the route of an existing water main connected to the group water scheme for the area. Concerns have been raised within the grounds of appeal that the road has potential to damage these pipes.

7.3. The presence of these pipes is acknowledged by the applicant within the response to the grounds of appeal. It is stated within this response that the location of these pipes is known and the applicant will seek to protect this infrastructure from damage. Whilst I acknowledge the appellants concerns in relation to the existing water main, damage liability and disputes are not a matter for the Board to adjudicate. This matter is a civil matter between the applicant and those responsible for the water infrastructure.

7.4. It is further noted that concerns were raised within the grounds of appeal in relation to the obtaining of consents and wayleaves in relation to the proposed access road. This is also largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.



## **Visual Impact**

- 7.5. It is contended by the applicant that the proposed haul road would detract from the surrounding scenic landscape which is attractive to tourists and walkers. The proposed road commences in an agricultural field and ties in with the public road prior to connecting with an existing field track to the west of the public road. The appeal site is located partially in a low-lying rural area and continues onto upland exposed lands where it merges with the existing field track.
- 7.6. The majority of the lands affected by the proposed development are identified within the Donegal Development Plan as Areas of Moderate Scenic Amenity (MSA). These areas have a unique, rural and generally agricultural quality. The plan identifies these areas as having capacity to absorb additional development that is suitably located, sited and designed.
- 7.7. A small portion of the proposed route will pass through a wooded area to the west which is identified as an area of Especially High Scenic Amenity (EHSA). These areas are identified within the plan as sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. Such areas have extremely limited capacity to assimilate additional development.
- 7.8. In response to the appellants concerns, the applicant has stated that the proposed road where it merges with the existing field track and onto the permitted turbine will be screened from view by way of planting. Photomontages have been submitted with the appeal which have been taken from surrounding scenic locations looking towards the development. The proposed road is not seen in these documents and appears to be out of sight.
- 7.9. Whilst I acknowledge the applicant's response to the appellants concerns in this regard. I have concerns in relation to the overall visual impact of this significant piece of infrastructure in such an elevated scenic landscape. I note within Section 16 of the applicant's response to the grounds of appeal that access for the permitted single turbine was to be obtained from the access associated with the now expired permission for 8 wind turbines to the east and north of the appeal site.
- 7.10. I further noted whilst carrying out a site inspection that there is an existing access to the south of the wind turbine which has also been referred to within the grounds of appeal. No reference has been made to the potential dual use and extension of this road. Furthermore, no analysis has been provided in relation to alternatives with

regard to the deviation of the route into an agricultural field within the lowlands area of the appeal site.

I consider that the development of a c. 1.35km 6 metre wide access route, which is effectively the same width as many urban roads, in such a scenic, exposed and elevated landscape would have a negative impact on the sensitive receiving landscape part of which has been identified as having an Especially High Scenic Amenity. Based on the information submitted I consider that the applicant has failed to consider potential alternative routes and in doing so has failed to provide an adequate justification for the proposed route which traverses through the undeveloped countryside. I therefore consider the route to be an unacceptable and excessive imposition on the existing rural landscape.

### **Residential Amenity**

- 7.11. It is contended by the appellant that the proposed development will affect the level of residential amenity currently enjoyed in the locality, concerns were raised in relation to noise, traffic, loss of privacy and issues for children at play. The proposed road will pass to the rear of an existing house within the lowland section of the route where it is proposed to run the access road through an existing field. Particular concerns have been raised by the occupants of this dwelling in relation to negative impacts on their residential amenity.
- 7.12. The applicants have responded to this issue within the response to the grounds of appeal and it is stated that construction works will be carried out during working hours and deliveries to the site will not be carried out at school run times or peak work times in order to reduce any inconvenience to residents. It is further stated that the proposed access route once completed will have little traffic. Visits to the site occur monthly and outside of these routine visits, additional visits may be required for maintenance. It is therefore rebutted by the applicant that whilst it is acknowledged there will be some disturbance during construction, this will dissipate once the route is operational.
- 7.13. Having regard to the foregoing and the I consider the potential impacts on residential amenity to be limited and largely restricted to construction stages of the access road and turbine. I do not therefore consider the potential residential impacts to be so significant so as to warrant a refusal.

### **Archaeology**

- 7.14. With regard to archaeology the appellant has stated within the grounds of appeal that the proposed access road is in close proximity to a number of recorded monuments.

The applicant submitted an archaeological assessment with the planning application which was originally carried out in support of a previous windfarm application. This assessment identifies a number of potential archaeological sites within close proximity to the appeal site. One recorded monument the 'Ballyboe Fort' is located to the south of the start of the route, no other recorded monuments are identified within the National Monuments Service records along the proposed route.

- 7.15. Having regard to the information submitted and the separation distance between the existing ringfort and the proposed development I consider that the proposed development will not adversely affect the integrity of this recorded monument, However, should the Board be of a mind to grant permission, it is recommended that a condition be attached in relation to archaeological monitoring during construction works.

### **Appropriate Assessment**

- 7.16. Having regard to the nature of the development, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **Other Matters**

- 7.17. I note that the appellant has made reference to a range of matters which include land stability and impact on local businesses. With regard to landslides, I note that the applicant has stated within the response to the grounds of appeal that the proposed road will be constructed appropriately and in accordance with best practice. There are no records of landslides within this area and there were no indications of instability at the time of site inspection. Best practice construction methods will seek to ensure that underlying lands are stable and built up in a suitable manner to provide for the development.
- 7.18. It is stated within the grounds of appeal that there is a potential for negative impact on local businesses during the construction of the proposed access and turbine due to traffic congestion. As mentioned above, these impacts are limited to the construction period. The applicant has stated within the response to the grounds of appeal that deliveries to the site will not conflict with peak times and works will be carried out during working hours. Having regard to the nature of the development and the information submitted with the appeal I consider that any potential impacts upon

business in the area would be significantly limited and would not be so significant as to warrant a refusal on this basis.

### **Conclusion**

7.19. Having regard to the foregoing assessment I consider that the proposal would result in an inappropriate and excessive form of development in a scenic, largely exposed, upland area where no assessment of alternative routes has been carried out and no justification as to why the proposed route is the most preferable route. Based on the information submitted, I consider that the proposed development would have an unacceptable negative impact upon the visual amenity of the area and would be contrary to the proper planning and sustainable development of the area.

## **8.0 Recommendation**

8.1. I recommend permission is refused for the following reason:

## **9.0 Reasons and Considerations**

The proposed development would provide for a 1.34km, 6-metre-wide access road in a sparsely developed rural area, part of which is identified within the Donegal County Development Plan 2018-2024 as an area of Especially High Scenic Amenity. Such areas have extremely limited capacity to assimilate additional development. Based on the information submitted and in the absence of any assessment of alternatives the applicant has failed to adequately justify the need for such a significant development within this scenic, exposed landscape. The proposal would therefore, result in an incongruous form of development which would have a serious negative impact upon the visual amenity of this scenic landscape and would be contrary to the provisions of the Donegal County Development Plan 2018-2024 and to the proper planning and sustainable development of the area.

---

Sarah Lynch

Planning Inspector

19<sup>th</sup> June 2019