



An
Bord
Pleanála

Inspector's Report

ABP-304198-19

Development	Construction of one wind turbine comprising tower, nacelle, and rotor blades.
Location	Cornacahan and Cunlin, Killybegs, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	1950132
Applicant(s)	Cathal Boyle
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Cathal Boyle
Observer(s)	Brid Murphy.
Date of Site Inspection	1 st June 2019
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located in a structurally weak area as defined within the Donegal County Development 2018-2024 to the north west of Killybegs. The proposed turbine is to be located within a forest area where the terrain is mountainous. There are three existing turbines within this elevated area which is sparsely developed and consists of open mountainous landscape interspersed by pockets of forestry.
- 1.2. The proposed turbine location can be seen from the adjacent access road to the east and is c. 860 metres from the nearest occupied property. The proposed electricity substation is to be located to the south west of the turbine and is set within a valley between two upland areas. There is an existing substation building at this location at the entrance to the access road.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
 - Single turbine with a hub height of 67 metres
 - New 20kv substation
 - Underground cabling of 900m.

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council refused permission for the proposed development for the following reason:

- A recent successful high court action has resulted in the removal of a significant part of the Development plan in relation to wind energy. It was considered that in this context and in the absence of the updated wind energy government guidelines that there is a lacuna in wind policy. The local authority stated that they are therefore not in a position to properly assess wind energy proposals and the proposed development would therefore be premature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Roads – further information requested in relation to:
 - intended haul route.
 - Suitability / condition report re: loading carrying capacity, road alignment, assessment of existing road network.
 - Bond required for repair to public road.
- Fire Service Section – no objections

3.3. Prescribed Bodies

- Dept of Defence – turbines should be illuminated, obstruction lighting will allow hazard to be identified, obstruction lights should be visible to night vision equipment.
- Transport Infrastructure Ireland – no observations.
- Irish Aviation Authority – Applicant should contact IAA in relation to the agreement of an obstacle warning light scheme and to provide as constructed co-ordinates.

3.4. Third Party Observations

One submission was received from Brid Murphy who resides c. 850 metres to the south east of the proposed turbine. The issues raised can be summarised as follows:

- Noise disturbance.
- Proximity of turbine to dwelling.
- Shadow flicker

4.0 Planning History

0620010- Permission was granted for the relocation of 3 no. wind turbines and realignment of access road, this was an amendment to permission 01/77.

0621536 Permission was granted for a windfarm.

01/77 Permission was granted for the construction 3 no. turbines, ESB substation and ancillary works.

5.0 Policy Context

5.1. Development Plan

Donegal County Development Plan 2018-2024

The appeal site is located in a structurally weak rural area which has been identified as having Moderate Scenic Amenity (MSA).

- Chapter 8 – Natural Resource Development
- Section 8.2.23. – Objectives

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 5.6 discusses noise impacts, which should be assessed by reference to the nature and character of noise sensitive locations i.e. any occupied house, hostel, health building or place of worship and may include areas of particular scenic quality or special recreational importance. In general noise is unlikely to be a significant problem where the distance from the nearest noise sensitive property is more than 500m.
- Section 5.12 notes that careful site selection, design and planning and good use of relevant software can help to reduce the possibility of shadow flicker in the first instance. It is recommended in that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. The potential for shadow flicker is very low at distances greater than 10 rotor diameters from a turbine.
- Chapter 6 relates to aesthetic considerations in siting and design. Regard should be had to profile, numbers, spacing and visual impact and the landscape character. Account should be taken of intervisibility of sites and the cumulative impact of developments.

Ireland's Transition to a Low Carbon Energy Future 2015-2030

This document is a complete energy policy update, which sets out a framework to guide policy up to 2030. Its objective is to guide a transition, which sets out a vision for transforming Ireland's fossil fuel-based energy sector into a clean, low carbon system. It states that under Directive 2009/28/EC the government is legally obliged to ensure that by 2020, at least 16% of all energy consumed in the state is from renewable sources, with a sub-target of 40% in the electricity generation sector. It notes that onshore wind will continue to make a significant contribution but that the next phase of Ireland's energy transition will see the deployment of additional technologies as solar, offshore wind and ocean technologies mature and become more cost-effective.

5.2. Natural Heritage Designations

None

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

A first party appeal has been submitted by the applicant 'Cathal Boyle' against Donegal County Council's decision to refuse permission for the proposed turbine. The applicant requests that the Board assesses the application. The applicant has also addressed the issues raised within the submission to the planning application within the grounds of appeal as follows:

- Pre-construction and post construction noise survey will be carried out.
- There are no residential properties within 500m of the turbine, therefore noise should not be an issue. The national guidelines standard should be applied in relation to noise.
- In response to shadow flicker, the proposed wind turbine is over 500m from the nearest dwelling, national guidance should be utilised in the assessment of shadow flicker.

6.2. Planning Authority Response

- None

6.3. Observations

- One observation was received from Brid Murphy whom submitted an observation to the planning application. The issues raised are the same as those raised within the submission to the planning application as outlined in Section 3.4 above.

7.0 Assessment

The proposed development is located in an area identified as structurally weak and of moderate scenic value within the Donegal County Development Plan 2018-2024. It is important to note at the outset that the Council carried out a comprehensive assessment of the county and landscape during the preparation of the current development plan and identified and mapped suitable locations for wind energy development. However, this element of the plan has been successfully challenged and as a consequence a number of Sections inclusive of the locational mapping have been removed.

7.1. This is a first party appeal against the Council's decision to refuse the proposed turbine for reasons of prematurity pending the adoption of the new wind guidelines and variation to the Donegal County Development Plan. I consider the principle of the proposed development to be the main issue for consideration before the Board, however in the assessment of acceptability, visual impact, access and impact on residential amenity in terms of noise and flicker effect must also be considered. The issues for consideration before the Board therefore are as follows:

- Principle of proposed development
- Visual Impact
- Noise
- Flicker Effect.
- Access
- Appropriate Assessment.

Principle of development

7.2. There is a positive presumption in favour of renewable energy projects at National, Regional and Local levels. This is reflected in the Wind Energy Development Guidelines for Planning Authorities, 2006, the Regional Planning Guidelines for the Border Region 2010-2022 and draft Regional Spatial and Economic Strategy for the Northern and Western Region and the Donegal County Development Plan 2018-2024. As outlined above there is a lacuna in relation to detailed wind energy policy within the Donegal County Development Plan as a result of a legal challenge, however, the policy aim for the Council, as stated within the development plan, is to facilitate the development of a diverse energy portfolio by the sustainable harnessing of the

potential of renewable energy including wind and 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.

- 7.3. The planning history of the adjacent sites is also a relevant consideration. The Council has already assessed a development proposal at this location and determined that a wind farm consisting of 3 wind turbines was acceptable on the basis that it would accord with National and County policies, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of visual impact, would not seriously injure the ecological or cultural heritage of the area, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health.
- 7.4. The proposed development relates to the provision of 1 additional turbine at this location, which given the presence of the existing turbines in the immediate vicinity could be considered acceptable in principle, however regard has to be had to the environmental impacts, including visual impact on the landscape, impact on local residents and the amenities of the area including noise and shadow flicker and impacts on ecology.
- 7.5. In conclusion, therefore, having regard to the policies and objectives of the County Development Plan, the national guidelines and the planning history of lands immediately adjacent to the subject site, I consider that the principle of the subject development is acceptable, provided that it does not adversely impact on the environment, the amenities of the area or on local residents.

Visual Impact

- 7.6. As mentioned above the site is located in an area of moderate scenic value. The development plan identifies these areas as having capacity to absorb additional development. The lands are located in mountainous terrain in an upland position c. 860 metres from the nearest dwelling. As mentioned above there are three existing turbines present within the immediate vicinity of the proposed turbine.
- 7.7. Section 6.3 of the Wind Energy guidelines provides guidance on the sitting and location of turbines, reference is made within this Section to the positive effects of forestry within the setting of a turbine and the counterbalance that such landscape features can provide. Reference is also made to the preferable positioning of the

proposed turbines on a rising slope. Visual stacking of turbines should be avoided and the location of staggered turbines in an open landscape is preferable.

- 7.8. The proposed turbine as mentioned above is to be located adjacent to three existing turbines in a sparsely developed upland area which is interspersed with forestry and set in an open and exposed landscape. The turbine will be placed in a staggered position to the existing turbines as preferred by the guidelines.
- 7.9. A visual impact assessment accompanied the planning application and contains a number of photomontages taken from a number of viewpoints within the surrounding area. Having regard to the assessment submitted, the requirements of the Wind Energy guidelines 2006 and the capacity of the landscape to accommodate additional development as identified within the Donegal County Development Plan, I consider the proposed development to be a minor addition to the existing windfarm. I do not consider the visual impact created by the proposed development to be significant. The proposed turbine nestles appropriately within the surrounding landscape and does not appear to have any negative impacts upon the visual amenities of this exposed upland area.

Noise

- 7.10. The proposed turbine will be located in excess of c. 800 metres from the nearest dwelling. Section 7.5 of the Wind Energy guidelines, suggests that regular noise monitoring for up to two years may be appropriate in order to ensure that noise disturbance is kept to a minimum. Acceptable noise levels within these guidelines are stated to be 45db(A) or a maximum increase of 5db(A) above background noise at nearby sensitive locations. A fixed limit of 43db(A) is stated to protect sleep inside properties during the night.
- 7.11. The applicant has stated within the grounds of appeal that the above guidance should be applied to his development in order to address any noise issues arising from the proposal. Whilst I acknowledge that the observer to the appeal has raised concerns about the potential for noise disturbance I note that the dwelling in question, as mentioned above, is in excess of c. 800 metres from the proposed turbine. Notwithstanding the significant distance of the turbine from this dwelling I consider it appropriate, if the Board is of a mind to grant, to impose a noise monitoring condition in order to ensure that potential noise disturbance can be adequately controlled.

Shadow Flicker Effect

7.12. It is contended by the observer to the appeal that their property is affected by the shadow flicker effect created by existing turbines and has concerns that the additional turbine will exacerbate the situation. A shadow flicker analysis was submitted with the planning application which states that the maximum minutes for potential shadow per day is 39. This is a worst-case scenario. The Wind Energy guidelines 2006, recommend that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. The dwelling in question is c. 860 metres from the proposed turbine. Having regard to the analysis carried out and the requirements of the guidelines I consider that the potential for shadow flicker is minimal. However, if the Board is of a mind to grant permission, I recommend that a condition is imposed which requires a shadow flicker monitoring program to be carried out and relevant mitigation measures imposed if necessary.

Access

7.13. The proposed site of the turbine will be accessed off the Conlin Road, onto an existing track. It is stated that the proposed track will be upgraded and widened in places to c.5 metres with a bellmouth entrance being constructed in order to properly access the site. Sight visibility of 160 metres and 350 metres can be achieved at the entrance. I note from the planning application file that the Roads Section raised concerns relating to the haul routes and the capacity of the roads to cater for the delivery and construction vehicles. It is important to note in this regard that permission was granted for 3 no. turbines utilising the existing road network. Given that the proposed development is for a single turbine, and the construction time will be limited, I consider the existing access arrangements to be acceptable. However, if the Board is of a mind to grant permission I consider it prudent to impose a condition which requires a bond to ensure that the repair costs of any damage to public roads as a result of the proposed development will be borne by the developer.

7.14. In relation to the proposed substation, there is also an existing access to the site from the public road where adequate sight lines can be achieved. Having regard to the nature of proposed development I consider the proposed access arrangements to this element of the site to be acceptable also.

Appropriate Assessment

7.15. An appropriate assessment screening was carried out by EirEco Consultants on behalf of the applicant and was submitted with the planning application. The report includes

a general ecological assessment of the site and the surrounding area, including designated sites. Regard is had to the Relevant Legislation and Overall Screening Methodology. A desktop study and field surveys were carried out as part of the screening process. Regard was had to the Designated Sites within 15kms of the site – Table 2 of the Report submitted refers. The nearest designated site is in excess of c. 7km to the appeal site. No pathways or potential pathways to any of the designated sites was found, the report therefore concludes that in the absence of such a pathway connecting the development site to any designated Natura 2000 site there would be no direct or indirect impact on any European site.

- 7.16. Therefore, 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.

Conclusion

- 7.17. Having regard to the information submitted with the appeal, the requirements of the Wind Energy Guidelines 2006 and the provisions of the Donegal County Development Plan 2018-2024 and the separation distance between the proposed development and existing residential dwellings I consider the proposal to be acceptable within this location.

8.0 Recommendation

- 8.1. I recommend that permission is granted subject to the following conditions.

9.0 Reasons and Considerations

Having regard to national policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouses gases, the Wind Energy Development Guidelines for Planning Authorities 2006, the provisions of the Donegal County Development Plan 2018-2024 and the character of the landscape along with the history of the site and the distance to existing residential development, it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Wind turbine noise arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed the greater of:
 - (a) 5 dB(A) above background noise levels or
 - (b) 43 dB(A) L90,10min

when measured externally at dwellings or other sensitive receptors. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the initial noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the wind farm

Reason: In the interest of residential amenity.

3. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a Shadow flicker compliance monitoring programme for the subject development, including any mitigation measures such as the use of appropriate equipment and software to suitably control shadow flicker at nearby dwellings, including control or turbine rotation, in accordance with details which shall be submitted to, and agreed in writing

with, the planning authority. Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

Reason: In the interest of residential amenity.

4. Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment.

Reason: in the interest of aviation safety.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

6. Water supply, waste water treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

7. On full or partial decommissioning of the turbine or if the turbine ceases operation for a period of more than one year, the mast and the turbine concerned shall be removed and all decommissioned structures shall be removed, and foundations removed or covered with soil to facilitate re-vegetation, within three months of decommissioning.

Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.

8. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such

other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

10. 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 the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board 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 Scheme made under section 48 of the Act be applied to the permission.

Sarah Lynch
Planning Inspector

26th June 2019