



An
Bord
Pleanála

Inspector's Report

ABP-304318-19

Development	Technical amendments to substation and compound area permitted under Reg. Ref. 16/74 (ABP Ref. PL02.247401).
Location	Taghart South, Shercock, Co. Cavan.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	1936
Applicant(s)	Taghart Energy Limited
Type of Application	Permission
Planning Authority Decision	To grant with conditions
Type of Appeal	Third Party
Appellant(s)	Taghart Wind Information Group.
Observer(s)	None.
Date of Site Inspection	17 th July 2019.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.53ha appeal site is situated in the townland of Taghart South, approximately 6km northwest of Kingscourt in Co. Cavan. The site lies in an undulating drumlin landscape, to the west of a minor road (the L7550-0) that runs from the R165 to the south of the site to the R162 to the north of it. The rectangular site comprises an existing agricultural field (pasture), situated to the west of a residential property and small farm complex. It rises to the north west. Access to the property is via a laneway from the minor road.
- 1.2. On the minor road network surrounding the site is rural development comprising principally agricultural holdings and residential properties. St. Joseph's Church and Corlea National School lie c.700m to the south east of the subject site, on an adjoining public road.

2.0 Proposed Development

- 2.1. The proposed development comprises technical amendments to the 38kV substation and associated compound permitted under PA ref. 16/74 and PL02.247401 to include:
 - i. The re-siting of the permitted 38kV substation building c.8m to the south of the permitted location (and reduction in ground level from 265m AOD to 264m AOD),
 - ii. An increase in the size of the permitted compound area (by c.178sqm),
 - iii. An increase in the height of the permitted compound palisade fence to up to 2.95m (from 2.08m),
 - iv. Approximately 75m of additional underground cable to facilitate tie in of the proposed revised substation location to the underground electricity cable permitted under PA ref. 17/502 and ABP-301717-18 (cable route now travels west of compound instead of east), and
 - v. All associated development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 1st April 2019, the planning authority decided to grant permission for the development subject to 3 conditions. Condition no. 2 requires that the development be carried out and completed in accordance with the parent permission and condition no. 3 requires a revised landscape plan to reflect the increase in size of the compound area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 29th March 2019 – The report refers to development plan policy, the planning history of the site, submissions and reports made. It refers to the applicant's rationale for the development (which is not documented elsewhere) and considers each component of the proposed development as follows:
 - Re-siting of permitted sub-station building – Movement of sub-station c.8m further south reduces cut and fill and results in a lower elevation of c.1m (FFL from 265 to 264). No material visual impact.
 - Increase in size of permitted compound – The proposal is in response to updated ESB specifications. Increase in size is not substantial. A revised landscape plan will be required to reflect new perimeter line of compound.
 - Increase in height of permitted palisade fence - The proposal is in response to updated ESB specifications and security. Within the context of the location of the site, field pattern and adjacent hedgerows and proposed perimeter landscaping, extra height could be effectively absorbed.
 - Additional underground cabling – Proposals are required as a consequence of the above and are acceptable.

The report refers to the matters raised in observations and states that many of these relate to the principle of the parent permission and wind farms more generally and not the technical amendments under consideration. Notes that

the distance to the local school is >700m. No appropriate assessment issues are considered to arise, given the nature, scale and characteristics of the proposed development and its distance from designated sites. No development contributions are proposed as these have already been applied to the parent permission. The report recommends granting permission subject to conditions.

3.2.2. Other Technical Reports

- Waste Management Section (4th March 2019) – No objections, recommends conditions regarding the removal of waste from the site.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. There is one observation on file from Taghart Wind Information Group. It raises the following concerns:

- Lack of consistency with the maps of the planning authority's website (still show the 24 turbines originally proposed). Site location map is >100 years old, is out of date and misleading (properties present/absent). Application has been submitted in a haphazard and piecemeal fashion.
- Cumulative effects of the proposed development with other permitted and proposed wind farms (Garteneane, Taghart, Bindoo, Latton and Tierworker and Raragh wind farms), including noise, shadow flicker and visual/landscape impacts.
- Loss of bats from the area, as a consequence of noise from wind turbines. Increase in Bovine TB due to disruption of badger's habitat.
- Impact on value of property.
- Impact on health of children at Corlea National School, with substation moved closer to the school.
- Loss making accounts from other wind companies and risk that projects (and turbines) will be abandoned.

- Absence of evidence of effect (wind farms) on reducing carbon emissions.

4.0 Planning History

4.1. The following cases have been determined in respect of the appeal site:

- PL02.239141 – Permission granted for 9 no. wind turbines in May 2013, with 64m hub height and 71m rotor diameter, maximum height 99.5m.
- PL02.247401 – Permission granted for a reduced number of turbines (7 no.), slightly modified layout and adjustment to height (hub height 73.5m, rotor diameter 103m, maximum height 125m).
- PA ref. 18/211 – Permission granted for extension to PL02.239141 to May 2023.
- ABP-301742-18 and ABP-301717-18 – Permission granted for the installation of the underground connection of the wind farm to the transmission system.

4.2. This case is also **travelling with 304110-19**, a case brought under section 34(5) of the Planning and Development Act 2000, on whether alternative turbine types fall within the scope of the permission granted.

5.0 Policy Context

5.1. Cavan County Development Plan 2014 to 2020

5.1.1. Policies of the Cavan County Development Plan generally support wind energy development subject to environmental safeguards (see attachment).

5.2. Natural Heritage Designations

5.2.1. European sites lie >20km from the appeal site. The nearest proposed Natural Heritage Areas lies c.8km to the south of the site and comprises Breakey Lough's pNHA (site code 001558).

5.3. EIA Screening

5.3.1. The parent permission granted under PL02.247401 for 7 no. wind turbines was subject to environmental impact assessment. The proposed development comprises

minor modifications to the permitted development on a site which is not of any significant environmental sensitivity (see Assessment below) and 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

6.1.1. The appeal generally repeats matters raised in observations. Additional matters raised are summarised below:

- The applicants have not called to discuss the development with the appellant, as required under the Public Participation Directive and Aarhus Convention.
- The overarching public plan or programme should have been assessed with public participation. Impact on human rights.
- Absence of evidence that the proposed development is not prejudicial to public health (increase in bovine TB, disruption of species).
- No reason given by developer for relocation of substation or its increase in size. Developer must show that they have addressed the cumulative effects of the whole project and provide an assessment of everything else in their overall application.

6.2. Applicant Response

- Many of the issues raised by the appellant have been addressed in the original application and appeal for the wind farm development (PL02.247401) and do not relate to the proposed development.
- Map base – Planning authority's mapping database is not under the control of the applicant. The planning drawings were carefully prepared to comply with the Planning and Development Regulations 2001 (as amended) and was validated by the planning authority.

- Justification for and nature of development – The proposed development comprises minor amendments to a permitted development that has been subject to environmental impact assessment and appropriate assessment. The proposals are to accommodate recent alterations to ESB Networks specifications for 38kV sub-stations (to provide sufficient separation distances between electrical equipment and to ensure ease of access within the compound for ESB Networks personnel). The proposals are modest and do not result in any significant environmental effects or conflict with any findings or conclusions of the Board’s EIA or AA of the permitted development.
- Cumulative impacts – These have been addressed previously in the parent permission and related applications (ABP-301717-18 and ABP-301742-18).
- Public consultation – The planning application for the proposed development has been submitted in accordance with section 34 of the Planning and Development Act 2000 (as amended) and the public notification requirements therein. There is no requirement for an applicant to undertake public consultation prior to submitting an application. The matter of public participation has been addressed by the Board in its consideration of the parent permission.
- Impact on biodiversity and public health – The applicant’s assertions are unfounded and extraneous to the proposed development. The potential for ecological and human health issues have been fully addressed in the parent permission. The proposed development comprises minor alterations to the permitted development and are unlikely to result in effects additional to those previously assessed by the Board.
- Property values – This issue is extraneous to the Board’s assessment of the proposed development and have been addressed in the parent permission.
- Corlea National School – The proposed development provides no intensification of the permitted sub-station. The school is c.730m to the east of the permitted substation and the relocation of the substation c.8m south will not materially alter this distance or result in any health and safety effects.
- Financial viability – The contentions made by the appellant are unfounded and outside the scope of the matters to which the Board is required to have regard

to. Condition no. 18 of the parent permission requires the payment of a bond to ensure the satisfactory reinstatement of the site on cessation.

6.3. Planning Authority Response

- Much of the appeal's content has been set out in the original objection and addressed in the Planning Report.
- Proposed changes are material, in that they require planning permission, but are not significant in terms of the overall permitted development of the windfarm (PA ref. 16/74) and the application for underground cabling (PA ref. 17/502).
- The outcome would result in the substation being 1m lower than originally permitted. Condition no. 3 of the permission requires a revised landscape plan to reflect changes to the boundary fence. The site is not exposed and benefits from established hedgerows, trees and a field pattern that mitigate visual impact. The perimeter fence will be only 0.55m higher than that originally assumed in the EIS for 16/74.

6.4. Observations/Further Responses

- None.

7.0 Assessment

7.1. Having regard to my inspection of the appeal site and the submissions on file, I consider that the key matters for this appeal relate to the following:

- Cumulative effects.
- Visual impact.
- Effects on Corlea National School.
- Effects biodiversity and public health.
- Public participation.

7.2. In addition, the appellant raises concerns regarding the following matters which I address briefly below:

- Map base - The planning authority's mapping of planning applications made in the area is a matter which lies outside the scope of this appeal. With regard to the maps used in the planning application, I have had regard to these in my assessment of the proposed development and consider that these accurately depict it and its context. Furthermore, the plans and particulars have been validated by the planning authority.
- Haphazard nature of planning applications - I do accept that a number of applications have been made in respect of the proposed wind farm. However, these reflect the outcome of the planning process (e.g. reduction in turbines from the 24 no. originally applied for) and, from the information on file and related cases, the changing nature of technology in the sector and ESB requirements. Within this context, the number of applications made is not unreasonable.
- Justification for the development and strategic environmental assessment – These matters have been considered by the Board in respect proposed wind farms on the appeal site, including the parent permission granted under PL02.247401. The proposed development comprises minor modifications to the permitted development and, therefore, does not trigger any need to revisit these matters.
- Financial viability – This is a matter which lies outside the scope of the planning appeal system. Notwithstanding this, as stated by the applicant, condition no. 18 of the parent permission requires payment of a bond to ensure the satisfactory reinstatement of the site on cessation.

7.3. Cumulative effects.

- 7.3.1. The cumulative effects of the permitted wind farm, in conjunction with other permitted and proposed developments, were considered by the Board under PL02.247401. Notably these included noise, shadow flicker and visual impacts and it was concluded that significant cumulative effects would not arise. The proposed development comprises minor alterations to the permitted sub-station and is not of a scale or nature to give rise to cumulative noise or shadow flicker impacts.
- 7.3.2. With regard to visual impacts, the proposed development comprises a minor increase in area of the compound, movement of the sub-station c.8m south, within

the revised site area, and increase in perimeter fencing by c.0.87m. Given the rising topography of the site, to the north west, the sub-station will therefore be positioned on a lower part of the agricultural field and have a finished floor level 1m lower than the permitted development. In addition, the appeal site is separated from the adjoining public road by existing hedgerows which bound the small field system between the site and the public road and the hedgerows which line the appeal site itself. Condition no. 3 of the planning authority's grant of permission requires a revised landscape plan to reflect the increase in size of the compound area. The existing context for the site and this additional measure will ensure that the proposed development will have little visibility from the public road network, or properties in the vicinity. Therefore, I do not consider that any adverse visual impacts will arise as a consequence of the proposed development, including cumulative effects.

- 7.3.3. Views of St. Joseph's Church are possible from the lane which provides access to the property to the east of the appeal site (see attachments). However, direct views of the site itself are not possible from either the Church or Corlea National School as a consequence of the intervening property, topography and vegetation. Consequently, no additional visual impacts will arise for either of these sensitive receptors.

7.4. Effects on Corlea National School.

- 7.4.1. Corlea National School is >700m from the appeal site and separated from it by two rural roads and, as stated, intervening topography and vegetation. It is therefore substantially removed from the permitted compound and sub-station and no impacts on the health and safety of children at the school were previously considered to arise in the Board's assessment of the parent permission. The proposed development comprises the modest movement of the sub-station c.8m to the south of the site, with little impact on the distance of the sub-station from the school. Consequential impacts on the health and safety of children at the school are therefore highly unlikely to arise.

7.5. Effects on biodiversity and public health

- 7.5.1. The effect of the permitted wind farm development on fauna (including bats and badgers) was considered by the Board in its assessment of the parent permission

and it was concluded that no significant effects would arise, subject to conditions. These included condition no. 4, which requires implementation of all environmental mitigation measures and condition no. 14 which requires the usage of the site by bats and birds to be monitored throughout the development, in consultation with the Department of Culture, Heritage and the Gaeltacht.

7.5.2. The site of the sub-station and compound (improved grassland) was not identified in the Inspector's report as a site of importance to bat species and I note that the landscaping plan provides for the retention of existing hedgerows in the vicinity of the compound, and the provision of new perimeter hedgerows, which provide a hunting ground for bat species. No badgers' setts (or activity) have been identified on the site of the compound or in the vicinity of the compound (section 4.2.5.3 of EIS, PL02.247401).

7.5.3. Having regard to the above, I do not consider that adverse effects on bat, badger or other animal species will arise as a consequence of the development. The appellant asserts that impacts on public health may arise from disturbance of species (e.g. bovine TB from disruption to badgers), with disease entering the food chain and transferring to humans. Given the absence of significant effect of the development on fauna, I do not consider that such impacts on public health will arise.

7.6. Effects on property values.

7.6.1. This matter was also examined by the Board in their determination of the appeal in respect of the parent wind farm, under PL02.247401 and it was decided that the development would not result in a significant effect on property values. As discussed above, I do not consider that the movement of the permitted sub-station, enlargement of the compound or increase in size of palisade fence would result in any significant impact on any third parties. Similarly, the proposed additional underground cabling will have no over ground effects on third parties. Significant effects on property values are, therefore, highly unlikely.

7.7. Public participation

7.7.1. This matter has been addressed by the Board in respect of the parent permission. As stated by the applicant, there is no legal requirement for the applicant to carry out public consultation prior to submitting a planning application. Public notices have

been displayed in accordance with statutory requirements and a valid appeal has been lodged, which is considered here.

8.0 Appropriate Assessment

- 8.1. Under the parent permission, PL02.247401 the Board accepted and adopted the Inspector's screening assessment in respect of the development. In summary, they were satisfied on the grounds that the development was located >15km from any Natura 2000 site and did not comprise habitat that was important to mobile species of conservation interest, that the development either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site and that a Stage 2 Appropriate Assessment and submission of a Natura impact statement was not, therefore, required.
- 8.2. The proposed development comprises a minor modification to the permitted development, does not affect any habitats of site of importance for any mobile species of conservation interest and does not have any substantial above ground effects. Having regard to these factors, 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.

9.0 Recommendation

- 9.1. Having regard to the above, I recommend that the Board grant permission for the proposed development subject to conditions.

10.0 Reasons and Considerations

Having regard to the extant permission granted in respect of the appeal site under PL02. 247401 and the minor nature of the technical amendments proposed to the substation and compound, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual amenity of the area, its landscape character or the natural heritage of the area and would not give rise to significant cumulative environmental effects or be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, a revised landscape plan for the substation compound shall be submitted to the planning authority for written agreement.</p> <p>Reason: In the interest of visual amenity.</p>

Deirdre MacGabhann

Planning Inspector

22nd July 2019