



Development

Installation of 3.2km of underground cable ducting and associated electrical cabling, 1.2km of overhead line supported on polesets, and all other ancillary works

Location

Derreenacrinnig West, Barnagowlane West, Glanareagh, Gortnacowly, Ards Beg, Ardrah, Laharanshermeen, Maulraha, Maulikeeve, Derryarkane, Cappanaboul, Skahanagh More, Shandrum Beg, Shandrum More, Drumloughlin, Ballylicky, Crossoge, County Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

19/10

Applicant(s)

Electricity Supply Board

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Ian Collins

Date of Site Inspection

4th March 2020

Inspector

Kevin Moore

Decision Quashed

1.0 Site Location and Description

- 1.1 The proposed development is intended to take place in the townlands of Derreenacrinnig West, Barnagowlane West, Glanareagh, Gortnacowly, Ards Beg, Ardrah, Laharanshermeen, Maulraha, Maulikeeve, Derryarkane, Cappanaboul, Skahanagh More, Shandrum Beg, Shandrum More, Drumloughlin, Ballylickey, and Crossoge in County Cork. The route in which the grid connection would be developed links an existing ESB 110kV substation at Ballylickey north of Bantry in West Cork to an authorised windfarm of 7 turbines at Derreenacrinnig West c. 5.8km to the north of Drimoleague. It would be developed over a distance of approx. 14 km. Development of the windfarm commenced in August 2017 and it is partially constructed. The 20kV circuit, which is partially constructed, is designed as part overhead line (OHL) and part underground cable (UGC). The application relates to that section of the circuit which has yet to be constructed and comprises OHL and UGC.
- 1.2 Commencing at the windfarm the route travels uphill across an area of blanket bog and wet heath at Derreenacrinnig West. The route then descends and cuts through commercial forestry and unenclosed grazing areas. It travels westwards along the Mealagh River valley characterised by improved pasture and wet grassland. It crosses the Mealagh River c. 1km southeast of Ardrah Bridge. It rises up the north side of the valley then descends towards Shandrum across improved and unimproved grassland with occasional areas of heath and commercial forestry. Between Shandrum and Ballylickey substation the route is characterised by improved grassland. Dispersed housing is noted along the local road network.

2.0 Proposed Development

- 2.1. The proposed development would comprise:
- Installation of approximately 1.2km of overhead line supported on wooden poles;
 - Installation of approximately 3.2km of underground cable ducting and associated electrical cabling; and

- All other ancillary works, including joint bays, culverts and marker posts.
- 2.2. The works are proposed to take place at six separate locations along the 14km grid connection route in order to complete a grid connection from Derreenacrinnig West Windfarm to an ESB substation at Ballylickey.
- 2.3. An Environmental Impact Assessment Report was submitted with the application. This included a Screening for Appropriate Assessment.

3.0 **Planning Authority Decision**

3.1. **Decision**

On 30th September 2019, Cork County Council decided to grant permission for the proposed development subject to 10 conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner noted the planning history associated with the proposed development, policy context, the reports received, and third party submissions made. The issues assessed included the proposal in the context of the overall wind farm development, environmental impact assessment issues (including alternatives, archaeology, landscape, etc.), appropriate assessment, and mitigation. A request for further information was recommended that included seeking further details on alternatives, habitats, and a CEMP.

3.2.2. Other Technical Reports

The Area Engineer recommended that permission be granted subject to a schedule of conditions.

The Environment Section had no objection to permission being granted subject to the attachment of two conditions.

The Ecologist submitted that it was a struggle to clarify and separate out information relating to the works which are the subject of the application from those portions of the project which have already been completed. A recommendation seeking clarification was requested on a revised habitat map, a detailed description of

habitats and species recorded, quantification and tabulation of the extent of individual habitat types, the approach to reinstatement of natural habitats, quantification of the extent of forested land to be cleared, water crossing clarification, access routes for machinery and equipment, mitigation measures, and the submission of a CEMP for the project.

The Archaeologist noted that there would be no direct impact on any known archaeological site by the proposed development. It was further noted that the applicant's report on archaeology recommended archaeological monitoring. The attachment of an archaeological condition was recommended.

3.3. Prescribed Bodies

Inland Fisheries Ireland requested that, if permission is granted, a condition would be attached to the effect that there would be no interference with bridging, draining or culverting of any watercourse, its banks, bed or bankside vegetation to facilitate the development without the prior approval of IFI. It was further requested that conditions require adequate control measures to ensure polluting matter cannot enter waters during the construction phase.

The Irish Aviation Authority submitted that it had no observations to make on the application.

The Health Service Executive made recommendations in relation to site operations.

3.4. Third Party Observations

A third party submission was received from Peter Sweetman contending that it was not possible for the Council to grant permission for the development in compliance with EU law, and in particular with reference to a number of specified judgements.

A submission was received from Wendy Miles raising concerns relating to project splitting, openness and transparency relating to the application process, and an absence of key documentation.

A submission from D. Babbington raised concerns relating to the deficiencies in the planning application for the totality of the proposed electrical grid connection that is only partially described in the documentation furnished with the planning application.

A submission from Tony Miller raised concerns relating to project splitting and queried why ESB, a publicly owned utility, is making an application for a section of grid connection for a private venture.

A submission was received from Ian Collins. The grounds of appeal reflect the principal planning concerns raised.

On 5th March 2019, the planning authority sought further information in accordance with the Planner's recommendation. The response to the request was received by the planning authority on 2nd May 2020.

Following the receipt of this information further third party submissions were received from Ian Collins and D. Babbington which queried the analysis of alternatives and the sufficiency of details on habitats.

The reports to the planning authority were as follow:

The Area Engineer had no objection to permission being granted.

The Environment Section had no objection to permission being granted.

The Archaeologist was satisfied with the applicant's assessment and recommended permission be granted with the attachment of a condition relating to archaeological monitoring.

The Ecologist recommended that the submitted habitat maps were not legible and requested revised mapping. The CEMP was requested also.

The Planner noted the reports, the further information and third party submissions received. It was concluded that further detail was required on the issues of alternatives and habitats and that a CEMP was required to be submitted.

The Senior Executive Planner concurred with the Planner's recommendation.

Following these reports clarification was sought on 9th July 2019 based on the Planner's recommendation. A response to this was received by the planning authority on 26th July 2019.

Following the submission of clarification further third party submissions were received from Ian Collins and Martina Doody and residents of Shandrum and Droumllickacruie, with the latter raising concerns about impact on a local road by the undergrounding proposal.

The reports to the planning authority were as follows:

The Area Engineer had no objection to the proposal.

The Environment Section had no objection to the proposal.

The Health Service Executive stated it had no further comments to make on the proposal.

The Ecologist was satisfied with the details provided on habitats and in the CEMP. Reference was made to the need for clarity on the crossing of the Glanareagh Stream and it was submitted that the development would not pose any risks to European sites or their qualifying interests. A schedule of conditions was recommended to be attached with a grant of permission.

The Planner noted the reports and third party submissions received. It was acknowledged that the Board had granted leave to apply for substitute consent for the partially constructed grid connection from Derrenacrinning West Windfarm. The applicant's submission on alternative routes and the details on habitats were accepted. A grant of permission, subject to a schedule of conditions, was recommended.

The Senior Executive Planner agreed with the recommendation of the Area Planner.

4.0 **Planning History**

ABP Ref. PL88.239767 (P.A. Ref. 10/857)

Permission granted on appeal in December 2012 for a wind farm comprising of 7 turbines, an electrical compound and sub-station and all related electrical equipment subject to 29 conditions.

P.A. Ref. D/19/15

Section 5 declaration by Cork County Council on 01/12/15 that works at Ballylickey 110kV substation are exempted development.

P.A. Ref. D/10/17

Section 5 declaration by Cork County Council on 05/04/17 that the installation of a switching station at the consented wind farm development is not exempted development.

P.A. Ref. D/13/17

Section 5 declaration by Cork County Council on 07/04/17 that proposed 20kV connection from the permitted Derreenacrinnig West wind farm to the existing 110kV substation at Ballylickey is not exempted development.

P.A. Ref. D/25/17

Section 5 declaration request regarding the proposed 20kV connection was withdrawn 03/07/17.

P.A. Ref. D/41/17

Section 5 declaration request for the reconfiguration and modification of access track for the development of the windfarm was withdrawn 16/01/18.

Warning letter issued from Cork County Council on 03/05/18 stating that an unauthorised 20kV electrical connection between the windfarm and the existing substation at Ballylickey may have been, is being, or may be carried out.

ABP-302837-18

The Board granted leave to apply for substitute consent, under section 177D of the Planning and Development Act 2000, as amended, for the development of a grid connection circuit between Derreenacrinnig West Windfarm and Ballylickey ESB

substation. This related to the constructed overhead line sections of the grid connection.

ABP-305609-19

An application for substitute consent has been lodged with the Board for the overhead sections that have been constructed to connect the permitted windfarm to the Ballylickey 110kV substation.

5.0 Policy Context

5.1 Cork County Development Plan 2014

Energy

Objectives include:

ED 1-1: Energy

Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.

ED 6-1: Electricity Network

Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure.

Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards.

Facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal proper planning considerations.

Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment

or other ecological assessment, that the integrity of these sites will not be adversely affected.

ED 6-2: Transmission Network

Proposals for new electricity transmission networks need to consider the feasibility of undergrounding or the use of alternative routes especially in landscape character areas that have been evaluated as being of high landscape sensitivity. This is to ensure that the provision of new transmission networks can be managed in terms of their physical and visual impact on both the natural and built environment and the conservation value of European sites.

Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- By splitting up the planning process the developer has avoided the real considerations of alternative overall routes. The applicant and developer have failed to adequately justify the selection of the route of the whole grid connection from Derreenacrinnig to Ballylickey Substation.
- It would appear that by granting planning permission for the portions of the grid connection which have not yet been constructed the Council has assumed that the application for substitute consent to the Board will be successful.
- A much less intrusive route for the grid connection exists and a better approach through the planning process also.

- The whole process by the developer of obtaining his original planning permission and the subsequent obfuscation of who was responsible for the grid connection and its attendant obligations, has led to a confusing situation and thus public dissatisfaction with those practices. There has been a *de facto* denial of any chance for the local population to have any voice in the planning process and what has occurred by the splitting of this process between planning permission and substitute consent has further confused, deterred and disappointed those affected.
- Whereas it is inevitable the wind farm will be built and a grid connection permitted, there must be a re-examination of the route. The fact that some work has been done should not be a determinant of what route should have been chosen for 'good planning' from an environmental perspective.
- The EIS and further information is very confusing and is totally deficient in its dealing with route selection, especially its unnecessary high visibility.
- The proper course of action would be for the ESB and the developer to withdraw their application and to start the planning process from a new beginning.

Copies of submissions to the planning authority are included with the appeal submission.

6.2 Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The purpose of the submitted EIAR was to meet the requirements of the EIA Directive. Further information and clarification were also submitted to the planning authority. All documents submitted were necessary to support the planning application. All responses were publicly advertised and provided the necessary statutory timescales for submissions.
- The submission of different applications for consent to the Council and the Board was required as a result of planning legislation requirements. An EIAR of the full project was submitted to both the Council and the Board with the

different applications and it considers the cumulative effects associated with all aspects of the projects. The public notices referred to both applications. At this point, the Board has both applications on hand for determination and is in a position to consider both simultaneously. The whole route is being considered by a single consenting authority.

- The application documents have, as required by the EIA Directive, provided a description of the reasonable alternatives studied by the persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment.
- The historical issues relating to Derreenacrinnig West Windfarm are not relevant to the application currently before the Board.
- The ESB met with landowners and, where agreements were reached, the grid connection works were carried out. It was the applicant's belief that the development was not unauthorised. After the Council issued a warning letter, an agreed approach to the making of applications to the Council and the Board followed. This process has resulted in the two cases currently with the Board.
- Condition 2 of the planning authority's decision requires a final revised CEMP to be submitted. It is ESB's intention to fully comply with all planning conditions, thereby avoiding the potential for environmental damage.
- ESB has followed all statutory processes and requirements. It is the intention to allow the Board to carry out its statutory functions in relation to both applications. It is not intended to withdraw the applications.

6.3 Planning Authority Response

The planning authority's response to the appeal may be summarised as follows:

- All outstanding issues have been addressed.
- The submitted EIAR meets legislative requirements.

- It is noted that the Board granted leave to apply for substitute consent for the partially constructed grid connection from Derrenacrinning West Windfarm.
- Objective ED 6-1 of the County Development Plan provides policy support for the proposal.
- The planning authority does not accept that the public has been denied the opportunity to comment or that the process has been deliberately split up.
- The planning authority made no presumption that the application for substitute consent would be granted.

7.0 Appropriate Assessment

7.1 I note that the applicant submitted a Screening Report for Appropriate Assessment in the application to the Board for leave to apply for substitute consent for the existing overhead line sections of the grid connection under ABP-302837-18. The Board considered this report and carried out an appropriate assessment screening exercise in relation to potential effects of the proposed development on European sites. The Board considered that, given the nature of the development, the lack of a hydrological link to the Derryclogher (Knockboy) Bog Special Area of Conservation (Site Code: 001873) and the Caha Mountains Special Area of Conservation (Site Code: 000093) and the separation distances to the Special Areas of Conservation that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives.

7.2 I note that the applicant submitted as Appendix C of its EIAR a Screening for Appropriate Assessment. This assessment considered the overall development, namely the windfarm development itself, the proposed sections of grid connection the subject of this application and the completed sections of the grid connection the subject of substitute consent under ABP-305609-19. The applicant's assessment concluded that no significant adverse effects directly or indirectly will occur on the integrity of Natura 2000 sites as a result of the proposed construction and operation

of the works and it was not necessary to carry out a Stage 2 Appropriate Assessment.

7.3 My considerations on appropriate assessment are as follows:

- The Board will note that the proposed development is not directly connected with or necessary to the management of any European Site.
- The Board will also note that the proposed development would not traverse any European site nor be on, in or close to any such site.
- The nearest European Sites relevant to the grid connection proposal are Derryclogher (Knockboy) Bog SAC (Site Code 001873), the Bandon River Special Area of Conservation (Site Code: 002171), the Caha Mountains Special Area of Conservation (Site Code: 000093), and Glengarriff Harbour and Woodland SAC (Site Code: 000090).
- The above referenced European sites are distant from the grid connection corridor, located to the east at Dunmanway, north-west at and to the north of Coomhola Mountain, and west at Glengarriff.
- The potential sources of impact arising from the proposal are hydrological, arising from the potential construction impacts on watercourses.
- There is no known hydrological pathway directly connecting the grid corridor to the above referenced European sites.

7.4 It is reasonable to conclude that on the basis of the available information, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Environmental Impact Assessment

8.1 Introduction

8.1.1 I note that the Board completed an environmental impact assessment of the windfarm development under Appeal Ref. PL 88. 239767. In the Board Order it was stated:

The Board considered that the environmental impacts of the proposed development are acceptable and, subject to compliance with the mitigation measures set out in the environmental impact statement and as conditioned by the Board, the proposed development would not have unacceptable adverse effects on the environment.

8.1.2 I note that the applicant in the current application has sought to address the overall windfarm development in its submitted EIAR, while making discernible reference to the grid connection in its examination of environmental impacts to allow an assessment of that component within the context of the overall project. I consider this to be a reasonable approach to allow for a comprehensive assessment of environmental impacts. I further note that the consideration of environmental impacts in the EIAR has also included the impacts arising from a 'Do Nothing' scenario.

8.1.3 It is intended in this assessment to consider the development the subject of the grid connection and to assess the cumulative impacts of that with the development of the windfarm.

8.1.4 This application falls under Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment (i.e. the 2014 EIA Directive). I have examined the information presented by the applicant, including the EIAR, further information and clarification, and the submissions made during the course of the appeal. I have considered whether the information contained in the EIAR and the supplementary information provided by the applicant to date in the application process adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with relevant legislative provisions.

8.1.5 I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality to allow consideration as to whether the information contained in the EIAR and any supplementary information provided by the applicant adequately identifies and describes the direct, indirect and cumulative effects of the proposed development and complies with article 94 of the Planning and Development Regulations 2000, as amended.

8.2 Alternatives

8.2.1 I note the *Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment* issued by the Department of Housing, Planning and Local Government in August 2018. I further note that the purpose of these Guidelines is to give practical guidance on procedural issues and the EIA process arising from the requirements of Directive 2014/52/EU and to assist with the achievement of a consistency of approach in the implementation of the Directive. On the issue of 'Reasonable Alternatives', the following may be ascertained:

- An EIAR is required to include a description of the reasonable alternatives studied by a developer, which are relevant to the project and its specific characteristics, and is required to give an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment.
- Reasonable alternatives may include the project design, technology applied, location, layout, size and scale of a proposed development.
- It is generally sufficient for the developer to provide a broad description of each main alternative studied and the key environmental issues associated with each. There is no requirement to carry out a 'mini-EIA' of the alternatives considered.

8.2.2 Further to the above, it may reasonably be determined that, in addressing the issue of alternatives, an outline of the 'Do-Nothing scenario', i.e. the likely evolution of the

current state of the environment without implementing the project, can form part the consideration of alternatives.

8.2.3 In addressing the issue of alternatives, I first note the circumstances that have led to the making of two applications for the grid connection. This matter will be dealt with in some detail below in my assessment. Suffice to indicate at this stage that, since the decision by the Board on the windfarm itself, Court judgements have led to determinations that grid connections cannot be separated from the planning assessment process for windfarm development where such development is subject to environmental impact assessment. Such judgements were made after the applicant commenced works on the grid connection in this instance, with the understanding that it could avail of exempted development provisions for the delivery of the grid connection. This has led to the need to seek a substitute consent for the completed works and the need for planning permission for the remaining outstanding works. Therefore, the outcome arising in this particular circumstance was that, by the time applications for permissions were being made, the developer had permission for a windfarm, a substation for connectivity to the national grid had been selected at Ballylickey, and 9.7km of 14.1km (i.e. almost 70%) of a grid connection had been developed. I put it to the Board that the scope for moving on in this application to engage in a comprehensive examination of alternatives was extremely limited by this stage.

8.2.4 In seeking to address this issue in the planning application process to date, I note that the applicant submitted an EIAR and within that, under Section 2.13, site selection and examination of alternatives were addressed. The applicant submitted therein that the application to which this EIAR relates is an application for permission for modifications to the 2012 permission for the windfarm and explained that the site selection process for the windfarm had been examined in that earlier application. It was acknowledged that the grid connection route was not considered in its earlier 2010 EIS. Without providing any specific details, the EIAR on the grid connection submits that the proposed grid connection was revised to take into account topographical constraints of the area and buffers of existing archaeological features. This was the limit of consideration of alternatives for the grid connection at that stage in the EIAR. Following this, the planning authority sought further information on the

issue of alternatives, noting there was uncertainty regarding routing alternatives and a lack of a robust justification for the route selected. The applicant's further information response considered the 'Do Nothing' scenario and set out three options, making reference to the environmental impacts, archaeological constraints, landowner engagement, technical feasibility and visual impact. This further information was examined by the planning authority and clarification was sought on robust justification for alternative routes and for the choosing of the selected route. The Clarification further examined these issues to the satisfaction of the planning authority.

8.2.5 Having regard to the process of examining 'Reasonable Alternatives' to date, I am satisfied to conclude that the applicant has undertaken the assessment of alternatives to an extent that is acceptable at this stage. It is acknowledged that the applicant did not address the grid connection at the time of the application for the windfarm. Following the need for permission for the grid connection (most of which had been constructed when there was an understanding that permission was necessary), an EIAR was submitted which did not in any meaningful manner address the issue of alternatives for the grid connection. This issue was pursued by the planning authority and, through further information and clarification submissions to the planning authority, comprehensive details were submitted on route selection alternatives for the grid connection. It is my submission to the Board that there has likely been some 'retrofitting' when considering the issues of alternatives for the routing of the grid connection, with examination of such alternatives coming late in the process. Notwithstanding this, this examination is detailed. It broadly described each alternative route that was a reasonable alternative option for the routing and each was relevant to the project. It described the main reasons for the selection of the route chosen, taking into account the effects on the environment. It also examined the 'Do Nothing' scenario. In terms of meeting with requirements on the examination of alternatives, it is reasonable to determine that the examination / assessment process undertaken by the applicant met with Guideline requirements and it was in keeping with the spirit of the Directive, in my opinion.

8.2.6 If one seeks to undermine the process of the consideration of alternatives in this application, one must also understand and acknowledge the particular

circumstances and constraints that are applicable in this application process for a windfarm development. The issue of 'project splitting' will be examined in some detail later in this report but I conclude at this stage that one cannot seek to have the whole project re-examined and the issue of the grid connection alternatives re-examined at this time. I am of the opinion that the applicant has met requirements to an acceptable standard, in the totality of the submissions by the applicant in this application, on the issue of 'Reasoned Alternatives'.

8.3 Population and Human Health

8.3.1 The proposed 1.2km of overhead line supported on wooden poles, the installation of approximately 3.2km of underground cable ducting and associated electrical cabling, and the other ancillary works, including joint bays, culverts and marker posts, would have no known negative effects in relation to employment, settlement patterns, population (and the health of this population), health and safety, economic activity or tourism. Remedial/mitigation measures for the remaining section of the grid connection to be completed are included in Section 4.10 of the EIAR, primarily forming community consultation, while adherence to the application of mitigation measures for air, dust, noise and traffic is acknowledged.

8.3.2 Reduced greenhouse gas emissions arising from the development and functioning of the windfarm, which the grid connection seeks to facilitate, can reasonably be understood to have positive impacts on the wider population and human health. There would be no known negative cumulative effects on population and human health with the permitted windfarm development and the established sections of grid connection associated with the application for substitute consent.

8.4 Biodiversity

8.4.1 The corridor in which the grid connection has been / is proposed to be developed is not on, in or near any European site. The Board, in determining that permission be granted for leave to apply for substitute consent, considered the applicant's Screening Report for Appropriate Assessment and carried out an appropriate

assessment screening exercise in relation to potential effects of the proposed development on European sites. The Board considered that the development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives. My overall considerations on appropriate assessment have been set out earlier.

8.4.2 I acknowledge that the proposed siting of the additional 20kV wooden poles for the overhead line would likely result in a loss of a small amount of peatland and improved agricultural lands over its 1.2km length, the erection of poles on improved agricultural lands, and the felling of small sections of vegetation to create a suitable corridor to route the overhead line. The proposed routing includes one crossing of the Mealagh River at Ards Beg at the eastern end of the corridor, otherwise only smaller waterbodies are traversed. This crossing has been completed by the existing overhead line that has been constructed (i.e. it is now subject to the substitute consent application) and does not relate to the development the subject of this application. I note that all watercourses are to be oversailed by overhead lines. I further note that the proposed undergrounding of cable ducting would primarily be located within grassy verges of existing local roads in the Glanareagh and Shandrum areas, with the remainder being on improved agricultural grassland. The effect of the laying of this cable would be temporary and the underground component of the proposed development would have a negligible impact on biodiversity. The operational phase of the grid connection would have no additional impacts on biodiversity. I note that Sections 5.26-5.30 of the EIAR set out mitigation measures proposed to be employed at the construction and operational phases for both the wind farm and grid connection. These are reasonable best practice measures to minimise potential impacts on biodiversity during the different phases of the development.

8.4.3 In conclusion, it is reasonable to determine that the proposed development would not have any known significant cumulative effect on existing habitats in itself or with the windfarm development and/or the established sections of grid connection associated with the application for substitute consent.

8.5 Land and Soils

8.5.1 With the application of construction drainage design measures, there would be no known significant negative impacts on soils and geology arising from the construction of the remaining section of the grid connection. These detailed mitigation measures are set out in Section 6.10 of the applicant's EIAR for the overall development. There would be negligible land take for the provision of the overhead line (primarily on agricultural lands) and the underground routing of cable (primarily along road edges). The implications for established land uses could not be construed as significant. The functioning of the grid connection would have no known significant impacts on land and soils. There would be no known negative cumulative effects on land and soils associated with the permitted windfarm development and the established sections of grid connection associated with the application for substitute consent.

8.6 Water

8.6.1 The proposed grid connection corridor passes through three separate water catchments – the Ilen, Meelagh and Owvane river catchments. It is proposed that grid connection crossings of watercourses would be via overhead line, with poles at least 25 metres away from watercourses. With the application of construction drainage design measures, inclusive of comprehensive measures relating to control of the release of suspended solids and sediments during excavation, there would be no known significant negative impacts on ground or surface waters arising from the construction of the wood poles and laying of underground cable associated with that part of the grid connection yet to be developed (much of which would be along public road edges). The functioning of the grid connection would have no known impacts on water. There would not be any known significant cumulative effect on water with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.7 Air

8.7.1 The construction of the wood poles and laying of cables underground would have no known significant negative impacts on air for that part of the development associated with the grid connection yet to be developed. The functioning of the grid connection would have no known impacts on air. There would not be any known significant cumulative effect on air, inclusive of dust, with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.7.2 The proposed grid connection works would have no known significant negative impacts by way of noise or vibration. The construction phase would be of short duration, progressing along the route in 100 metre sections. No rock blasting is proposed. Some rock breaking is likely to allow for installation of cable ducts. There would be no known noise impacts arising from the functioning of the grid connection. There would not be any known significant cumulative effect by way of noise with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.8 Climate

8.8.1 The impacts of the grid connection, as part of a scheme to provide wind energy, would have positive effects on climate by reducing CO₂ emissions in the energy industry. The nature and siting of the development and the methodologies at construction stage, associated with the mitigation measures to be employed, should result in the proposed grid connection not being vulnerable to future climate changes. The capacity to adapt to climate change effects is inherent in the design and siting of the grid connection.

8.9 Material Assets

8.9.1 There would be no known significant impacts on agriculture, natural resources, forestry, the road network, utilities, etc. arising from the construction of the wooden

poles and the overhead line and the laying of underground cable. The ground would be reinstated to its original use following the development of the grid connection. There would be no known significant impacts on material assets arising from the functioning of the grid connection. There would not be any known significant cumulative effects on material assets with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.10 Cultural Heritage

8.10.1 The applicant examined a 200 metre wide corridor centred on the grid connection route as well as considering the proposed development in the context of the overall windfarm development. It is noted that there would be no direct impacts on any archaeological monuments or cultural heritage sites arising from the construction of the wood poles and the overhead line and the laying of underground cable. Archaeological monitoring of works coming in close proximity to any archaeological monuments is proposed. There would be no known significant impacts on cultural heritage arising from the functioning of the grid connection. There would not be any known significant cumulative effects on cultural heritage with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.11 Landscape

8.11.1 Due to the undulating topography of the area across which the grid connection traverses, the nature and scale of the wood poles and overhead lines over 1.2km, the existence of electricity and telephone lines within the wider landscape, the proposed undergrounding of cables for 3.2km, and the range of other land uses within and adjoining the corridor for the grid connection, inclusive of forestry and houses, it can be determined that the landscape in which the grid connection has been and would be developed is one that is varied, is continually evolving and one in which the grid connection development would not be incongruent. The proposed grid connection works would have no known significant negative impacts on landscape and by way of visual impact by either over ground or underground works. There

would be no known significant landscape or visual impacts arising from the functioning of the grid connection. I note the westernmost section of the route would be within an area designated in the Cork County Development Plan as being of 'High Landscape Value'. However, the context in which the route is set must be understood, with a substantial section of undergrounding of the cable proposed and the existence of electricity lines, housing and vegetation. There would not be any known significant cumulative landscape or visual effects with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent.

8.12 Major Accidents

8.12.1 Section 4.3 of the EIAR addressed the issue of major accidents and the health and safety consequences, identifying potential risks to personnel and to infrastructure, the effects of weather, and vulnerability to climate change for the overall project. All reasonable potential major accidents arising from the overall windfarm development have been examined in the applicant's EIAR and mitigation to avoid accidents and disasters are proposed as part of the overall project. Compliance with health and safety guidance and best practice in construction methodologies and use of established maintenance procedures should culminate in the grid connection posing no potential significant major accident threat to the resident population or to infrastructure.

8.13 Interactions of the Foregoing

8.13.1 It is noted from the above that no significant negative impacts are predicted to occur with the development of the grid connection associated with this application. Therefore, no significant negative impacts are predicted to occur by the interaction of any of the above considered topics. Significant cumulative or in-combination effects with the windfarm development itself and the established sections of grid connection associated with the application for substitute consent are not predicted to have, or be likely, to occur with the proposed grid connection development the subject of this application.

8.14 Reasoned Conclusion

Having regard to the nature and scale of the development, which consists of works to install part of a 20kV grid connection laid underground for a distance of 3.2km (primarily abutting local roads and within improved agricultural lands) and part laid over ground as a 1.2km extension to an existing overhead line, to the environmental information available in connection with the current application, including the EIAR and other information provided by the developer and the submissions from the planning authorities, prescribed bodies and the appellant, it is concluded that the development which is the subject of the current application is not likely to have significant effects on the environment, either directly or indirectly or cumulatively with other developments including the permitted windfarm at Derreenacrinnig West and the completion of the grid connection to it.

9.0 Planning Assessment

9.1 Clarification on the Applicant

9.1.1 Reference has been during the application process to the applicant, given that the applicant for the windfarm itself is not one and the same. The Board will note that the applicant for the windfarm development permitted in 2012 was George O'Mahoney and that the current application is made by ESB Networks. The latter is the statutory undertaker for operating the grid connection. The grid connection would be owned, operated and maintained by ESB Networks. It is for this reason that the application has been made by ESB Networks.

9.2 Procedure and Project Splitting

9.2.1 The planning application process associated with the development of a windfarm project at Derreenacrinnig West, Dimoleague, County Cork has evolved in a manner that has led to three separate planning applications being made as follows:

- A. The windfarm itself at Derreenacrinnig West, which was subject to environmental impact assessment and a decision by the Board under ABP Ref. PL 88.239767;
- B. 9.7km of constructed overhead lines, which is subject to an application for substitute consent before the Board under ABP-305609-19 and which includes a remedial EIAR as part of the application that addresses the overall development; and
- C. 1.2km of overhead line supported on wooden poles, 3.2km of underground cable ducting and associated electrical cabling, and ancillary works, which is the subject of the current application before the Board and which includes a remedial EIAR as part of the application that addresses the overall development

9.2.2 It is clear that, since the decision by the Board on the windfarm itself, decision-making, notably through considerations within the Courts, has led to determinations that grid connections cannot be separated from the planning assessment process for windfarm development where such development is subject to environmental impact assessment. Therefore, in such instances, availing of exempted development provisions for the delivery of a grid connection cannot be entertained. Further to this, and adding to the complexity of this particular grid connection proposal, is the reality that the applicant undertook to construct the grid connection seeking to utilise the exempted development provisions prior to such relevant Court judgements, which has led to the need to seek a substitute consent for these completed works. It is in this context that the making of three separate applications has resulted.

9.2.3 I submit to the Board that, in this particular circumstance, the mechanisms being sought to attain planning permission for the grid connection are those that are legitimately available to be pursued. There is an outstanding valid planning permission for the windfarm itself at Derreenacrinnig West. To pursue the process in a logical manner so requested by the appellant would ultimately require the abandoning of that permission, the application for substitute consent and this current application, followed by the making of a new single application for all. This is not justifiable in light of the live permission and the processes that have evolved to allow for the mechanisms now being used.

- 9.2.4 I note that reference has been made to the proposed development constituting 'project splitting'. At a high level, this may reasonably be viewed as a case of project splitting. However, I again reference the history and circumstances that apply to this particular windfarm development. The procedures that have been adopted to address the need for planning permission for the windfarm and grid connection are legitimate and are in accordance with the available mechanisms under the Planning and Development Act.
- 9.2.5 Further to the above, I note that the applicant has attempted to reasonably address the grid connection component of the overall windfarm development in a manner that seeks to consider the environmental impact of this overall development. The applicant's remedial EIAR under the substitute consent application and the EIAR associated with this current application relate to this overall development, while one is able to ascertain the likely environmental effects of the windfarm and grid connection separately. It is also clear that the cumulative effects of the overall development and with other development in the area are wholly addressed.
- 9.2.6 Finally, I note that all of the components of the overall windfarm development have come before the Board for consideration. While this could be construed as fortuitous, it is pertinent to note that ultimately the Board has been, and will be, the competent authority adjudicating on the environmental impact of the whole windfarm development proposal. In light of the legitimate approach available to the applicant to proceed with the grid connection applications and in light of the particular history and circumstances that relate to this windfarm development, it is reasonable to conclude that the assessment of the overall development has been, and will be, undertaken by a single authority, that this authority has a thorough understanding of the windfarm development in its entirety, and it is in a position to comprehensively assess the grid connection development and its cumulative effects with the windfarm. I do not accept that it could reasonably be determined that the issue of project splitting should merit a reason for refusing planning permission or substitute consent in these circumstances.

9.3 Public Participation

9.3.1 I note that legitimate procedures have been followed by the applicant in the making of the various applications associated with the windfarm development. The making of the various applications have included the publication of public notices and the erection of site notices in accordance with required regulations. Following the publication and erection of such notices there have been third party submissions, inclusive of the submissions made by the appellant. While I understand the concerns relating to the piecemeal approach undertaken, arising from the particular circumstances that led to the separate applications for the grid connection, I note that third parties were not precluded from participation in the planning process as evidenced by submissions to the planning authority and the appeal to the Board.

9.4 The Adequacy of the EIA Process

9.4.1 I am of the opinion that the Environmental Impact Assessment Reports submitted with the grid connection applications are consistent and are wholly understood in the context of an overall windfarm development, while allowing the potential environmental impacts of the grid connection to be discerned and evaluated. Ultimately, the final arbiter in the environmental assessment of the development in its entirety is the Board.

9.5 Impact of the Planning Authority's Decision on the Determination of the Application for Substitute Consent

9.5.1 I note that the application that went before the planning authority for the as-yet undeveloped section of the grid connection has now come before the Board and its environmental impact will be assessed jointly with the application for substitute consent by the Board. As a consequence, the Board will be assessing the environmental impact of the grid connection in its entirety *de novo*.

9.6 The Consideration of Alternatives

9.6.1 The issue of 'Reasonable Alternatives' has been addressed earlier in this report. Having regard to my earlier considerations on the particular circumstances and

constraints relating to the overall windfarm development, I am satisfied to conclude that the applicant addressed the issue of alternatives in a reasonable manner.

9.7 Visual Impact

My considerations on the landscape and visual impacts arising from the development of the grid connection have been set out earlier. It is relevant to note that approximately 73% of the proposed development the subject of this application would be underground. The remaining 1.2km of overhead lines to be developed would be a short extension to an existing overhead line. The proposed development would not have any significant adverse visual impact.

9.8 The Proposal in the Context of Existing and Draft Wind Energy Guidelines

9.8.1 The *Wind Energy Development Guidelines for Planning Authorities 2006* submit in Section 4.3 that, where the works required to connect the wind energy development to the local electricity transmission / distribution network are not exempt, it will be necessary to submit a planning application to the planning authority and that best practice suggests that an integrated planning application that combines grid interconnection information, together with details of the wind energy development, should be submitted to the planning authority. The Guidelines also note difficulties of identifying feasible options for grid connections. The circumstances relating to the planning process associated with the overall wind farm to date have been examined earlier in my report. The pursuit of permission for development that was initially understood to constitute exempted development is now being sought.

9.8.2 Section 6.11.3 of the Guidelines addresses preferred methods of connection to electricity providers, with an understanding that the cost of undergrounding to the national grid is generally prohibitive, consideration be given to burying cables in sensitive landscapes, that, in order to reduce visual impact, connections should preferably be carried on wooden poles rather than lattice towers, and that the power line connections should, where possible avoid running perpendicular to contours, especially on mountain moorland slopes. It is reasonable to ascertain from the proposed development that adherence to these methods are being applied in the application.

9.8.3 I note the publication of the *Draft Revised Wind Energy Development Guidelines* in December 2019. The Draft Guidelines recognise that the Irish Courts have determined the need to assess such projects comprising both the wind energy development element and the subsequent grid connection element, as a single project for EIA purposes, and in particular their cumulative effects (Section 4.7.4). It is submitted that, in the context of EIA, best practice is that an integrated planning application is made for the whole project (i.e. the wind energy development and the grid connection and any other works which are ancillary to the development of the wind energy development) and that the EIAR submitted with the planning application addresses the cumulative impacts of the whole project. It is clear that the applications associated with the overall Derreenacrinnig West Windfarm pre-date this draft guidance and that the applications now being pursued for the grid connection seek to rectify the deficiencies in environment impact utilising the available mechanisms under the Planning and Development Act.

9.9 The Proposal in the Context of National Policy and the Provisions of Cork County Development Plan

9.9.1 The windfarm at Derreenacrinnig West was previously permitted by the Board in its decision under Appeal Ref. PL 88.239767, with regard being had in that decision to national policy relating to the development of sustainable energy sources. The grid connection is an integral part of the overall wind farm development and can only reasonably be viewed as being in accordance with such policy.

9.9.2 The proposed development would be in keeping with the provisions of the current Cork County Development Plan as they relate to the promotion of renewable energy and the development of the electricity network to support renewable energy, notably Objectives ED 1-1, ED 6-1, and ED 6-2. The development would have no significant adverse impacts on landscape, ecology, archaeology, land use, etc. that could be seen to contravene policies and objectives set out in the Plan relating to such matters.

10.0 Recommendation

10.1 I recommend that the Board grants permission in accordance with the following reasons, considerations and conditions.

11.0 Reasons and Considerations

Having regard to:

- (a) national policy with regard to the development of sustainable energy sources,
- (b) the Wind Energy Development Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the provisions as set out in the current Cork County Development Plan, including those regarding renewable energy development, in particular Objectives ED 1-1, ED 6-1, and ED 6-2,
- (d) the location in an area not subject to designations for scenic amenity or natural heritage protection,
- (e) the pattern of development in the area (including the separation distance to dwellings) and the pattern of permitted development in the area, and
- (f) the limited scale of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposed development, would not seriously injure the visual amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape character of the area, would not be detrimental to the natural heritage or cultural heritage of the area, and would otherwise be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the site's conservation objectives, and a Stage 2 Appropriate Assessment and submission of a Natura impact statement is not therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale and extent of the proposed development,
- the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- the submissions from the planning authority and others in the course of the application, and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers the proposed development and also adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and

associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the proposed development is not likely to have significant effects on the environment.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In this regard, the Board adopted the report and conclusions of the Inspector.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European energy policy, the National Planning Framework and the Cork County Development Plan 2014 and would:

- make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, and
- have an acceptable impact on the environment and on the amenities of the area.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All environmental mitigation measures identified within the Environmental Impact Assessment Report and associated documentation shall be implemented in full.

Reason: In the interest of clarity and to protect the environment.

3. Prior to the commencement of development, the developer shall submit a revised Construction Environmental Management Plan for the written agreement of the planning authority. The agreed plan shall include detailed method statements for works within sensitive habitats, programmes for water quality and ecological monitoring and supervision, and method statements for habitat reinstatement. Working hours shall be restricted to between 0800 and 2000 hours, unless the prior written consent of the planning authority has been obtained.

Reason: To protect the environment and the amenities of the area.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist along the grid connection corridor. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

Kevin Moore
Senior Planning Inspector
12th March 2020.