



An
Bord
Pleanála

Inspector's Report ABP-306229-19

Development	21 wind turbines with an estimated output capacity of circa 115 megawatts together with grid connection and all associated infrastructure.
Location	Castlebanny, Co. Kilkenny
Planning Authority	Kilkenny County Council
Type of Application	Pre-application consultation
Prospective Applicant	Coillte & ART Generation
Date of Site Inspection	27 th May 2020
Inspector	Donal Donnelly

1.0 Introduction

- 1.1. The Board received a request on 20th December 2019 from the main agent for Coillte and ART Generation (prospective applicant) to enter into pre-application consultations under Section 37B of the Planning and Development Act, 2000 (as amended) in relation to a proposed wind farm development at Castlebanny, Co. Kilkenny. Two consultation meetings were subsequently held between An Bord Pleanála and the prospective applicant on 28th May and 29th July 2020. The prospective applicant formally requested closure of the pre-application consultation process by written correspondence dated 6th October 2020.
- 1.2. The primary purpose of the meetings was to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the 2000 Act, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006; to consider matters relating to the proper planning and sustainable development of the area or the environment which may have a bearing on the Board's decision; and to outline the procedures involved in making the application.
- 1.3. This Report provides an overview of the proposed project, a summary of the meetings and the advice provided by the Board, the legislative provisions, and an advised list of Prescribed Bodies that should be forwarded copies of the application. It recommends that the proposed development constitutes strategic infrastructure.

2.0 Site Location and Description

- 2.1. The site of the proposed development is located within and around the townland of Castlebanny in southern Co. Kilkenny approximately 2km south-east of Ballyhale and 5km north-east of Mullinavat. The M9 motorway is approximately 2km west of the site and the nearest European Site is the River Barrow and River Nore SAC. There are two operational windfarms to the south and south-west at Ballymartin and Rahora.
- 2.2. The site has a stated area of c. 1,400 hectares and comprises an upland area elongated from north to south and situated to the west of the River Arrigle valley. The maximum elevation of the site is approximately 265m OD and the lowest part to the north-west is approximately 160m OD. The majority of the site comprises

coniferous and broadleaved forestry managed by Coillte and the area to the north-west consists of pasture farmland.

3.0 Proposed development

3.1. The proposed development of the c. 1,400 hectare windfarm site would comprise:

1. 21 no. wind turbines with estimated output capacity of 115mW.
2. Turbines with a ground to blade tip height of approximately 185m.
3. Connection of windfarm to the overhead electrical grid network via a loop-in 110kV underground cable.
4. On-site substation, electrical and telecommunications infrastructure, access tracks.
5. Temporary construction compound and temporary works to allow passage of turbine components along the delivery route.
6. All other associated infrastructure.

3.2. The proposed turbines would be aligned from north to south within the site in roughly two parallel lines approximately 1km apart and over a length of approximately 6km. A substation is proposed in the centre of the site between Turbines 10 and 11 and the proposed grid connection from this substation will continue east for approximately 4km to connect with the Great Island to Kilkenny 110kV overhead line.

4.0 Prospective applicant's case

4.1. The prospective applicant's case is that the proposed development would constitute strategic infrastructure development (SID) within the meaning of the Planning and Development Act, 2000 (as amended). The key elements of the Applicant's submission are summarised as follows:

- Proposal would have a power output in excess of 50MW and therefore exceeds the generating capacity threshold specified in the Seventh Schedule, i.e. *“an installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total power output in excess of 50 MW.”*

- The proposed windfarm is considered by the prospective applicant under subsection (a), (b) and (c) of S.37A (2) of the 2006 Act as follows:

(a) Proposal would be of strategic economic or social importance to the State or the Region in which it would be situate:

- Proposed windfarm with output of c. 115 MW will contribute significantly towards Ireland's renewable electricity supply and towards the target of 8.2 GW of on-shore wind capacity to be added to the national grid by 2030, as set out in the Climate Action Plan, 2019.
- Windfarm will be the largest in the south-east of the country and will provide sustainable and renewable energy electricity for the region.
- Capital investment will represent a significant economic contribution to the region, including the provision of community development funding upon commissioning.

(b) Proposal would contribute to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area in which it would be situate:

- The following key objectives are set out in the NPF in respect of the proposed development:
 - National Policy Objective 54 – Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions and reductions.
 - National Policy Objective 55 – Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.
- Castlebanny windfarm is in keeping with the above objectives in terms of developing a sustainable renewable energy resource and reducing greenhouse gas emissions. Replacement forestry will ensure that

there is no net loss in carbon sequestration from the development of the site.

- Windfarm is in keeping with the following objectives of the Regional Spatial and Economic Strategy for the Southern Region (RSES):
 - RPO 87: Low Carbon – Low Carbon Energy Future
 - RPO 95: Sustainable Renewable Energy Generation
 - RPO 96: Integrating Renewable Energy Sources
 - RPO 98: Regional Renewable Energy Strategy
 - RPO 99: Renewable Wind Energy
 - RPO 219: New Energy Infrastructure
- Proposed development will be supported by an EIAR and Appropriate Assessment which will outline that the proposal is in keeping with regional and local development guidelines. Windfarm will also be designed and assessed in full compliance with the requirements of the national Wind Energy Guidelines.

(c) Proposal would have a significant effect on the area of more than one planning authority:

- Located entirely within the administrative of Kilkenny County Council and majority of construction traffic movements will be from M9 at Mullinavat, thus limited traffic on neighbouring local authorities.
- Inspector concluded under ABP-303322-18 that the development would connect to the national grid and serve the economies of and have a significant effect on more than one planning authority.

4.2. The prospective applicant concludes that the proposal exceeds the relevant thresholds set out in the Seventh Schedule and complies with all criteria set out in section 37(A)(2) of the Act. It is therefore considered that the proposed development should be deemed a SID.

5.0 Pre-Application Consultations

5.1. Pre-application consultation meetings were held online on 28th May and 29th July 2020. Full details of the meetings and matters raised are contained in the Board's Record.

5.2. During the meeting of 28th May 2020, the prospective applicant gave an overview of the case that included the background to the site, existing environment, project design, policy context and planning policy, key environmental considerations, environmental surveys, public consultation and indicative project timeframe. The following matters were discussed after the presentation:

- Board's representatives emphasised that present national policy dictates that two separate SID applications for the windfarm element under Section 37A and grid connection under Section 182A are required for the proposed development. Applicant should seek legal advice if they intend to lodge a single application.
- Issue of climate should be fully assessed having regard to matters such as the production and transportation of turbines, carbon balance calculations, felling of trees etc. against a do-nothing scenario.
- Prospective applicant will need to make a robust justification for largescale development on the site having regard to site being located in an area shown in the Development Plan as being open for consideration for smaller scale turbines. Prospective applicant intends to make development plan submissions to the local authority during the consultation period.
- Board noted the scenic value along South Leinster Way and Arrigle valley - prospective applicant should incorporate viewpoints towards Brandon Hill and the Blackstairs Mountains and take account of the cumulative visual impact of existing windfarms.
- Prospective applicant noted that the main pathway to the River Nore and River Barrow SAC is via hydrology and the grid connection which will cross the SAC. Board advised that matters of drainage, water management and peat stability should be explored in detail.

- Prospective applicant highlighted haulage route from Port of Waterford in Co. Kilkenny and Board advised that Waterford County Council should be consulted.

5.3. The main issues discussed at the second meeting of the 29th July 2020 related to application pathway (Section 37A/ Section 182A), and project duration. These points are summarised as follows:

- Need for two separate applications for windfarm under Section 37A and grid connection under Section 182A of the Planning and Development Act, 2000 (as amended):
 - Board's representatives clarified that if electricity infrastructure is an integral component of the Section 37A development application, and not development in its own right, the Board believe that it is reasonable to consider the proposed development collectively under one application.
 - Prospective applicant advised that the proposed loop in and loop out connection could potentially be used by others and it was highlighted by the Board's representatives that it is for the prospective applicant to decide which application pathway to proceed with.
- Project duration:
 - Prospective applicant considers that the removal of conditions relating to project duration would enable wind farms to continue to produce clean energy for as long as possible. Application for extension of life can be costly and time-consuming. Use of a decommissioning bond and detailed decommissioning plan could be agreed with local authority for assurance.
 - Board's representatives referred to recent precedent for the operational duration of a windfarm of 30 years. Reference was also made to the Draft Wind Energy Guidelines which state that a time limit of 30 years is reasonable.

6.0 Legislative provisions

- 6.1. The Board is asked to decide if the proposal is or is not Strategic Infrastructure Development as defined by Section 37A and Section 182A of the Planning and Development Planning Act, 2000 (as amended).
- 6.2. Strategic Infrastructure as defined in the Seventh Schedule of the Act and Class 1 (Energy Infrastructure) thereunder includes:
- An installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total output greater than 50 megawatts.
- 6.3. Section 37A of the Planning and Development Act, 2000 (as amended) requires that any application for development specified in the Seventh Schedule should be made to the Board if the proposed development falls within one or more of the following:
- (a) the development would be of strategic economic or social importance to the State or the region in which it would be situate;
 - (b) the development would contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate;
 - (c) the development would have significant effect on the area of more than one planning authority.
- 6.4. Section 182A(1) of the Planning and Development Act, 2000 (as amended) requires that where a person (referred to as the 'undertaker') intends to carry out development comprising or for the purposes of electricity transmission, the undertaker shall prepare an application for approval of the development to the Board.
- 6.5. Section 182A(9) of the Act states that 'transmission', in relation to electricity, shall be construed in accordance with section 2(1) of the Electricity Regulation Act 1999 but, for the purposes of this section, the foregoing expression, in relation to electricity, shall also be construed as meaning the transport of electricity by means of –
- (a) a high voltage line where the voltage would be 110 kilovolts or more, or

(b) an interconnector, whether ownership of the interconnector will be vested in the undertaker or not.

6.6. Section 2(1) of the Electricity Regulation Act, 1999 defines transmission as follows:

“the transport of electricity by means of a transmission system, that is to say a system which consists, wholly or mainly, of high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, or to or from any interconnector or to final customers but shall not include any such lines which the Board may, from time to time, with the approval of the Commission, specify as being part of the distribution system but shall include any interconnector owned by the Board.”

6.7. Electric plant is defined as follows:

“any plant, apparatus or appliance used for, or for purposes connected with, the generation, transmission, distribution or supply of electricity, other than –

(a) an electric line,

(b) A meter used for ascertaining the quantity of electricity supplied to any premises, or

(c) an electrical appliance under the control of the consumer.

7.0 **Assessment**

7.1. The prospective applicant intends to submit one application for the entire project under Section 37A of the Planning and Development Act, 2000 (as amended), subject to the Board determining that the proposed development is Strategic Infrastructure Development. This assessment therefore considers whether the proposed Castlebanny windfarm, together with the grid connection to the 110kV overhead line at Ballyvoole, constitutes Strategic Infrastructure Development pursuant to Section 37A of the Act only.

7.2. **Compliance with the Seventh Schedule**

7.3. The proposed development for a wind farm comprising of 21 no. turbines with total generating capacity of c. 115 MW would be in excess of the 50 MW threshold set out in the Seventh Schedule for wind farm infrastructure development. On this basis, the proposal falls within the scope of Strategic Infrastructure Development.

7.4. **Section 37A(2)(a) – Strategic Economic or Social Importance to the State or Region**

7.4.1. The proposed development will contribute towards sustainable energy targets and objectives set out at national and regional level. The proposal will also be in accordance with the Climate Action Plan, 2019 by reducing greenhouse gases and the State's reliance on fossil fuels.

7.4.2. The proposed development of the largest windfarm in the south-east of the country will provide sustainable and renewable electricity for the Region. The capital investment is of strategic importance and the provision of community development funding upon commissioning and commitments to improvement of local amenities will deliver social benefits for the locality and Region as a whole.

7.4.3. I am therefore satisfied that the proposed development would comply with condition s.37A(2)(a), as it would be of strategic economic and social importance to both the State and the Southern Region in which the development would be situated.

7.5. **Contribute substantially to the fulfilment of any objectives of the National Planning Framework or any Regional Spatial and Economic Strategy**

7.5.1. Section 37A(2)(b) of the Act requires the development to contribute substantially to the fulfilment of any of the objectives in the National Planning Framework (NPF) or in any regional spatial and economic strategy (RSES) in force in respect of the area or areas in which it would be situate.

7.5.2. National Policy Objective 54 in the NPF seeks to *“reduce our carbon footprint by integrating climate change action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.”* Furthermore, under NPO55 it is an objective

to “*promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.*” National Strategic Outcome 8 of the NPF also recognises that new energy systems and transmission grids will be necessary that will harness the considerable on-shore and off-shore wind potential.

7.5.3. The RSES contains a number of regional policy objectives which seek to promote a low carbon energy future (RPO 87); support the implementation of the National Renewable Energy Plan (RPO 95); support the sustainable development, maintenance and upgrade of the electricity network grid infrastructure to integrate renewable energy sources (RPO 96); support the sustainable development of renewable wind energy and related grid infrastructure (RPO 99); and support the sustainable reinforcement and provision of new energy infrastructure (RPO 219).

7.5.4. The proposal to generate c. 115MW of renewable energy will help to reduce greenhouse gas emissions and will contribute significantly towards the achievement of a low carbon economy. In my view the proposed development is of a scale that would substantially contribute to the fulfilment of energy objectives for the Region and State as set out in the NPF and RSES. The proposal would therefore fall within Section 37(A)(2)(b).

7.6. Development would have a significant effect on the area of more than one planning authority

7.7. Section 37A(d) requires that a SID application should be made to the Board if the proposed development would have significant effect on the area of more than one planning authority.

7.7.1. The proposed windfarm and grid connection and the majority of associated construction traffic would occur within the administrative area of Kilkenny County Council. The prospective applicant refers to a recent SID case (ABP-303322-18) and notes that the proposed development would connect to the national grid and would have a significant effect on more than one planning authority. I would be in agreement, having regard to the scale and output of the proposed development, that it will have a significant effect on more one planning authority during its operational phase.

8.0 Recommendation

I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 37(B)(4) Planning and Development Act 2000, as amended, stating that it is of the opinion that the proposed development constitutes a strategic infrastructure development for the following reason:

Reasons and considerations

Having regard to the size, scale and location of the proposed wind farm and grid connection, it is considered that the proposal comprising 21 no. turbines with a total generating capacity of c. 115MW at Castlebanny and surrounding townlands in Co. Kilkenny, constitutes development that falls within the definition of energy infrastructure in the Seventh Schedule of the Planning and Development Act, 2000 (as amended), thereby satisfying the requirements set out in Section 37(A)(1) of the Act. The proposed development is also considered to be of strategic importance by reference to the requirements of Section 37A (2) (a), (b) & (c) of the Act. An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under S.37E of the Act.

9.0 Prescribed Bodies

The following is a schedule of prescribed bodies considered relevant for the purposes of Section 37E (3) (c) of the Principal Act.

- Minister for Housing, Local Government and Heritage
- Minister for Culture, Heritage and the Gaeltacht (Development Applications Unit)
- Minister for Agriculture, Food and the Marine
- Minister for Communications, Climate Action and Environment
- Minister for Transport, Tourism and Sport
- Kilkenny County Council
- Irish Water

- Inland Fisheries Ireland
- Transport Infrastructure Ireland
- Environmental Protection Agency
- The Heritage Council
- An Taisce
- An Chomhairle Ealaíon
- Fáilte Ireland
- Irish Aviation Authority
- Health & Safety Authority
- Office of Public Works

Further notifications should also be made where deemed appropriate.

Note: The prospective applicant should be advised to submit a separate document (to the EIAR) with the planning application which outlines the mitigation measures, in the interest of convenience and ease of reference.

Donal Donnelly
Senior Planning Inspector

4th December 2020