



An
Bord
Pleanála

Inspector's Report ABP 307401-20

Development

Request to make alterations to previously permitted windfarm (application reference number 19.PA0047)

Location

Cloncreen, Co. Offaly

Planning Authority

Offaly County Council

Applicant

Bord na Mona Powergen Ltd.

Type of Application

Section 146B - Request to alter previously approved Strategic Infrastructure Project

Inspector

Pauline Fitzpatrick

1.0 Introduction

The requester was granted permission under ref. PA0047 for a 21 no. turbine windfarm and ancillary development including a 110kV substation on Cloncreen Bog in Co. Offaly. A previous request was made under Section 146B for amendments to the approved development which is outlined in the next section of this report. The requester is now submitting this request to An Bord Pleanála, pursuant to section 146B of the Planning & Development Act 2000 (as amended), for further alterations to the terms of that permission as it relates to the approved windfarm.

2.0 Planning History

PL19.PA0047 - The Board granted permission for a windfarm subject to 17 conditions under Strategic Infrastructure Development provisions on 3rd May 2017. The development comprises -

- 21 no. wind turbines with an overall blade tip height of up to 170 metres.
- 1 no. borrow pit located in the northern section of the site.
- 1 no. 120 metre high permanent anemometry mast.
- 21.5 km of new site access tracks and associated drainage.
- 1 no. 110kV substation at one of two possible locations
- Associated underground electrical and communications cabling connecting the turbines to the proposed substation at either Ballykillen or Cloncreen.
- 2 no. temporary construction compounds.
- Demolition of canteen building and removal of 40 metre high telecommunications mast and 100 metre high meteorological mast.
- New access junctions, improvements and temporary modifications of existing road infrastructure.

303313-18 – Section 146B request. It was determined that the lengthening of the blades of the proposed turbines, while remaining within the previously permitted tip height of 170 metres, would not result in a material alteration to the terms of the

development, the subject of the permission. The decision was made on 4th April 2019.

3.0 Proposed Changes

The changes proposed as part of the subject 146B request are as follows:-

1. Alterations to the design of the 110kV substation (designated Option A in the documentation accompanying ref. PA0047) to ensure compliance with Eirgrid's updated 2019 functional specifications.
 - Alterations to the infrastructural arrangement primarily relate to increases in minimum clearance distances between different live (electrified) parts. The increased clearance distance requirements result in a larger substation compound of approx. 11,070 sq.m. which represents a 121% increase over the permitted substation of 5,000 sq.m. While the spatial footprint has increased the quantity of plant and equipment within the compound generally remains the same.
 - The amended substation design will maintain the Control Building 1 (TSO Control Building) and Control Building 2 (Eirgrid Control Building) within the substation compound. The amended TSP building will be larger than that permitted to comply with Eirgrid's updated 2019 functional specifications. The increased footprint of approx. 450 sq.m. equates to a 150% increase from that permitted (180 sq.m.). The Eirgrid Control Building remains the same save for its relocation within the substation compound.
2. Construction Compound
 - There are no proposed alterations to the physical dimensions of the temporary construction compound. It will be relocated c.200 metres north of its permitted location.
3. Ancillary works
 - As a result of the above amendments the route of the consented underground grid connection (c.1.9km) to the 110kV Cushaling substation will be altered marginally. The overall length will remain the same. The alterations to the construction methodology for the installation of the underground cable

trenches do not alter the peat management methodologies and extraction volumes from that previously permitted. These alterations also provide further detail on the operational need for a 'service corridor' above the cable route, specifically a 3 metre wide access track comprised of permeable granular material. This element is considered standard best practice and would have been permitted as part of the original windfarm.

- The permitted access road is to be altered to serve the modified substation and construction compound. It will be c.655 metres in length and designed and constructed in line with the methodology detailed in the Construction and Environmental Plan and Peat Management Plan set out in the EIS.
- The siting of site services eg. drainage and internal cable network will be amended in accordance with the proposed alterations.

The works are confined to a localised area within the eastern extent of the approved wind farm.

4.0 Requester's Submission

The requester considers that the alteration sought does not constitute the making of a material alteration of the permitted development and would not give rise to significant environmental effects.

The request is accompanied by a Planning Report containing an Environmental Report in Appendix 1 and Appropriate Assessment Screening Report in Appendix 2.

Planning Report

The proposal will ensure that the windfarm is brought forward as an additional renewable energy source in accordance with national, regional and local policy to assist in the decarbonisation of the electricity generation sector and contribute towards Ireland's energy targets.

The proposed works can be implemented while still ensuring that the overall terms and conditions of the permitted wind farm development can continue to be met without impediment. The permitted operational profile will not be materially affected by the proposed alterations eg. turbine envelope or turbine arrangement. They will not alter the overall character of the permitted windfarm.

Environmental Report (Appendix 1)

The report sets out information as required by Schedule 7A of the Planning and Development Regulations 2001, as amended.

In a do nothing scenario the permitted 110kV substation design and site layout remain unchanged and, consequently, non-compliant with Eirgrid's 2019 updated functional specifications. The windfarm would be unable to operate due to the absence of a functional grid connection.

Human Beings

- The suite of operational and construction mitigation measures as set out in the permission will continue to apply.
- The amended substation will remain a minimum distance of c.610 metres from the nearest dwelling. The reduction of c.50 metres from that permitted is not considered significant.
- The proposed works do not require modifications to the turbines thus there will be no change in the assessed impacts arising from shadow flicker.

Flora and Fauna

- The works will result in a minor additional loss of habitat (eg. cutover raised bog and scrub). The habitat loss is restricted to habitats of local importance.
- Despite the increased works the control measures for sediment run-off and hydrocarbons remain the same.
- The habitat loss will not result in any additional impacts on terrestrial fauna.

Soils and Geology

- The amendments will require increased excavation of peat and subsoil. Established best practice and associated mitigation measures as per the EIS, CEMP and Peat Management Plan as well as conditions 6 and 7 will apply.

Water

- The siting of site services eg. drainage will be amended in accordance with the proposed alterations. The design principles and maintenance requirements set out in the EIS will not change.

- The increased footprint may result in a minor increase to the volume of surface water runoff within the site. It is considered highly unlikely that this would exacerbate flood risk downstream. The approved drainage measures will create significant additional attenuation to what is already present at the site.

Air and Climate

- The construction measures shall be in accordance with those detailed in the EIS and assessed in EIA.
- Any increase in carbon emissions would be marginal.

Noise

- The proposed alteration will not introduce any significant new plant, equipment or ancillary structures from what has been permitted. There will be no discernible increase in noise emissions from that already assessed.
- Operating noise levels from the windfarm and substation will comply with the provisions of condition 8 and will be subject to a noise compliance monitoring programme.

Landscape and Visual

- The alterations will be localised to the internal footprint of the windfarm. There be limited or no vantage points from the R401 to view the substation compound due to natural screening provided by intervening vegetation.
- It will not adversely affect the local or regional amenities within the wider setting eg. High Amenity Areas, Protected Views or Scenic Routes.

Archaeology and Cultural Heritage

- The construction of the windfarm and amended substation will comply with condition 13 of the permission and will be subject to an archaeological appraisal and on-site monitoring programme.

Material Assets

- The amendments will not materially alter construction phase traffic volumes. The implementation of the Transport Management Plan required by condition 12 will consider the proposed alterations in full.

Appropriate Assessment Screening Report (Appendix 2)

- Given the nature of the proposed works, distance from any European Sites and the nature of the conservation objectives for these sites, no complete source-pathway-receptor chain was identified and there is no potential for significant effects on any European Sites.
- The development cannot contribute to any cumulative effect on any European sites.

5.0 Legislative Basis

Section 146B. — (1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.

(2)(a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

(b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

(3)(a) If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

(b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall —

(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II) , unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to —

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

(3A) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

(3B) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration.

(4) Before making a determination under subsection (3)(b)(iii), the Board shall determine whether the extent and character of —

(a) the alteration requested under subsection (1), and

(b) any alternative alteration it is considering under subsection (3)(b)(ii)(II)

are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

6.0 Board Correspondence

The Board informed Offaly County Council on 7th July, 2020 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection.

The planning authority was not invited to make any submission at this stage.

7.0 Assessment

The first consideration in relation to this request to alter the terms of PA0047 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the permitted windfarm development.

The development as granted under ref. PA0047 comprises 21 no. turbines and ancillary infrastructure including 1 no. 110kV substation and 2 no. construction compounds. Condition 1 attached to the decision required the development to be carried out in accordance with the plans and particulars lodged with the application subject to any requirements necessary to comply with the other 16 conditions.

I consider that the substantive issue is whether the proposed alterations to the substation, location of the construction compound and ancillary works are materially different compared with that subject of the previous assessment.

The EIS that accompanied the original application under ref. PA0047 gave due consideration and assessed two options in terms of the 110kV substation location to

be provided to serve the windfarm. Option A located in the eastern section of the site has emerged as the preferred location.

The substation compound considered as part of the said application was to have a footprint of 5,000 sqm. with Option A located c.104 metres from the site boundary. The amendments required so as to comply with the updated Eirgrid specifications entails the increase in the substation footprint to 11,070 sq.m. so as to allow for the necessary separation distances between apparatus. The TSP Control building is also to be amended increasing from 180sq.m. to 450 sq.m. The necessary amendments result in a marginal reduction in the separation distance to the nearest sensitive receptor located on the R401 by 50 metres from 660 metres to 610 metres.

As a consequence of these alterations the location of the construction compound has been moved 200 metres north of its original location. Its setback from the site boundary is reduced from 193 metres to 138 metres. Its size is not being altered.

Following on from the above changes alterations to access roads layout and ancillary services are required.

The Environment Report accompanying the request assesses the impact of the proposed alterations relative to the impacts as identified in the EIS.

Human Beings

In my opinion no new considerations arise in terms of human beings. The proposed enlargement of the substation and relocation of the construction compound, whilst resulting in a reduction in the separation distance to the site boundary, retains a distance of 610 metres to the nearest dwelling located on the R401. The works will have no impact on noise. Strict parameters controlling noise are included in the permission that has been granted, specifically condition 8. The operating noise levels of the turbines and the substation must, therefore, comply with the provisions of the condition. I therefore accept the conclusion that the proposed alterations will not alter the findings of the EIA.

Biodiversity

The proposed increase in the spatial footprint of the substation and new access roads will result in the additional loss of habitat comprising of cutover raised bog and scrub which are considered to be of local importance. Drainage management will be

within the design parameters set out in the EIS and the mitigation measures specified. The alterations are unlikely to result in any additional impact on flora, fauna and avifauna over that as originally assessed in the EIS.

I therefore accept the conclusions that the proposed alterations do not alter the assessment in the EIS and that there would be no significant ecological impacts other than those already considered by the Board and addressed by mitigation and condition.

Soils and Geology

The amendments will result in a net increase of c.7,127 sq.m. of new development within the permitted footprint of the windfarm which will increase the required volume of peat to be excavated. The general location of the substation and construction compound were selected on the findings of detailed geotechnical investigations and peat stability risk assessments. I accept the requester's assertion that based on these findings and the general margin of safety of the site that the increased footprint of the substation will not result in the intensification of risk associated with peat instability.

Established best practice and associated mitigation measures for managing peat excavation, soil contamination by leakages and spillages, soil erosion and peat instability as set out in the EIS, Construction and Environmental Management Plan and Peat Management Plan will continue to apply. Conditions 6 and 7 of the permission will pertain.

Water

The drainage design principles and maintenance requirements set out within the EIS will not change. Whilst the increase in impermeable surfaces could potentially result in an increase in the proportion of surface water runoff it will not exacerbate flood risk downstream. The permitted drainage measures will create significant attenuation to what is already present on the site. I therefore accept the conclusion that the proposed alterations would not give rise to significant effects over that assessed in the EIS and the EIA undertaken by the Board.

Air and Climate

The dust suppression measures during the construction phase as detailed in the EIS will apply with no impacts anticipated during the operational phase over those as assessed for the permitted development.

Landscape

In the context of the overall project, the alterations of views of the site arising from an enlarged substation would be imperceptible from both distance and proximate views including views from sensitive receptors and along public roads. The substation site will be largely screened from view along the R401 to the east by way of intervening vegetation. I do not consider that the change to be substantial to conclude that it is of a different nature or has significantly increased visual impact.

I do not consider that the visual impact would warrant revised conditions if the case incorporating the alterations came before the Board. I agree with the requester's submission that the amended substation does not alter the conclusions set out in the EIS and that there is no material change in terms of visual impact.

Cultural Heritage

Condition 13 attached to the parent permission requires an archaeological appraisal and assessment of the site prior to commencement of construction works. The proposed amendments will not alter these requirements.

Material Assets

The proposed alterations will not materially alter the vehicle movements both for construction and operational phases modelled in the EIS. Condition 12 attached to the decision refers to the traffic and transport arrangements for the construction phase.

Conditions 10 and 11 address telecommunications and aviation requirements and the proposed alterations would be bound by same.

Interaction of Impacts

I accept the conclusion that the interaction of impacts does not materially alter those identified in the EIS and assessed in the EIA.

Conclusion

I submit that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for PA0047. Any impact on landscape, soil and water as referred to above, would be marginal.

I am of the opinion, having fully considered the proposed alterations and the development as granted under PA0047, that the Board would not have determined the proposal differently had the substation and location of compound now proposed in the alteration formed part of the said application. In that regard, I consider it reasonable to conclude that the proposal subject of this request does not constitute the making of a material alteration of the development as granted under PA0047.

I have considered the provisions of s.146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration, the information on file and the nature, scale and extent of the development granted under PA0047 I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board in determining the matter.

Should the Board not concur with my recommendation and determines that the making of the alteration is material I note that the requester considers that the documentation accompanying the request complies with the requirements of section 146B(3)(b)(i) of the Planning and Development Act, 2000, as amended.

Appropriate Assessment

Stage 1 - Screening

Under PA0047 the Board completed an Appropriate Assessment Screening exercise in relation to Natura 2000 sites within a 15 km radius of the application site. In addition, using the precautionary principle, European Sites located outside the 15km buffer zone were also taken into account. 4 no. of the sites were screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under PA0047 on the 1 site that was not screened out, namely River Barrow and River Nore SAC (site code 002162). The Board concluded that the proposed development, by itself, or in combination with other plans or

projects, would not be likely to adversely affect the integrity of this European Sites in view of the site's conservation objectives.

A NIS was prepared and submitted as part of the application in relation to PA0047. The requester has submitted an AA Screening Report in relation to the alterations that are the subject of this section 146B request. The 5 sites that were subject of the AA Screening in PA0047 are again considered in the context of the alterations subject of this section 146B request. The AA Screening report on file concludes that, in relation to the 1 Natura 2000 site that was subject of the Appropriate Assessment in PA0047, given the nature of the proposed works, the distance of the proposed works from the European Site and the nature of the conservation objectives for this site, there is no potential pathway for the alterations to result in direct or indirect impacts on the European Site.

Having considered the Board's determination on Appropriate Assessment on PA0047, section 11.3 of the Inspector's Report on PA0047, the nature, scale and extent of the proposed alterations relative to the development subject of and approved under PA0047, and the information on file which I consider adequate to carry out AA Screening, I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on the European sites in view of the sites' conservation objectives.

8.0 Recommendation

I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration of the terms of the development as granted permission under 19.PA0047.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 16th day of June, 2020 from Bord na Mona Powergen Ltd. c/o MKO Planning and Environmental Consultants, Tuam Road, Galway under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a strategic infrastructure development described as the proposed Cloncreen Wind Farm comprising of up to 21 wind turbines and all

associated works subject of a permission under An Bord Pleanála reference number 19.PA0047.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 3rd day of May 2017,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

- Amend the design of the Cloncreen Wind Farm 110kV substation and minor alterations to the wind farm site layout including the relocation of a temporary construction compound, alteration to site access track and site services, including the internal cable collector network to facilitate the substation alterations.

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alterations would not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 16th day of June, 2020 for the reasons and considerations set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature and scale of the wind farm development permitted under An Bord Pleanála Reference Number 19.PA0047 for this site, which includes 21 turbines, a 110kV substation and 2 no. temporary construction compounds,
- (ii) the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- (iii) the limited nature and scale of the alterations when considered in relation to the overall permitted development
- (iv) the absence of any significant new or additional environmental concerns (including in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's inspector, which is adopted,

It is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations.

Pauline Fitzpatrick
Senior Planning Inspector

August, 2020