



An
Bord
Pleanála

Inspector's Report ABP-307690-20

Development	Increase in size of wind turbines authorised as part of the Upperchurch Windfarm project
Location	Graniera, Shevry, Knockcurraghbola Commons, Knockmaroe, Grousehall, Cummer, Foilnaman, Gleninchaveigh, Coumnageeha, Coumbeg, Knocknamena Commons, Glenbeg and Seskin, Co. Tipperary
Planning Authority	Tipperary County Council
Type of Application	Pre-application consultation
Prospective Applicant	Ecopower Developments Ltd.
Date of Site Inspection	20 th May 2020
Inspector	Patricia Calleary

1.0 Introduction

- 1.1. The Board received a request on 24th July 2020 from Ecopower Developments Ltd. (prospective applicant) to enter into pre-application consultations under Section 37B of the Planning and Development Act, 2000 (as amended) in relation to proposed amendments to Upperchurch Windfarm as permitted under Ref: PL22.243040. A consultation meeting was subsequently held online between An Bord Pleanála and the prospective applicant on 23rd October 2020. The prospective applicant formally requested closure of the pre-application consultation process by written correspondence dated 24th November 2020.
- 1.2. The primary purpose of the meeting 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 in due course. It recommends that the proposed development constitutes Strategic Infrastructure Development.

2.0 Site Location and Description

- 2.1. The site of the proposed development is located in mid-western Co. Tipperary between the villages of Kilcommon and Upperchurch. Thurles is approximately 17km to the east and Newport is approximately 20km to the west. The R497 and R503 Regional Routes are located to the south and there is a network of local roads around the site.
- 2.2. The surrounding area is characterised by upland rolling hills and valleys to the east of the Slievefelim and Silvermines Mountains. The permitted Upperchurch Windfarm is situated around a number of foothills of the wider range of hills and mountains to the east. The main land uses in the area are hill farming and forestry. The main

river in the vicinity of the windfarm site is the Owenbeg to the south-east, which is in the Clodiagh River sub-catchment and the River Suir catchment. There are also several other watercourses between the turbine locations that drain to both the Suir and Shannon catchments.

- 2.3. Permission was granted under PL22.243040 for a total of 22 no. turbines over a site with area of approximately 70 hectares. The site extends approximately 6.85km from north-east to south-west, and by 4.1km from north-west to south-east.

3.0 Proposed development

- 3.1. The proposed development comprises the following:

- Amend the uppermost tip height of the turbines from the permitted height of 126.6m to 155m through amendment of hub height and rotor diameter of the turbines. It is stated that this amendment may apply to all turbines or to a selection of the permitted turbines.
- Amend height and design of the meteorological masts from tubular tower design to a lattice tower design and increase height of the met masts from 80m up to 99m.

4.0 Planning History

Tipperary County Council Reg. Ref: 13/510003 (PL22.243040)

- 4.1. Ecopower Development Ltd. was granted a ten-year permission in August 2014 for 22 no. wind turbines up to 126.6m in height, 2 no. meteorological masts with wind measuring equipment attached, access roads, electrical substation compound, control buildings and ancillary works.

An Bord Pleanála Ref: ABP-306204-19

- 4.2. SID application currently with the Board for development consisting of a new 110kV substation, underground 110kV cabling and ancillary works to connect the already consented Upperchurch windfarm substation (PL22.243040), to the existing 110kV overhead line.

An Bord Pleanála Ref: 18/600913 (ABP-303634-19)

- 4.3. First party appeal currently with the Board against Tipperary County Council's notification of decision to refuse permission in January 2019 for related works to the Upperchurch windfarm comprising 17.9km of internal windfarm cabling, 13 no. haul route works, 1 no. telecom relay pole, 18m in height, with telecoms relay equipment attached, 3 no. realigned windfarm roads, to realign two lengths of consented roads and to provide access to the telecoms relay pole as well as a change of use of an existing agricultural entrance to agricultural and forestry entrance and ancillary works.

5.0 **Planning Precedent**

An Bord Pleanála Ref: ABP-304023-19

- 5.1. The Board decided that the removal of 25 turbines at Barnesmore, Co. Donegal with combined output of 15MW and their replacement with 12 turbines with new combined output exceeding 50MW constitutes Strategic Infrastructure.

6.0 **Prospective applicant's case**

- 6.1. The prospective applicant's case is that the proposed development would not constitute strategic infrastructure development (SID) within the meaning of the Planning and Development Act, 2000 (as amended). The key elements of the prospective applicant's submission are summarised as follows:
- Location of proposed turbines will not be subject to change and there would be no change in the footprint of the windfarm.
 - EIAR is currently being prepared with preliminary scoping suggesting there would be no change to environmental impacts, e.g. land, soils, water, roads and cultural heritage. However, there is potential for impacts on residential amenity, (noise and shadow flicker), telecommunications, landscape, biodiversity (bats and birds), climate action, commercial rates and community benefit.

- Natura Impact Statement is also being prepared and consultations have taken place with Tipperary County Council, the Development Applications Unit and Inland Fisheries Ireland.
- Existing permission allows for the installation of 22 no. turbines with output of 2MW per turbine, equating to overall output of 44MW. Current proposal could increase the overall capacity to 88MW.
- Additional capacity is not greater than 50MW – prospective applicant is of the opinion that the proposal does not satisfy the criteria set out in Section 37A(2) due to the scale and nature of the proposal, being an amendment to the already authorised wind turbines.
- Scale and nature of all other aspects of the already permitted windfarm remain the same.
- As the additional capacity is not greater than 50MW, the prospective applicant considers that this proposal may not constitute Strategic Infrastructure Development.

7.0 Pre-Application Consultations

7.1. A pre-application consultation meeting was held online on 23rd October 2020. Full details of the meetings and matters raised are contained in the Board's Record.

7.2. The prospective applicant gave an overview of the case that included the background to the project, the permitted development, current proposals and the elements of the project that would remain unchanged. Details of environmental reports and project progress to date were also set out. The following matters were discussed after the presentation:

- Board's representatives stated their preliminary view that the proposed development would constitute Strategic Infrastructure Development, as the Board's approach is to look at the total output from the windfarm as a whole – overall output capacity of 88MW meets the requirements outlined in Section 37A of the Planning and Development Act, 2000 (as amended).

- Board’s representatives noted that the original permission was granted prior to the implementation of the 2014 EIA Directive and the prospective applicant was advised to be mindful of this.
- Prospective applicant confirmed that they intend to present the impact of the proposed development as it was in 2014 as a baseline, and then to address if the proposed changes would alter the impact at the present time. EIAR would take account the cumulative effects with other projects.
- Board’s representatives highlighted the importance of presenting up-to-date information based on current wind energy guidelines, local and national policy.
- Board’s representatives referred to increase in rotor diameter as being substantial and advised prospective applicant to carry out testing for bird collision paying particular attention to any changes in modelling from surveys undertaken in the original application.
- Prospective applicant confirmed that hard stand areas for turbines do not need to be increased in size as they were designed with sufficient space in 2012.

8.0 Legislative provisions

- 8.1. The Board is asked to decide if the proposal is or is not Strategic Infrastructure Development as defined by Section 37A of the Planning and Development Planning Act, 2000 (as amended).
- 8.2. 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.
- 8.3. 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 Planning Framework 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.

9.0 **Assessment**

9.1. **Compliance with the Seventh Schedule**

- 9.2. 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.
- 9.3. The prospective applicant seeks a determination from the Board as to whether an increase in height of wind turbines at a permitted windfarm site resulting in a new output capacity of 88MW constitutes Strategic Infrastructure Development. The permitted windfarm would have an output of 44MW and the prospective applicant highlights that the additional capacity of 44MW would be less than the 50MW threshold set out in the Seventh Schedule.
- 9.4. Notwithstanding this, it has been the Board's approach to consider the total output from the windfarm when determining thresholds for the purposes of Seventh Schedule development. Under ABP-304023-19, the Board decided that the removal of 25 turbines at Barnesmore, Co. Donegal with combined output of 15MW and their replacement with 12 turbines with new combined output of 60MW constitutes Strategic Infrastructure Development.
- 9.5. In my opinion, the current case is comparable to the Barnesmore case. The proposed output should be considered as a whole rather than subtracting the output of the permitted turbines from the newly proposed turbines. On this basis, the proposal falls within the scope of Strategic Infrastructure Development.

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

- 9.6.1. 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.
- 9.6.2. The proposed windfarm as a whole and the increase in output resulting from the proposed amendment 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 will deliver social benefits for the locality and Region as a whole.
- 9.6.3. 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.

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

- 9.7.1. 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.
- 9.7.2. 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.

- 9.7.3. The RSES for the Southern Region 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 of renewable wind energy and related grid infrastructure (RPO 99); and support the sustainable reinforcement and provision of new energy infrastructure (RPO 219).
- 9.7.4. The proposal to generate a total of c. 88MW of renewable energy will help to reduce greenhouse gas emissions and will contribute significantly towards the achievement of a low carbon economy. The proposed amendments itself will generate an additional 44MW of renewable energy at an appropriate location where permission for a windfarm has already been granted. 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).

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

- 9.9. The site is fully contained within the area of one planning authority, Tipperary County Council. While the haul route and grid infrastructure have potential to traverse parts of other counties, I am not of the opinion that the development would have any significant effect on any other planning authority area outside of Tipperary. Accordingly, I am therefore of the opinion that the proposal would not come within the scope of this requirement to be considered as complying with section 37A(2)(c) of the Act.

10.0 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 permitted wind farm and to the increased output resulting from the proposed amendment, it is considered that the new total generating capacity of c. 88MW at Upperchurch Windfarm, Co. Tipperary, 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) and (b) 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.

11.0 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
- Tipperary 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.

Patricia Calleary
Senior Planning Inspector

8th December 2020