



An  
Bord  
Pleanála

## Inspector's Report ADDENDUM ABP-310312-21

### Development

Construct up to 8 no. wind turbines with a tip height of up to 185 metres and all associated foundations and hardstanding areas. An Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS) have been prepared in respect of the proposed development.

### Location

Townlands of Dernacart Forest Upper & Forest Lower , Co. Laois

### Planning Authority

Laois County Council

### Planning Authority Reg. Ref.

2078

### Applicant(s)

Statkraft Ireland

### Type of Application

Appeal.

### Planning Authority Decision

Refuse

### Type of Appeal

First & Third Party

### Appellant(s)

First Party - Statkraft

1. Third Party – Mountmellick Wind Turbine Impact & Eco Advocacy.

<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> August 2022.
<b>Inspector</b>	Sarah Lynch

**NOTE: This Addendum report should be read in conjunction with my original report on file dated 28<sup>th</sup> September 2022.**

## **1.0 Section 131 and 132 Notices**

### **1.1. Section 132 Notice to Applicant**

- 1.1.1. Section 132 of the Planning and Development Act 2000, as amended, provides that the Board may serve on any party, or on any person who has made submissions or observations to the Board a notice requiring that person, within a period specified in the notice to submit to the Board such document, particulars or other information as is specified in the notice.
- 1.1.2. The Board issued a notice to the applicant under section 132 on 10<sup>th</sup> January 2023 requiring the applicant to submit the following information on or before 2<sup>nd</sup> February 2023:
- It is noted that the development description as set out the statutory notices refers to a tip height of up to 185 metres. There is no reference to hub height or rotor diameter in the statutory notices to enable the Board to determine the appeal. Please confirm the nature and extent of the development for which permission is sought, including dimensions of the proposed turbines relating to hub height, tip height and rotor diameter, by reference to plans and particulars which describe the works to which the application relates, in compliance with the relevant provisions of the Planning and Development Regulations 2001, as amended.
  - If the development for which permission is sought incorporates a range of options, please indicate clearly in the application documentation the detail of all such options and confirm that each option (or a single option if clarified by reference to item 1 above) has been fully assessed within the application documentation including within the Environmental Impact Assessment Report and/or Natura Impact Statement as appropriate.

### **1.2. Section 131 Notice to Appellant and Planning Authority**

- 1.2.1. Section 131 of the Acts provides that where the Board is of opinion that it is appropriate in the interests of justice to request any party, observer or any other person or body to make submissions or observations in relation to any matter which has arisen, the

Board may serve a notice requesting that person to submit a submission or observation in relation to the matter in question.

- 1.2.2. The Board issued a notice to the applicant and Planning Authority under section 131 on 24<sup>th</sup> April 2023 requesting submissions or observations in relation to the further information received from the appellants on 31<sup>st</sup> January 2023. The submissions or observations in relation to this matter were invited on or before 15<sup>th</sup> May 2023.

## **2.0 Responses**

### **2.1. Applicant's Response to Section 132 Notice**

- 2.1.1. The applicant's response to the section 132 notice can be summarised as follows:
- The applicant clarified, although not specifically asked to, the height of the proposed Met Mast to be 110m in height as proposed within the application and the number of turbines to be 8 in total as proposed within the application.
  - Foundation dimensions referred to in response to the third-party submissions will be 20 meters (width and length) and 2 metres deep.
  - In relation to the proposed turbines the following measurements apply:
    - Tip height – 185m
    - Hub Height 100m
    - Rotor diameter – 170m
    - Plan enclosed labelled P1892-0400-0001 includes all dimensions.
  - It is confirmed that the turbine number and foundation dimensions have been assessed within the EIAR submitted with the application.
  - A comprehensive review of the application documentation confirms that the proposed foundations have been comprehensively assessed within the documentation and the EIAR and the NIS.
  - A hub height of 106 metres was assessed for the purpose of assessing noise and vibration within the EIAR.

- The hub height is the only element of the turbine dimensions that influences the operational noise impact assessment in the EIAR chapter. Any influence on the variation of blade length is accounted for by the turbine manufacturer in their sound power data associated with the chosen turbine model. It is therefore stated the overall tip height and rotor diameter of the turbine do not influence the noise emissions of the turbine.
- The operational phase of the proposed development is considered the only aspect of the noise assessment that may change due to the reduced hub height, the assessment of potential operational noise impacts has been updated for the proposed 100m hub height turbine, an addendum report has been submitted in this regard.
- Noise predicted at the nearest receptors for 100 m hub height remain largely unchanged when compared to 106m hub height. The only difference noted in the modelling results are a 0.1dB increase at receptor H52 at windspeed of 5m/s and a 0.1 dB increase at H51 at 7m/s when compared to the 106 m hub height turbine. These changes are considered negligible and therefore there are no changes to the conclusions outlined in the EIAR or FI response.
- The updated assessment confirms that the candidate turbine with 100m hub height will fully comply with the daytime and nighttime criteria for Dernacart Wind Farm as set out in the EIAR and the Wind Energy Guidelines 2006 and no mitigation is required.

2.1.2. As noted above, the applicant's response included an updated Noise and Vibration Assessment and Plans indicating all relevant dimensions.

## **2.2. Responses to Section 131 Notice**

### **2.2.1. Appellants' Response**

2.2.2. A response to the section 132 notice was submitted by the Mountmellick Wind Turbine appellants and can be summarised as follows:

- The respondent is extremely critical of the amount of material required for foundations.
- There is no information on infrasound.

- The respondent's earlier submission referred to inefficiencies in wind energy and was disappointed to see no commentary on the alternative energy sources mentioned.
- Concern is raised regarding the reliability of EIARs which are prepared by developers.

#### 2.2.3. Planning Authority Response

2.2.4. The Laois County Council's response to the section 137 notice can be summarised as follows:

- The planning authority notes the confirmation of tip height, hub height, and rotor diameter of the proposed turbines.

### 3.0 **Additional Assessment**

#### 3.1. **Introduction**

- 3.1.1. Having reviewed the notices and responses received, I consider that no new significant issues arise in relation to the proposed development as a result of the further information received.
- 3.1.2. I note the applicants updated noise assessment and the results of same, in which it is stated that the proposed turbines and reduced hub height will not give rise to any perceptible changes to noise emissions at any noise sensitive locations. The Board should note the increase expected as outlined within the updated noise assessment, is 0.1dB at H51 & H52 (noise sensitive locations which experience a change as a result of the change in hub height). I am satisfied based on the information submitted that the revised hub height (which will decrease from 106 to 100 metres) will not give rise to any significant impacts at these locations.
- 3.1.3. I have reviewed the proposed turbine dimensions and details provided in the context of the EIAR submitted with the application and am satisfied that the details submitted have been adequately considered and assessed within the EIAR and no further assessment is required in this regard. The decrease in hub height, given that the overall height of the turbines remains unchanged, will not be immediately obvious when viewed in the context of the wind development from the surrounding landscape

and as such will not have any impact on the visual and landscape assessments carried out for the purpose of the EIAR.

- 3.2. It is also important to note that the NIS considered within my original report has considered the likelihood of significant effects to arise in the context of the proposed 185 metre turbines. The River Barrow and Nore SAC was examined within the stage 2 appropriate assessment of the development due to the hydrological connection from this designated site to the proposed development site and the potential for impacts to arise during construction phase of the development.
- 3.3. The hub height dimensions provided within the further information response will not change or alter in any way the proposed construction methodology as outlined and assessed within the EIAR and will also not give rise to any new or additional operational impacts in this regard.
- 3.4. I am therefore satisfied that the details submitted within the further information request do not have any impact on the Appropriate Assessment carried out in relation to the development and the conclusions of the Appropriate Assessment remain as per my original report.
- 3.5. In response to the third-party submission received from Mountmellick Wind Turbine Impact, whilst I acknowledge the concerns of the group in relation to the suitability of wind energy, I would refer the Board to the principle of development section within the original report in which the acceptability of the proposed development in principle is examined. The third-party submission does not raise any new issues from those raised within the original appeal submission in this regard, no further commentary is therefore required in this regard.
- 3.6. In addition to the foregoing, the issue of infrasound which has been raised within the submission has been considered within the original report, no further commentary is therefore necessary in this regard.
- 3.7. Furthermore, the third-party submission raise's concerns in relation to the quantum of material proposed to be used for the turbine foundations, such matters have also been adequately considered within the EIAR assessment of the original report and will not be repeated.

- 3.8. The third party has also resubmitted the original submission made in relation to the appeal. This submission was considered in detail within the consideration of the appeal. I therefore refer the Board to the original report in this regard.
- 3.9. In conclusion, I have examined the information submitted and am satisfied that the hub height is acceptable and does not impact the recommendation as outlined within my original report.

#### 4.0 Recommendation

- 4.1. I recommend that planning permission should be GRANTED subject to the following conditions:

#### 5.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on 31<sup>st</sup> January 2023, 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. The period during which the development hereby permitted is constructed shall be 10 years from the date of this order.

**Reason:** In the interests of clarity.

3. This permission shall be for a period of 30 years from the date of the first commissioning of the wind farm.

**Reason:** To enable the planning authority to review its operation in the light of the circumstances then prevailing.



4. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report and associated documentation are implemented in full, save as may be required by conditions set out below.

**Reason:** In the interest of protection of the environment.

5. The developer shall retain the services of a suitably qualified and experienced bat specialist to undertake appropriate monthly bat surveys within the relevant period for this site for a minimum period of 3 years. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for three years, with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Housing, Local Government and Heritage. In the event that significant barotrauma levels recorded the effected turbines shall be ceased from operation until adequate mitigation measures are agreed with the Local Authority and fully implemented.

**Reason:** To ensure appropriate monitoring of the impact of the development on the bats of the area.

6. In the event that invasive plant species are found prior to or during works at the appeal site, the applicant shall submit an Invasive Management Species Action Plan for the written approval of the planning authority which shall include full details of the eradication of the such invasive species from the appeal site prior to construction on the site or if discovered during construction as soon as is practicably possible.

**Reason:** In the interest of nature conservation and mitigating ecological damage associated with the development.

7. Trees to be felled and buildings to be demolished shall be examined prior to felling and demolition to determine the presence of bat roosts. Any works shall be in

accordance with the TII Guidelines for the Treatment of Bats during the construction of National Road Schemes.

**Reason:** In the interest of wildlife protection.

8. (a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.

b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road. Their location within the compound shall be agreed with the Planning Authority prior to commencement of work on site.

(c ) All lighting shall be operated in such a manner as to prevent light overspill to areas outside of the compound.

(d) Prior to the commencement of development the applicant shall submit a detailed lighting plan for the written agreement of the planning authority. The plan shall include the type, duration, colour of light and direction of all external lighting to be installed within the external areas of the development site.

**Reason:** In the interests of clarity, and of visual and residential amenity and protection of local biodiversity.

9. The developer shall comply with the following aviation requirements:

Notify the Irish Aviation Authority of their intention to commence crane activities with a minimum of 30 days prior notification of their erection.

Consult with the Irish Aviation Authority and the Dublin Airport Authority and develop mitigation measures for bird hazards. Details to be submitted to the planning authority for written agreement.

**Reason:** In the interest of orderly development.

10. The operation of the proposed development, by itself or in combination with any other permitted wind energy development, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:

(a) Between the hours of 7am and 11pm:

- i. the greater of 5 dB(A)  $L_{90,10min}$  above background noise levels, or 45 dB(A)  $L_{90,10min}$ , at standardised 10m height above ground level wind speeds of 7m/s or greater
  - ii. 40 dB(A)  $L_{90,10min}$  at all other standardised 10m height above ground level wind speeds
- (b) 43 dB(A)  $L_{90,10min}$  at all other times.

Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the initial noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the wind farm.

**Reason:** In the interest of residential amenity.

11. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a Shadow flicker compliance monitoring programme for the subject development, including any mitigation measures such as the use of appropriate equipment and software to suitably control shadow flicker at nearby dwellings, including control of turbine rotation, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority. Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

**Reason:** In the interest of residential amenity.

12. Prior to the commencement of development, the applicant shall submit to and agree in writing with the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment.

**Reason:** in the interest of aviation safety.

13. The construction of the development shall be managed in accordance with a Construction Environment Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

14. Water supply, wastewater treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

15. The following design requirements shall be complied with:

(a) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.

(b) Cables within the site shall be laid underground.

(c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.

(d) No advertising material shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

16. The delivery of large-scale turbine components for the construction of the windfarm shall be managed in accordance with a Traffic Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the

developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

**Reason:** In the interests of public safety and residential amenity.

17. On full or partial decommissioning of the turbines or if the turbines cease operation for a period of more than one year, the mast and the turbine concerned shall be removed and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, within three months of decommissioning.

**Reason:** To ensure satisfactory reinstatement of the site upon cessation of the project.

18. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.

**Reason:** In the interest of protecting telecommunications signals and of residential amenity.

19. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area.

20. All new surface water outfalls shall be constructed in a manner which protects riparian habitat and does not result in excessive erosion of such habitat.

**Reason:** In the interest of habitat protection.

21. The developer shall retain the services of a suitably qualified and experienced Ecologist to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species and bird species in the vicinity.

**Reason:** In the interest of protecting ecology and wildlife in the area.

22. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. 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.

23. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate annual bird surveys of this site. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for five years, with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Housing, Local Government and Heritage.

**Reason:** To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the

planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to this permission

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Senior Planning Inspector

Sarah Lynch

5<sup>th</sup> December 2023