



An  
Bord  
Pleanála

## Inspector's Report ABP-310612-21

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<b>Development</b>	One wind turbine, substation and grid connection
<b>Location</b>	Rathbaun, Templehouse Demesne, Kilbrattan, Portinch, Emlaghmaghtan, Cartron (Percival), Cartron (Phibbs), Lecarrow, Carrowkeel, Cloonkeevy, and Ballybrennan.
<b>Planning Authority</b>	Sligo County Council
<b>Planning Authority Reg. Ref.</b>	21113
<b>Applicant(s)</b>	Natural Forces Renewable Energy Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Natural Forces Renewable Energy Ltd.
<b>Date of Site Inspection</b>	17 <sup>th</sup> May, 2022
<b>Inspector</b>	Kevin Moore

## 1.0. **Introduction**

1.1. The following addendum to my original report is provided in response to the Board's request.

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

### 2.1. **Background**

2.1.1. The Board will note my considerations in my original report in relation to the proposed grid connection. Therein, I concluded on the matter of appropriate assessment:

*Having regard to the lack of consideration of the likely significant direct and indirect effects of the grid connection on this European site (i.e. Templehouse and Cloonacleigha Loughs Special Area of Conservation), and in light of the lack of any confirmed definitive routing and construction methodologies in accordance with any agreed proposal with ESB, the Board is not in a position to undertake appropriate assessment on this component of the proposed development. I consider that the Board could potentially seek a Natura Impact Statement which would include for consideration of this part of the overall proposal. Alternatively, in the event of a grant of permission for the proposed development, a condition requiring the proposed grid connection to be subject to a separate planning permission could reasonably be attached. The planning application then associated with the grid would be anticipated to include the effect of that grid connection on European sites.*

2.1.2. In my recommendation to the Board, I further submitted:

*I note the public notices relating to this application and the descriptions provided in the various documentation which referred to the construction of one wind turbine up to 5MW with overall tip height up to 180m. Having regard to the Derryadd judgement (2021, IEHC 390), the specific nature and extent of this component of the proposed development requires clarification. Therefore, the Board must seek clarity on this.*

### 2.2. **The Board's Request**

2.2.1 Following on from my report, the Board's Section 132 Notice sought the following:

1. Having regard to the substantial length of the grid connection route which it is proposed would pass through the Templehouse and Cloonacleigha Loughs Special Area of Conservation (Site code:000636) and through areas immediately adjoining this SAC, it is considered that a revised Natura Impact Statement to include consideration of the impact of the grid connection on any European site within a possible zone of influence of the proposed development is required, in order for the Board to undertake an Appropriate Assessment of the proposed development.
2. The applicant is requested to confirm the specification of the Wind Turbine having regard to its output, exact tip height and the hub height.

### 2.3. **Applicant's Response**

The applicant's response to the request may be synthesised as follows:

#### 2.3.1. Natura Impact Statement

An updated NIS was submitted. A preliminary Construction & Environmental Management Plan (CEMP) is attached as Appendix 1 to this NIS which sets out mitigation measures required to protect against potential risks to the Templehouse and Cloonacleigha Loughs Special Area of Conservation. In addition, and to give further context and consideration to the proposed ESB Networks grid connection, the appellant attached:

- A grid connection route Construction Method Statement (Annex A of Appendix 1),

- Refined grid connection drawings of the proposed route, illustrating the routing of the underground cable within the curtilage of the public road (Annex B of Appendix 1),
- A Project-specific Emergency Response Plan, indicating a course of action for unintended consequences (Annex C of Appendix 1), and
- A Project-specific Waste Management Plan, indicating the proposals for the treatment of wastes from the various phases of the development (Annex D of Appendix 1).

The appellant's updated NIS includes a description of the proposed development and the existing environment and details the relevant Natura 2000 sites and their conservation objectives. It also provides a Stage 1 Screening and a Stage 2 Natura Impact Statement, with reference to potential in-combination effects, mitigation and residual effects. Appendix 1 and the Annexes referenced above are also included.

The NIS concludes:

*"... subject to the full and proper implementation of the mitigation measures detailed in Section 7 of this NIS, there will be no adverse effects on the integrity of the Templehouse and Cloonacleigha Loughs SAC or any Natura 2000 site, as a result of the proposed development, either individually or in combination with other plans and projects, and that no reasonable scientific doubt remains in this regard."*

### 2.3.2. Specification of Wind Turbine

The following was submitted on the specification of the proposed wind turbine:

**Model:** Enercon E-138 EP3 E2/4200 kW

**Output:** 4.2MW

**Tip Height:** 179.25m

**Hub Height:** 110.13

### 3.0. **Further Submissions / Observations**

#### 3.1. **Introduction**

3.1.1. Following the response to the Section 132 Notice, the Board requested the publication of new public notices, having regard to the updated NIS being submitted. The Board received the appellant's response and details on public notices on 27<sup>th</sup> February, 2023. Four submissions were received.

#### 3.2. **Planning Authority**

3.2.1. The planning authority stated it had no comments to make.

#### 3.3. **Observer – James and Jacqueline McGuinn**

3.3.1. I note that the observers did not make any submission in response to the application to the planning authority or to the Board in response to the first party appeal. Their observation has not addressed the submitted Natura Impact Statement and the potential effects of the proposed development on the Templehouse and Cloonacleigha Loughs Special Area of Conservation. The observation referred to the public road being built on boggy land that is liable to flooding, deep drains being on either side of it, inadequacy of space to dig without undermining the structure of the road, and to small bridges under the road that allow for excess water to be taken from farmlands in the surrounding area. The observers also refer to potential impacts on wildlife, lack of contact with them, and to the decision of the planning authority.

#### 3.4. **Observer – Gavin Conlan**

3.4.1. I note that the observer did not make any submission in response to the application to the planning authority or to the Board in response to the first party appeal. The

observation has not addressed the submitted Natura Impact Statement and the potential effects of the proposed development on the Templehouse and Cloonacleigha Loughs Special Area of Conservation. Instead, it has focused on the height of the proposed turbine and its visual impact, noise, further wind farm development in the future, use of the bogland for walking, its wildlife value, communication with the public about the proposed development, and flooding on the bog.

3.5. **Observer – Robert and Elizabeth Craig**

3.5.1. I note that the observers did not make any submission in response to the application to the planning authority or to the Board in response to the first party appeal. The observers allude briefly to the diversity of birds in the area and the lack of due diligence and poor timing relating to birds in the Natura survey. The observation has not addressed the potential effects of the proposed development on the Templehouse and Cloonacleigha Loughs Special Area of Conservation. Instead, it has otherwise focused on turbary rights and turf cutting at Templehouse Bog, potential further wind farm development in the future, flooding of the bog, reference to a history of refusals on the bog (although no details are provided), presence of hen harrier, bats and other wildlife on the bog, and the amenity use of the bog. It also refers to the move to farming using the Organics Scheme, the construction and long-term implications of the turbine and associated infrastructure on the site, the lack of community benefit, lack of consultation, turbine noise, the turbine height and adverse visual impact, and impact on a local business.

## 4.0. **Assessment**

### 4.1. **Consideration of the Observations**

4.1.1. I first note the Board's request to the appellant under section 132 of the Planning and Development Act 2000, as amended. Section 132 allows the Board to request any document, particulars or other information where it is of the opinion that it may be necessary to determine an appeal. In this instance, the Board requested an updated NIS such that it would also address the grid connection component of the overall development, as well as details on the specification of the wind turbine proposed. These were provided. New public notices were requested and were submitted, which informed the public about the submission of a revised Natura Impact Statement. The notices also informed the public where the revised NIS could be inspected and that any person could make written submissions or observations to the Board in relation to the application. Therefore, the public was clearly informed that submissions could be made on the application and not solely on the updated NIS and other further information that has subsequently been submitted to the Board.

4.1.2. The Board are in receipt of a response from the planning authority and three observations from residents of the area. I wish the following to be noted in relation to the observations:

- There were no third party submissions to the planning authority over the period in which it was dealing with the planning application. Therefore, none of the observers made any submission in response to the application to the planning authority.
- None of the observers made any observations to the Board in response to the first party appeal.

- Two of the observations have had no regard to the Natura Impact Statement and the potential effects on the Templehouse and Cloonacleigha Loughs Special Area of Conservation.
- The submission on the NIS by Robert and Elizabeth Craig is limited. Furthermore, the emphasis in this observation is placed on the effects on birds relative to any effect on European sites. It must be observed, however, that there are no European sites in this area where birds are the species of conservation interest and which could be potentially affected by the proposed development. Thus, the observation referring to the inadequacy of the NIS relating to birds appears to be misplaced.

4.1.3. In light of the observations made above, I submit that it is highly inappropriate to seek to revisit issues of principle unrelated to the matters pertaining to the NIS and the effects of the grid connection route in particular, as well as the specification of the proposed wind turbine. Regarding the latter, throughout the consideration of the application to date, there has been an understanding of the nature and scale of the turbine being considered and the details provided via the section 132 notice solely provided the specifications to confirm this. In my opinion, it is not appropriate at this late stage to be inviting and allowing submissions which raise matters on the generality of the potential impacts of the proposed development, albeit I note that the appellant's public notices relating to the revised Natura Impact Statement has stated:

“Any person may make written submissions or observations to the Board *in relation to the application* (my italics) ...”

4.1.4. The effect of this is to draw out the decision-making process in an inordinate manner. Revisiting many of the issues raised by the observers, which heretofore have been considered by the planning authority and by the Board up to this point, is unfair.



4.1.5. Notwithstanding my submission on these matters, I draw the attention of the Board to the wide range of issues examined in my original report which addressed many of the general concerns raised in the observations. These include landscape and visual impact, shadow flicker, noise, ground conditions and drainage, ecological impact, and construction traffic, as well as my considerations on the likely effects on European sites arising from the proposed development at the wind turbine site. I do not propose to repeat my considerations but direct the Board to them for their information.

#### 4.2. **Appropriate Assessment**

##### 4.2.1. ***Overview of the Proposed Grid Connection***

The 7.9km underground route of the proposed grid connection would follow public roads beyond the wind turbine site for the entire route as far as the existing ESB Ballymote substation. This includes where the road passes through the Templehouse and Cloonacleigha Loughs Special Area of Conservation. The cable would be placed in a trench, which would be 450mm wide and 1000mm deep, all of which would be under the public road. The trench would contain one 125mm diameter HDPE (High Density Polyethylene) duct. Pre-cast concrete joint bays would be installed approximately every 500m along the grid route to facilitate the jointing of the cable and again these would be confined to the footprint of the road. There would be no works outside of the existing road footprint and no alteration to the existing vegetation bounding the road along its entire length. The trench would be backfilled and finished to match the existing road surface. The depth of the cable duct would be reduced for the crossing of Templehouse Bridge over the Owenmore River. There would be no direct effects on the river. Excavated material would be transferred to a 20-tonne dump truck for transport and disposal at an authorised soil recovery facility and no more than a 100m section of trench would be opened at any one time. There

would be no build up or storage of excavated material within the Templehouse and Cloonacleigha Loughs Special Area of Conservation.

#### 4.2.2. **Appropriate Assessment**

##### Screening for Appropriate Assessment

###### **Background**

The appellant submitted an updated Appropriate Assessment Screening Report as part of its response to the Board's section 132 Notice, with specific references therein to the proposed grid connection. The conclusion of the applicant's AA Screening Report is as follows:

*"On the basis of the Screening Assessment undertaken in Section 4 above, it is considered that the proposed works present a minor risk of impacting on water quality within the Owenmore River during the construction phase and thus could affect the qualifying interest habitat Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation listed as Qualifying Interests for the Templehouse and Cloonacleigha Loughs SAC. There is therefore a requirement to proceed to Stage 2 Appropriate Assessment."*

Having reviewed the screening document and additional submissions to the planning authority, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

###### **Description of Development**

The applicant provides a description of the project in Section 2 of the NIS. In summary, the development comprises the construction of one 4.2MW wind turbine with an overall tip height up to 179.25m, its associated foundation, hardstanding and assembly area, a site entrance and an access track, an on-site 20kV substation and

underground electrical cable, a 7.9km underground grid connection, and all associated site development and ancillary works.

### ***European Sites***

I note that the applicant identified and examined three European sites within 15km of the proposed site. There would be no direct effects and there is no connectivity or pathways between the proposed site and the River Moy SAC, which is 9km to the west, or between the site and Turloughmore SAC which is 10km to the south-west. The development site for the proposed turbine and access track is located adjacent to Templehouse and Cloonacleigha Loughs Special Area of Conservation (Site Code: 000636) and part of the proposed grid connection route runs through the SAC.

The qualifying features of conservation interest and conservation objectives for this European site are as follows:

#### ***Qualifying Features***

Hard oligo-mesotrophic waters with benthic vegetation of *Chara* spp.

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation

#### ***Conservation Objectives***

To restore the favourable conservation condition of Hard oligo-mesotrophic waters with benthic vegetation of *Chara* spp. in Templehouse and Cloonacleigha Loughs SAC.

To maintain the favourable conservation condition of Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation in Templehouse and Cloonacleigha Loughs SAC.

### **Identification of Likely Effects**

It is first acknowledged that the proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. I note that the qualifying feature *Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.* is located upstream of the proposed development. It is, thus, accepted that there would be no potential effects arising for this feature as there is no connectivity or potential pathway. I further note that the wind turbine site and all works associated with it are intended to take place outside of the SAC, while a section of the grid connection route would be laid through it. As a result, there would be no direct loss of habitat within this European site arising from the development of the wind turbine itself. The proposed grid connection would be entirely within the public road where it runs through the SAC, including at Templehouse Bridge over the Owenmore River.

It is acknowledged that there would be hydrological connectivity with the Owenmore River 600m downstream of the turbine location via the drainage network on the bogland and that the road under which the grid connection would be laid runs through a section of the SAC, including at Templehouse Bridge over the Owenmore River. Potential siltation or other such effects at the construction stage for both the wind turbine works and the grid connection works could result in risks to water quality resulting in adverse effects for *Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation* in the SAC. Given this connectivity, the potential for construction-related activities to indirectly impact on surface water quality by way of pollution is accepted. Therefore, significant effects on the surface water dependent qualifying interests of the SAC cannot be excluded beyond reasonable scientific doubt.

#### ***In-combination Effects***

Cumulative in-combination effects could potentially result with forestry felling, further forestry plantation, agricultural and turf cutting activities at this location. Thus, it is accepted that there is potential for significant cumulative effects with other potential sources of pollution in the area.

#### **Mitigation Measures**

No measures designed or intended to avoid or reduce any harmful effects of the proposed development on a European site have been relied upon in this screening exercise.

### ***Screening Determination***

The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would be likely to give rise to significant effects on Templehouse and Cloonacleigha Loughs Special Area of Conservation (Site Code: 000636), in view of its Conservation Objectives, and Appropriate Assessment is therefore required.

This determination is based on the following:

- The nature and extent of the works associated with the proposed development,
- The proximity to a European site, and
- The known pathways between the site and the neighbouring European site.

### **Appropriate Assessment**

#### **Background**

The proposed development is not directly connected to or necessary for the management of any European site. It is therefore subject to the provisions of Article 6(3) of the EU Habitats Directive. Following the screening process above, it has been determined that appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will have a significant effect on the Templehouse and Cloonacleigha Loughs Special Area of Conservation (Site Code: 000636). The possibility of significant effects on other European sites has been

excluded on the basis of objective information. Measures intended to reduce or avoid significant effects were not considered in the screening process.

#### **Natura Impact Statement**

The appellant has submitted a revised NIS entitled *Appropriate Assessment Screening Report and Natura Impact Statement for Wind Turbine at Templehouse, Co Sligo* dating from January 2023. It includes an appendix which forms a preliminary Construction & Environmental Management Plan (CEMP) to which annexes are attached relating to a grid connection route Construction Method Statement, refined grid connection drawings, a project-specific Emergency Response Plan, and a project-specific Waste Management Plan.

The NIS gives a description of the project, identifies characteristics of the receiving environment and the relevant Natura 2000 sites, discusses potential direct and indirect effects on European sites, and considers residual adverse effects and cumulative effects. The NIS had due regard to desk studies, field surveys and consultations undertaken as part of the application. The NIS was prepared in line with current best practice and provides an assessment of all potential effects on the Templehouse and Cloonacleigha Loughs Special Area of Conservation arising from the proposed development.

The NIS concluding statement is as follows:

*“... it is hereby concluded that, subject to the full and proper implementation of the mitigation measures detailed in Section 7 of this NIS, there will be no adverse effects on the integrity of the Templehouse and Cloonacleigha Loughs SAC or any Natura 2000 site, as a result of the proposed development, either individually or in combination with other plans and projects, and that no reasonable scientific doubt remains in this regard.”*

I note the considerations of the planning authority’s Heritage Officer and the Environment Section.

Having reviewed the documents, submissions, reports and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of Templehouse and Cloonacleigha Loughs SAC alone, or in combination with other plans and projects.

## **Appropriate Assessment**

### *Introduction*

This assessment considers all aspects of the proposal which could result in significant effects and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The assessment has had due regard to the applicant's submitted revised Natura Impact Statement and the reports and other submissions received by the planning authority and the Board.

The following guidance is adhered to in the assessment:

DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.

EC (2002) Assessment of plans and projects significantly affecting Natura 2002 sites. Methodological guidance on the provisions of Articles 6(3) and 6(4) of the Habitats Directive 92/43/EC.

EC (2018) Managing Natura 2000 sites.

### *European Sites*

Templehouse and Cloonacleigha Loughs SAC is the European site that is subject to appropriate assessment. A description of that site and its Conservation and Qualifying Interests are set out in the NIS and in the Screening undertaken earlier in this report.

### *Relevant Aspects of the Proposed Development*

Section 2 of the applicant's revised NIS details the characteristics of the proposed development and Section 6 identifies other plans, projects and activities relating to potential in-combination effects. As referenced in the Screening undertaken earlier, the main aspects of the proposed development that could adversely affect the conservation objectives of the European site are at the construction stage from sedimentation and siltation via existing drainage ditches and by the laying of the grid connection as there is hydrological connectivity with the SAC via the drainage network and the grid connection would be laid along the existing public road partly in the SAC. The potential for adverse effects on water quality within the Owenmore

River is noted and, therefore, the potential exists for effecting the qualifying interest habitat *Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation* in the SAC.

I acknowledge that the construction works at the proposed wind turbine site would include site clearance, excavation, site preparation, the construction of foundations, hard standing, an assembly area, a turbine and a substation, and the laying of underground cable. The potential effects would relate to indirect effects on water quality associated with pollution at the construction phase from pollutants such as concrete/cement, siltation, sedimentation, and hydrocarbons percolating to ground and being carried via the drainage network to the Owenmore River within the SAC. The laying of the grid connection cable would include the excavation of a trench on the public road, underground cable installation, the removal of excavated material, and reinstatement of the road finishes in accordance with the local authority's requirements. The potential effects would relate to the effects on water quality associated with pollution at the construction phase.

I observe the following:

- There would be no loss of habitat of qualifying interest within the SAC,
- The drains associated with the cutaway bog at this location have very slack flows.
- The Owenmore bridge has been reviewed by the appellant and the depth level of the running subsurface is stated to be sufficient to utilise the standard ESB Network bridge crossing designs.

#### **Potentially Significant Cumulative Effects**

I note the reference to potential in-combination effects in my screening earlier. I am not aware of any proposed projects or plans with which there could potentially be in-combination effects. I again acknowledge the existing land use activities prevalent at this location, namely agriculture, forestry and turf cutting. There are no known proposed intensive activities of that nature at this location with which the proposed development could have significant cumulative effects.

#### **Mitigation**



Section 7 of the applicant's NIS details the range of mitigation measures intended to be employed as part of the construction phase of the proposed development. The measures include the provision of a Construction Environmental Management Plan, concrete and cement controls, management of sediments, peat excavation, storage and handling provisions, and management and handling of hydrocarbons and chemicals. Further to the submission of the updated NIS, I particularly note at this time the preliminary CEMP which forms the appendix to the NIS and, furthermore, Annex A of that appendix which sets out the grid connection construction methodology. Within the appendix and the annex there are definitive measures proposed relating to excavation of materials, drainage controls and surface water management, provisions for the containment of suspended solids, construction timeframes, and clear methodologies on the laying of the proposed grid connection cable. The Emergency Response Plan in relation to spillage control, as set out in Annex C of Appendix 1, is further noted.

In my opinion, these mitigation measures constitute suitable, robust, comprehensive and necessary measures to avoid any adverse impacts on the integrity of the European site.

#### **Residual Impacts**

I concur with the applicant's findings that, if the proposed mitigation measures are implemented in full, it is expected that significant effects would not result for the qualifying features of the Templehouse and Cloonacleigha Loughs SAC.

Following my appropriate assessment of the proposed development and, with due regard to consideration of the proposed mitigation measures, I am able to ascertain with confidence that the proposed development would not adversely affect the integrity of Templehouse and Cloonacleigha Loughs SAC in view of the Conservation Objectives of the site. This conclusion is drawn on a complete assessment of all implications of the proposed development alone and in combination with other plans and projects.

#### **Appropriate Assessment Conclusion**

The proposed development has been considered in light of the assessment requirements of the Planning and Development Act 2000 as amended.

Having carried out screening for appropriate assessment of the project, it was concluded that it may have a significant effect on Templehouse and Cloonacleigha Loughs SAC. Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of Templehouse and Cloonacleigha Loughs SAC, or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures in relation to the Conservation Objectives of Templehouse and Cloonacleigha Loughs SAC,
- Detailed assessment of in-combination effects with other plans and projects, and
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Templehouse and Cloonacleigha Loughs SAC.

## 5.0. **Recommendation**

5.1. Having regard to my assessment in my original report and the assessment above, I recommend that the Board grants permission for the proposed development in accordance with the following:

## **Reasons and Considerations**

It is considered that the proposed development, subject to the conditions set out below, would be in accordance with:

- European energy policy,
- The National Planning Framework,
- The Regional Spatial and Economic Strategy for the Northern and Western Region,
- The provisions of Sligo County Development Plan 2017-2023, and
- The Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006

Furthermore, it is considered that the proposed development would make a positive contribution to the implementation of Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, would have an acceptable impact on the landscape having regard to its overall benefits, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not adversely affect the archaeological or natural heritage, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment**

The Board agreed with the screening assessment, appropriate assessment and conclusions contained in the Inspector's report that Templehouse and Cloonacleigha Loughs Special Area of Conservation (Site Code: 000636) is the European site for which there is a likelihood of significant effects.

The Board considered the submitted Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment in relation to the potential

effects of the proposed development on the above referenced European site in the vicinity of the application site. The Board noted that the proposed development is not directly connected with or necessary for the management of a European site and considered the nature, scale and location of the proposed development, as well as the report of the inspector. In completing the appropriate assessment, the Board adopted the report of the inspector and concluded that the proposed development, by itself, or in combination with other plans or projects in the vicinity, would not be likely to have a significant effect on any European site in view of the site's conservation objectives.

### **Conditions**

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

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

2. The period during which the development hereby permitted may be carried out shall be ten years from the date of this order.

**Reason:** Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

3. This permission shall be for a period of 30 years from the date of commissioning of the wind farm. The wind turbine and ancillary related structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted for their continuance for a further period.

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

4. The mitigation measures and monitoring commitments identified in the Natura Impact Statement, Environmental and Planning Report, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority a schedule of these mitigation measures and monitoring commitments, and details of a time schedule for implementation of the mitigation measures and associated monitoring.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

5. The following design requirements shall be complied with:
  - (a) The hub height of the turbine shall not exceed 111 metres and the rotor diameter shall not exceed 140 metres. The overall tip height shall not exceed 180 metres. Details of the turbine design, hub height, blade length, and tip height shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The wind turbine, including tower and blades, shall be finished externally in a light grey colour.
  - (b) Cables within the site shall be laid underground.
  - (c) The wind turbine 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 clarity and visual amenity.

6. The operation of the proposed development shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:

(a) Between the hours of 07.00 and 23.00

- (i) The greater of 5dB(A) L90, 10 min above background noise levels, or 45dB(A) L90, 10 min, at standardised 10 metres height above ground level wind speeds of 4m/s or greater, and
- (ii) 40dB(A) L90, 10 min at all other standardised 10 metre height above ground level wind speeds.

(b) 43dB(A) L90, 10 min at all other times.

Prior to the 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 the turbine. 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 Recommendation 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.

7. (a) Shadow flicker arising from the proposed development shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

(b) The proposed development shall be fitted with appropriate equipment and software to control shadow flicker in accordance with the above requirement. Details of these control measures shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

(c) A report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority, indicating compliance with the above shadow flicker requirements at dwellings. Within 12 months of commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority. The developer shall outline proposed measures to address any recorded non-compliances, controlling turbine rotation if necessary. A similar report may be requested at reasonable intervals thereafter by the planning authority.

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

8. Facilities shall be installed to minimise interference with radio or television reception in the area. Details of the facilities to be installed, 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 turbine and following consultation with the relevant authorities.

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

9. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions of the turbine and the highest point of the turbine to the top of the blade spin.

**Reason:** In the interest of air traffic safety.

10. The construction of the proposed development shall be managed in accordance with a Construction and Environmental 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 proposed development, including noise and dust management measures, surface water management proposals, control and management of accidental spillages, detailed design of watercourse crossings, the management of construction traffic, construction work hours, and off-site disposal of construction waste.

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

11. (a) Prior to the commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:
  - (i) A Transport Management Plan, including details of the road network/haulage routes and the vehicle types to be used to transport materials on and off the site and a schedule of control measures for exceptionally wide and heavy delivery loads. 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,

A condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm. This survey shall include a schedule of required works to enable the haul routes to cater for construction-related traffic. The extent and scope of the survey and the schedule of works shall be agreed in writing with the planning authority/authorities prior to the commencement of development,



- (ii) Detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority,
  - (iii) Detailed arrangements for the protection of bridges to be crossed,
  - (iv) A Construction Traffic Management Plan, including details of temporary traffic arrangements/controls on roads, and
  - (v) A phasing programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.
- (b) Within three months of the cessation of the use of the haul route to transport material to and from the site, a road survey and scheme of works detailing works to repair any damage to the route shall be submitted to the planning authority.
- (c) All works arising from the aforementioned arrangements shall be completed at the developer's expense within 12 months of the cessation of the roads' use as a haul route for the proposed development.

**Reason:** To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. On decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the turbine concerned (including its foundation) shall be removed and all decommissioned structures and any access roads shall be removed within three months of decommissioning.

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

14. 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.

15. 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:** To ensure the satisfactory reinstatement of the site.

16. 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 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 An Bord Pleanála 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 the permission.

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Kevin Moore  
Senior Planning Inspector

26<sup>th</sup> April, 2023