



An
Bord
Pleanála

Inspector's Report

ABP-311043-21

Development

Construction of one 4.2MW wind turbine with an overall tip height of up to 150m, turbine foundation, hardstanding and assembly area, site entrance and access track, on-site 20kv substation and underground electrical cable, and all associated site development and ancillary works

Location

Rin, Co. Offaly.

Planning Authority

Offaly County Council

Planning Authority Reg. Ref.

21/306

Applicant(s)

Natural Forces Renewable Energy Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party v Refusal of Permission

Appellant(s)

Natural Forces Renewable Energy Ltd.

Observer(s)

None

Date of Site Inspection

1st March 2022

Inspector

Anthony Kelly

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1.0 Site Location and Description

- 1.1. The site is located on the south side of the R357 Regional Road approx. 1km north west of Lough Boora Discovery Park and approx. 5.5km south east of Ferbane in west Co. Offaly.
- 1.2. The site comprises part of a field which, on my site inspection, was occupied by sheep. The two-turbine Leabeg wind farm is on the opposite side of the R357. Other land uses in the general vicinity generally comprise agricultural land, forest areas, and bog. There is an active bog railway along the east and south of the field of which the proposed site forms part. There is limited residential development in the wider vicinity.
- 1.3. The site has an area of 2.12 hectares.

2.0 Proposed Development

2.1. Permission is sought for:

- One 4.2MW wind turbine with an overall tip height of up to 150 metres,
- Wind turbine foundation, hardstanding, and assembly area,
- Site entrance and access track,
- On-site 20kV substation and underground electrical cable connecting the turbine to the substation, and,
- All associated site works.

2.2. In addition to standard planning application plans and particulars the application was accompanied by:

- An 'Environmental and Planning Report' (E&PR) prepared by Rowan Engineering Consultants Ltd. (Rowan) dated May 2021. A number of appendices were submitted with this.
- An 'Environmental Impact Assessment – Screening Report' prepared by Rowan dated May 2021.

- 2.3. The E&PR states the applicant is a private power producer that hopes to deliver renewable energy projects in partnership with local communities in line with the government's Renewable Energy Support Scheme. The proposed development would have a 30 year lifespan. Construction would take 6-8 months with construction of the substation and underground cabling prior to erection of the proposed turbine.
- 2.4. The approx. 85 metres high turbine tower would likely be a hybrid tower assembled from precast concrete segments and a steel section, painted grey. The overall tip height would be up to 150 metres. Rotor blades are made of glass-fibre reinforced plastic, balsa wood, and foam with a blade diameter of 138.25 metres. The proposed 20kV substation has a floor area of 53sqm and a height of 5.055 metres. The external walls are to be rendered and there is a slate roof.
- 2.5. Connection to the grid does not form part of the planning application. It is stated that the project has been selected by ESB to be processed for a grid connection offer under the community category of the Enduring Connection Process programme, though the ESB will only enter into a formal grid connection agreement once there is a grant of planning permission. The exact grid connection detail would only become clear when ESB are undertaking their design review of the grid connection works. The applicant suggests a suitable grid connection route from the proposed on-site substation to the Lumcloon 38kV substation approx. 4km to the west via overground cable. Though not part of the planning application, the E&PR states 'the grid connection has been accounted for in the development of the assessments'.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Offaly Co. Co. refused the planning application for the following reason.

1. Objective EO-01 of the Offaly County Development Plan 2014-2020 states that it is an objective of the Council to achieve a reasonable balance between responding to government policy on renewable energy and in enabling the wind energy resources of the County to be harnessed in an environmentally sustainable manner which will be implemented having regard to the Council's

Wind Energy Strategy. Policy EP-05 and Objective EO-01 of the Plan state that applications for wind energy development outside of the identified wind energy development areas will not normally be permitted. The subject site is not located in an area identified for wind energy development in the Development Plan. Therefore, it is considered that the proposed development would materially contravene Policy EP-05 and Objective EO-01 of the Offaly County Development Plan 2014-2020 and, as such, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The planning authority Planning Report forms the basis of the planning authority decision. The report sets out, inter alia, a site description, planning history, a detailed overview of the policy context, screening for environmental impact assessment (EIA), screening for appropriate assessment (AA), and a planning assessment. The planning assessment considered the planning authority's wind energy strategy, shadow flicker, visual impact, noise, traffic, and ecology/biodiversity.

3.2.2. The report concludes that the proposed site is not located within a Wind Energy Strategy Area set out in the County Development Plan 2014-2020 and none of the exemptions provided for apply. Therefore the proposed development would materially contravene the plan and the application should be refused. The report also notes the location of the site directly adjacent to a High Landscape Sensitivity area and considers the applicant has failed to sufficiently demonstrate the necessity for the proposed development, which may result in a detrimental visual impact on this area.

3.2.3. Other Technical Reports

Area Engineer – Further information is requested for (i) a revised layout plan including 150 metres sightlines, comprehensive entrance detail, proposed grid connection and cable route, and surface water detail, and (ii) a transportation management plan detailing the proposed turbine haul route, any necessary accommodation works at pinch points, and source and haul routes for construction materials.

Road Design – Further information required in relation to sightlines, surface water, lighting, and detail of the over ground cable connection to the grid at Lumcloon.

Environment and Water Services – No objection subject to conditions relating to surface water, waste management, noise, construction practices, and shadow flicker.

3.3. **Prescribed Bodies**

Department of Housing, Local Government and Heritage (Archaeology) – Given the location of the development it is possible that subsurface archaeological remains could be encountered during the construction phase. An archaeological assessment condition should be included in any grant of permission.

3.4. **Third Party Observations**

3.4.1. None received.

4.0 **Planning History**

4.1. There has been no previous planning application on the site/field of the current proposed development.

4.2. Pre-application consultation took place under P.A. Reg. Ref. TU20084.

4.3. There have historically been a number of planning applications for wind energy related development on the north side of the R357 opposite the proposed site e.g. P.A. Reg. Ref. 07/1595 / ABP Reg. Ref. PL 19.231866, P.A. Reg. Ref. 02/734, and P.A. Reg. Ref. 00/1075. The planning applications relevant to the existing wind energy development on the north side of the R357 are:

P.A. Reg. Ref. 14/95 – Permission was granted in 2014 to amend condition 10 of 10/130 to modify the operational period of the permitted windfarm from 20 years from the date of grant to 20 years from the date of commissioning.

P.A. Reg. Ref. 10/130 – Permission was granted in 2010 for two wind turbines, electrical substation building, and extension and upgrade of site tracks. Condition 2 of the permission stated the turbines should have a maximum hub height of 85 metres and a maximum blade diameter of 82.4 metres, as applied for. Notwithstanding, it appears during compliance correspondence that the planning authority allowed

dimension amendments to a reduced hub height of 78 metres and an increased rotor diameter of 92 metres, giving a tip height of 124 metres.

5.0 Policy Context

5.1. Climate Action Plan 2021 – Securing Our Future

- 5.1.1. The Climate Action Plan 2021 provides a detailed plan for taking decisive action to achieve a 51% reduction in overall greenhouse gas emissions by 2030 and setting Ireland on a path to reach net-zero emissions by no later than 2050, as committed to in the Programme for Government and set out in the Climate Act 2021. Among the most important measures in the plan is to increase the proportion of renewable electricity to up to 80% by 2030.

5.2. Project Ireland 2040 National Planning Framework (NPF)

- 5.2.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It will be focused on delivering 10 National Strategic Outcomes (NSOs). NSO 8 is ‘Transition to a Low Carbon and Climate Resilient Society’ and it is expanded upon on page 147 of the NPF. There is a national objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. ‘This objective will shape investment choices over the coming decades in line with the National Mitigation Plan and the National Adaptation Framework. New energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy to the major sources of demand’.
- 5.2.2. National Policy Objective (NPO) 55 states ‘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’.

5.3. Wind Energy Development Guidelines for Planning Authorities (2006)

- 5.3.1. The guidelines provide advice on wind energy development in terms of the development plan and development management processes. Guidance is given on matters such as noise, shadow flicker, natural heritage, archaeology, architectural heritage, ground conditions, aircraft safety, and windtake. Chapter 6 provides guidance on siting and design of wind energy development in the landscape. This includes advice on spatial extent and scale, cumulative effect, layout, and height of turbines.

5.4. Draft Revised Wind Energy Development Guidelines (2019)

- 5.4.1. These provide for an update and review of the 2006 guidelines.

5.5. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031

- 5.5.1. There are 16 no. Regional Strategic Outcomes (RSOs). RSO 8 is to build climate resilience. RSO 9 is to support the transition to low carbon and clean energy.
- 5.5.2. Section 7.9 (Climate Change) states that the region will need to shift from its reliance on using fossil fuels and natural gas as its main energy source to a more diverse range of low and zero-carbon sources, including renewable energy and secondary heat sources. It states local authorities should harness the potential of renewable energy across the technological spectrum, including wind, focusing in particular on the extensive tracts of publicly owned peat extraction areas in order to enable a managed transition of the local economies of such areas in gaining the economic benefits of greener energy.
- 5.5.3. Renewable energy is also referenced in section 10.3. RPOs 10.20 and 10.22 are particularly relevant.

5.6. Offaly County Development Plan 2021-2027

- 5.6.1. Although the County Development Plan 2014-2020 was the plan in place at the time Offaly Co. Co. made the decision on the planning application and was also in place when the first party appeal was made, the plan now in place, and therefore under

which the decision will be made by the Board, is the County Development Plan 2021-2027. The Plan was adopted on 10th September 2021 and came into effect on 22nd October 2021.

5.6.2. Chapter 3 (Climate Action and Energy) is relevant to the proposed development. Wind energy is specifically outlined in section 3.2.6. Relevant wind energy policies are Policies CAEP-25, CAEP-37, CAEP-38, and CAEP-40. Relevant wind energy objectives are CAEO-03, CAEO-04, and CAEO-05. I consider three of these to be particularly relevant:

- CAEP-38 – It is Council policy that in assessing planning applications for wind farms, the Council shall:
 - (a) have regard to the provisions of the Wind Energy Development Guidelines 2006, the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change 2017 and the Draft revised Wind Energy Guidelines 2019 which are expected to be finalised in the near future;
 - (b) have regard to ‘Areas Open for Consideration for Wind Energy Developments’ in the Wind Energy Strategy Designations Map from the County Wind Energy Strategy;
 - (c) the impact of the proposed wind farm development on proposed Wilderness Corridors as detailed in Objective BLO-28 of Chapter 4;
 - (d) have regard to Development Management Standard 109 on wind farms contained in Chapter 13 of this Plan; and
 - (e) have regard to existing and future international, European, national and regional policy, directives and legislation.
- CAEO-03 - It is an objective of the Council to achieve a reasonable balance between responding to government policy on renewable energy and in enabling the wind energy resources of the county to be harnessed in an environmentally sustainable manner.
- CAEO-05 – It is an objective of the Council to implement the Council’s Wind Energy Strategy as follows:

1. In 'Areas Deemed Open for Consideration for Wind Energy Development' as identified in Map No. 10 'Wind Energy Strategy Designations', the development of windfarms and smaller wind energy projects will be considered;

2. In all other areas, wind energy developments shall not normally be permitted – except as provided for under relevant exemption provisions in the Planning and Development Regulations 2001 (as amended); and

3. Applications for re-powering (by replacing existing wind turbines) and extension of existing and permitted wind farms will be assessed on a case by case basis and will be subject to criteria listed in Development Management Standard 109 contained in Chapter 13 of Volume 1 of this County Development Plan and the Section 28 Ministerial Wind Energy Development Guidelines.

5.6.3. Development Management Standard (DMS) 109 sets out what the Council will have regard to when assessing planning applications for wind energy developments. These include the 2006 guidelines, the Wind Energy Strategy, visual impact, residential amenity, scale, road network, ecology, hydrology, noise etc.

5.6.4. The Wind Energy Strategy will guide the development of wind energy developments in the county up to 2027. It builds upon its predecessor contained in the previous Offaly County Development Plan 2014-20 and takes account of new and updated legislation, policy and guidelines at international, European, national and regional levels. Inter alia, the objectives of the strategy are to support wind energy as a renewable energy source and identify key areas within the county that are 'Open for Consideration for Wind Energy Developments' or 'Unsuitable for Wind Energy Developments' based on wind speed, access to the electricity grid and substations, and avoidance of adverse impacts on the landscape and designated sites. The strategy identifies two areas of the county as being 'Open for Consideration': in the east and in the west/north west.

5.7. Offaly County Development Plan 2014-2020

5.7.1. Though it is no longer in effect, the planning authority's reason for refusal included reference to a specific policy and objective. They are set out here for clarity.

- Policy EP-05 – It is Council policy that applications for wind energy development outside of the wind energy development areas open for

consideration identified in Map 3.2 will not normally be permitted except when it can be demonstrated that the proposal falls into the following category:

Category A: Single Turbines that are sited close to and specifically relate to the operations of an industrial/commercial premises or a school, hospital or other community-related premises. Supporting evidence must be provided detailing that the development will only facilitate and is only related to the operation of the business or community facility.

Each proposal within this category will be open for consideration outside of the wind energy development areas and subject to site specific assessment in accordance with relevant guidance.

- Objective EO-01 – It is an objective of the Council to achieve a reasonable balance between responding to government policy on renewable energy and in enabling the wind energy resources of the county to be harnessed in an environmentally sustainable manner. This will be implemented having regard to the Council’s Wind Energy Strategy as follows:
 1. In Areas open for consideration for Wind Energy Development, as identified in Map 3.2, the development of Wind Farms and smaller wind energy projects shall be open for consideration
 2. In all other areas Wind Energy Developments shall not normally be permitted – except as provided for under exemption provisions and as specifically described in Section 5.4 of the Wind Energy Strategy and Policy EP – 05.

5.8. Natural Heritage Designations

- 5.8.1. The closest Natura 2000 site is Ferbane Bog SAC (Site Code 000575) approx. 6.8km to the north west. The closest heritage area is Lough Boora pNHA (Site Code 001365) approx. 1km to the south.

5.9. EIA Screening

- 5.9.1. The relevant class for EIA is Schedule 5, Part 2 (3) (Energy Industry) (i) – ‘Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total power output greater than 5 megawatts’, of the Planning &

Development Regulations, 2001 (as amended). The EIA Screening Report submitted with the application concludes, after considering the proposed development in the context of schedule 7 of the Regulations, that 'the proposed Project does not have the potential to have significant effects on the environment and it is recommended that an EIAR is not required'. The planning authority's Planning Report contains a similar EIA exercise though has been considered in the context of schedule 7A. The planning authority concluded that there is no real likelihood of significant effects on the environment arising from the proposed development.

5.9.2. The proposed development comprises a single turbine. The output is cited in the public notices as 4.2MW but is described in the EIA Screening Report as 'up to but not greater than 5 megawatts (MW)'. As the relevant thresholds of Schedule 5 are not met or exceeded, EIA is not mandatory for this development. I consider the number of turbines is the more significant of the two separate issues set out in Part 2 (3)(i). Turbines can be visible over significant areas whereas the energy generated is generally accommodated by subterranean or, as anticipated in this case overground, cabling, and therefore has a more limited environmental impact. One turbine comprises only 20% of the total number of turbines that would require mandatory EIA. The combined electrical output is also below the threshold, albeit the information submitted with the application is somewhat contradictory about the specific output. However, in the context of wind energy development, the number of turbines has a greater impact on the receiving environment.

5.9.3. Notwithstanding, to ascertain whether this sub-threshold development may potentially require an EIAR there are four main considerations as a preliminary examination:

1. Is the size or nature of the proposed development exceptional in the context of the existing environment?

The site and surrounding area is rural in nature and generally comprises agricultural/tillage land, and wooded and bogland areas including some used for recreation (Lough Boora Discovery Park). There is some one-off housing in the general vicinity though there are only four houses within a 1km radius. The closest house appears to be approx. 670 metres north east of the proposed turbine, and appendix C (table C-1) of the grounds of appeal states this house is under the landowner's control. Of particular note in terms of the existing environment are the two

existing wind turbines on the opposite side of the R357, approx. 500 metres to the north of the proposed turbine. Wind turbines are becoming an increasingly more common sight and wind energy development is promoted in national policy. I do not consider that a single turbine, in close proximity to two existing turbines, could be considered exceptional in the context of the existing environment.

2. Would the development result in the production of any significant waste, or result in significant emissions of pollutants?

5.9.4. The development would not involve the use, storage, handling, or production of any substance that would be harmful to human health or the environment. It would not produce solid waste, release pollutants or any hazardous, toxic, or noxious substances. It would not result in discharge of pollutants to ground or surface waters.

5.9.5. Noise prediction modelling of the proposed turbine, as addressed in section 7.5 of this inspector's report, would not result in a significant adverse impact on the residential amenity of property in the vicinity either on its own, or cumulatively with the existing wind farm.

5.9.6. There is broad high level policy support for development of the type proposed. It would result in the production of renewable energy and help reduce reliance on fossil fuels. I do not consider the development would result in the production of waste or result in significant emission of pollutants.

3. Is the proposed development located on, in adjoining or have the potential to impact on an ecologically sensitive site or location?

5.9.7. The closest heritage area is Lough Boora pNHA approx. 1km to the south of the proposed turbine. I consider this distance is sufficient to ensure there would be no potential impact.

5.9.8. An Ecological Impact Assessment (EclA) was submitted with the planning application, and this is considered in section 7.3 of this inspector's report. The EclA considers that habitat at the proposed site is not of ecological value and the adjacent habitat is of local importance higher value on account of the diversity and associated fauna. However, overall, the proposed development would not be likely to have a significant adverse impact on biodiversity on site or in the immediate vicinity.

- 5.9.9. I have carried out an Appropriate Assessment screening of the proposed development (section 8.0 of this report) and concluded that it would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.
- 5.9.10. Therefore, the development is not located on, in or adjoining an ecologically sensitive site or location and would not have the potential to impact on any ecologically sensitive site or location.

4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?

- 5.9.11. The application is for a single wind turbine in relative proximity to an existing two-turbine wind farm. Certain aspects of the proposed development are considered in detail in section 7 of this inspector's report, but no other significant environmental sensitivities are considered to be relevant. The proposed development, while it would have a significant landscape impact given its size, is relatively limited in terms of land take etc., and it is fully contained within an agricultural field of no particular ecological value. The Department of Housing, Local Government and Heritage has recommended a condition and, should permission be granted, an archaeological assessment condition should be included.

Conclusion

- 5.9.12. Having regard to the nature and scale of the proposed development and the absence of significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Grid Connection

- 5.9.13. The applicant considers that a suitable grid connection route would be from the site to the existing Lumcloon 38kV substation approx. 4km to the west. It is anticipated to be an overground cable along the R357 with an approx. 300 metres section along the R437. However, the exact grid connection route and methodology would only become apparent when the ESB are undertaking their detailed design review. The applicant states the grid connection will be subject to a section 5 application but 'it has been accounted for in the development of the assessments'.

5.9.14. As the proposed development does not require EIA, I do not consider the O’Grianna Judgement a matter for this planning application.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by Rowan on behalf of the applicant, Natural Forces Renewable Energy Ltd. The main points made can be summarised as follows:

- It is known that the turbine is outside the wind energy strategy area. However, both Policy EP-05 and Objective EO-01 have exceptions where development of a turbine will be considered. One exception is a single turbine close to and specifically related to the operations of a community related premises. The applicant focused much of the proposed development on community ownership.
- Supporting appendices provide detail of landowner support, location rationale, council consultations, and project design in line with guidelines.
- The Landscape and Visual Assessment concluded the proposed site is in an area of ‘low’ sensitivity. The receiving landscape is already characterised by wind energy development, also in an area not deemed suitable for wind development.
- The proposed development complies with high level policy targets for renewable energy generation.
- The site location is viable because, inter alia, the project has been developed in line with the Wind Energy Guidelines (2006) and have considered the 2019 draft guidelines, and the proposed development fulfils the needs of EP-05 and EO-01, particularly category A and section 5.4 of the Wind Energy Strategy.
- Information provided in the application supports the applicant’s case for development in the area/community.
- Appendix A is project description.

- Appendix B (Community Benefits) states that the aim of the proposed project is ‘to develop a renewable energy project together with the local community in line with the terms and conditions of the Renewable Energy Support Scheme (RESS) ...’ Brief detail is outlined in relation to community benefit fund, community ownership in partnership with a developer, and community-led renewable energy project grid connections.
- Appendix C (Policy and Guideline Context) outlines the international, European, national, and local policy framework which support the development of wind energy, in the context of the proposed development.
- Appendix D (Natural Forces Community & Engagement Feasibility Study) comprises a ‘Community Engagement Report’ prepared by the applicant dated 3rd March 2021. The document states that it ‘includes a brief description of Natural Forces Ireland, the community in which the project is located, the community-developer partnership, community engagement within the surrounding area and the potential benefits of the project to the community’.

6.2. **Planning Authority Response**

- 6.2.1. The planning authority respectfully requests the Board to support its decision.

6.3. **Observations**

- 6.3.1. None.

6.4. **Further Responses**

- 6.4.1. None sought.

7.0 **Planning Assessment**

Having examined the application details and all other documentation on file and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Wind Energy Strategy / Planning Authority Reason for Refusal
- Landscape and Visual Impact
- Biodiversity
- Roads and Traffic
- Noise
- Shadow Flicker
- Turbine Type

7.1. Wind Energy Strategy / Planning Authority Reason for Refusal

7.1.1. The planning authority's reason for refusal is based on the fact that the proposed development is outside of the identified wind energy development areas contained within the 2014-2020 County Development Plan's Wind Energy Strategy. The applicant considers that, notwithstanding, the proposed development would be consistent with the exceptions outlined in the strategy.

7.1.2. The Offaly County Development Plan 2021-2027 is the current plan in place and therefore it is the plan under which the decision will be made. Notwithstanding, I will also consider the proposed development in the context of the previous plan.

Provisions of the Offaly County Development Plan 2021-2027

7.1.3. A Wind Energy Strategy forms part of the plan. It constitutes 'a plan led approach to wind energy development in County Offaly and sets out areas 'open for consideration' for wind energy developments ...' Policy CAEP-38(b) states the Council shall have regard to these areas when assessing planning applications for wind farms. Objective CAEO-05(2) states that it is an objective that wind energy development shall not normally be permitted outside areas deemed open for consideration, except as provided as exempted development.

7.1.4. The Wind Energy Strategy is a comprehensive and robust document and 'will guide the development of wind energy developments in the county up to 2027'. The steps in identifying suitable locations for wind energy development are set out in section 5 of the strategy. Map 10 shows the areas open for consideration for wind energy developments and those areas not deemed suitable. Though there are differences in

the relevant maps between the current and previous plans, the proposed site remains in an area not deemed suitable for wind energy development. Figure 2 of the planning authority's Planning Report identifies that the proposed turbine would be approx. 3.65km east of the closest wind energy strategy area as set out in the previous county development plan.

- 7.1.5. I note that the Leabeg wind farm is also in an area not deemed suitable for wind energy development. The site was also outside the designated 'wind strategy area' as set out in the Wind Energy Strategy of the 2009-2015 Offaly County Development Plan. In the planning authority's Planning Report for 10/130 this is acknowledged but it was considered in the report that 'due to the small scale nature of the development, the history of power energy developments in the area (Ferbane/Lumcloon Power Station), and the proximity to the national grid, the proposal is acceptable in principle'. Objective CAEO-05(3) and section 8 of the current strategy state, inter alia, that applications to extend existing windfarms will be assessed on a case by case basis. Having regard to the documentation submitted with the application, the proposed development is clearly a stand-alone development. It is not claimed by the applicant that it is an extension to the Leabeg wind farm.
- 7.1.6. I also note that the presence of the two-turbine existing Leabeg wind farm was noted in the current Wind Energy Strategy, one of only three constructed windfarms in the county, yet the area was deliberately excluded from the areas deemed open for consideration.
- 7.1.7. Table 3-2 of the applicant's E&PR references an objective in the, then, draft 2021-2027 plan/strategy. This objective has been carried into the current strategy as Objective 4; 'Consider the potential for micro-generation (generation that is less than 11 kW) wind energy developments and for small community based proposals outside key areas within the county that are 'Open for Consideration for Wind Energy Developments'. At 4.2MW and up to 150 metres in height, the proposed development is clearly in excess of the scale of turbine anticipated and, I do not consider, based on the documentation submitted with this application, the nature of the applicant, the absence of local community involvement etc., that it could be described as a small community based proposal. Similarly, the E&PR, on page 36, states the proposed development would comply with the (then draft) section 8 2(b) which states that, in areas not deemed suitable for wind energy development, 'Individual small scale

turbines will be considered on a case by case basis ...' Again, this development cannot reasonably be described as a small scale turbine of the type envisaged.

- 7.1.8. In my view, the position of the planning authority in terms of wind energy development is clear and unambiguous. In areas not deemed suitable for wind energy development, a turbine of the type and scale proposed will not normally be permitted. I do not consider the circumstances of the application or grounds of appeal are so compelling in this instance as to warrant disregarding of the robust Wind Energy Strategy.

Planning Authority Reason for Refusal

- 7.1.9. Notwithstanding that the County Development Plan 2014-2020 under which the application was refused by the planning authority has been replaced, I consider it appropriate to consider the application under the plan that was in place at the time of the Council's decision, for completeness.
- 7.1.10. The application was refused by the planning authority because the site was not located in an area identified for wind energy development, and to permit the development would materially contravene Policy EP-05 and Objective EO-01 of the 2014-2020 plan. This policy and objective are set out in section 4 of this report. They are similar to the current plan in that the county is divided into areas that are considered suitable for wind energy development and those that are not. Policy EP-05 states that applications outside the areas open for consideration will not normally be permitted. That is the case in this situation.
- 7.1.11. However, there is an exception to this. This is 'Category A: Single Turbines that are sited close to and specifically relate to the operations of an industrial/commercial premises or a school, hospital, or other community-related premises. Supporting evidence must be provided detailing that the development will only facilitate and is only related to the operation of the business or community facility'. The applicant considers that the proposed development complies with this exception.
- 7.1.12. In my opinion it is clear that the proposed development did not comply with the development plan under which the planning authority's decision was made. The 'single turbines' referred to are explicitly defined as being sited close to and relating to the operations of an industrial/commercial premises or a school, hospital or other community-related premises and supporting evidence must detail that the turbine would only facilitate the operation of that business or community facility. It is clear that

it is small-scale turbines that are envisaged in category A, generating sufficient power for a school, hospital, community hall etc. By contrast the proposed 4.2MW turbine, up to 150 metres in height, would be similar in power generation to the existing Leabeg development which, according to table 1 of the 2021-2027 Wind Energy Strategy, has 4.5MW capacity. In addition, the provision of a substation and proposal to export generated power to the national grid conflicts with the type of turbine envisaged in category A.

7.1.13. The application and the grounds of appeal refer consistently to the proposed turbine being a community turbine and to community ownership. However there is no reasonable supporting documentation in this regard from either a member of the local community or any community group. The application is being made by a private company with no apparent supporting public/community involvement. From the documentation submitted with the application the proposed development appears to be, at this stage, a 'community' turbine in name alone. Notwithstanding, the ownership of the proposed turbine is not relevant to whether or not it would comply with the exemption offered in category A.

7.1.14. In my view the decision by the planning authority to refuse permission was a reasonable decision and one that was consistent with the plans and objectives of the Offaly County Development Plan 2014-2020.

New Issue

7.1.15. The planning application is now being considered under the 2021-2027 Offaly County Development Plan, as opposed to the previous 2014-2020 plan. There have been some changes in the current plan. However, the basic issue remains the same i.e. the county is divided into areas where wind energy development is deemed acceptable and areas where it is not. The site area was, and remains, in an area not deemed suitable.

7.1.16. I do not consider that the change in county development plan status has any undue effect on the consideration of the proposed development. In my view the application was not in accordance with the provisions of the former plan, and it is not in accordance with the current plan. In my opinion this is not a new issue, and the application can be determined without seeking the views of the parties involved.

Conclusion

7.1.17. Having regard to the foregoing, I consider that the development of a wind turbine at this location would be contrary to the provisions of the County Development Plan 2021-2027, and it would also have been contrary to the provisions of the 2014-2020 plan under which the application was originally considered. Despite the fact that there is an existing two-turbine wind farm in the vicinity this area was deliberately excluded for areas deemed appropriate for such development under the respective Wind Energy Strategies.

7.2. Landscape and Visual Impact

7.2.1. Landscape and visual impact is a significant issue in considering planning applications for wind energy development. A 'Landscape and Visual Impact Assessment' (LVIA) was submitted as appendix 6 of the E&PR. It was prepared by Macroworks and is dated April 2021. A photomontages booklet has also been submitted, again prepared by Macroworks and dated April 2021.

7.2.2. It is stated the LVIA assesses the likely landscape and visual impacts of the proposed turbine on the receiving environment. A landscape impact assessment relates to assessing effects of a development on the landscape as a resource in its own right whereas a visual impact assessment relates to assessing effects of a development on specific views and on the general visual amenity experienced by people.

7.2.3. The LVIA is based on the 2014-2020 Offaly County Development Plan. The proposed site is located in an area of 'Low Sensitivity' but the LVIA notes that several 'high' sensitivity classifications are situated in the surrounds of the site. The landscape sensitivity designation does not appear to have changed in the current 2021-2027 Plan under which the planning application will be considered (the maps are at a high scale). The site/subject field appears to comprise the only area on the south side of the R357 in the wider area that is a 'Low Landscape Sensitivity' area, immediately surrounded to all sides except the north west, by 'High Landscape Sensitivity' areas. Leabeg wind farm also appears to be designated as a low sensitivity area. While the site itself and the existing windfarm site may be designated 'low' sensitivity, it would be misleading to consider this a 'low sensitivity' area without referencing the wider landscape context.

- 7.2.4. Further to this, Areas of High Amenity (AHA) are designated in both the current and previous county development plans. These 'are areas worthy of special protection/enhancement due to their uniqueness and scenic/amenity value'. Lough Boora Discovery Park (including bog lands and agricultural lands) is such an AHA and its boundary mirrors that of the High Landscape Sensitivity area.
- 7.2.5. The LVIA considers the landscape 'to be of Medium-low sensitivity ...' The magnitude of landscape impact is also considered to be medium-low within 2km, reducing to low and negligible thereafter. Landscape impact is therefore considered by the LVIA to be moderate-slight within the central study area, reducing to slight and imperceptible at increasing distances.
- 7.2.6. Six viewshed reference points (VRPs) were selected for studying the visual impact of the proposed development and were selected based on specific criteria. Photomontages have been submitted to illustrate the impacts from the various VRPs. A tabular analysis and assessment of visual receptor sensitivity at each VRP is set out in table 1.6 of the LVIA. Each VRP is individually described and considered. The residual visual impact of the proposed development on one of the VRPs (VRP 4) is considered to be moderate, on four VRPs it is considered to be slight, and on VRP 6 it is considered to be slight-imperceptible. The cumulative impact, with the two existing turbines, for landscape and visual impact are deemed to be low-negligible. In terms of the overall significance of the impact, the LVIA states the proposed single turbine 'is not considered to give rise to any significant landscape and visual impacts'.
- 7.2.7. Having regard to the LVIA, I consider that the location of the proposed site, immediately adjacent to and almost surrounded by a significant area of High Landscape Sensitivity and an Area of High Amenity, is somewhat downplayed. Although it is at the extreme edge of a Low Landscape Sensitivity area its context, in my opinion, is more formed by the high sensitivity areas than by the low sensitivity area of which it forms part. In addition, the fact that the rotor blades proposed are significantly longer than on the Leabeg turbines (a diameter of 138.25 metres as opposed to 92 metres) is barely referenced in the LVIA despite this disparity being somewhat visually incongruous in the photomontages. Notwithstanding, the most obvious feature in the vicinity is the Leabeg wind farm and, as a result, the proposed turbine would, if permitted, not result in the obtrusive feature on the landscape that it

would if the existing turbines were not in situ. Though not an extension to the existing windfarm, it would generally read as such from outside the immediate vicinity.

- 7.2.8. Therefore, notwithstanding the proximity to the high sensitivity landscape areas and the disparity in respective sizes between existing and proposed turbines, I do not consider that the proposed development should be refused on the basis of landscape or visual impact, because of the presence of the existing turbines.

7.3. **Biodiversity**

- 7.3.1. Impact on biodiversity is a consideration in proposed developments of this scale. The applicant has submitted an Ecological Impact Assessment (EclA) as appendix 5 of the E&PR. It was prepared by EirEco Environmental Consultants and is dated May 2021. The EclA states the site was surveyed on 4th February 2020, however section 7 (Ecological Impact Assessment) of the E&PR states the site was surveyed in April 2021.
- 7.3.2. Wintering and breeding bird surveys undertaken as part of monitoring of the Leabeg wind farm are referenced. The surveys include the proposed site. A description of the habitats and fauna is provided in sections 4.2 and 4.3. There is an active badger sett in a scrub area fringing the western boundary. Habitat in the area is also generally suitable for hare, stoat, hedgehog, fox, common lizard, newt, and frog. A heavily overgrown shallow drain does not provide suitable habitat for any fish species. The area to the west of the site provides suitable habitat for the marsh fritillary butterfly. There are no suitable bat roosts in the immediate vicinity, but some foraging is expected to occur along the western side of the site. The report considers 'the proposed turbine location is sufficiently set-back from potential foraging habitat to minimise the risk of collision or barotrauma to bats'. The bird surveys have recorded a number of raptors in the study area and occasionally more sensitive species such as hen harrier, lapwing, and whooper swan. (These are also referenced in section 8 of this report). It is possible that wood pigeons have struck the existing turbines, though this could also have been as a result of predation by sparrowhawk. Habitat at the proposed site is not of ecological value and adjacent habitat is of local importance higher value on account of the diversity and associated fauna.

- 7.3.3. The EclA considers that there are no designated conservation sites within the potential zone of interest given the lack of potential pathways. Lough Boora pNHA and Grand Canal pNHA (just over 2km to the north west) are considered to be sufficiently remote to be beyond any risk of direct or indirect impact. The EclA considers that there would be limited/no discernible impact on site habitat as a result of construction and it would have no greater risk to surface water quality than general agricultural activities regularly undertaken on site. The access track is set in 10 metres from the western boundary, avoiding the potential for direct impact on the badger sett outside the site. The site itself does not support any breeding or roosting sites for any mammal species. The EclA acknowledges the potential for badger disturbance though considers the potential impact to be negligible, referencing the short duration and localised nature of it, and that construction would only take place in daylight.
- 7.3.4. The site is not suitable for hen harrier foraging but foraging is expected in the general vicinity given the proximity of a known roost at Lough Boora and the habitat in the area. 'The presence of a wind turbine may result in a localised displacement of birds from the immediate zone, though the existing 2 wind turbines ... have not had any evident effect on the winter roost ... and an additional single turbine is unlikely to have any significant additional effect'. The level of impact on hen harrier 'is considered not significant'. Lapwing is recorded as having bred in the subject field/site but there are no records from recent years. Use of the landscape by wintering or breeding birds 'is not expected to be affected in any significant way by the development ... due to the unsuitability of the proposed site for breeding or foraging by birds, and the presence of the existing two turbines at Leabeg not having had any perceptible effect on the occurrence or abundance of any bird species in the area'. Only minor hedgerow-related and best-practice construction works mitigation is proposed. No mitigation is required during operation. The EclA anticipates no adverse residual impact.
- 7.3.5. Having regard to the content of the EclA I accept that the proposed development would not be likely to have a significant adverse impact on biodiversity on site or in the immediate vicinity. Table 3.4 (Construction Mitigation) of the E&PR elaborates on the brief reference to construction-phase mitigation in the EclA. Any grant of permission should also include reference to these mitigation measures, in the interest of biodiversity.

7.4. Roads and Traffic

- 7.4.1. Construction traffic issues are set out in section 8 of the submitted E&PR. The construction period is anticipated as approx. six to eight months and the workforce is expected to be between two and twenty, depending on the activity.
- 7.4.2. Delivery of the turbine would require a number of oversized loads. A haul route from Dublin Port, which is considered the most likely arrival point, to the site is outlined i.e. M50, M4, M6, N52, and the R357. Road traffic risks will be avoided through detailed consideration of the finalised route which would be confirmed in a Construction Management Plan. I consider that the specific detail of the required haul route and any permits, consultations, operational requirements etc. is a matter for the developer and is outside the specific scope of this application.
- 7.4.3. The site is accessed from the R357. This road is relatively straight in both directions from the proposed access point and 90 metres sightlines are shown in each direction on submitted Drg. No. 21036-104. The internal track would vary in width from 4.5-5 metres and would be constructed of permeable material, according to section 3.5.3 of the E&PR. The access gate would be set back approx. 45 metres into the site to obviate on-road queuing. Given the nature of the site I consider adequate on-site parking for workers would be available.
- 7.4.4. I note that both the planning authority's Area Engineer and Roads Section requested that further information be sought for issues such as, inter alia, increased sightlines of 150 metres, surface water, signage and line markings, and autotracks. The Area Engineer's report also considered that the entrance required for construction would be excessively large for operational activities.
- 7.4.5. Given the relatively straight nature of the R357 at this location I do not consider the proposed development would fail to achieve the required sightlines. In addition, issues such as surface water and signage could be addressed by way of condition, in the event of a grant of permission. I agree with the Area Engineer that the width of the proposed site entrance is excessive for operational purposes. Drg. No. 21036-104 shows a width of approx. 53 metres. A revised operational phase site entrance should be required as part of any grant of permission, to include replacement hedgerow planting.

7.4.6. In conclusion, I do not consider the proposed development would have any undue adverse impact on the road network during the construction phase. Should permission be granted I consider a compliance condition would be warranted to include increased sightlines, a reduced operational phase site access width, and the other issues cited in the internal reports.

7.5. Noise

7.5.1. A 'Wind Turbine Noise Impact Assessment' has been submitted as appendix 8 of the applicant's E&PR. It was prepared by Enfonc Ltd. and is dated 28th April 2021.

7.5.2. The assessment identifies operational noise limits in the 2006 Wind Energy Development Guidelines. A baseline noise scenario is assumed (a limit of 45dB or 5dB above background (whichever is the greater) will apply for both the existing wind farm and proposed turbine) rather than being established by an on-site survey. The alternative scenario is a low noise environment.

7.5.3. Computer modelling was prepared to quantify the noise levels associated with the operational phase of the proposed development and the existing wind farm. The results demonstrate that the existing wind farm is expected to be operating below noise criteria (45 dbA at daytime and 43 dBA at night) at noise sensitive locations (NSL) at all wind speeds. The worst affected location is a house west of the site which would experience a predicted noise level of 36.9 dBA at a wind speed of 13 metres per second (13m/s). Cumulative results for both the proposed turbine and the existing wind farm demonstrate a worst-case scenario of 37.7 dBA at the same house and same wind speed. Taking the proposed turbine in isolation, the worst affected house would be the house under the landowner's control to the north east with 33.3 dBA at 13m/s.

7.5.4. The noise impact assessment considers that 'the predicted noise levels for all turbines operating will not exceed the daytime or night-time noise limits at any (noise sensitive location (NSL)) at any wind speed. There is therefore capacity within the existing noise limit for the candidate turbine to operate without mitigation'. This relates to the scenario that it is assumed applies. In the 'highly unlikely' low noise environment scenario, some NSLs would be above the 35dBA daytime limit at some wind speeds. However, I note from tables 4 and 5 that 35dBA is exceeded by the existing turbines and the

additional predicted cumulative increase from the proposed turbine is marginal. In addition, I note that section 5.6 of the 2006 guidelines states 'in low noise environments where background noise is less than 30 dB(A), it is recommended that the daytime level of the LA90, 10min of the wind energy development noise be limited to an absolute level within the range of 35-40 dB(A)'. In the predicted cumulative model the maximum predicted cumulative noise level is 37.7dBA i.e. within the range cited.

7.5.5. Having regard to the foregoing, I do not consider that the proposed turbine would result in a significant adverse impact on the residential amenity of property in the vicinity as a result of predicted noise impact.

7.6. Shadow Flicker

7.6.1. One of the main considerations with wind energy development is the potential effect of shadow flicker. A 'Shadow Flicker Report' has been submitted as appendix 7 of the E&PR. This was prepared by the applicant and is dated 1st March 2021.

7.6.2. The reports' results show that 'The shadow demands for a worst case 30 hours/year or 30 minutes/day are exceeded at 4 shadow receptors'. In terms of daily 30 minutes exceedance these range from 36 minutes to 53 minutes at four shadow receptors (houses). In terms of annual exceedance, one house, which is also one of the four daily exceedances, would suffer an additional 44 hours 43 minutes flicker per year. I note that these are worst case situations e.g. the sun is always shining, and the rotors are always turning.

7.6.3. Detailed results are contained within the report's appendix A. The four affected houses are the four houses within a 1km radius of the proposed turbine to the north east and the worst affected house (receptor BT) appears to be under the control of the landowner according to table C-1 of the grounds of appeal. The results of a cumulative study i.e. the proposed plus existing turbines, is also provided in appendix A. Detail on shadow flickering mechanical shutdown is contained in appendix B of the applicant's report.

7.6.4. Shadow flicker impact to nearby sensitive receptors is a consequence of wind energy development in proximity to residential properties. Four houses would be particularly affected by the proposed development. Notwithstanding, a standard shadow flicker mitigation condition could be attached to any permission, if granted.

7.6.5. Therefore, while shadow flicker would occur to houses in the vicinity, I consider that it could be appropriately mitigated by condition.

7.7. Turbine Type

7.7.1. Throughout the application the specific type and dimensions of the proposed turbine are not definitive. For example, the public notices refer to the turbine having 'an overall tip height of up to 150m', section 3.5.1 of the E&PR provides an 'indicative summary specification of the proposed turbine' including 'the tower of the turbine will most likely be a hybrid tower ...', and section 2.2 of the EIA screening report states that 'The power rating associated with the proposed wind turbine will be up to but not greater than 5 megawatts'. Notwithstanding, both the Shadow Flicker Report and Noise Impact Assessment are based on the same turbine, an Enercon E-138. However, section 4.1 of the assessment states it is the turbine model 'expected to be used in the development'.

7.7.2. On foot of the absence of a definitive turbine type and specific dimensions, should the Board be of the opinion that the proposed development is acceptable, I recommend that further information is sought prior to the grant of permission requiring the applicant to confirm the nature and extent of the development for which permission is sought, 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). Alternatively, if a range of options is sought the applicant should clearly indicate in the application documentation the detail of all such options and confirm that each option has been fully assessed within the application documentation, including within the Natura Impact Statement (NIS) as appropriate.

8.0 Appropriate Assessment (AA)

Appropriate Assessment (AA) Screening

Compliance with Article 6(3) of the Habitats Directive

8.1. The requirements of article 6(3) of the Habitats Directive, as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the

Planning and Development Act, 2000 (as amended) are considered fully in this section.

Background on the Application

- 8.2. The applicant submitted an 'Appropriate Assessment Screening Report', prepared by EirEco Environmental Consultants, dated May 2021, as appendix 4 of the E&PR.
- 8.3. The report's objective is to determine the potential effects of the proposed development, if any, on the Natura 2000 network. The report describes the proposed development and the existing environment, identifies Natura 2000 sites and conservation objectives, carries out screening, and reaches a conclusion and final determination. Associated relevant reports also submitted with the application include a Decommissioning & Reinstatement Report and an Ecological Impact Assessment.
- 8.4. The screening report concludes that 'the proposed development presents no risk of giving rise to any significant or other impacts within any Natura 2000 site'.
- 8.5. Having reviewed the documents and submissions 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.

Screening for Appropriate Assessment – Test of Likely Significant Effects

- 8.6. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

Brief Description of the Development

- 8.8. The applicant provides a description of the project on page 5 of the screening report. In summary, the proposed development comprises one 4.2MW wind turbine with an overall tip height of up to 150 metres, site entrance and access track, on-site 20kV substation and underground electrical cable connecting the turbine to the substation.

- 8.9. The habitat on the development site is described on page 6 of the screening report. The field within which the proposed turbine would be located is under tillage. On my site inspection the field was being used for sheep. There is improved agricultural grassland and conifer plantations, with some areas of partially intact bog in the area. There are two wind turbines on the opposite side of the R357.
- 8.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Habitat loss/fragmentation
 - Construction-related – uncontrolled surface water/silt/construction related pollution
 - Habitat disturbance/species disturbance (construction and/or operational).

Submissions and Observations

- 8.11. No relevant submission or observation received.

European Sites

- 8.12. The development site is not located in or immediately adjacent to a European site. The closest European site is Ferbane Bog SAC (Site Code 000575) approx. 6.8km to the north west.
- 8.13. European sites within the Zone of Influence (Zoi) of the proposed development must be evaluated on a case by case basis. Figure 7 of the submitted AA screening report illustrates the position of the proposed turbine in the context of European sites in a 15km radius. Six sites are identified on the map. I do not consider this is an accurate reflection of European sites within a 15km radius of the proposed site. The applicant has not included Slieve Bloom Mountains SPA approx. 13.3km to the south east, Charleville Wood SAC approx. 14.8km to the east, or Fin Lough (Offaly) SAC approx. 14.9km to the north west. In addition, table 1 of the submitted report mislabels the River Shannon Callows SAC by calling it Middle Shannon Callows SAC. There are nine sites within a 15km radius of the proposed site. These are:
- Ferbane Bog SAC (Site Code 000575) approx. 6.8km to the north west,
 - Moyclare Bog SAC (Site Code 000581) approx. 8.3km to the north west,

- Clonaslee Eskers and Derry Bog SAC (Site Code 000859) approx. 11.5km to the south east,
- Clara Bog SAC (Site Code 000572) approx. 11.7km to the north east,
- River Shannon Callows SAC (Site Code 000216) approx. 12.2km to the west,
- Middle Shannon Callows SPA (Site Code 004096) approx. 12.2km to the west,
- Slieve Bloom Mountains SPA (Site Code 004160) approx. 13.3km to the south east,
- Charleville Wood SAC (Site Code 000571) approx. 14.8km to the east, and,
- Fin Lough (Offaly) SAC (Site Code 000576) approx. 14.9km to the north west.

8.14. Given the nature and relatively limited scale of the proposed development I do not consider that all of these sites require to be further examined. While there are a number of drains and watercourses in the wider vicinity of the site, the Ordnance Survey website indicates the only watercourse on site, or on the boundaries of the site, is the roadside drain along the R357. Hydrological connectivity from the site is therefore limited. Given the nature of the application i.e. a wind turbine, I consider all SPAs should be further examined given they relate to bird species. Therefore, the relevant Zol for this application, in my view, are SACs within a 10km radius and all SPAs within a 15km radius. There are other SPAs just outside this 15km radius.

8.15. Having regard to the information available, the nature, size and location of the proposed development, its likely direct, indirect, and cumulative effects, the source-pathway-receptor model, and the sensitivities of the ecological receptors, I consider that four European sites are relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects. Table 8.1 below lists the sites within the Zol, their qualifying interests, their conservation objectives, and identifies possible connections between the proposed development (source) and the sites (receptors).

| Table 8.1: Table of European sites within a possible zone of interest (Zoi) of the proposed development | | | | | |
|---|--|--|---------------------------------|---|----------------------------------|
| European site (code) | List of qualifying interest (QI) / special conservation interest (SCI) | Conservation objectives | Distance (km) | Connections (source, pathway, receptor) | Considered further in screening? |
| Ferbane Bog SAC (000575) | <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> | <p>To restore the favourable conservation condition of Active raised bogs.</p> <p>The long term aim for Degraded raised bogs ... is that its peat forming capability is re-established. Therefore, the conservation objective is inherently linked to that of Active raised bogs and a separate conservation objective has not been set.</p> <p>Depressions on peat substrates ... is an integral part of good quality Active raised bogs and thus a separate conservation objective has not been set.</p> | Approx. 6.8km to the north west | Possible hydrological | Yes |
| Moyclare Bog SAC (000581) | <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> | As per Ferbane Bog SAC, above. | Approx. 8.3km to the north west | Possible hydrological | Yes |
| Middle Shannon Callows SPA (004096) | <p>Whooper swan [A038]</p> <p>Wigeon [A50]</p> <p>Corncrake [A122]</p> | To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA. | Approx. 12.2km to the west | Air and possible hydrological | Yes |

| | | | | | | |
|---------------------------|-----------|--|--|----------------------------------|-----|-----|
| | | <p>Golden Plover [A140]</p> <p>Lapwing [A142]</p> <p>Black-tailed Godwit [A156]</p> <p>Black-headed Gull [A179]</p> <p>Wetland and Waterbirds [A999]</p> | <p>To maintain or restore the favourable conservation condition of the wetland habitat at this SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.</p> | | | |
| Slieve Mountains (004160) | Bloom SPA | Hen Harrier [A082] | <p>To maintain or restore the favourable conservation condition of the bird species listed as SCI for this SPA.</p> | Approx. 13.3km to the south east | Air | Yes |

Identification of Likely Effects

8.16. Potential impacts on European sites have been categorised by the applicant as:

- Direct and indirect loss of habitats (habitat loss/fragmentation)
- Disturbance to fauna (habitat disturbance/species disturbance (construction and/or operational))
- Impacts on water quality (Construction-related – uncontrolled surface water/silt/construction related pollution)

These can be assessed as follows:

8.17. Direct and indirect loss of habitats – The screening report notes that the site is not within or close to a European site, and the development is not considered to present any risk of giving rise to loss of any listed habitats.

8.18. I concur with the applicant's assessment in this regard.

8.19. Disturbance to fauna – The applicant considers the site habitats are generally unsuited for foraging, roosting, or breeding by listed bird species.

8.20. As part of a monitoring condition for the Leabeg windfarm, wintering and breeding bird surveys were undertaken. During wintering surveys occasional flight lines have been recorded for hen harrier, lapwing, and whooper swans. The screening report states, 'The low frequency of occurrence and the lack of any regular foraging or flight paths for whooper swan within the vicinity of the site will avoid any risk of significant impacts on this species or the SPA'.

8.21. There are up to six hen harriers in a roost in the nearby Boora Parklands. They are likely to forage over the extensive tracts of bog and forestry. While the site would not provide optimal foraging habitat, occasional foraging or passage can be expected. The screening report states that the two existing wind turbines 'have apparently had no negative effect on the number of hen harriers utilising the Lough Boora winter roost site, nor have any confirmed bird strikes being [sic] recorded at the site'. There are records of lapwing having bred within the field where it is proposed to locate the turbine but there are no records from recent years, possibly due to unfavourable land management or the presence of the turbines. No record of bird strike of any species of conservation concern has been recorded in the monitoring of the Leabeg windfarm.

- 8.22. The applicant considers, in view of the nature of the habitat on site, the distance to European sites, and the lack of pathways of connectivity, there is considered to be no risk of giving rise to any significance disturbance effect of QI/SCI species for any European site within 15km, or any Annex listed bird or mammal species.
- 8.23. I note the detail provided in the screening report relating to wintering and breeding birds, both of which have been recorded on, and in the vicinity of, the proposed site and that the site habitats are generally unsuited for foraging, roosting, or breeding by listed bird species. The monitoring of the existing windfarm is of benefit in the consideration of the proposed development in terms of recorded flight lines, foraging, and flight paths. The hen harrier roost in the Boora Parklands is a substantial distance from the Slieve Bloom Mountains SPA where hen harrier is the only SCI. The site is not considered to provide optimal foraging habitat and monitoring of the existing windfarm has not recorded any evidence of bird strike of any species of conservation concern, though it is not clear how long this monitoring has been ongoing.
- 8.24. Given the rural location of the site, in an area characterised by bogland, forestry, and agricultural land, and in relative proximity to a significant river system (Shannon) and upland areas (Slieve Blooms), the occasional presence of birds of special conservation interest is to be expected. Notwithstanding, having regard to the content of the screening report as referenced above, the distance to the relevant SPAs, and the presence of existing turbines in the immediate vicinity, I consider that the proposed wind turbine development would not be likely to give rise to significant effects on any European site during the operational phase, and I concur with the applicant's conclusion in this regard.
- 8.25. Impacts on water quality – The screening report states the site is in a level landscape with little evidence of water flow in any drains in the vicinity. No drains will be crossed as part of the construction of the access road or any hardstanding. The Boora River is approx. 300 metres from the site and 'there is no obvious direct hydrological connection to it from the proposed site'. The Boora ultimately discharges into the River Shannon (River Shannon Callows SAC) approx. 25km downstream. The screening report considers 'there is no significant risk of any silt or other pollutants arising during construction making their way to the Boora River'. Construction activity is considered to present no greater risk to water quality than existing agricultural activity. The proposed development will be undertaken in accordance with standard best practice,

and in view of the limited nature of the works and the distance to the nearest designated conservation area, there is considered to be no significant risk to water quality.

- 8.26. I note the applicant's conclusion to this section of the screening report. The existing hydrological environment in the vicinity is complex but there is no notable drain or stream within the site or around the site boundary. There is no clear hydrological link between the site and any watercourse. As noted in the screening report, the site is in a level landscape and there was limited flow in any visible drains. There are no non-bog SACs within 10km of the site and the hydrological distance to the two bogs would be greater, hydrologically, than the distances cited in table 8.1 in the unlikely event that water does flow between the proposed site and these SACs. I do not consider that the proposed development would have any impact whatsoever on the QIs of Ferbane Bog SAC or Moyclare Bog SAC, or indeed that it could have any impact on any SACs further away, such as River Shannon Callows SAC, given the nature of the proposed development, the absence of any obvious hydrological connection, the distances involved, and the standard condition that would likely be attached to any grant of permission for this nature and scale requiring a construction management plan.
- 8.27. Therefore, I consider that the proposed development would not impact on water quality such that it would be likely to give rise to significant effects on the QIs/SCIs of any European site during the construction or operational phases.

In-Combination Effects

- 8.28. Although the proposed development is a stand-alone wind turbine, the two-turbine Leabeg wind farm is in the immediate vicinity. Under the Leabeg parent planning application, 10/130, it was deemed by the planning authority that the windfarm had no potential for significant effects in terms of AA. As I do not consider the proposed development would have any impact on any European site, there is no in-combination effect with the existing wind farm.
- 8.29. Notwithstanding the statement in section 3.2.1 of the E&PR, and elsewhere, that 'the grid connection has been accounted for in the development of the assessments', the submitted screening report makes no reference whatsoever to grid connection works. Though it does not form part of the planning application it can be considered part of

the overall project. The grid connection method and route has not been established however the applicant has suggested an overground cable route to the Lumcloon 38kV station approx. 4km to the west. This route would be along the R357 and the R437. The land either side of these roads are in normal rural uses i.e. agricultural, forestry, some residential, and the route would also pass another electrical substation (Derrycarney 110kV substation). The only waterway that would be crossed is Silver River which is a tributary of the River Brosna which discharges into the River Shannon. There are no European sites in the vicinity of the proposed grid connection route. The closest would be Ferbane Bog SAC and Moyclare Bog SAC approx. 6km to the north west. Having regard to the overground nature of the suggested grid connection, which would involve limited construction works, and the distance to the closest European sites, I do not consider the proposed grid connection as anticipated, would have any adverse impact on any European site.

- 8.30. As I consider the proposed turbine development would have no adverse impact on any European site as a result of the distances involved and lack of connectivity, I do not consider there would be any in-combination effects with grid connection works.

Mitigation Measures

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

Screening Determination

Finding of no likely significant effect

- 8.32. The proposed development was considered in light of the requirements of section 177U of the Planning & 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 not be likely to give rise to significant effects on European sites nos. 000575, 000581, 004096, and 004160, or any other European site, in view of the sites' conservation objectives, and appropriate assessment, and submission of a Natura Impact Statement, is not therefore required.
- 8.33. This determination is based on the following:

- The nature and scale of the proposed development,

- The distance of the proposed development from European sites,
- The lack of ecological or hydrological connectivity between the proposed development and European sites, and
- The absence of any in-combination effect.

9.0 Recommendation

9.1. I recommend that the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. Objective CAEO-03 of the Offaly County Development Plan 2021-2027 states that it is an objective of the Council to achieve a reasonable balance between responding to government policy on renewable energy and in enabling the wind energy resources of the county to be harnessed in an environmentally sustainable manner. Policy CAEP-38(b) states that the Council shall have regard to 'Areas Open for Consideration for Wind Energy Developments' in the Wind Energy Strategy Designations Map from the County Wind Energy Strategy, and Objective CAEO-05(2) states that, in all other areas, wind energy developments shall not normally be permitted – except as provided for under relevant exemption provisions in the Planning and Development Regulations 2001 (as amended). The site is not located in an area identified for wind energy development in the Development Plan. It is considered that the proposed development would materially contravene Policy CAEP-38 and Objective CAEO-05 of the Offaly County Development Plan 2021-2027 and would, therefore, be contrary to the proper planning and sustainable development of the area.

Anthony Kelly
Planning Inspector
14th March 2022