



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313440-22

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<b>Development</b>	Construction of 14 wind turbines, grid connection and all associated works.
<b>Location</b>	Townlands of Gortyrhilly, Cahernacaha, Derree, Derryfineen and Gortnabinna, Ballyvourney and Ballingeary, Co. Cork.
<b>Prospective Applicant</b>	Gortyrhilly Wind DAC
<b>Planning Authority</b>	Cork County Council
<b>Type of Application</b>	Pre-Application Consultation under s.37B of the Planning and Development Act 2000, as amended
<b>Date of Site Inspection</b>	17 <sup>th</sup> June 2022
<b>Inspector</b>	Máire Daly

## 1.0 Pre-Application Consultation

- 1.1. The Board received a written request on the 28<sup>th</sup> of April 2022 to enter into a pre-application consultation under Section 37B of the Planning and Development Act, 2000, as amended (hereinafter referred to as 'the Act'), in relation to a proposed windfarm development for 14 no. wind turbines and a 110kV grid connection and associated infrastructure in County Cork. The request was received from Jennings O' Donovan consulting engineers representing the prospective applicant, Gortyrhilly Wind DAC.
- 1.2. One consultation meeting was subsequently held between An Bord Pleanála and the prospective applicant on 28<sup>th</sup> June 2022. The primary purpose of the meetings was to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the Act and to consider matters relating to the proper planning and sustainable development of the area or the environment, which may have a bearing on the Board's decision and to outline the procedures involved in making the application. The prospective applicant formally requested closure of the pre-application consultation process by correspondence received by the Board on 01<sup>st</sup> July 2022.
- 1.3. This report provides an overview of the proposed project, a summary of the meeting that took place and the advice provided by the Board's representatives at those meetings. It provides a recommendation that the Board determine that the proposed development constitutes strategic infrastructure within the meaning of the Act. The report should be read in conjunction with the meeting records that are on the Board's file.

## 2.0 Site Location and Description

- 2.1. The proposed development is to be located in close proximity (c. 2km) to the boundary between counties Cork and Kerry, c. 5km southwest of the village of Ballyvourney and 6km north of Ballingearry in the Múscraí Gaeltacht Co. Cork. The proposed development will include the provision of an underground grid connection to Ballyvouskill 220kV substation which is located c. 14km to the northeast of the turbine development. The turbine development lands will cover an area of 667 hectares and are located within the townlands of Gortyrhilly, Cahernacaha, Derree,

Derryfineen and Gortnabinna. The lands are located in an upland area whereby residential development is sparse and the local road network is narrow and poorly surfaced in many areas. The lands comprise of areas of forestry and upland grassland and scrub. The Sillahertane Bog NHA is located c. 3km to the west of the site and St Gobnets Wood SAC is located c.3.7km to the northeast of the site.

### 3.0 Proposed Development

- 3.1. The current proposal is for a renewable energy development consisting of up to 14 no. turbines together with a grid connection which will connect the proposed development to the Ballyvouskill 220kV Substation which is located c.14km to the northeast. The proposed 14 turbines will have a combined power generation of between 78.4 and 92.4MW generating between 5.6 to 6.6MW per turbine.

### 4.0 Planning History

- 4.1. Development Site:

- **ABP Ref. 305388-19** - Coillte CSA and SSE Renewables have previously sought a SID determination in respect of a proposed windfarm development on site for 12 no. wind turbines within the townlands of Gortyrhilly, Cahernacaha, Derree, Derryfineen and Gortnabinna, Co. Cork with a combined output of approximately 60MW and an underground grid connection to Ballyvouskill 220kV substation. The proposed development was determined to be SID by the Board on the 10<sup>th</sup> September 2021.

Since this determination a number of changes have been made to the proposed development including an increase in the overall number of turbines from 12 to 14 thus increasing the overall proposed output from approximately 60MW to between 78.4 and 92.4MW. Changes to the proposed boundaries have also occurred.

- **Cork County Council Ref. 19/4732** – Permission was granted for the retention of a meteorological mast

There are also a number of permissions relating to domestic and agricultural development along the boundary of the site.

## 5.0 Prospective Applicant's Case

5.1. The prospective applicant's case can be summarised as follows:

- With regards to whether the proposed development would fall within the scope of Strategic Infrastructure Development, the prospective applicant put forward their view that it would fall within the development thresholds specified in the seventh schedule, as it would have a total output greater than 50MW.
- It is submitted that the windfarm would constitute a significant addition to Ireland's renewable electricity supply, contributing to Ireland's onshore wind energy capacity target as outlined in the Government's Climate Action Plan 2021.
- The development would contribute substantially to the fulfilment of objectives in the National Planning Framework, specifically Objectives 13, 54 and 55.
- The proposal is in accordance with the Regional Spatial and Economic Strategy for the Southern Region which recognises and supports many opportunities for onshore wind as a major source of renewable energy and is in accordance with RPO 98, RPO99 and RPO 100 of the RSES.
- The development would not have a significant effect on more than one planning authority as it is situated entirely within County Cork.
- The prospective applicant concludes that the proposed development is within the seventh schedule and satisfies two of the three criterion set out in Section 37A(2) of the Planning and Development Act 2000, as amended.

## 6.0 Consultations

- 6.1. One pre-application meeting was held with the prospective applicant on the 28<sup>th</sup> June 2022. Minutes are attached to the file. A presentation was made to the Board's representatives at the meeting, which is also attached to the file.
- 6.2. The principal matters arising related to the need for the proposal, the planning history of the site and the previous pre-application consultation request to the Board (ABP-308173-20), alternatives considered and the instant proposal which now

includes two additional turbines and revised locations. The applicant added that they were re-engaging with the Board in this regard for the purposes of clarity and to ensure the correct procedures were followed in relation to the current proposed development.

- 6.3. Issues pertaining to the proposed development in terms of local planning policy, community engagement, potential environmental impacts and the requirement for up-to-date surveys to adequately inform the NIS and EIAR were discussed. The prospective applicant noted that the subject site is designated 'Open to Consideration' in the relevant wind energy map of the Cork County Development Plan 2022-2028.
- 6.4. Specific issues in relation to cumulative visual impact, the proximity to designated scenic routes, the proximity to Freshwater Pearl Mussel catchments, noise impact and the existing telecoms links which traverse the subject site were also highlighted. The prospective applicant also presented a constraints map in relation to the subject site which included residential dwellings in the vicinity, forest roads, scenic routes and recorded archaeological sites. A number of site layout maps were also presented and the various design iterations were referenced. The proposed grid connection route to facilitate the proposed wind farm was presented (within public roads but also utilising existing forestry tracks), as well as the proposed turbine delivery route (from Ringaskiddy Port and utilising national and local roads) were also discussed.

## 7.0 **Legislative Provision**

- 7.1. Section 2(1) of the Planning and Development Act 2000, as amended ('the Act'), defines 'strategic infrastructure' as including, inter alia

*'(a) any proposed development in respect of which a notice has been served under section 37B(4)(a)',*

- 7.2. The Board is asked to decide if the proposal as outlined is or is not strategic Infrastructure Development as defined by Section 37A of the Act. Strategic Infrastructure is defined in the Seventh Schedule of the Act and Class 1 includes the following category of development: *'an installation for the harnessing of wind power*

*for energy production (a windfarm) with more than 25 turbines or having a total output greater than 50MW'.*

7.3. Section 37A (2) of the Act requires that any development specified in the Seventh Schedule should be made to the Board, if the proposed development falls within one or more of the following:

*(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate;*

*(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate;*

*(c) the development would have significant effect on the area of more than one planning authority.*

#### **7.4. Environmental Impact Assessment (EIA)**

7.4.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended) transposes Annex I and II of the EIA Directive and sets out prescribed classes of development, for which an environmental impact assessment is required. The following classes are noted:

Part 2 Class 3 (i)

*'Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts'.*

#### **7.5. Appropriate Assessment**

##### **Designated Sites in proximity to site:**

7.5.1. The nearest Natura 2000 sites are as follows:

- Mullaghanish Bog SAC (8.7km)
- Mullaghanish to Musheramore Mountains SPA (5km)
- St Gobnets Wood SAC (3.7km)
- Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (8.9km)

- Gearagh SPA (12km)

7.5.2. The prospective applicant has indicated that it is their intention to include an NIS with the application which is considered to be appropriate.

## 8.0 Planning Policy

### 8.1. European Level

#### REPowerEU

8.1.1. Recent EU legislation has been produced in response to the security of supply crisis brought about by the ongoing Ukraine War and in tandem with existing decarbonisation targets. This legislation focuses on the importance of reducing the dependence of the EU on Russian fossil fuels through a series of accelerating rollouts of renewable energy targets. The European Commission has agreed to set a binding target to increase the 2030 renewables targets from 40% to 45% under the Fit for 55 package – the current EU target is 32%. Member States will be required to increase their national contributions which are set out in each Member State's National Energy and Climate Plans to be updated in 2023 and 2024 in order to collectively achieve these targets.

8.1.2. The Fit for 55 package consists of a series of interrelated proposals, which either modify existing pieces of legislation or introduce new initiatives in a range of policy areas and economic sectors. The Council and the Parliament have entered into interinstitutional negotiations to agree on the final text of the two directives. The EU requires all member states to recognise the importance of renewable energy “as a matter of overriding public interest”<sup>1</sup>. In the short term, the RePowerEU legislation has a requirement for “Member States to add to their existing RRP (Regional Renewable Plans) a dedicated chapter with new actions to deliver on the REPowerEU objectives of diversifying energy supplies and reducing dependence on fossil fuels”.

8.1.3. In addition to the above, the Council has included accelerated permitting procedures for renewable energy projects in line with the priorities of the REPowerEU plan as

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<sup>1</sup> European Commission (2022). REPowerEU: A plan to rapidly reduce dependence on Russian fossil fuels and fast forward the green transition.

proposed by the Commission in May 2022. A multi-country flagship working group is currently discussing with member states how to accelerate the permitting process, with go-to areas to be identified<sup>2</sup>. It is understood that the Department of the Environment, Climate and Communications (DECC) is actively engaged with the European Council to harmonise the go-to areas of the REPowerEU legislation with the designated maritime area plan (DMAPs) and national planning policies.

### **The recast Renewable Energy Directive 2018/2001/EU**

- 8.1.4. In December 2018, the recast Renewable Energy Directive 2018/2001/EU entered into force, as part of the Clean energy for all Europeans package, aimed at keeping the EU a global leader in renewables and, more broadly, helping the EU to meet its emissions reduction commitments under the Paris Agreement.
- 8.1.5. The recast directive moves the legal framework to 2030 and sets a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023 and comprises measures for the different sectors to make it happen. This includes new provisions for enabling self-consumption of renewable energy, an increased 14% target for the share of renewable fuels in transport by 2030 and strengthened criteria for ensuring bioenergy sustainability.
- 8.1.6. Under the Regulation on the Governance of the Energy Union and Climate Action (EU) 2018/1999, EU countries are required to draft national energy and climate plans (NECPs) for 2021-2030, outlining how they will meet the new 2030 targets for renewable energy and for energy efficiency.

### **The Effort Sharing Regulation (EU) 2018/842**

- 8.1.7. This lays down obligations on Member States with respect to minimum requirements to fulfil the EU's target of reducing its greenhouse gas emissions 30% below 2005 levels in 2030 in the various sectors and contributes to achieving the objectives of the Paris Agreement. A GHG reduction target of at least 30% applies to Ireland.

### **7th Environment Action Programme to 2020**

- 8.1.8. This is an EU Action Programme which aims to guide the EU into a resource efficient, green and competitive low-carbon economy.

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<sup>2</sup> European Commission (2022). Commission kick starts work with EU national authorities to speed up permit-granting procedures for renewable energy projects.



## **The Paris Agreement, 2015**

- 8.1.9. This is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC) dealing with ghg emissions mitigation, adaptation, and finance starting in the year 2020, which aims to keep the global average temperature rise this century to below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

## **8.2. National and Regional Policy**

### **Ireland's Transition to a Low Carbon Energy Future, 2015-2030**

- 8.2.1. This White Paper on energy policy (Department of Communications, Energy and Natural Resources – Dec 2015) provides a complete energy policy update for Ireland. It sets out a vision to reduce ghg emissions of between 80% and 95% by 2050, compared to 1990 levels, falling to zero or below. The policy document recognises that the 2020 target of 40% renewables energy is likely to require a total of 3,500-4,000 MW of onshore renewables generation capacity, compared to the 2,500 MW available at the end of December 2014.

### **Project Ireland 2040 – National Planning Framework**

- 8.2.2. The National Planning Framework (NPF) is the Government's high-level strategic plan shaping the future growth and development of Ireland to the year 2040. Chapter 3 of the Framework addresses 'effective regional development' and includes the following policy priorities for the Eastern and Midland region:

- 'Harnessing the potential of the region in renewable energy terms across the technological spectrum from wind and solar to biomass and, where applicable, wave energy, 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'.

- 8.2.3. Under the heading 'Planning and Investment to Support Rural Job Creation', the following is stated within the NPF with regards to 'Energy Production':

- 'Rural areas have significantly contributed to the energy needs of the country and will continue to do so, having a strong role to play in securing a sustainable renewable energy supply. In planning Ireland's future energy

landscape and in transitioning to a low-carbon economy, the ability to diversify and adapt to new energy technologies is essential. Innovative and novel renewable solutions have been delivered in rural areas over the last number of years, particularly from solar, wind and biomass energy sources’.

- ‘In relation to peatlands, some of Ireland’s cutaway bogs are suitable to facilitate the generation of energy, most notably wind/biomass’.

National Policy Objective 55 seeks to ‘promote renewable energy generation at appropriate locations within the built and natural environment to meet objectives towards a low carbon economy by 2050’. The pretext to this Objective states that ‘development of the Wind Energy Guidelines and the Renewable Electricity Development Plan will also facilitate informed decision making in relation to onshore renewable energy infrastructure’. National Strategic Outcome 8 relating to the ‘Transition to Sustainable Energy’ states that:

*‘New energy systems and transmission grids will be necessary for a more distributed, more 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’.*

### **National Development Plan (NDP) 2021-2030**

- 8.2.4. The National Development Plan (NDP) 2021-2030 sets out the investment priorities that will underpin the implementation of the NPF, one of which is climate action, the plan commits to increasing the share of renewable electricity up to 80% by 2030. This is an unprecedented commitment to the decarbonisation of electricity supplies.

### **Wind Energy Development Guidelines (2006)**

- 8.2.5. The Guidelines advise that a reasonable balance must be achieved between meeting Government Policy on renewable energy and the proper planning and sustainable development of an area and it provides advice in relation to the information that should be submitted with planning applications. The impacts on residential amenity, the environment, nature conservation, birds and the landscape should be addressed. It states that particular landscapes of very high sensitivity may not be appropriate for wind energy development.

## **Draft Wind Energy Development Guidelines 2019**

- 8.2.6. In December 2013, the Minister for Housing and Planning announced a public consultation process with respect to a focused review of the 2006 Guidelines and a 'preferred draft approach' to the review was announced in June 2017.
- 8.2.7. Consultation on the draft Guidelines ended in February 2020. The draft guidelines identify Specific Planning Policy Requirements (SPPR), and subject to formal adoption of the Guidelines, it is intended that these SPPRs would be applied by planning authorities and An Bord Pleanála in the performance of their functions, as well as having regard to additional matters for consideration in assessing wind energy developments.

## **Regional Spatial and Economic Strategy for the Southern Regional Assembly 2020**

- **RPO 98- Regional Renewable Energy Strategy** – *it is an objective to support the development of a regional Renewable Energy Strategy with relevant stakeholders.*
- **RPO 99 - Renewable Wind Energy** - *It is an objective to support the sustainable development of renewable wind energy (on shore and off shore) at appropriate locations and related grid infrastructure in the Region in compliance with national Wind Energy Guidelines.*
- **RPO 100 - Indigenous Renewable Energy Production and Grid Injection** - *It is an objective to support the integration of indigenous renewable energy production and grid injection*

### **8.3. Local Policy**

#### **Cork County Development Plan 2022-2028**

- 8.3.1. Section 13.6 of the Plan sets out policies relating to wind energy. The site is designated as 'Open to Consideration' in the wind energy map.
- 8.3.2. **Policy ET 13-5: Wind Energy Projects**
- a) Support a plan led approach to wind energy development in County Cork through the identification of areas for wind energy development. The aim in identifying these

areas is to ensure that there are minimal environmental constraints, which could be foreseen to arise in advance of the planning process.

b) On-shore wind energy projects should focus on areas considered 'Acceptable in Principle' and Areas 'Open to Consideration' and generally avoid "Normally Discouraged" areas in this Plan

8.3.3. **Policy ET 13-7:** Open to Consideration - Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:

- Residential amenity particularly in respect of noise, shadow flicker and visual impact;
- Urban areas and Metropolitan/Town Green Belts;
- Natura 2000 Sites (SPA and SAC), Natural Heritage Areas (NHA's) or adjoining areas affecting their integrity.
- Architectural and archaeological heritage;
- Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.

## 9.0 **Assessment**

9.1. **Section 37A (1) – Is the development specified in the Seventh Schedule of the Act?**

9.1.1. Based on the information submitted by the prospective applicant through the consultation process, the proposed development would include 14 turbines with a total power output of between 78.4 and 92.4MW. The proposed development would exceed the 50MW threshold of the Seventh Schedule development under Class 1 (Energy Infrastructure). Therefore, the proposed development satisfies Section 37A (1) of the Act.

9.2. **Section 37A (2) - Does the proposed development specified in the Seventh Schedule fall within one or more of the paragraphs referred to as (a), (b) and (c) and outlined below?**

**(a) – Strategic Economic or Social Importance to the State or Region**

- 9.2.1. The prospective applicant's case is that the proposal satisfies the conditions under section 37A(2)(a) of the Act as it will represent a significant economic contribution to the region and to the country as a whole. The construction impact in terms of employment and economic activity is likely to be significant.
- 9.2.2. The project would assist in meeting national renewable energy targets and would also result in significant reductions in carbon emissions from electricity generation, while reducing the country's reliance on fossil fuel. The proposed development will contribute to the de-carbonisation of the Irish electricity network by producing between 87.4 and 92.4MW of renewable electricity and would avoid in the region of 80,000 tonnes of CO<sub>2</sub> per annum after initial payback period.
- 9.2.3. Having regard to the national and regional policy context and the details of the subject proposals outlined above, I am satisfied that the development would clearly be of strategic economic importance to the State and the region and would therefore comply with the condition set out in Section 37A(2)(a) of the Act.

9.3. **(b) - Fulfilment of Objectives in the National Planning Framework or in any regional spatial and economic strategy.**

- 9.3.1. The prospective applicant states that the proposed development would contribute to the objectives of the NPF and the provisions of the Regional Spatial and Economic Strategy (RSES) for the Southern region.
- 9.3.2. Having reviewed the NPF, I note the following relevant National Policy Objectives (NPOs) which aim to reduce our carbon footprint and promote renewable energy:
- NPO 54: Reduce our carbon footprint by integrating climate change action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.
  - NPO 55: 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.
- 9.3.3. At regional level I note that the RSES for the Southern region recognises the need to shift 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 and acknowledges that generating electricity from renewable sources requires onshore wind, bioenergy, solar and offshore energy. In particular RPO 98- Regional Renewable Energy Strategy, RPO 99 - Renewable Wind Energy *and* RPO 100 - Indigenous Renewable Energy Production and Grid Injection are of relevance.

- 9.3.4. The Strategy supports an increase in the amount of new renewable energy sources in the Region which includes the use of wind energy.
- 9.3.5. Having regard to the above, I am satisfied that the development would meet relevant national policy objectives of the NPF and would serve to fulfil the relevant regional policy objectives of the RSES for the Southern Regional Assembly. The development would therefore satisfy the requirement set out in Section 37A(2)(b) of the Act

#### 9.4. **(c) - Significant effect on the area of more than one planning authority.**

- 9.4.1. The site is fully contained within the area of one planning authority, Cork County Council. While it is within proximity to the border with County (2 km to the west), I am of the opinion that the development would not have any significant effect on any other planning authority area outside of Cork. Accordingly, I am therefore of the opinion that the proposal would not come within the scope of this requirement to be considered as complying with section 37A(2)(c) of the Act.

#### 9.5. **Prescribed Bodies**

- 9.5.1. In view of the scale, nature and location of the proposed development, as described in this report, it is recommended that the prospective applicant should consult with the prescribed bodies listed in the attached Appendix in respect of any future application for approval.

### 10.0 **Conclusion**

- 10.1. Based on the above assessment, it can be concluded that the proposed development would exceed the threshold set out in the Seventh Schedule of the Act and therefore satisfies the requirements of Section 37A (1) of the Act. It can also be determined that the development is of strategic importance by reference to the

requirements of Section 37A(2)(a) and Section 37A(2)(b) of the Act. Accordingly, the proposed development constitutes strategic infrastructure.

## 11.0 Recommendation

11.1. I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 37(B)(4) of the Planning and Development Act 2000, as amended, stating that it is of the opinion that the proposed development constitutes a strategic infrastructure development within the meaning of Section 37A of the Act for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

12.1. Having regard to the size, scale and location of the proposed windfarm and related development, and to the policy context, it is considered that the proposed development as described above, constitutes development that falls within the definition of energy infrastructure in the Seventh Schedule of the Planning and Development Act 2000, as amended, thereby satisfying the requirements set out in Section 37A(1) of the Act.

12.2. The proposed development is also considered to be of strategic importance by reference to the requirements of Sections 37A(2)(a) and (b) but not (c) of the Planning and Development Act 2000, as amended. An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under Section 37E of the Planning and Development Act 2000, as amended.

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Máire Daly  
Planning Inspector

27<sup>th</sup> July 2022

## **Appendix A:**

**Note 1:** The following is a list of prescribed bodies considered relevant for the purposes of Section 37E (3) (c) of the Act.

- Minister for Housing, Local Government and Heritage (Development Applications Unit)
- Minister for Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Minister for Agriculture, Food and the Marine
- Department of the Environment, Climate and Communications
- National Parks & Wildlife Service
- Minister for Transport
- Irish Water
- Inland Fisheries Ireland
- Transport Infrastructure Ireland
- Environmental Protection Agency
- The Heritage Council
- An Taisce
- An Chomhairle Ealaíon
- Fáilte Ireland
- Irish Aviation Authority
- Office of Public Works
- Southern Regional Assembly
- Cork County Council
- Kerry County Council

Further notifications should also be made, where deemed appropriate.

**Note 2:** The prospective applicant should be advised to submit a standalone document (which may form part of the EIAR) with the planning application, which outlines the mitigation measures, in the interest of convenience and ease of reference.

**Note 3:** In addition to setting out the overall height of the turbines, the prospective applicant is advised to submit drawings and documents, including turbine dimensions, sufficient to describe the nature and extent of the development.