



An
Bord
Pleanála

Inspector's Report ABP-313780-22

Development

Wind farm development comprising 15 no. wind turbines and a total output between 65MW-75MW, meteorological masts, site entrance and access roads, 110kV electrical substation, control building, borrow pits, grid connection to Ballyragget substation, and related ancillary works

Location

Townlands of Glashare, Coolnacrutta, Ballylehaun, Gorteennamuck, Ballygowney, Ballyring Upper, Ballyring Lower and Tentore, Co. Kilkenny

Planning Authority

Kilkenny County Council

Prospective Applicant

Ecopower Developments Ltd.

Type of Application

Pre-application consultation under s37B of the Planning & Development Act, 2000 (as amended)

Date of Site Inspection

11th August 2022

Inspector

Anthony Kelly

1.0 Introduction

- 1.1. The Board received a written request on 10th June 2022 to enter into pre-application consultation under section 37B of the Planning & Development Act, 2000 (as amended), in relation to a proposed wind farm development in Co. Kilkenny. The request was submitted by Ecopower Developments Ltd.
- 1.2. A consultation meeting was held on 17th August 2022 between the Board and the prospective applicant. The primary purpose of the meeting was to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the 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 outline the procedures involved in making the application. The prospective applicant formally requested closure of the pre-application consultation process in a letter dated 13th September 2022.
- 1.3. This report provides an overview of the proposed project, a summary of the meeting and the advice provided by the Board's representatives, and the legislative provisions. It discusses whether the proposed development would satisfy the conditions contained in s37A(2) (a), (b), and (c) of the Act. It provides a recommendation that the Board determine that the proposed development does constitute strategic infrastructure within the meaning of the Act and recommends a list of prescribed bodies that should be forwarded copies of any application. This report should be read in conjunction with the meeting record that is on the Board's file.

2.0 Proposed Development

- 2.1. The proposed development (Gathabawn Wind Farm) is set out by the applicant as comprising:
 - 15 no. turbines, approx. 160 metres – 170 metres tip height, and with a capacity of approx. 4.3MW – 5MW each.
 - a 110kV substation.

- site entrances and access roads, internal windfarm cabling, a control building, meteorological masts, borrow pits, construction compound, and ancillary site works.
- a 110kV underground grid connection connecting into the existing EirGrid station at Moatpark, Ballyragget.

3.0 Site Location and Description

- 3.1. The proposed site comprises two separate land parcels in north west Co. Kilkenny, in very close proximity to the boundary with Co. Laois. The 'Ballylehaun' parcel would contain 10 no. turbines and is located approx. 1km north west of the rural node of Gattabaun. The 'Ballyring' parcel would contain five turbines and is located approx. 2.5km east of Gattabaun.
- 3.2. The two separate land parcels are located in upland areas of the county. The western and southern edges of the Ballylehaun parcel are quite steep, whereas the ground levels of the Ballyring parcel are more gradual. Land use is agricultural grassland. The applicant states that there is no forestry or peat/bogland within the site boundary. There is an existing four turbine wind farm (Lisdowney) located approx. 1km north of the Ballyring parcel.
- 3.3. It is proposed to construct a new access road to service the Ballylehaun parcel. An existing access track at Ballyring would be utilised and extended. The proposed substation is located within the Ballyring parcel. The 'internal' underground cabling from Ballylehaun to Ballyring follows narrow public roads. The proposed grid connection from the proposed substation to the existing Ballyragget substation follows public roads except north of the Glanbia facility, across the N77, and across the River Nore, where it largely crosses agricultural land before following the R432 south for approx. 900 metres to the Ballyragget substation.
- 3.4. The site area has not been provided.

4.0 Legislative Provisions

4.1. The Board is asked to decide if the proposal as outlined is or is not strategic infrastructure development. Section 37A (2) of the Act provides that an application for permission for any development specified in the Seventh Schedule shall be made directly to the Board if the proposed development would fall within one or more of the following paragraphs:

- (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 a significant effect on the area of more than one planning authority.

4.2. Class 1 of the Seventh Schedule relates to energy infrastructure and includes the following category of development.

‘An installation for the harnessing of wind power for energy production (a wind farm) with more than 25 turbines or having a total output greater than 50 megawatts’.

5.0 Policy Context

5.1. There is substantial legislative and policy support for development of renewable energy, including wind energy, at international, national, regional, and local levels. The relevant supporting framework includes:

5.2. Climate Action Plan 2021 – Securing our Future

5.2.1. 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.

5.3. Project Ireland 2040 National Planning Framework (NPF)

5.3.1. 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'.

5.3.2. 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'.

5.4. Southern Regional Assembly Regional Spatial and Economic Strategy for the Southern Region (RSES)

5.4.1. The strategy states, inter alia, 'The Regional Assembly is committed to implement regional policy consistent with the Climate Action Plan 2019. Comprehensive policies are set out in this section across the three priority areas identified in the Strategy in Chapter 2 – decarbonisation, climate resilience and resource efficiency'. The strategy also states 'The RSES recognises and supports the many opportunities for wind as a major source of renewable energy. Opportunities for both commercial and community wind energy projects should be harnessed, having regard to the requirements of DoHPLG Guidelines on Wind Energy. Wind Energy technology has an important role in delivering value and clean electricity for Ireland'. Regional policy objective (RPO) 99 states, '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'.

5.5. Kilkenny City and County Development Plan 2021-2027

- 5.5.1. The content of the Plan is supportive of wind energy in general. The Kilkenny Wind Energy Development Strategy 2021 comprises appendix K of the Plan.
- 5.5.2. However, on 15th October 2021, the Minister of State at the Department of Housing, Local Government and Heritage, consequent to a recommendation made to him by the Office of the Planning Regulator notified Kilkenny County Council of his intention to issue a Direction to the Kilkenny City and County Development Plan 2021-2027.
- 5.5.3. The website states 'In accordance with section 31(4) of the Planning and Development Act 2000, those parts of the Kilkenny City and County Development Plan 2021 – 2027 Plan [sic] referred to in the notice shall be taken not to have come into effect, been made or amended; namely: Chapter 11, Renewable Energy Section 11.4 Kilkenny Targets, Section 11.5.1 Current status and targets and Figure 11.4 Wind Strategy areas'.

6.0 **Prospective Applicant's Case**

- 6.1. The prospective applicant considers that, in terms of climate action, the proposed development would provide an output of approx. 70MW of renewable energy, offsetting approx. 59,000 tonnes of carbon dioxide each year.
- 6.2. The prospective applicant considers the proposed development would comprise strategic infrastructure development and makes the following points:
 - It would satisfy the criteria of Part 1 of the Seventh Schedule of the Act, being a wind farm with an output capacity of 65MW-75MW i.e. greater than 50MW.
 - The grid connection element would fall within the scope of s182A of the Act, being an electricity transmission line of 110kV.
 - Given the output capacity and nature of the grid connection the proposed wind farm would:
 - be of strategic economic importance to the State and to the southern region.

- Significantly contribute to Ireland's targets and plans for renewable energy under the Climate Action Plan 2021.
- Substantially contribute to the fulfilment of objectives in the NPF such as NPO 54 (reduce carbon footprint through integration of climate policy into the planning system) and NPO 55 (promote renewable energy).

7.0 Pre-Application Consultation

- 7.1. One online consultation meeting was held on 17th August 2022. Full detail of the meeting and matters raised are contained in the Board's Record.
- 7.2. The meeting's Chair outlined the general procedures in relation to the pre-application consultation process. The prospective applicant provided, inter alia, an overview of the proposed development such as a site description, proposed haul routes, the grid connection route, potential community benefits, European sites in the area, geology and hydrology, biodiversity, plans and projects to be considered for cumulative effects, consideration of alternatives, and detail of public engagement (approx. 16 local landowners are involved in the proposed development). The prospective applicant submitted the proposed wind farm development and grid connection qualifies as strategic infrastructure.
- 7.3. Some matters discussed after the presentation included:
- how the ministerial direction issued on 15th October 2021 in relation to certain wind energy related parts of the City and County Development Plan 2021-2027 would affect the proposed development.
 - the requirement for exact turbine specifications to be identified in the application or, if a range of options is sought, that the details of all such options are clearly indicated with confirmation that each option has been fully assessed in the application.
 - the grid connection route and the possibility that the proposed grid connection could connect to other grid connection routes in the area to reduce road opening etc.

- a recommendation that Transport Infrastructure Ireland is contacted in relation to the grid connection route across the N77. In addition, it was recommended that the proposed substation should be accessed via the internal track network rather than by a new entrance onto the public road.
- potential ground stability concern in the Ballylehaun parcel given the relatively steep gradient and the moderately high landslide susceptibility risk on Geological Survey of Ireland mapping.
- visual impact/photomontages should include views from Gattabaun, the M8/R639, and scenic views in development plans, among others.
- relocating turbine rotor sweeps to outside Cullahill Mountain SAC.

8.0 Assessment

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

- 8.1.1. Based on the information submitted by the prospective applicant the proposed development would include 15 no. wind turbines with a total power output in the range of 65MW-75MW. Consequently the proposed development would exceed the 50MW threshold for wind farms set out in Class 1 (Energy Infrastructure) of the Seventh Schedule of the Act. The proposed development would therefore satisfy section 37A (1) of the Act.

8.2. Section 37A (2) – Does the proposed development fall within one or more of sections 37A (2) (a), (b), or (c)?

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

- 8.2.1. The prospective applicant's case is that the proposed development would be of strategic economic importance to the State and the southern region given its output capacity of 65MW-75MW and the 110kV grid connection that would be constructed. It is considered by the applicant that the proposed development would significantly

contribute to Ireland's targets and plans for renewable energy under the Climate Action Plan 2021.

8.2.2. I note the Board has decided that other wind farm proposals with similar power outputs satisfied subsection (a), e.g. ABP-312224-21 (50.4MW), and ABP-310369-21 (72MW). Having regard to the national and regional policy context and the nature and scale of the proposed development, I consider that it would be of strategic economic importance to the State and the southern region and would therefore satisfy the condition set out in s37A (2) (a) of the Act.

(b) The development would contribute substantially to the fulfilment of any of the objectives in the NPF or in any RSES in force in respect of the area or areas in which it would be situate

8.2.3. It is submitted by the prospective applicant that the proposed development would contribute to the objectives of the NPF. NPOs 54 and 55 are specifically referenced. These state as follows:

NPO 54 – Reduce our carbon footprint by integrating climate 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.

8.2.4. Though no RSES objectives were referenced by the prospective applicant, I consider that RPO 99, as set out in section 5.4.1 of this inspector's report, is applicable.

8.2.5. The proposal to generate between 65MW and 75MW of renewable wind energy would assist in reducing greenhouse gas emissions and would contribute significantly towards the achievement of a low carbon economy. I am satisfied that the development would meet the relevant NPOs of the NPF and would serve to fulfil RPO 99 of the RSES for the Southern Region. The proposed development would therefore satisfy the requirement set out in s37A (2) (b) of the Act.

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

- 8.2.6. The site is fully contained within the area of one planning authority, Kilkenny Co. Co. While the site is located in very close proximity to the area of Laois Co. Co., and the haul route would traverse parts of other counties for a temporary period during construction, I am of the opinion that the proposed development would not have any significant effect on any other planning authority area outside Kilkenny. Accordingly, I am of the opinion that the proposed development would not fall within the scope of subsection (c).

9.0 Conclusion

- 9.1. 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 proposed development is of strategic importance by reference to the requirements of sections 37A(2)(a) and (b) of the Act. Accordingly, the proposed development constitutes strategic infrastructure.

10.0 Recommendation

- 10.1. I recommend that the Board serve a notice on the prospective applicant, pursuant to section 37B (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.

11.0 Reasons and Considerations

- 11.1. Having regard to the anticipated energy output of the proposed wind farm it is considered that the proposed development constitutes development that falls within the relevant 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.
- 11.2. The proposed development is also considered to be of strategic importance by reference to the requirements of sections 37A(2)(a) and (b) 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).



Anthony Kelly

Planning Inspector

21st September 2022



APPENDIX

The following prescribed bodies are considered relevant for the purpose of s37E(3)(c) of the Act:

- Minister for Housing, Local Government and Heritage
- Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Minister for Agriculture, Food and the Marine
- Minister for the Environment, Climate and Communications
- Minister for Rural and Community Development
- Kilkenny County Council
- Laois County Council
- Southern Regional Assembly
- EirGrid
- Transport Infrastructure Ireland
- Inland Fisheries Ireland
- Irish Water
- Irish Aviation Authority
- Commission for Regulation of Utilities
- An Taisce
- An Chomhairle Ealaíón
- Fáilte Ireland
- The Heritage Council
- Office of Public Works

Further notifications should also be made, where deemed appropriate.