

An
Bord
Pleanála

Inspector's Report ABP-314463-22

Development	Proposed development of 11 no. wind turbines with a maximum export capacity of 52.8MW
Location	Ballynamullagh, Kilmurray, Coolree, Mulgeeth, and Drehid, Co. Kildare
Planning Authority	Kildare County Council
Prospective Applicant(s)	North Kildare Wind Farm Ltd.
Type of Application	Pre-application consultation under s37B of the Planning & Development Act, 2000 (as amended)
Date of Site Inspection	19 th October 2022
Inspector	Anthony Kelly

1.0 Introduction

- 1.1. The Board received a written request on 29th August 2022 to enter into pre-application consultation under s37B of the Planning & Development Act, 2000 (as amended), in relation to a proposed wind farm development in Co. Kildare. The request was submitted by Fehily Timoney & Company on behalf of North Kildare Wind Farm Ltd., a subsidiary of Statkraft Ireland.
- 1.2. Two consultation meetings were held, on 26th October 2022 and 23rd November 2023, between the Board and the prospective applicant. 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 outline the procedures involved in making the application. The prospective applicant formally requested closure of the pre-application consultation process in a letter dated 14th February 2024.
- 1.3. This report provides an overview of the proposed project, a summary of the meetings 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 records that are on the Board's file.

2.0 Proposed Development

- 2.1. The prospective applicant describes the proposed overall development as comprising 11 no. turbines with a tip height of 169 metres, a 110kV onsite substation including control buildings, underground electrical and communications cabling, 2 no. overhead line single circuit strain towers, drainage and sediment controls, temporary site compounds, tree felling, and associated works.

- 2.2. The prospective applicant notes that the proposed substation and associated electrical infrastructure for the grid connection does not form part of this SID pre-application wind farm request as it is being separately assessed under ABP-311394-21. Therefore, this report relates solely to the wind turbines, as clarified at the pre-application consultation.

3.0 Site Location and Description

- 3.1. The proposed wind farm is located in the rural area of north Co. Kildare, approx. 1.7km south of Johnstown Bridge, approx. 900 metres south east of Kilshanroe, and approx. 3.5km north east of Derrinturn. The proposed turbines are laid out in a relatively narrow south west to north east orientation over a distance of approx. 4km.
- 3.2. Land uses at the proposed site are primarily agricultural fields with some wooded areas in the northern part of the site. The site area is relatively flat and low-lying, and it has an area of approx. 107 hectares. Timahoe Bog is adjacent to the south east.

4.0 Planning History

- 4.1. Of relevance to this pre-application consultation are:

ABP Reg. Ref. ABP-311394-21 – A pre-application consultation request under section 182E of the Planning & Development Act, 2000 (as amended), was submitted to the Board on 15th September 2021 for a 110kV electrical substation, a 110kV loop in cable connection to the Kinnegad – Rinawade 110kV overhead line, and all associated development works. A request for closure of this pre-application consultation was received on 21st February 2024. No decision has been made to date.

PA Reg. Ref. 18/1534 / ABP Reg. Ref. ABP-306500-20 – In 2020, on foot of first and third party appeals of the decision by Kildare Co. Co. to refuse permission, the Board granted permission for a wind farm with up to 12 no. wind turbines with a tip height of up to 169 no. metres and an output of approx. 48MW, hardstandings, an electricity substation, recreation amenity trail, electrical and communication cabling, connection

to the existing Dunferth substation etc. This decision was subsequently quashed following judicial review.

5.0 Legislative Provisions

5.1. The Board is asked to decide if the proposal as outlined is or is not strategic infrastructure development. S37A (2) of the Planning & Development Act, 2000 (as amended), 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.

5.2. 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’.

6.0 Policy Context

6.1. 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:

6.2. Climate Action Plan 2023 – Changing Ireland for the Better

6.2.1. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. It sets out how Ireland can accelerate the actions that are required to respond to the climate crisis, putting climate solutions at the centre of Ireland's social and economic development.

6.3. Project Ireland 2040 National Planning Framework (NPF)

6.3.1. 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'.

6.3.2. 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'.

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

6.4.1. Section 7.9 (Climate Change) states 'The Strategy supports an increase in the amount of new renewable energy sources in the Region. This includes the use of wind energy – both onshore and offshore, biomass ... in accordance with National policy and the Regional Policy Objectives outlined in this Strategy'. It also states 'The provision of infrastructure should be supported in order to facilitate a more distributed, renewables-focused energy generation system, harnessing both on-shore and off-shore potential

from energy sources such as wind, wave and solar and connecting sites of optimal energy production to the major sources of demand'.

6.5. Kildare County Development Plan 2023-2029

- 6.5.1. Wind energy is addressed in section 7.5 of the Plan. It is considered that 107MW is a realistic wind energy target for Kildare to the end of this Plan period which would contribute towards realising overall national targets on renewable energy and climate change mitigation. EC O11 states that it is an objective of the Council, inter alia, to encourage wind energy developments in suitable locations in an environmentally sustainable manner. It is a target of the Council (EC T1) to 'Support the target in the Climate Action Plan 2021 for a doubling of existing on-shore wind energy from circa 4GW (today) to 8GW by 2030'.

7.0 **Prospective Applicant's Case**

- 7.1. At the first pre-application meeting the prospective applicant proposed 12 no. turbines with a maximum export capacity of approx. 60MW. At the second meeting this had been reduced to 11 no. turbines with a maximum export capacity of between 49.5MW and 52.8MW. This capacity, which straddled the relevant 50MW Seventh Schedule threshold, was a concern to the Board's representatives because it did not clearly come within a specified class of development. However, in the letter requesting closure of the pre-application consultation process the prospective applicant has confirmed that the maximum export capacity would be 52.8MW.
- 7.2. Following on from the foregoing, and having regard to the pre-application consultation meetings, the prospective applicant's case can be summarised as follows:
- The proposed 52.8MW output comes within the scope of the Seventh Schedule.
 - In relation to paragraph (a) of s37A(2) of the Planning & Development Act, 2000 (as amended), it is the prospective applicant's opinion that the proposed renewable energy development would be of strategic economic and social importance for the state and eastern and midland region. The Climate Action Plan 2023 is referenced.

- In relation to paragraph (b) the prospective applicant considers that the proposed development would contribute substantially to the fulfilment of objectives of the NPF and RSES e.g. NSO 8 (Transition to a Low Carbon and Climate Resilient Society) of the NPF.
- In relation to paragraph (c), while located entirely within Co. Kildare, the proposed development will be connected to the national grid and the energy generated can be used throughout the region.
- As the 52.8MW maximum export capacity is above the 50MW threshold it is the prospective applicant's understanding that the proposed development would be considered SID.

8.0 Pre-Application Consultation

8.1. Two online consultation meetings were held, on 26th October 2022 and 23rd November 2023. Full detail of the meetings and matters raised are contained in the Board's Records.

First Meeting

8.2. The meeting's Chair outlined the general procedures in relation to the pre-application consultation process. The prospective applicant outlined, inter alia, the site location, planning history, the proposed development comprising 12 no. turbines and a maximum export capacity of approx. 60MW, a comment on baseline reports, and submitted the proposed development would comprise strategic infrastructure.

8.3. Some matters discussed after the presentation included:

- Clarification that the current pre-application consultation relates solely to the proposed wind turbines.
- It was recommended the prospective applicant identify issues raised in the original planning application and ensure they would be addressed in any new application e.g. roads, Dept. of Defence issues.
- It was clarified that the proposed turbines would be 169 metres in height rather than proposing a range of dimensions.

- Visual impact/photomontages should include views from the nearby population centres e.g. Johnstown Bridge, Kilshanroe, Derrinturn, and Carbury.
- Baseline surveys from the original application should be updated.
- The basis of the judicial review on the original application was briefly discussed.
- The Board's representatives clarified that the wind turbines and substation/grid connection developments could be submitted as a combined or separate applications.

Second Meeting

8.4. After the meeting's Chair outlined the general procedures, the prospective applicant gave a presentation which included a reduction in the number of turbines to 11 no. and a relatively minor alteration to the site layout. Some matters discussed after that included:

- Two different turbine models were referenced with ratings of 4.5MW and 4.8MW. If a number of turbine models were proposed each model would need to be individually assessed in the application.
- The 49.5MW to 52.8MW range of maximum export capacity straddles the relevant 50MW threshold. If the 4.5MW turbines i.e. 49.5MW maximum export capacity, were selected the application would be submitted to Kildare Co. Co. as it would be below the Seventh Schedule threshold. Subsequently the prospective applicant was informed that a proposal which clearly meets a class of development in the Seventh Schedule was required i.e. not a range which straddles the 50MW threshold.
- The Board drew the prospective applicant's attention to the provisions of S.I. No. 383 of 2023 (restructuring of rural landholdings) which may be relevant to EIA.
- The prospective applicant stated the project alterations were due to withdrawal of landowner consent.
- The prospective applicant stated that proposed turbines would be in areas where wind energy development is open for consideration in the Kildare County Development Plan 2023-2029.

9.0 Assessment

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

9.1.1. Based on the information submitted by the prospective applicant the proposed development would include 11 no. wind turbines with a total power output of 52.8MW. 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.

9.2. 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

9.2.1. The prospective applicant's case is that the proposed development would be of strategic economic and social importance to the state and the eastern and midland region. I consider that it would contribute to the transition to a low carbon, climate resilient, and environmentally sustainable economy in line with the Climate Action Plan 2023 and the NPF.

9.2.2. 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-313780-22 (65MW-75MW). 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 eastern and midland 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

9.2.3. In my opinion, NPOs 54 and 55 of the NPF would apply to the proposed development. 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.

9.2.4. The proposal to generate 52.8MW 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 relevant NPOs of the NPF. 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

9.2.5. The site is fully contained within the area of one planning authority, Kildare Co. Co. Therefore, I am of the opinion that the proposed development would not have any significant effect on any other planning authority area. Accordingly, I am of the opinion that the proposed development would not fall within the scope of paragraph (c).

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 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.

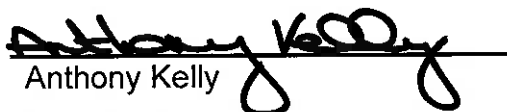
11.0 Recommendation

11.1. I recommend that the Board serve a notice on the prospective applicant, pursuant to section 37B (4) of the Planning & 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 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 & 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) of the Planning & 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

28th March 2024

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
- Kildare County Council
- Eastern & Midland Regional Assembly
- EirGrid
- Transport Infrastructure Ireland
- Inland Fisheries Ireland
- Uisce Eireann
- Irish Aviation Authority
- Commission for Regulation of Utilities
- An Taisce
- An Chomhairle Ealaíon
- Fáilte Ireland
- The Heritage Council
- Office of Public Works

Further notifications should also be made, where deemed appropriate.