



An
Bord
Pleanála

Inspector's Report

ABP-314798-22

Development

Repowering of the existing Kilgarvan Wind Farm. Provision of approximately 11 wind turbines and all associated works.

Location

Townlands of Inchincoosh, Inchee, Lettercannon, Coomacullen and Cloonkeen, Co. Kerry and Inchamore, Co. Cork

Planning Authority

Kerry County Council

Applicant

Ørsted Onshore Ireland Midco Ltd

Type of Application

Pre-application consultation under section 37B.

Date of Site Inspection

2 December 2022.

Inspector

Mairead Kenny

1.0 Introduction

- 1.1. This report addresses the planned repowering of Kilgarvan Wind Farm. The proposal is to decommission 28 turbines and to install 11 no. turbines of 200m tip height.
- 1.2. A pre-application consultation under section 182A/E regarding proposed upgrades to the existing 110kV Coomagearlahy substation at the Kilgarvan Wind Farm – ABP-314799-22 refers. The Board decided on 19 May 2023 that the proposed substation upgrade is not Strategic Infrastructure Development.

2.0 Site Location and Description

- 2.1. Kilgarvan Wind Farm is approximately 5.5 km north-east of Kilgarvan town in County Kerry, 6km west of Coolea in Co Cork. Kilgarvan Wind Farm presently comprises 28 no. turbines with two different turbine types installed. Apart from wind energy developments the dominant land uses in the area are agricultural and commercial forestry. The stated area of the proposed development site is 751 hectares.
- 2.2. The windfarm is south of the N22 from which it gains access by way of a former forestry track which serves wind energy developments and associated infrastructure including Coomagearlahy 110 KV substation.
- 2.3. The general area in which the site is located is scenic and by reason of the proximity to the N22 it would be considered to be potentially widely visible to high numbers of people.
- 2.4. The site elevation is given as 500mAOD at its highest point and 250mOD at its lowest point.
- 2.5. The prospective applicant states that a portion of the access road which is to be upgraded lies within the administrative area of Cork County Council.

3.0 Proposed Development

- 3.1. Under the original submission documents the prospective applicant states that the optimal design of the project is still under consideration but that the preliminary results indicate that it will constitute the provision of 11 turbines and all associated works. The associated works include the upgrade of the Coomagearlahy 110kV

substation which is considered not to constitute SID and is subject of a separate pre-application consultation. The works included road upgrades within the administrative boundary of Cork, the remainder of the development being situated within the administrative boundary of Kerry.

- 3.2. The total generating capacity of the proposed development will be in excess of 50 MW assuming turbine ranges from 5MW to 6.6MW.
- 3.3. The letter of 31st March confirms that the project had been refined since meeting with the Board's representatives and that it is confirmed that the 11 no. turbines will have a generating capacity above 50MW. The proposed development was to be altered by the addition of a met mast and by a reduction in the scale of the required access road. No upgrade works are now planned within the administrative boundary of Cork.

4.0 Prospective applicant's submission

- 4.1. In summary the prospective applicant considers that the proposed development is SID as the threshold of 50MW under the 7th Schedule of the Act will be exceeded. Under 37(A) of the Act the project must satisfy one or more of the criteria (a), (b) and (c) and it may be considered that all three are met in this case.
- 4.2. (a) The development would be of strategic economic or social importance to the State or the region in which it would be situated.
- 4.3. Regarding this criterion the prospective applicant states that due to the scale of the project including the economic benefits and the quantity of electricity the proposed development would be wholly of a strategic nature and of strategic economic and social importance to the region or state.
- 4.4. (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 situated.
- 4.5. Regarding this criterion the prospective applicant references the NPF and the RSES and states that the development will contribute significantly towards meeting energy targets and objectives at county, regional and national level.

- 4.6. (c) The development would have a significant effect on the area of more than one planning authority.
- 4.7. The site is adjacent to the functional area of Cork County Council and the site access road traverses Kerry and Cork Counties and therefore it could be considered that it may have an effect on the area of more than one planning authority. This element of the proposed development was omitted by letter of 31st March which confirmed that no road upgrade works are now planned within the administrative boundary of Cork.

5.0 Planning History

5.1. Existing Kilgarvan Wind Farm

5.2. Kilgarvan Wind Farm has a complicated planning history. Its origins are Kilgarvan I Wind Farm and Kilgarvan II Wind Farm.

5.3. 4 no. permissions are referenced in relation to **Kilgarvan I Wind Farm**. The permissions allowed for the construction of 21 Vestas V90 turbines of which 15 no. were constructed. The stated installed capacity is 42.5 MW.

5.4. **Kilgarvan II Wind Farm** was authorised under 3 no. separate permissions:

- The Inchincoosh development of 6 no. Nordex N90 turbines of tip height 125m.
- The **Lettercannon** development of 7 no. Nordex N90 turbines of tip height 125m.
- The **Sillahertane** development of 10. No. Vestas V52 which is not part of the current project.

5.5. Coomagearlahy Substation

5.6. The concurrent pre-application consultation in relation to the upgrading of this substation under ABP-314799-22 refers. On 19 May 2023 the Board decided that the proposed development does not fall within the scope of section 182A of the Planning and Development Act 2000, as amended, and that the planning application should be made to Kerry County Council in the first instance.

6.0 Legislative Provisions

Planning and Development Act 2000, as amended

Seventh Schedule

Infrastructure Developments for the Purposes of Sections 37A and 37B

Energy Infrastructure

1.— Development comprising or for the purposes of any of the following:

- 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.

S.37A

(1) 'An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.'

(2) That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

- (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.

7.0 **Assessment**

7.1. **Seventh Schedule.**

7.2. Regarding the substantive question as to whether or not the proposed development is a Strategic Infrastructure Development, the first consideration is whether the proposed development is a development which falls under the Seventh Schedule.

7.3. My recommendation is based on the information submitted which is that the development will have an output exceeding 50MW, which was confirmed by letter from the applicant on 31st March.

7.4. The subject development comprises repowering of an existing wind energy development. As such it differs from the majority of cases related to wind energy development which are presented to the Board for decision in relation to whether they constitute SID.

7.5. I note that there is nothing in the wording of the Seventh Schedule pertaining to the specific circumstances of this case whereby there is already a substantial wind energy facility on the site. I consider that the only matter of relevance to the future application relevant to the future project is its output. I do not consider that any issues relevant to the Board's considerations arise from the fact that there is already a substantial output from an existing wind farm within the same site.

7.6. During the pre-application meeting the prospective applicant was asked to provide more information relating to cases of this nature, namely comprising repowering of existing wind farms. The response was provided by letter of 31st March and it referred to two cases one of which went straight to a planning authority for decision. The second case

7.7. **Section 37A(2)(a)**

7.8. In support of the statement that the proposed development would be of strategic economic or social importance to the state or region the prospective applicant relies on the scale of the proposed wind energy development. I accept that the development would represent a significant economic contribution to the region

having regard to the likely capital costs and employment generated as well as the associated financial contributions and other payments arising.

7.9. I conclude that the development meets the criterion set under section 37A(2)(a).

7.10. **Section 37A(2)(b)**

7.11. I agree with the prospective applicant's submission that the proposed development would promote the national and regional policy provisions relating to the decarbonisation of electricity generation and contribute substantially to meeting national targets.

7.12. The national policy context which is supported in this respect includes NPO 54 and NPO 55 of the NPF and the provisions of the Climate Action Plan 2023. The regional policy context is supported in terms of the RPO 99 of the RSES.

7.13. I conclude that the development meets the criterion set under section 37A(2)(b).

7.14. **Section 37A(2)(c)**

7.15. The prospective applicant's submission of 7 October 2022 is that while the project will be designed to ensure that significant effects will not arise, it could be considered that the proposed development may have an effect on the area of more than one planning authority. In this respect the original submission of the applicant refers to the road upgrade works within Cork county, subsequently omitted from the proposed development.

7.16. In the circumstances of this case having regard to the proximity to the N22 I consider that it cannot be concluded that there would not be significant visual effects on Cork county. Such effects would support a conclusion that the criterion set under 37A(2)(c) is met. While it is established under criteria (a) and (b) that the proposed development is SID I consider that criteria (c) is also relevant.

7.17. I conclude that the development meets the criterion set under section 37A(2)(a), (b) and (c).

7.18. **Further comment**

7.19. The procedural aspects of the making of the application for the substation upgrade and the wind farm repowering were discussed at the pre-application meeting on 7th

October 2022. In the interim the Board has determined that the upgrade of Coomagearlahy 110kV substation does not constitute a SID project.

- 7.20. The prospective applicant Ørsted Onshore Ireland Midco Ltd propose incorporating the proposed upgrade of the substation with the making of an application for the Repowering of Kilgarvan Wind Farm and the preparation of an EIAR which assesses the substation as part of the overall wind energy development. I welcome this proposal, which I consider provides for a clearer and more comprehensive approach which benefits public participation.
- 7.21. Although there may be no development proposed within the administrative boundary of Cork part of the site defined includes lands within that county and accordingly, I have included the relevant townland in my recommendation.
- 7.22. I attach a list of the relevant prescribed bodies.
- 7.23. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

8.0 Recommendation

In view of the above, I recommended 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 the proposed development constitutes a strategic infrastructure development within the meaning of section 37A of the Act. The reasons and considerations for this recommendation are set out below.

Reasons and Considerations

Having regard to the size, scale and location of the proposed windfarm and related development, it is considered that the proposed development comprising the repowering of the existing wind Kilgarvan Wind Farm to include the replacement of the existing turbines with an 11-turbine windfarm turbine, the provision of a meteorological mast, upgrading of the existing Coomagearlahy 110 kV substation, access road upgrades and other works in the townlands of Inchincoosh, Inchee, Lettercannon, Coomacullen and Cloonkeen, Co. Kerry and Inchamore, Co. Cork

constitutes development that falls within the definition of energy infrastructure in the Seventh Schedule of the Planning and Development Act, as amended, thereby satisfying the requirements set out in section 37A(1) of the Act.

The development is also considered to be of strategic importance by reference to the requirements of section 37A(a), section 37A(2)(b) and section 37A(2)(c).

An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37A of the Act.

N King

9 August 2023

Appendix 1

The following is a schedule of prescribed bodies considered relevant for the purposes of Section 37E(3)(c) of the Act:

Minister for Housing Local Government and Heritage
Minister for the Environment, Climate Action and Communications.
Commission for Regulation of Utilities
Department of Agriculture, Food and the Marine
Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
An Taisce
An Chomhairle Ealaíon
Fáilte Ireland
Heritage Council
Inland Fisheries Ireland
Transport Infrastructure Ireland
Irish Aviation Authority
Irish Water
Health Service Executive
Southern Regional Assembly
Kerry County Council.
Cork County Council

Further notifications should also be made where deemed appropriate.