



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314836-22

#### Development

Section 146B application for alterations to the terms of An Bord Pleanála case reference ABP-306204-19 for an approved windfarm grid connection comprising a new 110kV electrical substation and underground 110kV electrical cables from Mountphilips substation to previously permitted Upperchurch Windfarm.

#### Location

Mountphilips, Co. Tipperary

#### Planning Authority

Tipperary County Council

#### Requester

Ecopower Developments Limited

#### Type of Application

Application under Section 146B of the Planning and Development Act, 2000 (as amended) to alter previously approved Strategic Infrastructure Development.

#### Date of Site Inspection

20<sup>th</sup> May 2021

#### Inspector

Donal Donnelly

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## 1.0 Introduction

- 1.1. The Board decided on 8<sup>th</sup> February 2021 to approve an application by Ecopower Developments Limited under Section 182A(1) of the Planning and Development Act, 2000 (as amended) for a 110kV electrical substation, underground 110kV cabling and ancillary works for the purposes of connecting the consented Upperchurch Windfarm to an existing 110kV overhead line at Mountphilips, Co. Tipperary.
- 1.2. Pursuant to Section 146B of the Planning and Development Act, 2000 (as amended), Ecopower Developments Limited now requests that the Board alter the terms of this strategic infrastructure development approved under ABP-306204-19.

## 2.0 Site Location and Description

- 2.1. The approved grid connection extends from the 110kV electrical substation in the townland of Mountphilips over a distance of approximately 30.5km to the permitted substation at the Upperchurch Windfarm. The approved substation at Mountphilips will be located to the east of the existing Killonan to Nenagh 110kV overhead line. The cable route for the most part will continue along the R503 Regional Road.
- 2.2. The area surrounding the proposed grid connection is characterised mainly by upland rolling hills and valleys forming part of the Slieve Felim Mountains to the south and Slivermines Mountains to the north. The main land uses along the route of the grid connection are hill farming and forestry. The R503 is the main road connecting Thurles to the east to Newport and onto Limerick City to the west.

## 3.0 Planning History

Tipperary County Council Reg. Ref: 13/510003 (PL22.243040)

- 3.1.1. Ecopower Development Ltd. was granted a ten-year permission in August 2014 for 22 wind turbines up to 126.6m in height, 2 no. meteorological masts with wind measuring equipment attached, access roads, electrical substation compound, control buildings and ancillary works.

An Bord Pleanála Ref: ABP-301959-18

- 3.1.2. On 17<sup>th</sup> December 2018, the Board refused to approve an 110kV electrical substation and 110kV underground electrical cabling from the proposed substation to an already consented windfarm 110kV electrical substation and all ancillary works between the townland of Mountphilips, near Newport, and the townland of Knockcurraghbola, near Upperchurch. The grid connection was to continue mostly off road through lands to the north of, and roughly parallel to the R503.

Tipperary County Council Reg. Ref: 20/1048

- 3.1.3. Permission granted in December 2020 for amendments to Upperchurch Windfarm electrical substation, authorised under Reg. Ref: 13/510003 (PL22.243040). The amendments consist of a) increase in size of the substation compound yard; b) change to the layout of electrical equipment in the substation compound yard; c) change in size, design and increase in height of the two control buildings; and d) ancillary works.

An Bord Pleanála Ref: ABP-306204-19

- 3.1.4. On 8<sup>th</sup> February 2021, the Board approved a new 110kV substation, underground 110kV cabling and ancillary works to connect the already consented Upperchurch windfarm substation (PL22.243040), to the existing 110kV overhead line.

Tipperary County Council Reg. Ref: 18/600913 (ABP-303634-19)

- 3.1.5. The Board granted permission to Ecopower Developments Limited on 8<sup>th</sup> February 2021 for Upperchurch Windfarm related works to include 17.9km of internal windfarm cabling; haul route works; 18m high telecoms relay pole; realignment of windfarm roads; change of use of agricultural access to agricultural and forestry; and ancillary works.

An Bord Pleanála Ref: ABP-310171-21

- 3.1.6. The Board granted permission on 12<sup>th</sup> May 2022 for amendments to the previously authorised Upperchurch windfarm (PL22.243040) to increase the size of the wind turbines and amend the height and design of the meteorological mast.

- 3.1.7. The Board decided, in accordance with Section 146B(2)(a) of the Planning and Development Act, 2000, as amended, that proposed alterations to the substation compound would not result in a material alteration to the terms of the development subject of the approval (ABP-306204-19).

## 4.0 Proposed Alteration

- 4.1. The proposed alteration, as set out in the requester's cover letter and particulars received by the Board on 12<sup>th</sup> October 2022, relates to the Upperchurch Windfarm (UWF) grid connection and specifically the underground cable connecting the new Mountphillips substation to the windfarm substation.
- 4.2. The underground cable is to be mostly installed along the R503 Regional Road. Under the terms of the approval (ABP-306204-19), construction works for the cabling are only allowed for between September and February. The applicant is now seeking that construction works be permitted throughout the year, including the Hen Harrier breeding season, to allow for flexibility with respect to the cabling construction works.

## 5.0 Requester's Submission

- 5.1. The requester's submission includes a cover letter setting out the details of the proposed alterations, together with the policy context and a planning statement. Consultation details with the NPWS on the proposed alteration and Schedule 7A information are also appended to the submission.
- 5.2. The main points raised under each of the above criteria set out in the requester's submission can be summarised as follows:
- Condition 2 attached to ABP-306204-19 states that *"the mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full."* Condition 3 requires the mitigation and monitoring measures and environmental commitments contained in Chapter 19 of the Environmental Impact Assessment Report submitted with the application to be implemented in full.

- Project design measure (mitigation measure) PD01 contained in Chapter 19 of the NIS states as follows:

*“UWF Grid Connection construction works during the Hen Harrier breeding season (March to August inclusive) will only take place at the Mountphilips Substation Site: construction of the 110kV UGC (underground connection) between the Mountphilips Substation site and the consented UWF substation compound will be carried out during the months of September to February inclusive.”*

- Above measure only allows for the construction of the cabling works at a generally more challenging time of the year with regard to inclement weather and shorter daylight hours.
- Mitigation measure will present a considerable logistical challenge for the timely construction of the 110kV UGC and consequently the UWF Grid Connection which is a critical element of the Upperchurch windfarm project – under the terms and conditions of RESS1, projects must be constructed and commissioned onto the national grid by 31<sup>st</sup> December 2023.
- Applicants now propose a change to the text of project design measure PD01 to allow for flexibility in the phasing of the 110kV UGC works throughout the year under the direct supervision of a full-time on-site Hen Harrier specialist.
- Project ecology consultants are confident that works could proceed along the public road while avoiding potential impacts on breeding Hen Harrier where there is existing significant disturbance, e.g. municipal areas, housing clusters, large farming enterprises, and where no Hen Harrier nests have been recorded within the past 6 years (including 2022) of Hen Harrier surveys within 1km of the grid route.
- Project ecologists propose that confirmatory Hen Harrier surveys are carried out from February 2023 and throughout the breeding season such that all pre-breeding nuptial activity, nesting activity and active nest are recorded within 1km of the construction works boundary – no construction works will be carried out during this period within 1km of a pre-nesting breeding site and/ or nest, except with the written approval of NPWS.

- Proposal to work on the 110kV UGC within the Hen Harrier breeding season will be in accordance with Condition 7 which requires that *“mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice...”*.
- Working during drier months facilitates more efficient water management, e.g. statutory requirement from IFI that instream works can only take place between July and September. Works between March to August will provide a net gain in the protection of water quality.
- There will be no changes to the design or construction processes with the proposed alteration of the phasing of the 110kV UGC.
- NPWS has no objection on ecological grounds to most of the proposed works taking place on public roadways and on the consented windfarm substation compound, inside the bird breeding season provided mitigation and precautions outlined are in place.
- NPWS state that mitigation must include confirmatory Hen Harrier surveys to be initiated in February 2022 continuing for the entire breeding season and no works to take place within 1km of a pre-nesting site or nest.
- NPWS notes that the grid route intercepts two already identified Hen Harrier buffer zones – recommends that works do not take place within these 1km buffer zones during the breeding season.
- Applicant confirms that they will comply with NPWS recommendations.
- Applicant requests the Board allows for the alteration to the text of the Project Design/ Mitigation Measure PD01 to the following:

*“Construction works on the public roadway for the 110kV UGC during the Hen Harrier breeding season (March to August inclusive) will only be carried out under the strict supervision of a full-time onsite Hen Harrier specialist and the Project Ecologist. The presence of this full time Hen Harrier specialist will ensure that any potential for disturbance of breeding Hen Harrier is avoided. The works will only take place following completion of confirmatory Hen Harrier breeding surveys, which will be initiated in February and continue for the entire breeding season, in order to identify any pre-breeding nuptial*

*activity, nesting activity and active nests within 1km of the works. The survey methodology will be sufficient to ensure that a Hen Harrier breeding site is not overlooked. No construction works will be carried out during the breeding season within 1km of a pre-nesting breeding site and/ or nest or within 1km of breeding sites already identified during the previous six years.”*

- National RE-E Policy has been strengthened further since the Board granted permission in February 2021 – Climate Action and Low Carbon Development (Amendment) Bill 2021 was signed into law in July 2021. Contains national climate objective for carbon neutral status by 2050 and a reduction of 51% of greenhouse gas emissions by 2030.
- Upperchurch windfarm project will contribute to the renewable electricity (RE-E) target in the first carbon budget period (CB1) by generating 270 million kW hours of electricity and avoiding the emission of 79,650 tonnes of greenhouse gases per annum.
- As evaluated in the 2019 EIAR, UWF Grid Connection will not cause significant effects to any aspect of the environment – finding will not change as a result of the requested alteration and no significant new or additional environmental concerns, including in relation to European Sites, will arise as a result of the requested alteration.

#### *Grid Connection Construction Methodology*

- 5.3. The applicant’s submission also contains a grid connection construction methodologies document, which acts as a guide on consultations, controls, traffic management and general construction methodologies, such as standard trenching and ducting techniques required to complete the 110kV cable project.
- 5.4. The proposed 110kV UGC route will pass through the Slieve Felim to Silvermines Mountains SPA for 20km. The proposed route also crosses over the Lower River Shannon SAC at six locations that are entirely on the public road. The conservation objective for the Slieve Felim to Silvermines Mountains SPA is to maintain or restore the favourable conservation condition of Hen Harrier. No construction works will be carried out during March to August inclusive within 1km of a pre-nesting breeding site, and/ or nest, except with the written approval of NPWS. Works will be limited to



the period between one hour after sunrise and one hour before sunset where any roosting locations are recorded within 1km of the of the UWF Grid Connection outside the breeding season.

- 5.5. The grid connection construction methodologies document also provides details on construction methodology for trenching and ducting, joint bay details and water crossing details. Procedures for surface water management are set out, together with emergency procedures in case of accidental spillage; details for the prevention of alien invasive species; and waste management details.

*Schedule 7A information for the proposed alteration*

- 5.6. The Schedule 7A information submitted with the application includes information on the following:
- Locational context of the 110kV UGC route,
  - General environmental sensitivity of the area,
  - Implications for expected residues, emissions, wastes and use of natural resources,
  - Vulnerability to major accidents/ natural disasters, and
  - Examination of the potential environmental effects of the proposed alteration on population and human health, land, soil, water, biodiversity, air, climate, material assets, cultural heritage and the landscape, and
  - Cumulation with other projects.

## 6.0 Submissions

- 6.1. Following notification to the applicant from the Board that the alteration request under Section 146B would constitute a material alteration to the terms of the development, the following submissions were received from prescribed bodies:

Department of Housing, Local Government and Heritage

- Department accepts the conclusions of the amended NIS and has no objection to the proposed amendments provided the stated mitigation is fully implemented and applied.

- As proposed, the mitigation must include confirmatory Hen Harrier surveys continuing for the entire breeding season and no works shall take place within 1km of a pre-nesting site or nest.
- Work during breeding season shall not take place within 1km identified around breeding sites from the past 5 years or within the 1km zone around any newly detected breeding sites.
- Proposed grid route intercepts two previously identified Hen Harrier buffer zones – no works shall take place within these 1km buffer zones during breeding season.

#### Transport Infrastructure Ireland

- No specific observations to make.

## 7.0 Legislative Provisions

- 7.1. Under Section 146B(1) of the Planning and Development Act, 2000 (as amended), the Board may alter the terms of a permission for a strategic infrastructure development on request of the person intending to carry out the development.
- 7.2. Section 146B(2)(a) states that *“as soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.”* Section 146B(2)(b) provides for the Board to invite submissions and the Board shall have regard to any submission made.
- 7.3. Under Section 146(3)(a), the Board shall alter the planning approval if it decides that the making of the alteration would not constitute the making of a material alteration in the terms of the development concerned. If the Board decides under Section 143(3)(b) that the making of the alteration would be material, it shall (i) require the requester to submit to the Board the information specified in Schedule 7A or an EIAR, and (ii) determine whether to:
- (I) make the alteration
  - (II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but

which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

- 7.4. Section 146B(3A) allows for the submission of further relevant information on the characteristics of the alteration in addition to the Schedule 7A information/ EIAR under subsection 3(b)(i). The further relevant information may also be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration [Section 146B(3B)].
- 7.5. Section 146B(4) states that before it makes its decision to alter/ alter differently/ refuse to alter, the Board shall determine whether the extent and character of alteration or any alternative alteration are such that the alteration, were it to be made, would be likely to have significant effects on the environment.
- 7.6. Subsections 146B(4A)(a) – (c) relate to the timeframe within which the Board shall make a determination under subsection (4) unless exceptional circumstances apply.
- 7.7. Under Section 146B(5), if the Board determines that the making of either kind of alteration referred to in subsection (3)(b)(ii):
- (a) is not likely to have significant effects on the environment, it shall proceed to make a determination under subsection (3)(b)(ii), or
  - (b) is likely to have such effects, the provisions of section 146C shall apply (preparation of an EIAR).
- 7.8. Under Section 146B(6), *“if, in a case to which subsection (5)(a) applies, the Board makes a determination to make an alteration of either kind referred to in subsection (3)(b)(ii), it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.”*
- 7.9. Section 146B(7) sets out the criteria that the Board shall have regard to in making a determination under subsection (4), while subsection (8) sets out provisions for the

making of submissions or observations before a determination under subsection (3)(b)(ii) or (4) is made.

## 8.0 **Assessment**

- 8.1. Under Section 146B of the Planning and Development Act, 2000 (as amended), the requester is seeking to alter the terms of a strategic infrastructure development (ABP-306204-19) approved by the Board under Section 182A(1) of the Planning and Development Act, 2000 (as amended) and comprising a 110kV electrical substation, underground 110kV cabling and ancillary works for the purposes of connecting a permitted windfarm substation to an existing 110kV overhead line at Mountphilips, Co. Tipperary.
- 8.2. Condition 2 and 3 of ABP-306204-19 require the full implementation of mitigation and monitoring measures contained in the Natura Impact Statement and Environmental Impact Assessment Report respectively. Project design measure (mitigation measure) PD01 contained in Chapter 19 of the NIS states that the construction of the 110kV underground connection shall only be carried out in the months of September to February inclusive to avoid works during the Hen Harrier breeding season.
- 8.3. The requester is now proposing that the construction of the 110kV underground connection could be carried out throughout the year including the Hen Harrier breeding season. This would necessitate a change to the text of the approved mitigation measure PD01 to allow for construction works along the public roadway during the Hen Harrier breeding season to only take place under supervision and following completion of confirmatory breeding surveys. The requester also commits that no construction works will be carried out during the breeding season within 1km of an already identified or newly recorded pre-nesting breeding site and/ or nest.
- 8.4. **Whether the proposed alteration is or is not material**
  - 8.4.1. The first consideration to assess is whether the proposed alteration would constitute a material alteration of the terms of the strategic infrastructure development approved under ABP-306204-19.

- 8.4.2. The requester submits that the grid connection, as evaluated in the 2019 EIAR, will not cause significant effects to any aspect of the environment, and for the reason set out in the Schedule 7A information submitted with the current request, the requester considers that the findings of the 2019 EIAR will not change as a result of the requested alteration.
- 8.4.3. Notwithstanding the above, I note that the potential impact of the grid route along the public road, and through the Slieve Felim to Silvermines Mountains SPA, was raised within observations on the proposed development under ABP-306204-19. In response to these submissions, I made reference within my assessment under ABP-306204-19 to the main potential impacts on the favourable conservation status of Hen Harrier being the permanent or temporary reduction or loss of suitable foraging habitat and disturbance/ displacement of foraging Hen Harrier (ex-situ during breeding season).
- 8.4.4. I also referred to mitigation measures in the form of a series of Project Design Environmental Protection Measures that were devised to avoid, prevent or reduce likely or significant effects on the environment. These included measures to avoid/ reduce land cover change/ potential habitat disturbance or degradation during construction, as well as measures to avoid disturbance to breeding Hen Harrier. Of particular relevance to the current request, was the proposed measure that UWF Grid Connection works will only be carried out at the Mountphilips site during breeding season (March to August) and the 110kV UGC works will take place from September to October inclusive.
- 8.4.5. In view of the above, the Board decided, in accordance with Section 146B(2)(a) of the Act, that the proposed alteration would constitute a material alteration to the terms of the development. The Board requested the applicant to publish a newspaper notice and invite submissions/ observations from the public before deciding whether or not to alter the terms of the approval under ABP-306204-19.

## **8.5. Whether the material alteration is or is not likely to have significant effects on the Environment**

- 8.5.1. Under Section 146B(4), before making a determination to make the alteration, make the alteration that would be different to that requested, or refuse to make the

alteration, the Board shall determine whether the extent and character of the alteration are such that it would be likely to have significant effects on the environment.

- 8.5.2. In making a determination under this subsection, the Board shall have regard to, *inter alia*, the information submitted pursuant to Schedule 7A of the Planning and Development Regulations, 2001 (as amended); any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment; description of any features of the alteration and any measures to avoid or prevent what might otherwise have been significant adverse effects; and the likely significant effects of the alteration on a European Site.
- 8.5.3. The Schedule 7A information for the proposed alteration assesses the potential for the requested alteration to result in significant effects on each of the environmental factors. Of direct relevance to the request, is the potential impact on Hen Harrier. The requester consulted with NPWS and agreed the following measures and precautions for the works to take place along the public road within the Hen Harrier breeding season:
- i) Construction works will only be carried out under the direct supervision of a full-time on-site Hen Harrier specialist and the Project Ecologist – the presence of this full time Hen Harrier specialist will ensure that any potential for disturbance of breeding Hen Harrier is avoided.
  - ii) The works will only take place following completion of confirmatory Hen Harrier breeding surveys, which will be initiated in February and continue for the entire breeding season, in order to identify any pre-breeding nuptial activity, nesting activity and active nests within 1km of the works. The survey methodology will be sufficient to ensure that Hen Harrier breeding is not overlooked.
  - iii) No construction works will be carried out during the breeding season within 1km of a pre-nesting breeding site and/ or nest or within 1km of breeding sites already identified during the previous five years.
- 8.5.4. Other factors that are considered within the Schedule 7A information include population and human health; biodiversity (other); water; land, soil, air and climate; material assets; and cultural heritage and the landscape. The proposed alteration

will not result in any implications for expected residues, emissions, wastes and use of natural resources, as the location, size and design of the approved grid connection will remain the same. A change in timing of the proposed works will not alter the vulnerability of the proposed development to major accidents/ natural disasters.

- 8.5.5. The proposed alteration would result in construction works finishing earlier and thus there will be not increase in impacts on population and human health. A neutral finding from the proposed alteration would be reasonable as the overall construction period would roughly be the same. There will be no change in terms of impact on land, soil, air, cultural heritage or the landscape. More works would be allowed to take place in drier weather as a result of the proposed alteration and this will have a positive impact on the protection of water quality, as well as Annex II species and their habitat within watercourses. The overall finding of the 2019 EIAR and the subsequent EIA carried out by the Board will not change as a result of the proposed alteration. The proposal only relates to the phasing of works and construction methodologies, workers, machinery and traffic will remain the same. There will also be no changes to the cumulative impact of the approved grid connection with other elements of the windfarm development or other relevant plans and projects given the scale and character of the proposed alterations and the distances involved.

## 8.6. **Appropriate Assessment**

- 8.6.1. The Board completed an Appropriate Assessment Screening exercise under ABP-306204-19 in relation to 23 European Sites. Nineteen of these sites were screened out and the Board then undertook Appropriate Assessment for the following European Sites in view of the conservation objectives of those sites:

- Slieve Felim to Silvermines Mountains SPA (Site code: 004165)
- Lower River Shannon SAC (Site code:002165)
- Lower River Suir SAC (Site code: 002137)
- Clare Glen SAC (Site code: 000930)

- 8.6.2. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the development and the proposed development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the proposal,
- (c) the submissions from the planning authority, the observers and prescribed bodies in the course of the application, and
- (d) the Conservation Objectives for the European sites.

8.6.3. In overall conclusion, the Board was satisfied that the development proposed under ABP-306204-19, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

8.6.4. Having considered the Board's determination on Appropriate Assessment in case ABP-306204-19, and having regard to the nature of the proposal, which seeks to alter the timing of the approved underground grid connection to allow for works to take place throughout the year, including the Hen Harrier breeding season, together with the proposed mitigation measures including confirmatory Hen Harrier surveys continuing for the entire breeding season, and the commitment that no works will take place within 1km of a pre-nesting site or nest, I do not consider that the proposed alteration to the approved development would be likely to have significant effects individually or in combination with other plans or projects on any European sites.

## 8.7. **Conclusion**

8.7.1. Having considered the proposed alteration and the development as approved under ABP-306204-19, it is reasonable to conclude that the making of the alteration to allow for construction works to be permitted throughout the year, including the Hen Harrier breeding season, to allow for flexibility with respect to the cabling construction works would constitute the making of a material alteration of the development as approved under ABP-306204-19.



- 8.7.2. I have considered the provisions of S.146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration, the information on file and the nature, scale and extent of the development approved under ABP-306204-19, submissions from the public and prescribed bodies were invited in this instance and were required for the purposes of the Board in determining the matter.
- 8.7.3. Under the provisions of Section 146B(4), and having regard to the information submitted pursuant to Schedule 7A of the Planning and Development Regulations, 2001 (as amended); the further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment; description of features of the alteration and any measures to avoid or prevent what might otherwise have been significant adverse effects; and the likely significant effects of the alteration on a European Site and the measures put forward by the applicant to mitigate such effects, I consider that the proposed alteration is such that it would not be likely to have significant effects on the environment.
- 8.7.4. I am of the opinion that the Board would not have determined the proposal differently had the proposed alterations formed part of the original application. The alteration relates to the timing of construction works for the 110kV underground grid connection to the permitted windfarm only, and no other alterations are proposed to the grid connection.

## 9.0 Recommendation

- 9.1. I recommend that the Board decides that the making of the alteration the subject of this request does constitute the making of a material alteration of the terms of the development as approved under ABP-306204-19 but that the making of said alteration would not be likely to have significant effects on the environment or on any European Site.

## 10.0 Draft Order

**REQUEST** received by An Bord Pleanála on the 12<sup>th</sup> October 2022 from Ecopower Developments Limited under section 146B of the Planning and Development Act 2000, (as amended) to alter the terms of a strategic infrastructure development described as the proposed 110kV electrical substation underground, 110kV cabling and ancillary works to connect the already consented Upperchurch windfarm substation to the existing 110kV overhead line at Mountphilips, Co. Tipperary the subject of an approval under An Bord Pleanála reference number ABP-306204-19,

**WHEREAS** the Board made a decision to approve, subject to conditions, the above-mentioned development by order dated the 8<sup>th</sup> February 2021,

**AND WHEREAS** the Board has received a request to alter the terms of the development, the subject of the approval,

**AND WHEREAS** the proposed alteration is described as follows:

Alteration of project design measure PD01 contained in the Natura Impact Statement for ABP-306204-19 to allow for construction works of the Upperchurch Windfarm 110kV underground grid connection to take place throughout the year, including the Hen Harrier breeding season (March to August inclusive), under the direct supervision of a full time on-site Hen Harrier specialist and project ecologist and subject to the requirement that no construction works will be carried out during the breeding season within 1km of a pre-nesting breeding site and/ or previously identified nest.

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would result in a material alteration to the terms of the development, the subject of the approval,

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

**AND WHEREAS** having considered all the documents on file, submissions and the Inspector's report, the Board considered that the making of the proposed alteration

would not be likely to have significant effects on the environment or on any European Site,

**NOW THEREFORE** in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 12th day of October 2022 for the reasons and considerations set out below.

### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

### **REASONS AND CONSIDERATIONS**

Having regard to:

- (i) the nature and scale of the underground grid connection approved by An Bord Pleanála under Reference Number ABP-306204-19 for this site,
- (ii) the examination of the environmental impact, including in relation to European Sites, carried out in the course of that application,
- (iii) the nature and character of the proposed alteration when considered in relation to the overall approved development,
- (iv) the mitigation measures and precautions for the proposed construction works to take place along the public road within the Hen Harrier breeding season,
- (v) the absence of any other significant new or additional environmental concerns (including in relation to European Sites) arising as a result of the proposed alteration, and
- (vi) the report of the Board's Inspector, which is adopted,

It is considered that the proposed alteration would be material but would not be likely to have significant effects on the environment or on any European Site. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alteration.

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Donal Donnelly  
Senior Planning Inspector

29<sup>th</sup> June 2023