



An
Bord
Pleanála

Inspector's Report

ABP-314887-22

Development	Revised site boundary and revised position of a single 800kW wind turbine, 73 metres to hub height as granted under P10/453 and P15/812
Location	Gortatogher, Parteen, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22254
Applicant(s)	Seamus Madden.
Type of Application	Permission for retention.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	1. 100 Meter Tall Group. 2. Patrick Keogh & Patrick Gorey.
Observer(s)	The Gorey Family.
Date of Site Inspection	9 th May 2023
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.62ha appeal site lies c.3km to the north of Limerick City, to the east of Parteen village, in the townland of Gortatogher, County Clare. The site lies within a triangle created by the R464 to the north west, R463 to the east and a local county road to the southwest. The site is situated on agricultural land to the north east of Limerick Blow Mouldings factory. Access is from the county road (LP3060), via an existing lane that serves the serves the factory and a farm complex to the south east of the appeal site.
- 1.2. Along the county roads surrounding the site is residential development. The closest property, outside of the landholding, lies c.300m to the east of the development site. This property is the Gorey Family home, observers to the appeal.
- 1.3. Within Parteen village Parteen National School lies c.425m to the north west of the site. Approximately 275m to the north east are the grounds of Corbally United soccer club. Two 110kV power lines, running approximately northwest to south east, lie to the north of the site.
- 1.4. The constructed wind turbine is visible from the road network in the area of the site, but is largely screened by a mix of mature road side boundaries and roadside development.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information submitted on the 5th August 2022 (re-advertised on 2nd September 2022), comprises revised site boundaries and revised position of a single 800kW wind turbine, 73m to hub height granted under PA ref. P10/453 (permission for turbine) and P15/812 (extension of appropriate period). It is situated c.36m to the north east of the location of the turbine permitted under PA ref. 10/453. A hardstanding is situated to the west of the tower, with paved car park at the junction of the access road and hardstanding (Hardstand layout, drawing 6311-JOD-SS-00-DR-s-1001, Rev. P01.1).
- 2.2. Hub height is 75.39m, blade diameter of c.53m and total height is 99.7m. External finish is matt white, with the tower tapering from green at base to white.
- 2.3. The application includes plans and drawings and the following:

- Noise assessment (July 2022) – Concludes that the noise levels at each dwelling in closest proximity to the development complies with the appropriate noise limit for the daytime and night time period as defined by the Wind Energy Guidelines, 2006.
- Shadow flicker assessment (June 2022) – Concludes that in a worst case scenario 32 no. properties could exceed the DoEHLG guideline of 30 minutes shadow flicker per day. At none of the properties would the guideline of 30 hours per year be exceeded. If the development is operated in accordance with the design, best practice and mitigation measures described in the report, potential impacts associated with shadow flicker are not anticipated to occur.
- Appropriate assessment screening report (February 2022) – Concludes that beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in the light of the conservation objectives of the relevant European sites, the development will not individually or in combination with other plans or projects has not and will not result in any significant effects on any designated European sites. There is therefore no requirement for an AA.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 23rd September 2022, the PA decided to grant permission of the development subject to conditions. These includes site specific conditions under C2 (development contribution), C3 (limits the duration of the permission to 20 years), C4 (controls the potential for shadow flicker), C5 (controls noise) and C6 (sets out requirements in respect of telecommunications, including radar) and C7 (deals with requirements for aviation lighting and coordinates).

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- 16th May 2022 – Refers to the policy context for the development, planning history of the site, submissions from prescribed bodies and third party observations. It considers the merits of the development under a number of headings including principle, legal interest, EIA (screened out), AA (screened out), bird species, shadow flicker, noise, visual impact, cultural heritage, roads, water services, surface water management, aviation, telecommunications and property prices. Having regard to the planning history of the site, which accepted the principle of development, the consistency of design and relatively close proximity of the onsite turbine to that permitted, the large footprint of the overall landholding and central location of turbine within this, the report considers that the proposed development to be acceptable subject to further information on shadow flicker and noise.
- 23rd September 2022 – Refers to the FI submitted, submissions from prescribed bodies and further observations made. It considers:
 - Shadow flicker. The applicant has adequately addressed the matter of shadow flicker. It states that any potential for shadow flicker should be addressed by use of software outlined in the report and addressed by condition.
 - Noise. It acknowledges the relatively limited accuracy issues with the noise report, considers these and concludes that the applicants FI response has adequately addressed the issues raised in the request and demonstrated compliance with the Wind Energy Guidelines and that the development would not result in excessive noise at the location.
 - Aviation. Issue can be dealt with by condition as per PA ref. 10/453.
 - EIA. Not required, sub-threshold, having regard to nature and scale of development and nature of receiving environment, no real risk of significant environmental effects.
 - AA. Not required having regard to the nature and scale of the proposed development and the absence of proximity to or connectivity to any European site.

- The submissions made, summarised in Appendix 2, and states that these have been considered in the assessment.

The report recommends that retention permission be granted subject to conditions.

3.2.2. Other Technical Reports

- Screening for Appropriate Assessment & Determination (16th May 2022) – Screens the development for AA and concludes that this is not required given the limited nature of works, existing development established, connection to utilities and nature of designations.

3.3. Prescribed Bodies

3.3.1. Submissions are on file from the following bodies:

- Irish Water (23rd March 2022) – No objection.
- IAA (8th April 2022) – Recommends conditions in the event of permission being granted (aeronautical obstacle warning lighting and provision of as constructed co-ordinates). Subsequent submission (26th May 2022) detailed Radar Impact Assessment is required due to the proximity of the development to Woodcock Hill Radar. [NB second submission received after the request for FI had been issued and before the receipt of response to same].

3.4. Third Party Observations

3.4.1. There are a significant number of observations in respect of the planning application and further observations on the FI submitted (104 and 82 respectively). The issues raised, both for and against the development can be summarised under the following headings:

- Impact on residential dwellings - <500m from dwellings, contrary to draft Wind Energy Guidelines 2019 (dWEG, 2019), visual impact, shadow flicker, noise from turbine, devaluation of property, difficulties in renting properties in the area, proximity to national school. Impact on ability of locals to reside in area/village (i.e. to build within 500m radius of turbine). Constructed location brings turbine closer to Gorey family home, revised height adds to visual dominance. Turbine blocks view of sunset from home. Red beacon flicking at

night from the turbine. Impact on health/wellbeing - Mental and physical health, asthma, children with learning disabilities (autism).

- Visual impact – Landscape, village, local scenic area.
- Levels - Clarity required in changes in levels of permitted and constructed turbine. Implications for visual, noise and flicker effects.
- Planning history - Application retains all of the issues raised by the community under P10/453 and P15/812, including proximity to village/dwellings. Incorrect address for previous applications (Knockballynameath stated in application, turbine located in Gortogher, Parteen). No public consultation during original planning application stage. Implications of large number of applications made by applicant/Limerick Blow Mouldings within the blue line boundary.
- Enforcement notice - Enforcement order in respect of existing turbine is the subject of a Judicial Review. The planning application is an attempt to undermine it. Removal should be pursued. Case officer should comment on current Enforcement file UD21/021.
- Application - No as constructed drawings to show height above sea level. Incorrect application should be for a new development (huge distance between development and original site, outside of original red line boundary).
- Environment - Impact on habitats, wildlife, fish, plants, birds including ducks, pheasants, migrating geese/birds and horseshoe bat. Lack of environmental reports, including on effects on migrating birds in the Shannon area. Application should include a full EIA and AA.
- Inadequate site notice - Reference is made to hub height only and not blades.
- Public consultation - Lack of public consultation during planning application stage.
- Precedent - Dangerous precedent if turbine was allowed to remain e.g. for other residential areas. Inconsistency with PA ref. 20/770 for telecommunications tower in village (refused on grounds of impact on visual and residential amenity, depreciate value of property).
- Alternatives - Turbine should be located on a more elevated site to maximise wind flow efficiency. Other ways to power plastic moulding facility (solar panels).

- Development of no benefit to the local community. Development was erected during COVID when no building works were to take place unless deemed essential by the government. Any climate change improvement arguments must be treated with extreme scepticism. Land should be zoned industrial due to presence of wind turbine.
- Contribution to the local economy - Limerick Blow Mouldings employs >70 people and one of largest employers in the area for over 63 years. Due to climate change crisis company decided to lower their carbon footprint. Wind turbine to account for 25% of electricity requirements. Other factories have done the same (Vistakon, Castleroy). With the increase in energy prices, wind turbine reduces energy costs and sustains employment. Carbon saving is the same as planting 60,000 trees. Government is well behind in its CO2 emissions reduction targets. Development injects considerable revenue to the local economy.
- Policy - Need for more renewable energy in Ireland and the wind turbine is a positive step forward. Development has been idle for the last 12 months. Ridiculous as carbon neutral energy is required. Wind and solar projects are needed. Revoking permission would be a step backwards.
- Misleading facts and stories about the turbine. Nothing amiss with planning process. Reported issues with sleep when the turbine has not been turned on. No evidence to support devaluation of property. Wind turbine looks great. A number of objections may not be genuine but against the applicant.
- Who will enforce standards if mitigation measures not met.
- Noise assessment should refer to dWEG, 2019, refer to actual effects (not predicted). Noise contours off centre. Inaccurate and unreliable report. Noise monitoring locations questionable. Assessment should be carried out when no noise from factory (ambient noise is high due to factory). Report is based on measurements at two locations, insufficient when considering the effects on a wide geographical area.
- Shadow flicker assessment makes no reference to turbine type, topography used in assessment and is not based on operation of the turbine. Report refers to construction phase, but turbine already constructed. Assumptions

and parameters are not accurate. Level of impact is unacceptable. Screening measures are invasive.

- Accuracy of information on noise and flicker (given different turbine constructed to that permitted). No revised reports on noise, flicker and shadow.
- Independent shadow and flicker and noise report required.
- Radar impact assessment not sought. Transparency in correspondence between PA and IAA.
- Turbine may be second hand, raises issues of lifespan.
- Published newspaper notice (FI) does not refer to townland or postal address as required by P&D Regulations 2001.

4.0 Planning History

4.1. The following planning applications are referred to by parties to the appeal. They have been made in respect of the appeal site or the adjoining lands:

- PA ref. 98/2027 – Permission granted to Limerick Blow Moulding Ltd for 25,000sqft facility, replacing pre-existing plant, including septic tank, car parking and yard (referred to by appellant).
- PA ref. 00/2247 - Permission granted to Limerick Blow Moulding Ltd to retain as constructed facility (under PA ref. 98-2027) (referred to by appellant).
- PA ref. 01/2262 (PL03-128774) - Permission granted by the Board to Limerick Blow Moulding Ltd for extension to existing facility (referred to by appellant).
- PA ref. 08/1299 (PL03.231442) – Application for permission by Seamus Mallen for new farm entrance and ancillary site works was refused by the PA and upheld by the Board (referred to by appellant). Refused on grounds of traffic safety, loss of farmland and impact on amenity (loss of hedgerows/trees).
- PA ref. 10/453 – Permission granted to Seamus Madden to erect a single 800kW wind turbine, 73m high with rotor diameter of 53m, and ancillary access road. Permission granted for an operational period of 20 years from the date of commissioning (referred to by PA and appellant and on file).

- PA ref. 15/812 - Permission granted to Seamus Madden to extend the appropriate period of planning permission under PA ref. 10-453 (referred to by PA and appellant and on file).
- PA ref. 17/604 – Retention permission granted to Seamus Madden for agricultural storage shed (283m²) (referred to by appellant, PA and on file).
- PA ref. 20/489 – Planning application for change of use of existing storage shed (850m²) for commercial warehouse storage sheds invalidated as sheds were already in commercial use (referred to by appellant).
- PA ref. 20/634 – Retention permission granted for change of use of agricultural storage building and retention of 2 no. commercial warehouse buildings to be used for storage ancillary to Limerick Blow Moulding factory building (referred to by appellant, PA and on file).
- PA ref. UD21-021 – Ongoing enforcement action in respect of the wind turbine (referred to by PA). (Assume JR 2021/335 relates to this case).
- PA ref. UD17-28 – Closed (Referred to by PA and appellant).
- PA ref. UD12-79 – Closed (referred to by appellant UD17-28).
- PA ref. UD12-079 – Referred to by appellant and PA. File opened on foot of complaints of 24 hour HGV movements to and from factory site. File subsequently closed.

5.0 Policy Context

5.1. National Guidelines

- National Planning Framework. National Policy Objective 55 – Promotes renewable energy use and generation at appropriate locations, subject to environmental safeguards.
- Wind Energy Development Guidelines, June 2006 (WEG, 2006). Section 5 provides guidelines in respect of natural heritage, noise, safety aspects, aircraft safety and shadow flicker. Section 6 deals with aesthetics considerations in design and siting.

- Draft Revised Wind Energy Development Guidelines, 2019 (dWEG, 2019). Provides more recent but draft guidelines in respect of natural heritage, noise, safety aspects, aircraft safety and shadow flicker. In respect of setback in relation to individual properties, it recommends a setback distance for amenity purposes of 4 times the tip height between a wind turbine and the nearest point of the curtilage of any residential property in the vicinity of the proposed development, subject to a mandatory minimum setback of 500 metres.

5.2. Regional

- Regional Spatial and Economic Strategy for the Southern Region. In Policy RPO 99 supports the sustainable development of renewable wind energy generation at appropriate locations in compliance with national Wind Energy Guidelines.

5.3. County

- Clare County Development Plan 2023-2029 came into effect on the 20th April 2023. Development Plan Goal II, in respect of climate action, and CDP6.17 supports renewable energy generation. Section 11.8.5 deals with Renewable Energy Sources. Development Plan Objective CDP11.47 in respect of renewable energy supports the development of renewable wind energy at appropriate locations and having regard to relevant guidelines, protection of the environment, residential amenity and Clare Wind Energy Strategy.
- Clare Wind Energy Strategy (Volume 6 of CDP) – Supports the development of wind energy in the County at appropriate locations and at appropriate scales. The appeal site falls within an area where wind energy is open for consideration and within LCA 'River Shannon Farmland' landscape, where it is stated that there is some capacity in the southern part of this LCA for development away from Lough Derg and Killaloe, with small or medium wind farms most appropriate. It is also stated that due to the low lying nature of the LCA lower turbine height would be most appropriate.

5.4. Natural Heritage Designations

- 5.4.1. The appeal site lies c.500m to the north east of Lower River Shannon SAC (site code 002165). South of Limerick City, the River Shannon is designated as an SPA, River Shannon and River Fergus Estuaries SPA (site code 004077). Approximately 14km to the east of the site is Slievefelim to Silvermines Mountain SPA (site code 004165) and c.18km to the north east Lough Derg (Shannon) SPA (site code 004058).

5.5. EIA Screening

- 5.5.1. Schedule 5 of the Planning and Development Act 2001 (as amended) sets out the classes of development which require environmental impact assessment. These include in Class 3 of Part 2, installation for harnessing wind power for energy production with more than 5 turbines having a total output greater than 5 megawatts. The proposed development comprises a single turbine with a total output of 800kW. As such it is a sub-threshold development and does not as a matter of course require EIA.
- 5.5.2. The development is proposed on agricultural land, with a modest footprint, and is removed from sites of environmental sensitivity and impacts are unlikely to be significant in terms of magnitude or spatial extent. Effects on population and European sites can be dealt with in the planning assessment and appropriate assessment sections of this report respectively, including any potential for cumulative effects with existing and proposed development.
- 5.5.3. Having regard to the foregoing, notably the nature the proposed development which comprises the modest relocation of a permitted wind turbine, there is no real likelihood of significant environmental effects and the need for EIA can therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. There are two third party appeals in respect of the development made by 100 Metres Tall Group (residents of Parteen) and Patrick Keogh & Patrick Gorey. Grounds raised are:

- Effects on people and environment - Development will have a significant effect on wildlife and humans in the wider Parteen area/East Clare area.
- Numerous instances of unauthorised development by the applicant, Limerick Blow Moulding Unlimited Company and James Madden Holding Unlimited Company. Appellant refers to the following cases PA ref. 98/2027, 00/2247, 01/2262, 08/1299, 10/453, UD12-079, 15/812, UD17-028, 17/604, 20/489, 20/634 (see planning history above). Issues raised in respect of the appeal site are:
 - Under PA ref. 10/453 (original turbine). No planning history referred to in application documents (including factory site). No evidence of comments stated to be made by NPWS. No indication of fee paid. No record of pre-planning meeting (PPI-10/21). Wind turbine development under PA ref. 07/1978 and PL03.228238 required a winter bird survey. IAA was the only statutory body notified. No consideration of connectivity between the site and adjacent SAC via surface water discharge from site or in combination effects with surface water discharges from factory/other development. No flood assessment. Bird survey could not rule out movements by birds across the site between two SPAs and recommended nightlight on turbine. Mitigation cannot be considered in screening and a stage 2 AA should have been required. Inappropriate conclusion given the potential for impacts. No assessment of infrastructure to connect the turbine to the grid/factory, including the laying of underground cables (as per condition no. 4 of the permission). No reference to transformer in application (condition no. 9(iii) of the permission). No information on treatment of surface

water despite concerns raised by the Engineer of surface water flowing onto the public road.

- Under PA ref. 15/812 (extension of appropriate period) – PA did not address all the previous applications and retention planning applications and whether or not these were in compliance. Application did not specify any start or completion date. Substantial works carried out were '*collecting and recording wind data*'. Inappropriately considered under section 42(1)(a)(i) PDA. Planners assessment should have considered the need for EIA and AA. AA and flood assessment should have been carried out. No public consultation carried out for application (i.e. no requirement to advertise, no facility for public consultation).
- Retention application details – No reference to previous applications in respect of the site or unpaid development contributions. PA is entitled to take into account the past history of the applicant when considering the application (s35 PDA). Board is requested to take into consideration these powers. No application for connectivity to the grid/factory. This infrastructure is still unauthorised. Site area is stated to be 0.62ha against 127.5ha in original application. Material consideration in the calculation of development contribution. No reference to current use or intended use of land. Section 17 incorrectly answered, development is close to a European site. Newspaper and site notices make no reference to proximity to European site. No blue line boundary shown or distances to site boundaries. No details of turbine foundation in section drawing DR-S-1102 (*sic*).
- Precedent - Under PA 08/1299 loss of 5m of hedgerow was considered to be a non-acceptable visual impact. 100m tower not considered to have a visual impact.
- MKO Appropriate Assessment Screening Report:
 - Details - No details given on foundation, access road, cabling or hardstanding or how constructed. Turbine is connected to adjacent farmyard complex which is outside the red line boundary. No details of connection of turbine to the factory/grid.

- Site drainage – Report does not recognise hydraulic connectivity between the site and the adjacent SAC and likely effects at construction stage. No reference is drawings to land drains that connect the site to the SAC. Generic plans which do not deal with surface water and stormwater management.
- Baseline assessment – June field survey did not and could not observe any wintering birds or field ponding in winter rainfall events or wetland birds which migrate from the river banks during such events.
- In combination/cumulative effects – Assessment fails to consider the past history of the site and the Limerick Northern Distributor Road and associated in combination and cumulative impacts relating to both birds, surface and storm water.
- Flawed screening report – Applicants AA screening report is flawed and a Stage 2 Appropriate Assessment is required (movement of wetland birds over the site, ponding on site in heavy rainfall and relocation of birds from river to pasture, no assessment of surface water drainage and connectivity to SAC, no assessment of construction or operational stage impacts or in combination impacts with existing factory or Limerick Northern Distributor Road, construction details and management of surface water).
- Article 28 P&D Regulations 2001, as amended – The PA did not give proper consideration to sub articles (m) and (r) i.e. to refer the application to statutory bodies in respect of potential effects on nature conservation and public health.
- County Development Plan – The decision by the PA is a material contravention of numerous development plan objectives including CDP 2.1, 8.4, 10.11 and 14.3 and the Wind Energy Strategy. These policies require the preparation and assessment of planning applications to have regard to environmental considerations (including compliance with the Habitats Directive), the CDP wind energy and renewable energy strategies of the Plan.
- Amenity impacts – First schedule reason for granting permission is flawed. Amenity impacts on the area are significant and exceed those of creating a new road entrance (PA ref. 08/1299). No consideration of these or injury to local properties, the devaluation of property or sterilisation of lands.

- Conditions – Condition no. 3 is unenforceable. A PA cannot enforce a planning application after 7 years. A significant bond should be required given history of the applicant. Condition no. 1 is contrary to Ministerial Guidelines on conditions. No way to ensure that Condition no. 4 (shadow flicker) is complied with. Independent party should be required to carry out monitoring of shadow flicker and noise. Condition no. 5 (noise, 45dB(A)) allows a greater noise level in a rural area than that granted under PA ref. 07/1978, also in a rural area (40dB(A)). Bond of €20,000 was required under this reference number, for a smaller turbine.
- Human health – No regard to human health effects from noise (with existing factory) or shadow flicker. Both can have detrimental effects on children with issues. Development in proximity to established residential housing and school. Numerous submissions on development including on environmental assessment and wintering birds. Not addressed in Planning report.
- Local Area Plan – Parteen is a beautiful village and community. Impact of development on village (industrial zone). Development will scupper any attempts to expand the village in the triangle between the established village and the R463. No assessment of the development on the basis of sustainable urban drainage. LAP requires undergrounding of wires etc. in the interest of amenity. Contradicts permission granted for large turbine.
- Case law, Environmental Trust Ireland v ABP 2021/856 JR. It is the responsibility of decision makers to properly inform themselves of all available information with respect to EIA/AA assessments. It is not for ordinary members of the public to make the alternative case in respect of environmental protection.
- Appendices to the appeal (by 100 Metres Tall Group) include an assessment by an ecologist of the Screening for Appropriate Assessment Report submitted with the application for retention.
- History of retrospective applications from applicant with resultant very large industrial factory in suburban/rural setting. Permission granted without consideration for the requirements of the EIA Directive, the Habitats Directive, to the local population and no monitoring of noise. Totality of development

has not been considered. Environmental effects associated with factory (traffic, noise, air pollution/odour).

- Section 34(12) of the P&D Act 2000 requires a PA to refuse to consider an application for retention if the development would have required EIA, a determination in respect of EIA or an AA. The development that has been constructed is materially different from that granted permission with different effects (not assessed). The proposed development should be assessed in conjunction with the existing development and subject to EIA and AA. Application should be invalidated or permission refused.
- Large turbine dominates the whole environment and impacts on biodiversity (bordering 2 no. SPAs).

6.2. Applicant Response

6.2.1. The applicant makes the following response to the appeals:

- Submission by '100 Metre Tall Group' is invalid as insufficient and confusing information has been provided about the appellant (name and address of appellant). Legal opinion attached.
- Appellants are using the appeal to object to the overall Limerick Blowmoulding development. This development is not relevant to the subject development.
- Appellants are seeking to overturn a valid grant of permission under PA ref. 10/453. Departure from the original permission is not substantial. Overturning the permission would be a serious undermining of the statutory appeal process and egregious in the current circumstances where the need for alternative and sustainable energy sources is acute and objectives of Clare County Development Plan (Volume V, Wind Energy Strategy).
- Appropriate Assessment screening report. Assessment is carried out by reputable environmental consultants who have concluded that beyond scientific doubt, in view of best scientific knowledge and on the basis of objective information, the development has not and will not result in any significant effect on any European site. MKO response to grounds of appeal:
 - AA screening report was carried out on the in accordance with national and EU guidelines. It identified no pathway for significant effects on

European sites as a result of the development constructed in its as built position, relative to the permitted position. PA originally granted permission having accepted that there would be no potential for effects on any QI or SCI of any European site. Construction methodologies and development specifications in line with what was previously permitted. No new pathways identified resulting from change in location of turbine. All European sites outside the zone of influence of the development.

- Site does not represent suitable habitat for any SPA species including Hen Harrier, highly unlikely that any SCI species including those that may migrate seasonally along the River Shannon corridor to the south of the site, would utilise the development site. There is no potential for significant direct, including collision related, effects or any indirect disturbance/displacement effects on any SCI species where they occur outside of the SPA.
- Development is further from village of Parteen and from Lower River Shannon SAC than the turbine originally granted permission. Surveys in respect of shadow flicker and noise found no significant potential for adverse impacts on residential amenity with operational turbine or effects in excess of the thresholds in the Wind Energy Guidelines.

6.3. Planning Authority Response

6.3.1. The PA make the following response to the appeal:

- Refers the Board to planning reports. These include the PAs assessment of the application in respect of EIA and AA, repeated in the submission.
- Application was validated and site inspected. Application and assessment process carried out in accordance with all statutory requirements.
- Planning history. The planning history of the site and its environs constituted a material consideration, is set out in the Planning reports.
- Impact on birds. Bird survey submitted under PA ref. 10/543. Having regard to its content, the conclusions drawn at the time, the similarities between the permitted development and subject development, the PA considered and

consider there is a very low probability of adverse effects on bird species. This is confirmed in Table 3.1 of AA Screening Report.

- Amenity. Issues in respect of noise, shadow flicker, visual impacts etc. were considered in the Planning reports. No adverse impacts by reason of air emissions or malodours are envisaged.
- Visual impact. Proposed development is little different to that permitted.
- Noise. FI noise assessment demonstrated compliance with Wind Energy Guidelines. Condition no. 5 of the permission managing noise is in accordance with the requirements of section 28 of the Wind Energy Guidelines.
- Shadow flicker. Addressed in the Planner's report no. 2 and to be managed by condition no. 4.
- Property prices. No evidence to support adverse impacts on property prices.
- Assessment of material changes. Have been considered in Planning reports.
- Traffic. Turbine is in place. Traffic associated with it is relatively limited and associated with maintenance. Future decommissioning and traffic associated with it is managed by condition no. 3(b).
- Limerick Northern Distributor Road. The location of the turbine does not encroach on the route of this road, nor is it in proximity to it.
- Surface water management. The site is not situated or close to a designated flood risk area. Limited drainage details submitted but it was stated that the drainage was carried out in accordance with the permission granted under PA ref. 10/453.
- Condition No. 3 (Duration) – The condition is in a standard format attached to all wind energy developments, is in line with statutory requirements and appropriately manages the period of time in which the permission is granted.

6.4. Observations

6.4.1. There is one observation on file by the Gorey family. It generally repeats matters raised in the observations on the planning application. Additional matters are:

- Site notices. Application for retention does not include for a change in townland. Wind turbine is in townland of Gortatogher not

Knockballynameath. FI notices inadequate, site notice does not refer to address, townland or location of development, newspaper notice does not match site notice, link on PA website to Significant FI to site notice is incorrect.

- Noise assessment contains errors (states that the report forms part of an EIAR and refers to turbines not turbine), text is difficult to read. Lack of/inaccurate details on noise monitoring locations.
- Was a detailed radar impact assessment sought by the PA as per the submission by IAA.
- No as constructed drawings to show height above sea level to demonstrate that height does not exceed that indicated in PA ref. 10/453 and PA ref. 15/812. Difference in ground levels impacts on visual dominance, noise and shadow flicker. Is retention sought for the height of the turbine and not the blades.

6.5. Further Responses

- 6.5.1. On the 16th November 2023, the Board requested submissions from Minister for Culture, Heritage and the Gaeltacht, An Taisce and The Heritage Council. No responses were received from these bodies.

7.0 Assessment

- 7.1. Having examined the policy context for the development, the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, I consider that the main issues in this appeal are as follows:

- *Bone fides* of the appeal.
- Planning history, enforcement, nature of the application and alternatives.
- Statutory notices.
- Public consultation.
- Consultation with prescribed bodies.
- The environment and EIA.
- Location of Turbine and Setback from Residential Dwellings

- Sterilisation of lands.
- Visual and Residential Amenity and Property Values.
- Lighting.
- Precedent.
- Health and wellbeing.
- Noise.
- Shadow flicker.
- Connectivity.
- Aviation.
- Treatment of surface water.
- Monitoring and compliance.
- Turbine (second hand).
- Conditions of the permission.
- Compliance with the County Development Plan
- Appropriate Assessment (addressed in section 8 of this report).

7.2. Bone Fides of the Appeal

- 7.2.1. In response to the appeal, the applicant raises concerns regarding the *bone fides* of the appeal made by the 100 Metres Tall Group. It is argued that the appeal fails to provide names/and or addresses of the appellants and therefore does not comply with section 127(1)(b) of the Planning and Development Act 2000, as amended (PDA, 2000).
- 7.2.2. Section 127(1)(b) of the Act requires that the appeal ‘*state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf*’.
- 7.2.3. Appendix 1 of the applicant’s response comprises legal opinion that refers to case law Dalton v ABP [2020] IEHC 27, where an appeal was invalidated by the Board as the appellant, acting on behalf of others, did not state the name and addresses of the persons on whose behalf he was acting. The board’s decision to invalidate the appeal, as the appeal did not state the persons on whom the appellant was acting, was upheld at Judicial Review.

7.2.4. In this instance, an observation was made by John Bird on behalf of the 100 Metres Tall Group. This group is stated to be a large group of local people. However, it is not these people who John Bird represents, it is the 100 Metres Tall Group (see submission to PA received on the 24th August 2022). In the subsequent appeal to the Board, the appeal is submitted by Michael J. Duffy on behalf of the 100 Meter Tall Group. I am satisfied therefore that the appellant has complied with section 127(1)(b) of the Act and provided the name (100 Metres Tall Group) and address of the appellant (c/o John Bird, 30 Idrone Close, Knocklyon, Dublin).

7.3. Planning History, Enforcement, Alternatives and Details of the Application and

7.3.1. The parties to the appeal refer to the planning history of the appeal site and the wider landholding. Whilst I note these cases and in particular the history of applications for retention following unauthorised works, these fall outside the scope of the current appeal, with enforcement matters and section 35 of the PDA 2000 (as amended) the responsibility of the planning authority. Further, under PA ref. 10/453 permission for a wind turbine on the landholding was granted. This was extended under PA ref. 15/812. Permission exists therefore for a wind turbine in the original location and the applicant is entitled, regardless of outcome of this appeal, to construct the wind turbine at this previously permitted location. Consequently, it is appropriate that the Board confine its consideration to the issues which arise by virtue of the change in location of the turbine. Any enforcement action concurrent to the appeal, or subsequent to any permission granted (in respect of implementation), is a matter for the PA and/or the courts.

7.3.2. Parties to the appeal refer to use of alternative energy sources or alternative locations (on an elevated site) for the wind turbine. Again, given the precedent set by the determination of PA ref. 10/453, it is not appropriate to consider the subject development (revised location of turbine) in the context of alternative energy sources or locations.

7.3.3. Parties to the appeal consider that as the proposed development is outside of the original red line boundary, with significant distance between the development and the original site, a new planning application should be submitted for the development. As stated, the applicant has permission for the construction of a wind

turbine c.36m to the south west of the as constructed location. Having regard to the scale of the wind turbine and its location within and largely central to the wider landholding, I do not consider the 36m relocation, of itself, to be significance or therefore to require an entirely different planning application. Further, as stated, the consequences of the relocation are addressed in this report.

- 7.3.4. The appellant's questions the site area quoted in the planning application form i.e. 0.62ha. This approach is reasonable, as it is the use of the wind turbine site which changes, as opposed to the use of the wider and larger landholding. I note that the wider landholding is shown in blue in the Site Location Map (Drawing no. 210411-01).
- 7.3.5. Details of foundation turbine are shown in 'Typical Hardstand, Road and Foundation Sections' Drawing No. 6311-JOD-SS-00-DR-S-1002. Rev P01.1.
- 7.3.6. Other details referred to by the appellants in the planning application form have been addressed by the planning authority via their validation of the planning application e.g. proximity to European sites, planning history of the site, change of use. Whilst validation is a matter for the PA, given the distance of the site from a European site (c.500m), and the nature of the development (retention of constructed turbine, no change of use), the approach taken by the PA is not unreasonable.

7.4. **Statutory Notices**

- 7.4.1. Parties to the appeal raise concerns regarding the content and location of site notices. PAs are responsible for the validation of planning applications. Further, the purpose of site notices, as stated in the government's Development Management Guidelines, Guidelines for PAs (2007), is to inform the public of the proposed development and alert them to its nature and extent, with third parties then able to examine the files in detail at the planning office or on line. In this instance, there are a significant number of submissions on file and I am satisfied that the purpose of the public notices, as initially provided and subsequent to the submission of further information, has been served.

7.5. Public Consultation

7.5.1. Parties to the appeal refer to guidelines for wind energy in the State (both government and industry), which encourage public consultation and community engagement in planning wind energy developments. The guidelines typically refer to wind farms but are not inapplicable to one off turbines. Notwithstanding this, there is no legal requirement for public consultation beyond the provision of statutory notices in respect of a planning application route. Again, having regard to the submissions on file, I am satisfied that the public have been informed of the proposed development and have had opportunity to make submissions on the subject development in advance of decision making.

7.6. Consultation with Prescribed Bodies

7.6.1. Parties to the appeal raise concerns regarding consultation with prescribed bodies, in respect of potential effects on nature conservation and public health i.e. The Heritage Council, the Minister for Arts, Heritage, Gaeltacht and the Islands, An Taisce, and the Health Board.

7.6.2. Article 28 of the Planning and Development Regulations 2001, as amended (PDR 2001) requires the notification of certain prescribed bodies where it appears to the PA that impacts may occur in respect of particular issues e.g. to the Health Service Executive, where significant effects on public health may occur.

7.6.3. In the course of the planning application, the PA received submissions from IAA and Irish Water. Subsequently, the Board sought submissions from the Minister for Culture, Heritage and the Gaeltacht, An Taisce and The Heritage Council. I am satisfied that relevant prescribed bodies have had an opportunity to make submissions on the proposed development. Effects of the development on public health are discussed in this assessment and for the reasons stated I am satisfied that no adverse effects on public health will arise as a consequence of the development (e.g. visual effects, effects on residential amenity, noise, shadow flicker).

7.7. The Environment and EIA

- 7.7.1. Parties to the appeal raise concerns regarding the effects of the development on wildlife and the need for EIA.
- 7.7.2. The subject development comprises the relocation of the permitted turbine, with no change in turbine type, height or blade diameter. As indicated in Drawing No. 210411-03 'Application for Retention Permission', the effect of the development is to extend the footprint the built area by minor alteration to alignment of access road, re-orientation of hardstanding and relocation of turbine, with a modest additional land take from the agricultural field in which the site is situated. From my inspection of the site and adjoining grassland, I would be of the view that the additional land take is from improved agricultural grassland with no very limited potential for adverse effects on wildlife.
- 7.7.3. The requirement for environmental impact assessment has been considered in section 5.5 of this report.

7.8. Location of Turbine and Setback from Residential Dwellings

- 7.8.1. Section 6.18 of the dWEG, 2019 provides guidance on the setback of wind turbines from individual properties. The guidelines refers to the benefits and disbenefits of providing a mandatory setback and proposes a setback of 4 times the tip height to apply between the wind turbine and curtilage of the nearest property, subject to a mandatory setback of 500m. In policy SPPR 2 the guidelines also state '*Some discretion applies to planning authorities when agreeing separation distances for small scale wind energy developments generating energy primarily for onsite usage.*'
- 7.8.2. The subject development has a tip height of 99.7m (Drawing 'View Steel tower 73m hub height'). It has been relocated from the permitted location c.36m to the north east, bringing it to c.300m from the residential property to the north east of the site (observer) and remaining within 500m of properties to the east, south, north and west. This location is contrary to the minimum setback distance set out in the draft Guidelines.
- 7.8.3. Notwithstanding this, as stated the Guidelines give local authorities discretion for separation distances of less than 500m '*for small scale wind energy developments*

generating energy primarily for onsite usage'. The subject development is a single turbine and serves a plastic moulding factor. I consider that it clearly comprises development over which the PA has discretion. The original location of the turbine was deemed acceptable in this context. The relocated turbine, moved north east of c.36m marginally reduces separation from some properties and marginally increases it towards others (within the context of 500m).

7.8.4. I am satisfied therefore that the proposed development is consistent with the draft Guidelines on Wind Energy Development 2019 in respect of setback from individual properties (subject to environmental safeguards which are discussed below). I also note that the Guidelines are in draft form and have yet to be formally adopted by the government.

7.9. **Sterilisation of Lands**

7.9.1. The appellant's argue that the proposed development in effect prevents development within 500m of the turbine, encroaching on the settlement envelope of Parteen.

7.9.2. The government's draft Guidelines on Wind Energy refer to a minimum setback in the context of providing an effective tool in *blending* such developments into the pre-existing contexts given their increasing *visual scale*. Setback is not required by virtue of noise or shadow flicker or other potential effects of a wind turbine. Further, the visual effects of wind turbines are subjective and I am not satisfied therefore that the proposed development as relocated will give rise to the sterilisation of lands.

7.10. **Visual and Residential Amenity and Property Values**

7.10.1. The appeal site lies in a rural area to the north of Limerick city. The village of Parteen lies to the north west. The village is designated as a 'Large Village' in the settlement hierarchy. The appeal site lies outside of the settlement boundary within a 'Working Landscape' where wind energy development is 'open to consideration'. It is removed from any designated Heritage Landscape. Volume 6 of the CDP, Clare Wind Energy Strategy, identifies the development as a significant wind energy development in the count granted permission (PA ref. 10453).

7.10.2. The development to be retained is c.36m to the north east of the permitted location. This moves the turbine closer to the grounds of Corbally United soccer club and to

the observer's property (to the north east of the site). It is also moved further from Parteen village and Parteen national school.

- 7.10.3. Plans for the development indicate that ground level of the turbine is 16m and the hardstanding 15.950m. Levels are not relative to OD but are shown relative to the existing ground level where the access road to the turbine joins the existing road serving the factory building at 13.708m (Drawing No. 6311-JOD-SS-00-DR-C-201, rev. P01.1 'Horizontal and Vertical Alignment'). Approximately 36m to the south west of the site, in the location of the permitted turbine, ground levels are c.15.60m. Consequently, there is a very small difference in height relative to the permitted structure (there is no change to height of turbine between original and permitted development).
- 7.10.4. From my inspection of the appeal site and surrounding road network, it is evident that the turbine, whilst visible from the public road network, is largely seen glimpsed views, due to roadside/field boundary vegetation and/or development. I would accept that in winter visibility is likely to increase, but the turbine would remain at distance in views. When viewed from the surrounding road network, I do not consider therefore that there is a significant landscape or visual effect of relocated turbine, with it remaining largely central to the triangle in which it is located, when viewed from the public road.
- 7.10.5. With regard to residential development and community facilities, the relocated turbine is situated c.36m closer to properties and facilities to the north east of the site. These include the observer's property c.300m to the north east of the application area and Corbally United soccer club.
- 7.10.6. The observer has provided photographs of views of the turbine from the rear of the property and from within the property and I would accept that the upper part of the tower and blades are evident in views from the property, looking south west, and that it forms a prominent feature in the outlook from the property. Notwithstanding this, there is some screening of the lower parts of the turbine by intervening mature hedgerows. The effect of the relocation of the turbine is to move it towards the observer's property. However, it remains at distance from the property and visually, does not differ significantly in visual effect or dominance from the permitted development. Similar issues apply with visibility of the turbine and views of it from

the soccer club. Views from properties on the eastern side of the public road are largely screened by the mature hedgerow along the western side of the road.

- 7.10.7. Having regard to the foregoing, I am satisfied therefore that the relocated wind turbine will not have a detract from the visual or residential amenity of the area (including as a consequence of noise and shadow flicker, considered below) or therefore adversely impact on property values or the ability to rent property.
- 7.10.8. Parties to the appeal refer to the industrialisation of the area. However, it is evident from my inspection of the site that the wind turbine and factory rarely 'read' together, with views of both developments visible from a short section of the local road to the south of the site. Potential visual cumulative effects may arise with the construction of the Limerick Northern Distributor Road, however, these are likely to be driven by the more substantial visual effects of the Distributor Road and will be a matter for future assessment in any subsequent the road project.

7.11. Lighting

- 7.11.1. The appellant's raise concerns regarding the lighting of the turbine at night and the added effect this has on residential amenity. Included in submission are photographs of the turbine at night showing red lighting at the hub of the turbine.
- 7.11.2. Whilst I acknowledge that such lighting will be visible to residents in the area, the lighting is both relatively modest and relatively removed from nearby residential properties. I do not consider that it would have any significant adverse effect on the residential amenity of the area.

7.12. Precedent

- 7.12.1. Parties to the appeal refer to the precedent set by other planning decisions, where more minor developments were refused on the grounds of visual amenity.
- 7.12.2. The developments referred to by the parties comprises different types of development at different locations relative to sensitive receptors e.g. telecommunications tower in the village of Parteen (under PA ref. 20/770), new road entrance (under PA ref. 08/1299). The developments would have been adjudicated upon in the context of the site specific issues raised and relevant planning policies

(e.g. for telecommunications). I do not consider therefore that the developments referred to set any appropriate precedents for the determination of the subject appeal. Similarly, given the very site specific context for the proposed development, I do not consider that any decision to grant permission would set an inappropriate precedent for future development.

7.13. Health and wellbeing.

7.13.1. Health and safety issues are generally covered by separate legislation. Effects of visual effects, impacts on residential amenity, noise and shadow flicker are dealt within this assessment. Subject to adherence to accepted standards, I do not consider that any adverse effects on the health and wellbeing of residents in the area of the site will arise.

7.14. Noise.

7.14.1. Parties to the appeal raise concerns regarding the accuracy of the noise report.

7.14.2. In response to the request for further information, the applicant submitted a Noise Assessment. It is based on assessment of predicted effects, as the turbine was not operational at the time. Background noise monitoring includes noise arising in the wider environment of the site, including existing factory noise. This approach is reasonable as the existing background noise provides the actual context for the development and allows for the assessment of likely cumulative effects. Further, at the time of site inspection, noise was evident from the factory in the immediate area of the site e.g. in car park, at public road at entrance. This was typically a low hum, which was not evident at any distance from the site.

7.14.3. The Noise Assessment refers explicitly to the make and model number of the proposed wind turbine, Enercon E-53 w/800kW, with sound power data taken from the manufacturer datasheet. Noise monitoring was carried out at two locations for a 5 week period June to July 2022, with data excluded for periods of rainfall. Locations are indicated in grid references in Table 2 and shown in Appendix C, with one location to the north east of the site (south west of observer's property) and one to the south of it. Given that these locations represent the nearest properties to the site, I do not consider that these locations are unreasonable or insufficient.

However, additional monitoring locations can be included in any decision to grant permission.

- 7.14.4. Noise monitoring results for the 'Quiet daytime L₉₀' and 'Night time L₉₀' periods are shown in Tables 3 to 6 for both monitoring locations, with WEG, 2006 noise limits applied (background +5dB) for different wind speeds. Predicted noise effects at wind speeds from 4m/s to 12m/s at 16 no. nearest receptors are shown in Table 8, Figure 9 and 10 (location of receptors in Appendix D). At all times, predicted noise at nearest sensitive receptors is below quiet daytime and night time noise limits.
- 7.14.5. Appendix D of the Noise Report sets out noise monitoring results, indicating concentric circles around a common central point. However, as stated in the Planning Report on the FI, the location of the turbine is not shown central to these circles.
- 7.14.6. The location of the as built turbine is Eastings 158986, Northings 160478. This would be consistent with the location of the turbine shown in Appendix D, not the central point around which the noise modelling results are indicated. It is not clear therefore if the modelling exercise incorrectly identifies the location of the turbine or if the map in Appendix D is incorrect. If the modelling exercise is correct then predicted noise levels at H17 (observer's property) are within Quiet Daytime and Night time limits (Figure 9). If these are incorrect and noise contours in Appendix D are shifted to the north east, by c.15m, predicted noise at H17 (observer's property) also remain within the band 35-40dB and below threshold for adverse effects for Quiet Daytime and Night time effects.
- 7.14.7. Whilst questions have been raised regarding accuracy of the Noise Assessment, and whilst this issue has not been addressed by the applicant in response to the appeal, having regard to all of the details of the noise assessment and taking a conservative approach, I am satisfied that the proposed development will not give rise to adverse effects on sensitive receptors in the areas of the site by virtue of noise. However, I would recommend a standard noise condition to ensure absence of adverse effects during the operational life of the wind turbine and monitoring at additional locations to ensure that potential effects in all directions takes place.

7.15. Shadow flicker.

- 7.15.1. Parties to the appeal raise concerns regarding the accuracy of the Shadow Flicker Assessment (including not based on operation, no make and model of turbine, refers to construction stage, inclusion of topography, assumptions/parameters not accurate, level of impact not acceptable, screening invasive, residents should not need to take measures to offset effects).
- 7.15.2. The applicant's Shadow Flicker Assessment Report was submitted in response to the PAs request for FI. It provides an assessment on the timing and duration of shadow flicker on sensitive receptors in the context of the thresholds set out in the Wind Energy Guidelines 2006. The report is academic and based on a modelling exercise, not the actual operation of the turbine. Given the unauthorised nature of the wind turbine as constructed this approach is not unreasonable.
- 7.15.3. The WDG 2006 recommend that shadow flicker (the effect of shadow cast by the turbine blades over the window of a house, with the rotation of the blades causing the shadow to flick on and off) at neighbouring offices and dwellings within 500m *'should not exceed 30 hours per year or 30 minutes per day.'* In the event of shadow flicker being predicted, the draft Wind Energy Guidelines 2019 state that *'The planning authority or An Bord Pleanála should impose condition(s) to ensure that no existing dwelling or other affected property will experience shadow flicker as a result of the wind energy development subject of the planning application and the wind energy development shall be installed and operated in accordance with the shadow flicker study submitted to accompany the planning application, including any mitigation measures required'*.
- 7.15.4. As per the 2006 WEG all sensitive receptors with 10xrotor diameter or 530m have been identified (Shadow Flicker Study Area) and an assessment of likely shadow flicker derived from specialist computer software. The Assessment does not refer to the make and model number of the turbine but this is implied in the assessment (reference to 53m blade diameter) and it is in the interest of the applicant to determine the extent of likely shadow flicker as this would influence operational use of the turbine.
- 7.15.5. In section 2.1.2 a number of software models are referred to, with ReSoft WindFarm software (section 2.1.3) used in the assessment. Assumptions include no screening

due to buildings or vegetation, 100% sun shine on all days, wind such that the rotor is turning at all times to enable shadow flicker and rotor presents maximum aspect to observer, with likely effects over estimated or therefore worst case scenario.

- 7.15.6. Predicted effects are shown in Table 2.1 with exceedances of the 30 minutes/day threshold for 32 no. of the 99 no. receptors modelled. Greatest exceedance is at property no. 8 (observer) with 40m:12 seconds/day.
- 7.15.7. Predicted annual shadow flicker is above 30hrs/year for a smaller number of properties including ID 22, 25, 41, 42 and 47 (highest shadow flicker is at ID 22 with 40hrs 54 minutes/year). However, when the regional sunshine average is applied, with sun shining 29.4% of the time, based on Met Eireann data, it is predicted that the guidance limit of 30hrs/year will not be exceeded at any property.
- 7.15.8. The Assessment states that in practice shadow flicker is likely to be eliminated or significantly reduced by screening from topography, cloud cover and/or vegetation/built forms, the absence of windows at each receiver facing in all directions (as modelled) and appearance of the turbine (behind the sun, not chopping it).
- 7.15.9. The Assessment recognises that the report does not form part of an EIAR but uses terminology recommended in environmental impact assessment in order to describe the nature of impacts. For the predicted daily exceedances of shadow flicker it proposes:
- Site visits to each affected property to determine if screening exists and window orientation and subsequently the potential for in house screening (e.g. blinds), planting or other site specific measures in agreement with the homeowner.
 - Wind turbine control measures, with pre-programming of incidents of shadow flicker into the wind turbine's control software (SCADA system) and shut down of the turbine in conditions when shadow flicker will occur e.g. having regard to wind speed, sun shine. The Assessment states that a site visit will be required to calibrate the SCADA system, to check that the system is working properly and to monitor implementation of measures.

- 7.15.10. The report concludes that with the implementation of mitigation measures no impacts of shadow flicker are predicted.
- 7.15.11. In their decision to grant permission the PA has relied on wind turbine control measures to prevent unreasonable impacts of shadow flicker. This approach is not unreasonable and would be consistent with expressed views from third parties in respect of measures at individual receptors.
- 7.15.12. Having regard to the foregoing, the use of thresholds set out in the WEG 2006 to assess the potential for adverse effects from shadow flicker, the modelling exercise which adopts a worst case scenario for the assessment of likely effects and the proposed mitigation and monitoring measures to reduce the incidence of effects such that no receptor experiences more than the threshold limits set out in the guidelines, I am satisfied that no adverse effects on residential amenity will arise as a consequence of shadow flicker.

7.16. **Connectivity.**

- 7.16.1. Parties to the appeal raise concerns in respect of connectivity between the appeal site and farmyard in the ownership of the applicant.
- 7.16.2. Plans for the subject development indicate ducts from the base of the turbine tower (drawing 'Typical Hardstand, Road & Foundation Sections, no. 6311-JOD-SS-00-DR-S01002). The Appropriate Assessment Screening Report states that underground cabling, connecting the wind turbine to the factory building, was laid within the electrical ducting in the verge of the access road. This approach is reasonable and consistent with the nature of the development (wind turbine to supply electricity to factory building) and with condition no. 4 of the original permission, PA ref. 10/453 which required the cables to be laid underground. Any connectivity to other developments would be outside of the permitted development and potentially *ultra vires*. If the board are minded to grant permission for the development I would recommend a condition that as built drawings are provided to the PA in the interest of clarity.

7.17. Aviation.

- 7.17.1. IAA make two observations on the proposed development. In the first they recommend aeronautical warning lights be provided and as constructed co-ordinates submitted to them. Subsequently, they sought a detailed Radar Impact Assessment due to the proximity of the development to Woodcock Hill Radar.
- 7.17.2. Woodcock Hill Radar station lies c.7.5km west of the appeal site, to the north west of Limerick city. The potential for effect on the Radar station was considered in the original application for the wind turbine under PA ref. 10/453, with the IAA satisfied that if built to the proposed plans no adverse effects would arise. In this instance, the turbine has been built in a revised location, 36m to the north east of the original location but with no change in height or turbine type. It is unlikely therefore that such relatively modest alterations would have an adverse effect on the radar c.7.5km to the west of the site. I note that condition nos. 6 and 7 of the PAs grant of permission deal with aviation issues. Condition no. 6 requires the developer to submit for written agreement a protocol for assessing any impact on telecommunications equipment including aviation radar, with the applicant remedying any interference. Condition no. 7 requires details of aeronautical obstacle warning lights and as constructed coordinates to be submitted, prior to commencement, having consulted the relevant authorities.
- 7.17.3. Given the relatively modest change in location, relative to the location of the radar station, I am satisfied that the proposed conditions are sufficient such that no adverse effects on aviation are likely to arise as a consequence of the development.

7.18. Treatment of Surface Water

- 7.18.1. Parties to the appeal raise concerns that there is no information on the treatment of surface water, despite concerns raised by the Engineer of surface water flowing onto the public road (previous application), and the absence of a flood assessment.
- 7.18.2. The appeal site is situated within agricultural land. Surface water arising on the site is directed to drains alongside the access road, for percolation to ground. The access road and hardstanding are slightly re-aligned from the permitted arrangements. Notwithstanding this, there is no connectivity to the public road or field drain situated c.90m to the north of the site. I am satisfied therefore that

flooding of the public road, arising from the proposed relocated turbine, is highly unlikely.

7.18.3. The appeal site falls outside of the identified areas at risk of flooding indicated in the Clare CDP 2023-2029. Having regard to the arrangements for the disposal of surface water, the modest changes to the relocation of the wind turbine are unlikely to create any adverse risk of flooding on site or on adjoining lands.

7.19. Turbine (second hand).

7.19.1. Parties to the appeal refer to the potential for the wind turbine to be second hand, raising issues of lifespan and appropriateness of conditions of the permission.

7.19.2. Whether or not the subject turbine is second hand, is not material to the subject development or appeal. Permission is sought for the retention of a particular type of wind turbine. Longevity, repair and maintenance are a matter for the developer within the parameters of any permission granted.

7.20. Conditions of the permission.

7.20.1. Parties to the appeal raise the following concerns regarding conditions:

- C1 (development to be in accordance with details submitted, except to comply with conditions) is contrary to Ministerial Guidelines. This is a standard condition and refers only to the details submitted, with revision to meet specific conditions of the permission, and is provided in the interest of clarity.
- C3 (duration and removal) is unenforceable as PA cannot enforce a planning application after 7 years. This condition provides permission for the turbine for 20 years with removal at the end of the period and would persist for the lifetime of the permission. Notwithstanding this, the WEG, 2006 generally recommend against limiting the life of a wind energy development, except in exceptional circumstances. The draft WEG 2019 also refer to the discretion of the PA in respect of conditions that limit the life of a wind energy development. In this instance, given the location of the wind turbine in

relative proximity to residential development, I consider that there is a case for exceptionality and that the condition should remain.

- C4 (shadow flicker), no way to ensure compliance, independent party required to carry out monitoring. Section 7.7 of the WEG 2016 and 7.9 of dWEG 2019 refer to the monitoring of specific matters, carried out either by agreed independent specialists or by the PA at the developer's expense. The proposed condition is therefore in line with government guidelines on wind farms, with monitoring of compliance the responsibility of the PA.
- C5 (noise), allows a greater noise level than that granted under PA ref. 07/1978 (PL03.228238), 40dB(A), also in a rural area. This application refers to a wind turbine and site works in Craggaunkeil & Lismeehan, County Clare. It is situated in a different location and will have its own site specific context. For the reasons stated above in the noise section of this report, I am satisfied that the appropriate site specific noise limits are recommended.
- Bond, also required under PA ref. 07/1978. Section 7.19 of the WEG 2006 and section 7.21 of the dWEG 2019 recommend against financial bonds to ensure that decommissioning will take place in a responsible manner. However, the draft guidelines recommend a Decommissioning and Restoration Plan (DRP), with reassessment at least every 10 years. In line with these guidelines, I consider that a bond for the decommissioning phase is not appropriate but recommend a DRP.

7.21. Compliance with the County Development Plan

7.21.1. Having regard to the nature of the proposed development, provision of renewable energy, and my assessment of the likely effects of the development on residential amenity, visual amenity and landscape, the treatment of surface water, likely effects on aviation and the environment (also considered in section 5.5 and section 8 below), I am satisfied that the proposed development is in accordance with the policies of the Clare CDP 2023-2029 which seeks to support the development of renewable energy subject to safeguards on residents and the environment.

8.0 Appropriate Assessment - Screening

8.1. I have considered the subject development in light of the requirements of section 177U of the PDA 2000 (as amended).

8.2. The proposed development comprises the retention of a constructed wind turbine, with a hub height of 73m, rotor diameter 53m and total height of 99.7m. It is described in detail in section 2.0 of this report and section 2 of the applicant's Screening Report. It is situated at E558946, N660521, approximately 36m to the north east of the original location, permitted under PA ref. 10/453 (extended under PA ref. 15/812). Details include:

- Turbine is secured to a reinforced concrete pad foundation with a central pedestal above the base which supports the tower. The foundation transmits any load on the wind turbine into the ground.
- A hardstanding area (levelled and compacted hardcore) of 1,284sqm has been installed around the turbine base to facilitate access, turbine assembly and erection. It will be retained over the lifetime of the turbine to facilitate maintenance.
- The turbine is linked to the public road network via the L3060 local road which connects to the R463 to the west and R464 to the east. A new c.4m access road has been installed from the factory site to the turbine location for a distance of c.105m. Access road has a finished surface of crushed fill (CI 804 stone fill wearing course, Drawing no. 6311-JOD-Ss-00-DR-S-1002, P01.1 'Typical Hardstand, Road and Foundation Sections').
- Underground cabling has been installed within electrical ducting in the verge of the access road, to connect the site to the Limerick Blow Mouldings facility. [NB There are no details on file regarding the location of cabling or connectivity to the factory].
- A small temporary construction compound was provided for the duration of the construction phase, with a site office/canteen and storage container temporarily located within the construction compound. [At the time of site inspection, a storage container remained on site].

- A site drainage system was constructed at the site in accordance with the Drainage Management Plan in accordance with details submitted with application (Drawing no. 6311-JOD-SS-00-DR-S-1003, rev. P01.1 'Drainage Details'). The drainage system was excavated and constructed in conjunction with the road and hard standing construction. [NB There are limited details on the drainage management plan e.g. location of measures indicated in drawings].
- 8.3. The field in which the development has been constructed comprises an agricultural grassland, bordered by field boundaries which include hedgerows, trees, drainage ditches and stone walls.
- 8.4. In March 2022 the applicant submitted an Article 6(3) Appropriate Assessment Screening Report. It concluded that *'beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of conservation objectives of the relevant European sites, the subject development individually or in combination with other plans and projects has not and will not result in any significant effects on any European Designated Sites. There is no requirement for an Appropriate Assessment.'*
- 8.5. In their screening of the proposed development (Screening for AA and Determination, May 2022), the PA also concluded that AA was not required.
- 8.6. No submissions have been received from prescribed bodies. Parties to the appeal argue that an AA should have been carried out and raise concerns in respect of connectivity between the site and adjacent SAC via surface water discharge, in combination effects with water discharges from factory, impacts on the movement of birds between two SPAs, impact of nightlight on turbine, requirement for a winter bird survey (as per PA ref. 07/1978; PL03.228238), screening cannot consider mitigation, flawed screening report (see commentary of AA screening report attached to appeal 100 Metres Tall Group).
- 8.7. **European Sites.**
- 8.8. The proposed development site is not located within or immediately adjacent to any site designated as a European site comprising a Special Area of Conservation (SAC) or a Special Protection Area (SPA). The boundary of the nearest European site is c.500m to the south west of the appeal site. It comprises the Lower River

Shannon SAC (site code 002165). The appeal site lies within the River Shannon Sub-catchment and the site is likely to drain towards the River. This European site is therefore within the zone of influence of the development. The appeal site is substantially more removed from other SACs and has no direct connections to them (see Table 3-1 AA Screening Report).

- 8.9. The nearest SPA to the site is the River Shannon and River Fergus Estuaries SPA (site code 004077) which lies c.4km to the south/south west of the site. Qualifying interests of the site include various waterbirds (see below), with the potential for effects on these species if they utilise the appeal site or move across it to access the SPA. Approximately 14km to the east of the site is Slievefelim to Silvermines Mountains SPA (004165). It's qualifying interest is Hen Harrier. Approximately 18km to the north east of the site is Lough Derg (Shannon) SPA, with QIs including mobile bird species. There is potential for effects on the QIs of these two sites also if birds utilise the appeal site or move across it.
- 8.10. Qualifying interests for the River Shannon SAC, River Shannon and River Fergus Estuaries SPA and Lough Derg (Shannon) SPA are set out below:

European Site	Qualifying Interests
Lower River Shannon SAC (002165).	<ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260] • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>) [6410]

	<ul style="list-style-type: none"> • Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] • <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Lampetra planeri</i> (Brook Lamprey) [1096] • <i>Lampetra fluviatilis</i> (River Lamprey) [1099] • <i>Salmo salar</i> (Salmon) [1106] • <i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349] • <i>Lutra lutra</i> (Otter) [1355]
River Shannon and River Fergus Estuaries SPA (site code 004077)	<ul style="list-style-type: none"> • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Scaup (<i>Aythya marila</i>) [A062] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Greenshank (<i>Tringa nebularia</i>) [A164] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Wetland and Waterbirds [A999]
Lough Derg (Shannon) SPA (004058)	<ul style="list-style-type: none"> • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Tufted Duck (<i>Aythya fuligula</i>) [A061] • Goldeneye (<i>Bucephala clangula</i>) [A067] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetland and Waterbirds [A999]

8.11. Likely Impacts of the Project (alone or in combination).

8.12. The subject development is retention of a 73m wind turbine that has been constructed c.36m to the north east of the permitted location. The assessment of potential effects on European sites is made in respect of the likely impacts arising from the relocated wind turbine, not the principle of the wind turbine which was previously considered by the PA in their earlier decision to grant permission (under

PA ref. 10/453). Notably in coming to this decision the PA considered that there was no potential for adverse effects on any European site.

8.13. The likely impacts arising from the construction, operation and decommissioning of the wind turbine on the environment are:

- Construction:
 - Earthworks with the potential for the generation of contaminated flows of water from the site.
 - Loss of habitat from within the site, if used by species of conservation interest.
- Operation:
 - Insertion of the wind turbine in the flight path of mobile bird species if they were crossing the appeal site.
- Decommissioning:
 - Earthworks (as above).
 - Restoration of habitat.

8.14. The proposed development comprises very little change to any of the impacts arising from the construction of the turbine at its original location i.e. there is a minor change to the alignment of the access road, configuration of hardstanding and height of the turbine (as constructed at a slightly different elevation) and no change to turbine type or to lighting arrangements.

8.15. Cumulative effects may arise from concurrent construction works or during operation from any development with similar effects (e.g. other development at height likely to obstruct flight paths).

8.16. **Possible Effects on European Sites in View of the Sites Conservation Objectives**

8.17. *Lower River Shannon SAC.* Habitats in the area of the appeal site comprise improved agricultural grassland, stone walls, hedgerows, tree lines, scrub, some areas of wet grassland (on the western side of the agricultural field) and a drainage ditch c.90m to the north of the development. From my inspection of the appeal site and agricultural land immediately surrounding it, I would infer that the site over which the relocated wind turbine and altered access road was built, was originally improved

agricultural grassland, with no effects on any ex situ Annex I habitats or supporting habitat for QI species (see table in section 8.9 above).

8.18. The appeal site is potentially connected by surface and ground water to the SAC. For example, drainage ditches which border the site are likely to connect to the larger water bodies in the area of the site (see EPA mapping) which discharge to the River Shannon. However, construction and operation of the relocated turbine is unlikely to have given/give rise any adverse effect on the River Shannon SAC as a consequence of its as (a) the turbine is not moved significantly closer to any surface water body, therefore with no consequential risk of construction effects on water quality and (b) surface water from the access road and hardstanding (during normal and storm events) is discharged to the drainage channel alongside the access road with percolation to ground. With distance from the River Shannon, and the likely effects of dilution, dissipation and dissolution in intervening groundwater, adverse effects on water quality in the River are highly unlikely.

8.19. *River Shannon and River Fergus Estuaries SPA, Slievefelim to Silvermines Mountains SPA and Lough Derg (Shannon) SPA.* As stated, the relocated turbine has resulted in a slightly altered and marginally greater land take from improved agricultural grassland, within a wider habitat context, stone walls, hedgerows, tree lines, scrub, some areas of wet grassland and a drainage ditch c.90m to the north of the development. In their decision to grant permission under PA ref. 10/453 the PA concluded (1st December 2010), on the basis of information submitted with the application which included:

(a) a report from the Environment section - which raised with no objections to the development, and

(b) An Assessment of Impacts on Birds Report – which concluded that *It is highly improbable that regular flights of wetland birds at low altitude would occur over the Parteen area*’.

8.20. the PA concluded that the development would not have an adverse effect on any European site.

8.21. The previous Assessment of Impact on Birds 2010, quoted by the appellant (Appendix 1, 100 Metres Tall Group) identifies the possibility of birds moving between the Shannon Estuary and Lough Derg. However, it states that birds leaving

the Shannon (or arriving) are likely to be flying at a significant height over urban areas and would therefore be over the height of the turbine.

- 8.22. The appellant argues that the previous assessment did not consider Hen Harrier the SCI of the Slievefelim to Silvermines Mountain SPA, with the potential for movements between the SPA across the site in winter to more coastal locations and lowland areas. In response the applicant (Appendix 2 of response to appeal) refers to states that the appeal site does not represent suitable habitat for any SPA species, including Hen Harrier, and it is therefore considered highly unlikely that any SCI species, including those that migrate seasonally along the Shannon river corridor to the south of the site would use the development site itself. No comments are made on the movement of Hen Harrier to the coast from the SPA.
- 8.23. Notwithstanding this, and mindful of the concerns raised by the appellants in respect of impacts on Hen Harrier, the subject development comprises the relatively modest alteration to the location of a permitted wind turbine. Previous assessments of the principle of the development concluded that no significant adverse effect would arise on the SCIs of any European site in the vicinity of the site. The subject development relocates the turbine by 36m. Within the context of the movement of birds of SCI between sites, notably between Lough Derg and the River Shannon and between Slievefelim to Silvermines Mountain SPA to the coast, it is unlikely that the minor relocation of the turbine will have any significant impact the movement of bird species of SCI, over and above the previously assessed impacts, which as stated which concluded that there would be no adverse impacts on any European site. Academic research also indicates that collision mortality for Hen Harriers at wind farms is low¹.
- 8.24. The risk of downstream effects on water quality in the River Shannon and River Fergus Estuaries SPA can be ruled out for the same reasons stated above in respect of effects on the Lower River Shannon SAC.
- 8.25. *Cumulative Effects.* Section 4 of the applicant's AA Screening Report identifies planning applications granted within 1km of the appeal site in the last 5 years and policy documents that relate to European sites (it includes reference to the Clare CDP 2017 to 2023 as varied). Much of the development is domestic in scale. No

¹ <https://www.ucc.ie/en/media/research/planforbio/forestecology/WINDHARRIERFinalProjectReport.pdf>

other wind farms are situated, permitted or proposed within 20km of the subject site. The policy context for the development supports the protection of European sites.

8.26. There is no development or plan therefore that presents the likelihood of significant cumulative effects with the relocation of the permitted turbine i.e. there is no substantial development in the immediate area of the site with potential for similar and/or concurrent effects on the environment. Planning applications that have been granted in respect of the factory site have taken place largely within the existing footprint of the factory site and within the established height of structures.

8.27. **Screening Determination**

8.27.1. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the PDA 2000 (as amended), it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European sites including Lower River Shannon SAC, River Shannon and River Fergus Estuaries SPA or Slievefelim to Silvermines Mountains SPA or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.27.2. This determination is based on the relatively minor nature of the development (relocation of turbine), distance from European sites, limited connectivity and lack of impact mechanisms that could significantly effect a European site.

9.0 **Recommendation**

9.1. I recommend that retention permission for the development be granted.

10.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development comprising the modest relocation of the permitted wind turbine, and the absence of significant visual and environmental effects associated with its relocation, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual, residential amenity or landscape character of

the area, would not create an unacceptable risk of environmental pollution or have an adverse impact on the ecology of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the by the planning authority on the 5th day of August 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission shall be for a period of 20 years from the date of commissioning of the wind farm.</p> <p>Reason: To enable the planning authority to review its operation in the light of the circumstances then prevailing.</p>
3.	<p>(a) Shadow flicker arising from the development shall not exceed 30 hours per year or 30 minutes per day at dwellings or other sensitive receptors. The wind turbine control measures set out in section 3.1.2 of the ‘Shadow Flicker Assessment Report’ received on the 5th August 2022 shall only be used in any instances of exceedances of these limits.</p> <p>(b) Within three months of the date of this order, the developer shall submit to the Planning Authority for written agreement, details of the instrumentation and monitoring programme in relation to shadow flicker. The details shall include the nature and extent of monitoring for a period of 1 year following the commissioning of the development.</p>

	<p>(c) The monitoring report shall be submitted to the Planning Authority within 1 month of completion of the programme. The developer shall comply with any mitigation measures deemed necessary by the Planning Authority, including the switching off of the turbine for specified time periods, as a result of monitoring.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>During operation, noise levels when measured externally at nearby sensitive locations, shall not exceed:</p> <p>(a) Between the hours of 0700 and 2300:</p> <ul style="list-style-type: none"> (i) 45dB(A) L_{90, 10 min} or an increase in 5dB(A) L_{90, 10 min} above background noise levels at a standardised 10m height above ground level at wind speeds of 4m/s or greater, and (ii) 40dB(A) L_{90, 10 min} at a standardised 10m height above ground level at all other wind speeds. <p>(b) 43dB(A) L_{90, 10 min} at all other times.</p> <p>(c) Within three months of the date of this Order, the developer shall submit to and agree in writing with the Planning Authority, a noise compliance monitoring programme. It shall include the location of noise monitoring locations at sensitive receptors to the north, south and north east of the development, arrangements for noise measurement (to the satisfaction of the Planning Authority) and mitigation measures including the de-rating of the wind turbine. Noise monitoring shall commence with the commissioning of the development. The results of noise compliance monitoring shall be submitted to and agreed in writing with the Planning Authority within one year of commissioning of the wind turbine.</p> <p>Reason: In the interest of the amenity of noise sensitive receptors.</p>
5.	<p>(1) Facilities shall be installed to minimise interference with communications, radio, television, aviation radar or other telecommunications reception in the area. Details of the facilities to be installed, which shall be at the developer's expense, shall be</p>

	<p>submitted to and agreed with the planning authority prior to commissioning and following consultation with the relevant authorities.</p> <p>(2) The performance of facilities installed to prevent interference described above shall be subject to monitoring at the expense of the developer, to the satisfaction of the planning authority, during the period of one year from date of the commencement of the proposed development. The nature and extent of the monitoring programmed shall be otherwise agreed with the planning authority.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Within 3 months of the date of this Order and prior to the commissioning of the development, details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority having consulted with the relevant authorities. These shall include:</p> <p>(a) The aeronautical obstacle warning lighting for the wind turbine, and</p> <p>(b) The 'as constructed' positions of the turbines and the highest point of the turbines (to the top of the blade spin).</p> <p>Reason: In the interest of air traffic safety.</p>
7.	<p>All surface water runoff from the development shall be collected and disposed of within the site, to the satisfaction of the planning authority.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
8.	<p>'As constructed' drawings shall be submitted to the planning authority in advance of commencement. These shall accurately map the location drainage infrastructure and underground cables.</p> <p>Reason: In the interest of clarity.</p>
9.	<p>Within 3 months of this Order, the developer shall submit to the Planning Authority for written agreement an outline Decommissioning and Restoration Plan. The Plan shall be reviewed every 10 years and</p>

	<p>implemented in accordance with the arrangements set out in the Plan at the expiry of the permission granted.</p> <p>Reason: In the interest of orderly development, visual amenity and the environment.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Deirdre MacGabhann
 Planning Inspector

25th May 2023