Inspector's Report ABP-315059-22.

Development	Removal of existing electricity supply grid and replacement with similar, and all associated works.
Location	Dereenacrinnic West to Shandrum More, Bantry, Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/737
Applicant(s)	ESB
Type of Application	Permission.
Planning Authority Decision	Grant of permission.
Appellant(s)	Ian Collins.
Observer(s)	Wild Defence Ireland Peter Sweetman & Associates
Date of Site Inspection	24th August 2023.
Inspector	Philip Davis.

Contents

1.0 **Introduction**

This appeal is against the decision of the planning authority to grant permission for a 14.8 km grid connection (20kV) linking a permitted windfarm at Derreenacrinnig with the existing Ballylicky ESB substation in west Cork, north of the town of Bantry. The proposal includes for the removal of a partially constructed line along the same route.

A previous permission had been granted for the windfarm at Derreenacrinnig, but a Substitute Consent for the grid connection was struck down by Judicial Review. The current application is under S.34 of the 2000 Act, as amended, and is accompanied by an EIAR.

2.0 **Site Location and Description**

The proposed 20KV OHL line extends across uplands and valleys in West Cork, inland from Bantry Bay. The route extends from just north of Ballylicky, a village located on the estuary of the Owvan River in Bantry Bay, west across a series of clines on roughly south-west/north-east axis, then follows a ridgeline overlooking the Mealagh River valley, before crossing that valley and then running along the north side of Mullaghmesha mountain (494 metres), before crossing a pass, terminating at an area of heath and bog around the 250 metre contour in a valley in the townland of Derreenacrinnig West in the catchment of the River Ilen.

Ballylicky ESB substation is located at the end of a 1km long cul de sac running north-east from the village of Ballylicky. It is in a sheltered and lush valley, with the Owvane River approximately 300 metres to the north. The proposed line runs north-east for around 500 metres before meeting a country road, following this road south for a short distance before running for approximately 1.5 km southwest across an undulated landscape of wet pasture with some conifer plantation and bog. In Shandrun townland it runs north-west along a third class road before it turns east along an extended ridge, rising up to close to the 150 metre contour along heath and conifer plantation and some upland grazing. It crosses a minor road in a shallow valley at Laharansermeen townland, before diverting south-east down into the Mealagh River valley, crossing a minor road which is also part of the Sheep's Way

long distant walk. This valley is sparsely populated with some dwellings and farms along the minor roan network and along private lanes. The route then runs along the south side of the valley before joining another country road at around the 170 metre contour, following the road for around a kilometre before flowing an irregular path along the northern foothills of Mullaghmesha mountain along rough grazing and conifer plantation, before running south-east across a pass up to the 360 metre contour, crossing one minor road and a number of forest tracks before descending down into Derreencrinnig West. It terminates at a track and hardstanding area, the site of a permitted windfarm with associated infrastructure. This site is accessed via a track running north-west from a minor country road.

The overall area is thinly populated, with a mix of farms and individual dwellings. The closest towns of any size are Bantry and Drimalogue, approximately 5-6 km south of each end of the line respectively.

3.0 **Proposed Development**

The proposed development consists of the following key elements (full description on the site notice on file):

- New grid connection of approximately 14.8 km between Ballylicky ESB substation and permitted Derreenacrinnig West Windfarm.
- This includes the removal of 9.5 km of 20kV overhead line (OHL), consisting of 138 wood poles.
- Construction of some 10.8 km of 20 kV OHL, consisting of 158 wood poles with supporting lines and ancillary structures.
- 4km of underground cable, mostly along existing roads.

Revised information was submitted to the planning authority on the 24th August 2022 on foot of a request for further information by the planning authority. This revision clarified aspects of the proposed development but did not involve major design or route changes,

4.0 **Planning History (including wind farm)**

A 10 year permission for a wind farm comprising 7 no. turbines with a hub height of 55 metres was granted by Cork County Council in October 2011 (**10/857**), upheld on appeal by the Board **PL88.239767**.

Work on this windfarm commenced in 2014 and the developer secured a connection, but this was stopped due to the 2015 O'Griana ruling. The works subsequently commenced in October 2017, but following a Section 5 referral to the Board (this referral was withdrawn prior to the Board making a decision), works again stopped.

An application was made to ABP for Substitute Consent by ESB Network on the 23rd October 2019 under Section 177C(2)(b) of the Act. A decision was made on 23rd May 2019 to grant Substitute Consent (**ABP-302837-18**). A Judicial Review into this decision and a separate planning application for overhead line to the planning authority was accepted, and both the Substitute Consent and planning permission were annulled or quashed on the 8th March 2021.

Permission for the construction of a grid connection was granted in January 2019 (**19/0010**), with this decision upheld on appeal by the Board (**ABP-305790-19**).

An application for Substitute Consent under Section 177E of the Act was sought by ESB to regularise permission for the partially build grid connection. Substitute Consent was granted by the Board under **SU04.205609**. This Substitute Consent permission was quashed in March 2021 **[2020] 548 JR]** on the grounds that the substitute consent procedure was in breach of European Law and that Ireland had failed to correctly transpose the requirements of Directive 2011/92/EU.

5.0 **Policy Context**

5.1. **Development Plan**

The proposed route runs through open countryside without specific zoning. It is one of an area identified in the 2014 plan as open to consideration for windfarms. Relevant planning policies set out in the 2014 Development Plan (the operative

Plan at the time – I note that there have not been significant changes to policy in the current plan), included policies ED 1-1 and 1-2 on energy, ED3-5 on wind energy, ED 3-4, and ED 6-1. Policy ED 6-2 related specifically to transmission network proposals. Since the planning authority decision, a new Development Plan for the area has been adopted (Cork County Development plan 2022, adopted June 6th, 2022). There are also relevant policies on landscape, light pollution, groundwater, natural history, archaeology and infrastructure.

5.2. Natural Heritage Designations

There are no EU designated habitats on the route or close to the proposed line.

5.3. EIAR

Following a screening determination by the planning authority it was decided that the application required a full EIAR which was submitted with the planning application.

6.0 Planning Report

There are four planners report in total on file addressing the application, EIAR and the submissions.

The first planners report dated 16th December 2021 addressed the history of the site and the windfarm providing significant background to the current status of the proposal (section 3 of that report) and the policy background. The current draft Windfarm Guidelines consultation document was addressed. It notes a presumption in favour of wind farm development in suitable circumstances subject to normal planning and environmental considerations.

Notes 9 letters of objection (one signed by 18 local residents), generally objecting to the proposed development with regard to impacts on local schools, visual impacts and habitats.

The AA Screening Report was assessed – it is stated that planning authority concur with the conclusion that a Stage 2 AA was not necessary.

Following this report, a further information request was sent out seeking clarity of a number of issues, including pole height, road network disturbance and the selection of alternatives.

It is noted that clarification was sought by the **Area Engineer** regarding disturbance to the road network. Clarification of these details were submitted on the 27th May 2022, the Area Engineer was satisfied with the information as submitted.

The applicant was invited to consider a reasoned justification as to whether the underground of the cable is a viable alternative. It was noted that two viable underground cable route connection routes were considered (Route 1A and Route 1B). The reasons submitted for not undergrounding were that it is not considered industry good practice for medium voltage circuits. It would involve considerable extra cost, maintenance issues and road disruption. It is also noted that the crossing of the Mealagh River may involve directional drilling. The planning authority accepted these arguments.

It is noted that the **Council Archaeologist** and **Environment Officers** reports on file have recommended permission subject to conditions.

The **Council Ecologist** has concluded that it will not affect the integrity of any European site, and so recommended permission subject to conditions.

It is considered that all key issues have been addressed in the EIAR.

Permission was recommended in a report dated 17th October 2022.

6.1. External reports:

Inland Fisheries Ireland – no objection but requested standard conditions.

Geology Survey Ireland. No comment.

Health and Safety Executive: Highlights a number of issues with construction and request a full CEMP condition of permission granted.

Irish Aviation Authority: No observations.

7.0 **Decision**

The planning authority decided to grant permission subject to 25 conditions. All are generally standard conditions and do not substantively alter the proposal as submitted.

8.0 **Appeal**

The application has been appealed by Mr. Ian Collins of Maulakieve, Bantry. I would summarise the key points of his appeal as follows:

- It is submitted that the EIAR does not make a clear distinction between the permitted windfarm and the proposed OHL connection.
- With regard to the judicial review, it is submitted that this presents the opportunity of a 'clean slate', whereby alternatives can be considered such as the use of an underground connection. It is argued with regard to the JR that the 'alternatives' section of the EIAR is deficient and does not address all possible alternatives. It is emphasised that the alternative of undergrounding should have been fully assessed.
- It is argued that there are significant contradictions in the details permitted, in particular with regard to landscape and visual – it is noted that the Cork County Development Plan states that the option of undergrounding should be considered in alternatives (ED 6-2). It is also stated that visual impacts are understated in the EIAR.
- It is submitted that the impacts on tourism are significantly understated.
- It is argued that the planning authority did not fully assess the implications, simply stating that the implications were addressed.

The submission addresses in some detail the other objections made to the planning authority and the response of the planning authority. It is argued that there has been a consistent understating of a range of impacts by the planning authority and applicant, and that reasonable alternatives have not been addressed in a meaningful manner. It is submitted that the planning authority has not taken account of reasonable objections from local residents and has not engaged with the

requirements under the EIAR regulations to fully address alternative routes and designs. It is argued that ABP is required to refuse planning permission for these reasons.

9.0 **Observations**

Wild Defence Ireland CLG.

- It is submitted that the planning authority did not have full regard to the grounds of appeal submitted. A key point raised is that the PA was in effect being invited by the developer to grant it substitute consent. It is argued that the planning authority had no jurisdiction to make a remedial EIA for the development.
- It is submitted that the developer's proposal to take down the unauthorised poles and take them back up again within a s.34 application is an attempt to circumvent the legislative regime for EIA developments – case C-215/06 is referred to – i.e. that this should only be permitted to occur under exceptional circumstances.
- It is argued that the exceptional circumstances test (s.177D(2) of the Act as amended), does not apply.
- It is submitted that the PA does not have sufficient information before it to enable it to carry out an EIA, AA Screening, Water Framework Directive, or SEA for the proposed development or the relevant parts of the development plan.
- It is argued that the EIAR is deficient with regard to a full assessment of the receiving environment.
- It is submitted that alternatives have not been properly considered and that the impacts on waterbodies have been given little or no consideration.
- It is submitted that it does not comply with Articles 17-23 of the Regulations 2001.
- Wild Defence Ireland also supports the appeal of Mr. Ian Collins.

Peter Sweetman & Associates.

It is stated that the Board must comply with four distinct legal tasks – i.e.. complying with the 2000 Act, as amended, the EIA Directive (2014/52/EU) as amended, the Habitats Directive, and the Water Framework Directive.

It is submitted that the technical reports submitted by the applicant and Cork County Council do not satisfy the requirements of the above, especially with regard to recent judgements, in particular C0323/17.

10.0 **Response by the applicant.**

It is submitted that all the key issues raised by the appellant and observer were addressed fully in the submissions, specifically the EIAR report (October 2021), the Planning Report of October 2021, the FI Response of March 2022, the Clarification of above, July 2022 and the relevant Cork County Council Officer Reports.

After providing an overview of the planning and judicial history of the proposed development, the applicant states that they chose to achieve consent via a Section 34 application on the basis of the JR decision relating to the splitting of the proposal into different applications. It is considered that a singular S.34 application addresses the legal issues raised in the court cases and updated planning law.

In support of the above, section 3 of this submission provides an overview of discussions with the planning authority on the way forward in the light of the court decision.

It is highlighted that this application is solely under S.34 – it was considered appropriate not to seek an additional Substitute Consent or seek the retention of existing works. It is submitted that the EIAR addresses all identified shortcomings. It is also noted that the proposal is fully in line with policies ED 6-1 and ED 6-2 in relation to the development of the grid and the consideration of alternatives.

With regard to the specifics of the appeal:

- It is submitted that while the applicant considers that the EIAR covered all issues, and the points raised by the appellant were specifically addressed in the response to the further information requestions (March 2022 and October 2022).

- With regard to the assessment of alternatives, the applicant refers the Board to the further information response pages 2 and 3 which specifically addresses the issues around undergrounding.
- It is noted that relatively few responses were received from statutory authorities as part of the EIAR process, but it is submitted that all relevant consultees were included. It is also claimed that all requirements for public notices were satisfied.
- It is confirmed that the proposed development is a grid connection, and is not functionally part of the windfarm, but it is acknowledged with regard to reducing emissions that it would facilitate the permitted windfarm. It is noted that ESBN is a distribution system operator, it does not have a statutory role in generation.
- With regard to tourism, it is stated that the impacts on Tourism were not considered to be significant.
- It is stated that contrary to assertions by the applicant, full consideration was given to all submissions made during the application process.
- It is stated that all relevant information under the applicable acts and regulations has been submitted by the applicant.

11.0 **Planning Authority Response**

The details of the appeal are noted, but the planning authority stated that all relevant issues were addressed. It is noted that the third party has submitted many other objections to windfarm developments (list included).

The planning authority requests that ABP re-affirm its decision to grant planning permission.

12.0 **Appropriate Assessment – Screening**

The applicant submitted an Appropriate Assessment Screening Report (Appendix G of the application) in accordance with article 6(3) of the Habitats Directive 92/43/EEC. This Report screening out any requirements for a stage 2 NIS. The Heritage Unit of the Council (13th December 2021) stated that they agreed with this conclusion and that there was no requirement to carry out a stage 2 Screening Appropriate Assessment – the planners report concurred with this conclusion.

The applicant submitted additionally an Appropriate Assessment Screening Report from Tobin Consulting Engineers, dated June 2023. I further note that in planning appeal ABP-305609-19 (the original appeal into the decision by the planning authority to grant permission for the grid connection), the Board decided that the proposal would not have a significant effect on any designated European site and thus a Stage 2 AA is not required. This Screening in turn referred back to the Substitute Consent application in **ABP- 302837-18** which likewise concluded that an NIS was not required. I do not consider that there are any significant changes in the design or overall circumstances since that Screening decision.

I note that the applicant submitted as Appendix C of its remedial EIAR two Screenings for Appropriate Assessment. The first related specifically to the application for substitute consent. This assessment concluded that the project alone, or in-combination with other projects will not have any significant direct or indirect adverse impacts on Glengarriff Harbour and Woodland SAC, Derryclogher (Knockboy) Bog SAC and Caha Mountains SAC and that a Stage 2 Appropriate Assessment is not considered necessary. The second Screening for Appropriate Assessment considered the overall development, namely the windfarm development itself, the completed sections of grid connection the subject of this application and the sections of the grid connection the subject of Appeal Ref. **ABP-305790-19**. The applicant's assessment concluded that no significant adverse effects directly or indirectly will occur on the integrity of Natura 2000 sites as a result of the proposed construction and operation of the works, and it was not necessary to carry out a Stage 2 Appropriate Assessment

I note from information provided by the applicant that the proposed development is not directly connected with or necessary to the management of any European Site. and that it would not traverse any European site nor be on, in or close to any such site. The nearest European Sites relevant to the grid connection proposal are Derryclogher (Knockboy) Bog SAC (Site Code 001873); the Bandon River Special Area of Conservation (Site Code: 002171); the Caha Mountains Special Area of Conservation (Site Code: 000093); and Glengarriff Harbour and Woodland SAC (Site Code: 000090). The above referenced European sites are a significant distance from the grid connection corridor, located to the east at Dunmanway, north-west at and to the north of Coomhola Mountain, and west at Glengarriff and none of the conservation objectives include habitats or species that are present or potentially present on the corridor (apart from freshwater species, but these are in separate catchments). The potential sources of impact away from the route arising from the proposal are hydrological, arising from the potential construction impacts on watercourses. There are no identified hydrological pathways (surface or groundwater) directly connecting the grid corridor to the above referenced European sites. The Screening Report (along with the other previous screening reports carried out), concluded therefore that there would not be likely to be a significant effect on any designated European Site by way of the nature of the works, the separation distance from the proposed works to the designated sites, and the absence of a hydrological pathway for pollutants.

On the basis of the information available on file, other available online sources, and my site visit, I concur with the conclusions of the screening report and the planning authority that there is no basis for considering that there would be a significant effect on any designated European site.

I therefore consider it reasonable to conclude that on the basis of the available information, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

13.0 **Environmental Impact Assessment**

The application is accompanied by an Environmental Impact Assessment Report (EIAR) which was prepared by Jennings O'Donovan & Partners on behalf of the applicant. This EIA section of the report should, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment below.

The application falls within the scope of the amending 2014 EIA Directive (Directive 2014/52/EU) on the basis that the application was lodged after the last date for transposition in May 2017. The application also falls within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged after these regulations come into effect on 1st September 2018. The impact of the proposed development is addressed under all relevant headings with respect to the environmental factors listed in Article 3(1) of the 2014 EIA Directive. The EIAR sets out a case regarding the need for the development (Section 2.2). The EIAR provides detail with regard to the consideration of alternatives in Section 2.13-2.16. An overview of the main interactions is provided in Section 11. Details of the consultation entered into by the applicant with Cork County Council and other prescribed bodies as part of the preparation of the project are also set out in a separate document and can be reviewed in the EIAR.

Article 3 (2) of the Directive requires the consideration of the effects deriving from the vulnerability of the project to risks of major accidents and / or disasters that are relevant to the project concerned. In terms of the content and scope of the EIAR, the information contained in the EIAR generally complies with article 94 of the Planning and Development Regulations 2001, as amended, all studies informing the EIAR are up to date and recently acquired. Additional pre-construction surveys will be required in order to provide up to date information in relation to invasive species, mammals, bats and birds, however such issues can be adequately dealt with by condition.

It is important to note at the outset that the proposed development under consideration within this application does not cross international boundaries and as such any transboundary issues are largely negligible. Transboundary issues are considered with regard to hydrology in terms of the cumulative effect. Consideration

of transboundary effects pertaining to other heading within the EIAR are considered in general terms within the cumulative assessment of each heading.

I have carried out an examination of the information provided by the applicant, including the EIAR and submissions made during the course of the application. A summary of the submissions made by the proscribed bodies, appellants and observers has been set out in Section 9 of this report above. The main points raised specific to EIA cam be summarised as follows:

- The impact on habitats of extending the line across an upland landscape.
- The visual impact of a proliferation of electricity apparatus on an upland landscape.
- The claimed lack of a full consideration of alternatives, particularly undergrounding

These issues are addressed below under the relevant headings as appropriate in the reasoned conclusion and recommendation, including conditions.

I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment and thus complies with Article 94 of the Planning and development regulations 2000, as amended.

13.1. Consideration of alternatives

The appellant and other observers have raised concerns about what is argued to be an inadequate analysis and considered of reasonable alternatives to the proposed OHL. They specifically highlight the possibility of undergrounding the entire line. Section 2.13 to 2.16 of the EIAR specifically addresses alternatives, and the applicant has submitted additional information in its response to the appeal.

Figure 2-9 of the EIAR outlines a number of routes identified as possible alternatives, including the ‘do nothing’ option (section 2.16.2). The EIAR does not address the issue of undergrounding to any significant degree but does address it in correspondence with the planning authority and in its submission to ABP. I accept the general arguments against underground, in particular with regard to the specifics of the area – any undergrounding would require very significant trenching, crossing

of rivers, and disruption to drainage, at least temporarily. For a 20KV line undergrounding is usually only considered along road alignments, and for short sections. I accept the argument submitted that this it is not a reasonable alternative to overhead lines in this context.

The review of alternative OHL routes compares (on figure 2.9) the alternatives with regard to constraints such as route length, environmental designations, number of houses, and other constraints. I am satisfied with the assessment provided and that it indicates that the chosen route is the most reasonable route with regard to technical requirements and the need to minimise amenity and environmental impacts.

13.2. Population and human health

Section 4 of the EIAR addresses population and human health. The baseline is established with reference to a desktop study using CSO statistics and the development plan and follows EPA guidelines. The study area is the three electoral districts of Bantry Rural/Whiddy, Mealagh and Dromaleague North. It is noted that the topic of human health has interactions with conclusions on hydrology (Chapter 7), Noise (Chapter 9), Material Assets (Chapter 11) and Air and Climate (Chapter 8). It is outlined that the area is overwhelmingly rural and sparsely populated, with tourism being the key economic factor with the potential for impacts. It is noted (section 4.5.5) that there are various amenities of interest to tourists within the study area (10km from the route) including events in Drimoleague and Bantry, and walks and scenic drives in the area. Two identified scenic routes designated in the development plan run close to the site (these are addressed in more detail in Chapter 11 on landscape). Marine/fisheries and Energy & Forestry are also noted as significant economic assets in the study area.

With regard to health, it is noted that in the 2016 census the general health of the population in the wider area is ‘very good’ to ‘good’. Potential issues relating to the power lines are noted including EMF fields, noise, air quality, water contamination and traffic. It is noted that these are dealt with in more detailed in the topic specific sections in the report.

The report also notes the potential for accidents arising from construction (including maintenance and decommissioning) and a potential vulnerability to climate change.

Section 4.8 assesses the potential impacts of the above. It is concluded that the impacts on population and settlement patterns to be imperceptible. The overall impact on the economy is considered to be moderate, positive and long term, having regard to the benefits of facilitating renewable energy and direct/indirect jobs associated with the works. It is considered that impacts on land use are slight and reversable.

No mitigation measures are proposed beyond standard construction best practice. It is considered that residual risks are imperceptible. Section 4.12 notes that the developer should consult with the local community prior to the commencement of construction work and kept advised on the timing and possible disruption.

With regard to cumulative effects, it is noted the positive impact in facilitating an overall increase in renewable energy if the permitted windfarm is developed. It is noted that in Chapter 10 on landscape, the cumulative impact is considered low. It is considered that in the short term there would be an overall moderate positive impact in terms of employment.

On the basis of all information available on file and other public sources and my site visit, I am satisfied that the overall assessment on Populations and Human Health is correct in its conclusions of low or imperceptible impacts, with some positive impacts on local employment. I note that some potential issues are more appropriately addressed in the specific topic headings of landscape, noise, water pollution, etc., The area is upland rural, mostly used for sheep and cattle raising and forestry, and the proposed line would not significantly disrupt these activities and would not directly impact on the population in the area, and would not be significant in terms of amenity or the tourism attractions of the area.

I conclude therefore that the impacts on Population and Human Health would be low to imperceptible, with minor but significant impacts on local employment. I do not recommend any specific conditions or mitigation measures beyond those set out in 4.7 of the report.

13.3. **Biodiversity**

Section 5 of the report addresses Biodiversity (an NIS was screened out). The baseline study was based on desktop analysis and several habitat surveys carried

out in March, May and October 2017 and 2018. It is also noted that a detailed site survey of the wind farm site was carried out as part of the original application in July 2010. The studies included general habitat surveys, bird surveys and specific surveys for the Kerry slug and Geyers Whorl Snail.

It is noted that there are no designated nature conservation sites (SAC, SPA or NHA designations or proposed designations) along the route of the line, but there are a significant number within 15 km of the site, with Derrycloghar Bog SAC the closest. Table 5.2 of the Report lists these sites. Table 5.3 notes all potential protected or rare species that could be impacted by the proposed development.

Section 5.1.5.1 lists and describes the habitats along the line – these are primarily typical upland habitats including upland watercourses, conifer plantation, willow woodland and improved grassland, with some wet and dry heath and wet grassland. There is some blanket bog and dry siliceous heath on the windfarm site. Section 5.14 on fauna notes animals known or thought to be present along the route, including otters, bats, raptors, salmonids, freshwater Pearl Mussel and most notably the rare and protected Kerry Slug.

Section 5.17 discusses potential impacts. It is concluded that there will be no impacts on any designated conservation areas due to the distance of the line and pole locations. Table 5.4 evaluates the specific habitats with regard to those poles proposed for removal and replacement. It is noted that vehicular movements will have some impact. It is concluded in all cases that the removal of poles and their replacement will represent a short term, imperceptible disturbance and will be of negligible significance. Bird disturbance will be minimised by way of carrying out the works outside the breeding season. No built structures or mature trees are to be impacted, so it is concluded that there would be no negative impacts on bats. Standard construction control methods will be in place to ensure no impact on watercourses, and so impacts on freshwater species such as the Freshwater Pearl Mussel will not be negative. In 5.18.4 it is stated that two poles are in peatland, and so some disturbance to this habitat will occur. Standard protective measures for the peatland and heathland elements are briefly outlined and it is concluded that this will ensure any impact is short term and minor/negligible. It is stated that the underground sections are all on existing roadways, with some possible minor and temporary impact on hedgerows, but this is considered negligible.

It is noted that a direct loss of habitat will occur as a result of the construction of the turbines, and this is summarised in section 5.20.2.

The Report also outlines possible impacts during the operational phase – it is concluded that there would be no additional impacts, although it is noted that new power lines can pose a collision risk to birds where sensitive bird species are present – it is concluded that none of the sensitive species know to be vulnerable to collision are identified close to the line.

Section 5.23 discusses the cumulative effects of the proposed works and the permitted wind farm. It is noted that the main impacts on loss of habitat will be from the construction of turbines and access roads. It is concluded that the proposed works will not result in a likely significant cumulative effects to mammals or other fauna species.

Section 5.24 to 5.31 outline proposed mitigation measures. These are all standard best practice construction measures to minimise the removal of vegetation and ground compaction and the protection of watercourses.

I have surveyed the site and checked the information provided on available resources and I am satisfied that the information provided in the Biodiversity Section is an accurate assessment of the baseline and the overall mitigation proposals are in accordance with standard good practice. The impact of the proposed works on habitats is minor and would be negligible with the application of standard mitigation as set out in the Report.

I do not consider that any additional conditions beyond standard conditions for monitoring are required.

13.4. Land, Soil, water, air and climate

Chapters 6, 7 and 8 address the potential impacts on land, soil, water air and climate.

Soil and geology

In Chapter 6, the Report provides an overview of the land and geology of the area based on desk top studies and direct surveys.

The bedrock geology of the area is typical of West Cork, predominantly red sandstones with some mudstone and thin limestone layers. The subsoil is predominantly peat around the windfarm with loamy drift closer close to Ballylicky.

Most of the proposed line crosses loamy soils with occasional peat. It is indicated that there was no evidence of ground disturbance or stress indicators (i.e. landslip hazard) at any point along the route. There are no published records of wells along the route. It is noted that much of the potential ground disturbance for the windfarm has already been carried out. A detailed survey of the soil types and depth at each pole are set out in Table 6.6.

In outlining impacts, it is stated that a typical pole may need a hole some 2.2 metres deep, 2 metres long and 0-6 metres wide to be excavated. Most of the excavated material is backfilled, with a volume of 0.08m^3 per pole of displaced soil or rock. Approximately 58m^3 of material would be excavated for the underground section. Surplus material would be disposed of in a licensed disposal site or used for fill within the windfarm. Normal mitigation measures would be applied in relation to stockpiles and vehicular movements.

Section 6.6.1.5 addresses ground/peat stability. It is noted that much of the heavy works have already been completed on the windfarm site and that no peat stability issues were encountered during previous poling activity. The excavation works for the overhead lines are considered too minor in nature to represent a threat to stability.

Section 6.8 sets out the mitigation measures required. These focus on avoiding any sensitive areas (i.e. the route and pole selection), and good practice with regard to materials storage and handling. An experienced engineer will be in charge of the works to supervise all excavations. Standard controls on refuelling will be implemented to prevent soil contamination.

The report concludes that (including cumulative effects), there are no significant residual effects from the proposed development. It is concluded that there are slight negative effects, but none are 'significant' in terms of the Regulations and Guidance.

Water

Section 7 on Water utilises a desk study, a walk over survey (August 2021) and site investigations as the basis for establishing baseline conditions.

The proposed route passes through three separate water catchments, the Ilen River (which flows towards Skibbereen), the Mealagh River and the Owvane River (the

latter to the west). The route passes the Mealagh River at one location, but otherwise, only minor watercourses and ditches are crossed by the route corridor. The southern part of the windfarm drains via a tributary into the Mealagh, which flows into Bantry Bay, while the northern part drains into the Ilen. The latter is an important salmonid river. The watercourses in the area are currently graded as 'high' or 'good' in quality and are rated as 'sensitive/very sensitive'.

All groundwater at the windfarm and along the line route is designated as locally important. Some sections are rated as extreme vulnerability due to the shallow soil cover. There are no known wells along the route, with the closest apparently 8 km southeast of the wind farm.

Potential impacts for the works are identified as runoff during the construction phase, increased hydraulic loading due to ground compaction (this is considered very minor/negligible), and drainage diversion. There is a risk of suspended solids run off during construction and risk of pollution from fuel leakages. It is noted that temporary portaloos will be used during construction by workers to obviate the need for wastewater treatment. As most pole excavations are on high ground it is considered that any lowering of the water table will not occur during excavations, apart from very localised perched water.

Section 7.7 sets out proposed mitigation measures. Standard best practice will be applied for construction activities to minimise compaction or disturbance to watercourses and prevent pollution. Some buffering would be provided during wet weather. It is stated that there would be no impedance of surface water flow and there would be no trenching during periods of heavy rainfall, and there would be no interception or dewatering for drainage channels. Any excavations will be monitored to prevent seepage into groundwater. Section 7.9 outlines a program of monitoring water during and after the works.

It is considered that only construction and decommissioning could have cumulative effects as the operation of the lines would not normally have an effect on water.

It is concluded that if all standard mitigation measures as outlined are implemented there would be some local changes to water flows on the site, but these will be negative, slight and temporary, and would not be significant.

Air and climate

With regard to air quality, the Report highlights dust and exhaust emissions during construction as the main potential impact. No baseline surveys were carried out, but it is assumed that in this upland area the air quality is generally very high. It is noted that the works are to facilitate renewable energy sources that should displace fossil fuel emissions within the national power system. Standard mitigation measure during construction and decommissioning are proposed. It is indicated that the overall impact of the operational elements would be positive. No significant effects are identified, with potential cumulative effects assessed as being of a slight, negative, or short-term impact.

For climate impact a desk study with assessment of impacts is outlined. It is noted that there will be slight impacts at the construction phase, but the operation phase will facilitate a reduction in CO2 emissions from the windfarm. It is indicated that there will be no net impact on CO2 emissions, with a long term, moderate positive impact due to cumulative impacts. No significant impacts are identified.

Conclusion

The study does not identify any significant effects on land, soil, water or climate. On the basis of my site visit, the submissions on file and other available sources I am satisfied that the baseline studies are an accurate reflection of the physical environment along the route and that the conclusions set out in the report are reasonable and accurate. In particular, I note that the peat deposits along the route are generally shallow and stable and there is no significant risk of landslip. I do not recommend any conditions over and above the mitigation measures set out in the submitted documents.

13.5. Material assets, cultural heritage and the landscape.

Chapters 9 to 12 of the Report cover noise, landscape and visual impacts, cultural heritage and material assets.

Noise

There are no noise impacts anticipated from the operational stage of the works. Any noise associated with maintenance will be short term and minimal. Noise impacts

are anticipated from the construction works – tables 9.4 and 9.5 set out predicted noise levels during the key activities. These are typical for any medium scale construction activity. It is anticipated that 2,325 trucks will travel to the works over a 4-6 month construction period (i.e. 15 trucks a day). Standard mitigation measures for minimising noise are set out in section 9.9. Works would only be carried out during daylight hours.

It is noted that there would be some cumulative impacts with the wind farm during construction phase, although it is not likely to be significant in the area of the windfarm as there are no sensitive receptors nearby.

The Report concludes that the effects of construction will be in compliance with NRA guidance using BS 5228 best practice.

It concludes that the low frequency noise and vibration is anticipated to have a negligible impact on residents and local properties, and the combined projects will not have any significant effects in terms of noise and vibration.

Landscape and Visual

The baseline for landscape impacts and visual impacts is set by a desk top study using existing landscape character appraisals and the landscape policy context set out in the County Development Plan. It is noted that at least half the route is within an area indicated as of 'High Value Landscape'. It is noted that the landscape and vegetation are highly varied for the route of the line.

In Table 10.4 it is outlined that with regard to development plan criteria, the line runs through three landscape character types, namely:

- Type 4: 'Rugged Ridge Peninsulas', with a landscape value given as very high, sensitivity as very high, and of national importance.
- Type 15a: Ridged and Peaked Uplands.
- Type 9: Broad Marginal Middleground and Lowland Basis. This is considered to have a low landscape value and Medium sensitivity, with local importance.

The Report concludes that due to the low footprint of each element of the development landscape impacts will be relatively minor. Construction effects are considered to have low-negligible impacts.

Cumulative impacts are assessed with regard to related developments in the area – set out and summarised in table 10.6.

The Report concludes that the grid connection, in itself and with cumulative and in-combination effects, will have no significant negative effects on the landscape and visual setting.

Material assets

Chapter 11 sets out the impacts on physical material assets, including agriculture, natural resources, the road and ESB networks, borrow pits, forestry, telecommunications and air traffic.

It is noted that the entire route of the line is in an area dominated by agriculture, with a small area of forestry. The wind farm is in an area of exposed bedrock and upland bog, with just minimal value for sheep.

Natural resources*:*

It is stated that there are no known mineral resources within the site boundary, apart from an existing borrow pit on the windfarm site. Minimal felling of commercial forestry will be required for a short stretch of the line. It is concluded that there are no mitigation measures required and any impact on the natural resources of the area are low/negligible.

Road network*:*

It is stated that turbine components will be landed in Ringaskiddy and will go through the major road network to the west until they must use the regional and local road network west of Dunmanway. Some minor bridge straightening and pole removals will be required for oversized wind turbines. The OHL construction works will use the existing minor road network and it is not anticipated that there would be significant disruption. The underground sections will run along stretches of the local road network and will be carried out in line with ESB and Council requirements. No significant effects are anticipated.

Borrow Pit

There is one existing borrow pit on the windfarm site – used to build the existing access road network. The rock from this borrow pit appears to be Old Red Sandstone. It is stated that this borrow pit will be used for any rock/fill requirements and unused peat will be used for its restoration. Standard construction mitigation measures will be in place during any extraction works. It is stated that by using this borrow pit traffic impacts on the local road network will be reduced. No negative impacts are anticipated.

Telecommunications*:*

The applicants state that in consultations with the main mobile phone providers and UPC it was confirmed that no telecom providers had any concerns with the proposals (correspondence confirming this in Appendix D of the Report). No mitigation measures required, and no impacts predicted.

Forestry

The power line crosses some stretches of conifer plantation, and some tree removal will be required to facilitate pole works.

Air Navigation

The IAA confirmed that the wind farm would have no negative impact on aviation. The power lines are not anticipated to have any potential impact.

The section concludes that there will be no significant impacts from the proposed development, either in itself or in combination with the windfarm. It is anticipated that there will be a small temporary impact in terms of traffic during construction, but this is not considered to be a significant effect.

Conclusion

The study does not identify any significant effects on material assets. On the basis of my site visit, the submissions on file and other available sources I am satisfied that the baseline studies are an accurate reflection of the physical environment along the route and that the conclusions set out in the report are reasonable and

accurate. I do not recommend any conditions over and above the mitigation measures set out in the submitted documents.

13.6. Archaeology and Cultural Heritage

Section 12 of the EIAR covers archaeology and cultural heritage. It includes desktop studies and a site walkover.

Seven archaeological sites are located within the study area (essentially, the route of the line). One recorded ancient monument is within 59 metres of the site (pole 62) – this is Derryarkane stone circle (C-106-019). The report describes the precise site as there is some confusion in existing written sources.

The area has apparently a long history of settlement, although there are no recorded Mesolithic or neolithic remains within the study area. From later periods, there are a number of cairns (burial remains), *fulachta fiadh* and one ringfort. A number of possible hut sites are known in the area of possible medieval origin. Two sites, a standing stone and a hut site in Shandrum Beg, were identified as being within 100 metres of the undeveloped parts of the site. It is noted that some potential archaeological sites more distant than the above are not shielded by hedgerows or walls so there might be a slight visual intrusion. Tables 2.4 and 2.5 indicate the known sites within 100 metres of the unbuilt sections and 50 metres of the built sections. Table 2.6 identifies two archaeological sites close to the proposed underground cable – at these points the cable would be under the existing road surface.

The report concludes that no identified effect would be significant. It recommends that all ground disturbance works required in greenfield areas be monitored by a suitably qualified archaeologist – a standard mitigation. It is also recommended that archaeological monitoring of the excavation of the cable trench in Shandrum Bog be undertaken when the trench extends through the combined zones of notification of ringfort C0105-026 and C0105-058.

Discussion

The EIAR concludes that the proposed line, in itself and in combination with the windfarm and other developments in the area, would have a minor to negligible impact on local material assets, landscape and cultural assets. Most impacts are

minor to negligible with none considered significant effects. Overall economic impacts for the area would be slightly positive. Having inspected the site I concur with the overall baseline assumptions and predictions and I do not consider that there are any additional conditions that would be required, although the Board may wish to consider to confirm that archaeological excavation should occur during trenching works in Shandrum Bog townland.

I note that the EIAR did not cover impacts on designated walking routes in the area (including some which cross the site) and did not refer to any protected structures or other non-archaeological remains of cultural interest. From my site visit and from available information I am satisfied that the impacts on the walking routes would be negligible and there are no protected structures close to the site. There are a number of attractive traditional farmhouses and cottages in the general area, but none within clear sight of the proposed line.

13.7. **The interaction between the above factors.**

Chapter 13 addresses in interactions between the key factors and the line and windfarm. It concludes that as no or low impacts are predicted for most of the above there are no anticipated negative effects caused by interactions. No additional mitigation measures are proposed. Cumulative and in-combination effects are not considered to be significant in nature or scope. Having regard to the nature of the proposed development and the relatively robust receiving environment I concur with this overall conclusion on interactions.

14.0 **Planning Assessment**

Having inspected the site and reviewed the file documents, I consider that the proposed development can be addressed under the following headings:

- Description and legal context
- Policy context
- Visual impacts and amenity
- Cultural heritage
- Ecology (excluding NIS issues)
- Construction and transport issues

- Water and Drainage
- Other issues

14.1. Description and legal context

The proposed development has had a protracted and legally complex gestation, which is set out in considerable detail in the submitted documentation. The planners report on file has a detailed planning history outlined along with a discussion on the approach taken by the planning authority to address the JD and previous decisions.

The proposed development, as described on the application, is a link to a permitted windfarm development in the uplands of West Cork. This windfarm was permitted by ABP on appeal – an EIAR had been submitted with that application and appeal. A subsequent substitute consent for the grid connection was struck down on Judicial Review. The applicant states that the proposed OHL and related infrastructure is not part of the windfarm, it is being provided as part of ESBN requirements to strengthen the national grid, but it is clearly vital to facilitate the windfarm as there is insufficient grid capacity in the vicinity of the windfarm. The application is submitted as a de novo 'fresh' S.34 application, which includes the removal of elements of the partially constructed line.

The S.34 planning application, as submitted, is an attempt to address the judicial review which struck down the substitute consent granted previously by the Board. A number of reasons were cited for this, but most prominently and importantly were that Ireland had failed to correctly apply the requirements of Directive 2011/92/EU as amended. The applicant consulted with the planning authority on the most appropriate way forward to complete the regulatory process for the grid connection, and a separate and distinct S.34 application was agreed to be consistent with current statutory requirements and the High Court decision.

The appellant and previous objectors to the application at local authority stage objected on a number of grounds, including that the EIAR did not adequately address cumulative impacts with the windfarm and was otherwise in non-compliance with the previous court decision.

Without prejudice to any court decision, I would consider the approach agreed by the applicant and the planning authority to be reasonable considering the somewhat

complex nature of the application within the context of a changing statutory environment for such decisions.

The appellants also objected to the claimed failure of the applicant and planning authority to fully address alternatives to the route in the application, as required by the EIA Directive and associated regulations. I have addressed this in more detail in the relevant section of my EIAR assessment, but I would conclude that the alternatives set out and the overall assessment by the applicant are reasonable having regard to the scale and nature of the link and the overall development and planning context.

The proposed development generally follows the line of the OHL and related infrastructure granted substitute consent by the Board, although there are some alterations. It is both part of the overall national grid and a facilitating operation for the windfarm, and as such I consider it reasonable to assess it within the context of the permitted windfarm, albeit noting that contrary to current practice, the detailed impacts of a required connection were not addressed in complete detail in that appeal.

Notwithstanding this, I conclude that the EIAR submitted adequately addresses the cumulative and indirect effects of the windfarm in addition to the direct impacts of the S.34 application as is currently before the Board.

14.2. Policy context

The proposed development is intended to facilitate a permitted windfarm, (**10/857/PL88.239767**). The planning and legal history of this windfarm is long and complex (summarised above, with more detail on file in the planning authority report), but I note that while the connection was not part of that application it was considered necessary at the time of the permission being granted by the Board and was addressed in principle by the Inspector. I also note that the quashing of the Substitute Consent was not on the merits of the case, but on the overall principle of the relevant legislation not having adequately transposed the Directive. I do not consider that there have been any significant changes in national, local or EU level policy with regard to the windfarm, so I would consider the general principle of a windfarm and supporting infrastructure to be established in planning terms.

The overall policy context is set by European level targets for renewables (Directive 2018/2001/EU) and related plans and guidance including the REPowerEU plan from 2022 and the Energy Roadmap 2050. Irish national policy is set within the NPF, the Integrated National Energy and Climate Plan 2021-2030, White Paper 'Irelands Transition to a Low Carbon Energy Future 2015-2030', the National Energy & Climate Plan 2021-2030, the National Renewable Energy Action Plan (on foot of Directive 2009/28/EC) and the Climate Action Plan 2021. Other relevant policies include the National Climate Change Strategy 2007-2012 and the National Spatial Strategy 2002-2020.

All generally favour the expansion of renewable energy within the context of infrastructure and environmental constraints.

Current policy on wind farms and associated infrastructure is set out in the June 2006 'Wind Energy Development Guidelines', although these are generally considered out of date with regard to current practice as clarified by a number of court cases. As of writing this report, the draft revised Wind Energy Development Guidelines (December 2019) have not been adopted.

The proposed OHL runs through open countryside without a specific zoning designation. In Chapter 9 of the 2014 Cork County Development Plan the windfarm is in an area identified in areas both 'open to consideration' and 'acceptable in principle'. Much of the route lies within and area mapped as 'High Value Landscape Area'. There are no scenic routes in the vicinity, although there is a tourism hiking route (this is not designated within the development plan). Core policies in that plan (ED 1-1 and ED 6-1 to ED 6-2) generally look favourably upon renewable energy and improved grid connections, subject to general provisions on landscape, amenity, wildlife, noise and related issues.

These policies are broadly reflected in the 2022-2028 Cork County Development Plan, specifically policy ET 13-4 to ET 13-12 on wind energy. Policy ET 13-21 on the Electricity Network states that it is an objective to support and facilitate the sustainable development, upgrading and expansion of the electricity grid and distribution network and to facilitate where practical and feasible infrastructure connections to windfarms subject to normal planning consideration and appropriate assessment.

While the current development plan has additional detail and clarity on windfarms and supporting electricity infrastructure, I do not consider that the policy context has substantively changed, so I would concur with the conclusion of the planning authority that the proposed development is generally in line with development policy (subject to the caveats set out in the Plan) and that these policies follow national and EU policy in this regard.

As the windfarm at Derreenacrinnig West is permitted, and EU, National and Development Plan policy generally views electricity infrastructure facilitating renewable energy favourably, I would consider that the proposed development should be viewed favourably subject to normal planning and environmental considerations and the requirements of the EIAR and Appropriate Assessment regulations.

14.3. Visual impacts, amenity and tourism

The proposed line runs across the relatively remote landscape of West Cork north-east of Bantry, a sparsely populated farming landscape with pasture in sheltered valleys and forest, heath, bog, and exposed rock on higher ground. The landscape is of high scenic value, although it is not within a major tourism area and there are no specific tourist attractions along or close to the route. There is one long distance walk that crosses the sit in the uplands – Sheeps Head Way East. This largely follows the minor road network in the area. The Proposed OHL intersects this walk three times. One Scenic Route designated in the development plan crosses the site. The area closest to Bantry (western side of the route) is designated as a High Value Landscape (Figure 14-2 of the 2022 Development Plan).

The area is already intersected with electricity infrastructure, almost all serving the local communities with multiple individual circuits. These are particularly noticeable on the western side of the site, close to the existing substation, where several circuits run in multiple directions from the Ballylicky station. This station is in relatively low-lying, well wooded countryside, so the lines are not particularly intrusive. The lines are, however, much more visible in the more exposed uplands.

A full assessment of the visual impacts is set out in the EIAR. While an additional set of lines in this area cannot be said to improve the landscape, I consider that the route chosen is reasonable and minimises direct impacts on local residents by way

of visual intrusion, or potential noise from maintenance. Having regard to the totality of policy for this area with regard to landscape and amenity impacts, I consider that the proposed works are acceptable in principle and that they will not seriously injure the amenities of residents in the area or tourists visiting this part of west Cork.

14.4. Cultural heritage

The proposed development covers an extensive area but involves relatively minor ground disturbance. The trenching works into the roadway is relatively shallow and involves previously disturbed ground. There are no protected structures along the route, although there are a number of attractive traditional style farmhouses within the visual envelope of sections of the OHL. The EIAR sets out all known archaeological remains close to the route.

Ground disturbance will take place at each pole – I would recommend a standard archaeological condition relating to such works where there is the possibility of physical remains.

14.5. Ecology

The issue of ecological impacts has been addressed in some detail in both the phase 1 appropriate assessment and in the EIAR. There are no designated habitats along the route, although there is the possibility of some protected species such as the Kerry slug and marsh fritillary being encountered. The EIAR sets out a series of mitigation measures which I consider to be adequate to address any impacts beyond those relevant to that assessment or the appropriate assessment. In other regards, I would recommend conditions to include seasonal restrictions on carrying out works to prevent impacts on nesting birds.

14.6. Water and drainage

The works do not involve significant deep excavations (apart from trenching along the existing roadway), so impacts on drains and hydrology would be very low. The main concern would be during construction works, and the CEMP addresses these in some detail.

The appellant raised the issue of compliance with the Water Framework Directive. I note that there is no evidence or indication on file that the proposed development would have any impact on the status of either ground or surface waters in the area. The proposed development does not require any discharge of waters to an existing waterbody. Therefore, I do not consider that any assessment beyond that in the EIAR and the AA screening is relevant to the application.

14.7. **Construction and transport issues**

The potential for amenity, traffic or pollution incidents arise mostly in the context of constructing the proposed development. A draft CEMP was submitted during the planning process which had additional details submitted with the further information response submitted in February 2022, which specifically provided more detail on surface water management during construction. The CEMP in its entirety incorporates the construction mitigation measures outlined in the EIAR and related documents.

I consider the CEMP to be fully adequate to address amenity issues, and recommend a condition such that a final version be agreed with the planning authority prior to the commencement of construction works.

14.8. *Other issues*

I do not consider that there are any other substantive planning issues raised in this appeal. There is no requirement in the development plan for a development contribution or bond in relation to this type of project.

15.0 **Recommendation**

I recommend that the Board grant permission to the proposed works for the reasons and considerations set out below.

16.0 **Reasons and Considerations**

Having regard to the nature, scale, and extent of the proposed development, the pattern of development in the area, the planning history of the site and related developments, it is considered that the proposed development would be in accord with national, regional, local planning and related policy, would not seriously injure the amenities of the area, would not have an unacceptable impact on the landscape or on biodiversity, would be acceptable in terms of human health and safety and in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site No. 000090, or any other European site, in view of the site's Conservation Objectives.

This screening determination is based on the following:

- The distance of any part of the proposed line from any designated habitat.
- The nature and scale of the proposed works.
- The absence of any hydrological connection between any part of the route and any designated habitat.

Environmental Impact assessment

The Board completed, in compliance with Section 172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

- The nature, scale and extent of the proposed development and the associated permitted windfarm,
- The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- The submissions from the applicant, planning authority, observers and proscribed bodies in the course of the application, and
- The Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the inspectors Report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's overall assessment and completed the following reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment area, and would be mitigated, as follows:

- Any impact on population and human health and amenity at construction stage will be mitigated by the construction and environmental management measures.
- Potential impacts on flora and fauna would not be material and with mitigation no unacceptable environmental impacts arise.

- Subject to mitigations outlined within the documentation and/or conditioned there will be no significant residual impacts on land, soil, water, air, climate, landscape or cultural heritage.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out it the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and in combination with other development in the vicinity, including permitted developments, would be acceptable.

17.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted on the 4th day of April 2022, 25th day of July 2022 and 24th 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 with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

   Reason: In the interest of clarity and environmental protection**.**

2. The mitigations measures identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the planning application shall be implemented in full by the development, except as may otherwise be required in order to comply with the conditions of this permission.

   Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The developer shall comply with the following additional nature conservation requirements:

- No felling or vegetation removal shall take place during the period 1st March to 31st August.
- The developer shall comply with the Inland Fisheries Ireland publication “Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters”.
- A pre-construction mammal and invertebrate survey shall be carried out by a suitably qualified ecologist to check for the presence of any protected species (including Kerry Slug, marsh fritillary, otters, birds and bats).

Reason: In the interest of biodiversity and nature conservation.

4. The construction works shall be managed in accordance with a final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This CEMP shall provide details of intended construction practice for the development, including traffic management, haul routes, protection of drains and culverts, working hours, protection of wayleaves, an invasive species management plan and off-site disposal of construction / demolition waste.

Reason: In the interest of public safety and residential amenity.

5. The preservation, recording and protection of archaeological materials or features that may be encountered shall be facilitated, in particular with regard to works in the Zone of Archaeological Potential around ringfort C0105-026 and radial stone cairn C0105-058. In this regard, a suitably qualified archaeologist shall be retained to monitor all site investigations and other excavation works and provide arrangements for the recording and for the removal of any archaeological material considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the route and to secure the preservation and protection of any remains that may exist along the route of the OHL.

Philip Davis
Planning Inspector

29th February 2024