



An
Bord
Pleanála

Inspector's Report ABP-317889-23

Development	Development of wind farm. Application accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS).
Location	Derryreag (Doire Aimhréidh), Clonkeen, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23646
Applicant(s)	Inchamore Wind DAC
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First
Appellant(s)	Inchamore Wind DAC
Observer(s)	None.
Date of Site Inspection	17 th November 2023
Inspector	Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The appeal relates to a planning application that spans land in both counties Kerry and Cork. The subject site extends to 170.1 ha of which 145.4 ha consists largely of low yielding commercial forestry. The remaining lands are agricultural of varied productivity and open mountain heath. The site is located 5.9km west of Ballyvourney, Co. Cork and shares the county boundary between Cork and Kerry, being 54km west of Cork City and 23km north-east of Kenmare Co. Kerry.
- 1.2. The site elevations range from 460m AOD in the north-western side of the site to 350m AOD towards the eastern side of the site. The site is located in a rural setting and housing density in the area is low. The nearest townlands are Inchamore, Milleeny Derryreag and Derreenaling. The nearest settlements are Inchamore which is situated 750m to the south of the site boundary and the townland of Milleeny which is 1km to the south east of the site boundary.

2.0 Proposed Development

- 2.1. The proposed development in County Kerry subject to this appeal, forms part of a proposed renewable energy project comprising a five-turbine wind farm and associated works on lands in both Counties Kerry and Cork.
- 2.2. The proposed development as it is situated within Co. Kerry, consists of the following:
 - Upgrade of 0.8km existing forest access roads to include passing bays and all associated drainage infrastructure;
 - Works at the entrance of an existing forest road accessed off the N22 to include localised widening of the forest road and creating of a splayed entrance, removal of existing vegetation for visibility splays and removal of street furniture.
- 2.3. The proposed site entrance is located to the west of the N22. The Turbine Delivery and Construction Haul Route is proposed to utilise this entrance. The site access roads are proposed to be retained throughout the operational life of the project to enable maintenance of the turbines and replacement of any turbine components.

- 2.4. Note: The Inchamore Wind Farm 38kV substation will be connected to the existing Ballyvouskill 220kV substation via underground cabling (UGC). The UGC route is approximately 19.9km in length and traverses in an east to south-easterly direction from the existing Ballyvouskill 220kV substation to the Inchamore Wind Farm substation location. Of the 19.9km, 1.3km is within the site, with the remaining 18.6km located off-road and in third-party lands. The grid connection is not part of the planning application for development but is assessed within the associated NIS and EIAR for the project.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. The planning authority decided to refuse to grant permission for the proposed development for two reasons, which are set out below:

3.3. Reason number 1:

The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated, including right turn movements from a climbing lane on the N22, national road, into the subject site. The application indicates inappropriate standards which are not in accordance with those set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and TII Publications and represents a serious safety risk for road users on this high speed section of N22, which have not been mitigated in the application documentation submitted.

In addition, the proposed development would militate against national policies on control of access to national roads, as set out in the DoECLG 'Spatial Planning and National Roads; Guidelines for Planning Authorities' 2012, which seeks to preserve the level of service and carrying capacity of national roads, to protect public investment in same and to control development that adversely effects road safety. Furthermore, the proposed development would be contrary to Objectives KCDP 14-23, 14-29 and 14-30 of the Kerry County Development Plan 2022-2028 which seek to protect the capacity and safety of the national road network in the county and

ensure compliance with Spatial Planning and National Roads Planning Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.4. Reason number 2:

The Planning Authority is not satisfied that the proposed development would not have adverse impacts on water quality downstream and would not result in adverse impacts on the integrity of the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC, in view of the sites' Conservation Objectives. The proposal would therefore conflict with Development Objectives KCDDP 11-1 and 11-2 of the Kerry County Development Plan 2022-2028 and would be contrary to the protection of the environment, biodiversity, water and natural heritage and the proper planning and sustainable development to the area.

3.5. **Planning Authority Reports**

3.5.1. Planning Reports

The main points of the planner's report can be summarised as follows:

- Environmental Impact Assessment (EIA) including Water Framework Compliance Assessment:
 - Alternatives – greater consideration could have been given to the selection of an alternative route outside of the Lough Leane Catchment.
 - Soils, Geology and Hydrogeology – concerns of the Environment Department of the Council noted with regard to potential for water quality impact within the Lough Leane Catchment. The Environment Section have not commented on the issue of peat stability. It does warrant further consideration.
 - Water and Flood Risk incl. Water Framework Directive Compliance Assessment – works proposed outside of bird breeding season, when ground conditions are more challenging (in winter). The Planning Authority is not satisfied that the proposed development would not

negatively impact on the ability of water bodies in the vicinity of the proposed development to achieve the relevant water quality status.

- Biodiversity – it is not possible to conclude beyond reasonable scientific doubt, that the proposal would not adversely impact the Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC.
- It is considered that the EIAR submitted by the applicant, does not adequately identify and describe the effects of the proposed development on the Environment. The EIAR also fails to demonstrate that there is an over-riding need to use the site in question and therefore, notwithstanding the need for additional renewable energy projects national, it is considered that the precautionary principle should apply in view of the significant environmentally sensitives that pertain.
- Based on the information submitted, the Planning Authority is not satisfied that the proposed development would not negatively impact on the ability of water bodies in the vicinity of the proposed windfarm to achieve the relevant water quality status required under the Water Framework Directive.
- Appropriate Assessment: it is not possible to conclude beyond reasonable scientific doubt, that the proposal would not adversely impact the Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC.
- Principle of development: there is need for renewable energy projects nationally. The lands subject to the application are outside the area designated 'open to consideration' or 'repower areas' for windfarm development under the Kerry County Development Plan 2022-2028.
- Roads and Transportation: TII have submitted an objection to the proposed development. The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction to road users due to the movement of the extra traffic generated, including right turn movements from a climbing lane on to N22, national road, to the subject site. the application indicates inappropriate

standards which are not in accordance with those set out in the DoECLG Spatial planning and National Roads Guidelines for Planning Authorities and TII Publications and represents a serious safety risk for road users on this high speed section of the N22, which have not been mitigated in the application documentation submitted. The development represents a significant road safety risk for road users and conflicts with the provisions of official policy and should be refused.

- Conclusion: Notwithstanding the likely slight long term positive impact of the proposal on climate, the proposal is not in accordance with the proper planning and sustainable development of the area.

3.5.2. Other Technical Reports

3.5.3. Matters raised within the technical reports can be summarised as follows:

- Ecologist (Environmental Assessment Unit): The principle potential construction phase effects of the works relate to the release of suspended solids / nutrients, concrete and hydrocarbons into the drainage networks arising from the works. Works also have the potential to impact on slope stability. Any impacts on water quality could adversely impact Qualifying Interest aquatic species and habitats downstream and should be avoided. While water quality mitigation measures are outlined, it is noted that it is proposed to undertake the grid connection works between September and March (outside bird breeding season). It is considered that ground conditions are generally more challenging during the winter months. It is further considered that the condition of roadways/trackways proposed to be utilised for the grid connection could have been more clearly outlined to facilitate environmental assessment of the proposal. Furthermore, proximity to the Mullaghanish to Musheramore Mountains Special Protection Area is noted. Having regard to the Hen Harrier population trends here and nationally, a wider consideration of potential for impact on the species would be beneficial. Elsewhere it is considered that the proposals to locate windfarm infrastructure on peatland / wetland habitats, including Annex I habitat is likely to have an adverse biodiversity impact. In relation to potential for impact on the White-tailed Sea Eagle the ornithological impact assessment should take into

account the results of ongoing monitoring of existing renewable energy infrastructure in the area and should include mitigation to prevent eagle mortality as agreed for the existing Grousemount Wind Farm. It is not possible to conclude beyond reasonable scientific doubt that this proposal would not adversely impact the Killarney National Park, McGillycuddy Reeks and Caragh River Catchment SAC.

- Environment Section: Recommend conditions relating to environmental mitigation, appointment of an environmental manager, no polluting matters / sediment laden waters to be discharged into waters, installation of bunds around oil containment facilities, no burning or burial of waste on the site, evaluation of excavation waste and disposal of hazardous waste.
- County Archaeologist: No mitigation required.

3.6. Prescribed Bodies

3.7. Transport Infrastructure Ireland (TII)

- The proposed development is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and would affect the operation and safety of the national road network for the below reasons.
- Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities. The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority's opinion, be at variance with the foregoing national policy in relation to control of frontage development on national roads.
- The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic

generated, including right turn movements from a climbing lane on the N22, national road, into the subject site.

- The application indicates inappropriate standards which are not in accordance with those set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and TII Publications and represents a serious road safety risk for road users on this high speed section of N22, national primary road, which have not been mitigated in the application document submitted.

3.8. Third Party Observations

3.8.1. No third party submissions.

4.0 Planning History

4.1. Current application to Cork Council Reg. Ref. 23/5145 – Further information requested 28/07/2023 in relation to 7 no. matters. Development description as follows: application for a ten-year planning permission for a renewable energy development. The entirety of the renewable energy development constitutes the provision of a five-turbine wind farm and all associated works on land in both Counties Cork and Kerry. The development for will consist of : 1) a wind farm with an operational lifespan of 35 years (from date of commissioning of the development), 2) the construction of five turbines with an overall ground to blade tip height ranging from 177m to 185m inclusive; a rotor diameter ranging of 149m to 155m inclusive; and a hub height ranging from 102.5m to 110.5m inclusive, 3) construction of permanent turbine hardstands and turbine foundations, 4) construction of one temporary construction compound with associated temporary site offices, parking areas and security fencing. 5) installation of a (35-year life cycle) meteorological mast with a height of 110m and a 4m lightning pole on top, such that the overall structure will be 114m, 6) development of an on-site borrow pit, 7) construction of a new permanent internal site access roads to include passing bays and all associated drainage infrastructure. 8) development of a permanent internal site drainage network and sediment control systems. 9) construction of a permanent 38 kV electrical substation including a control building with welfare facilities, all associated

electrical plant and equipment, parking security fencing and gates, all associated underground cabling, wastewater holding tank, and all ancillary structures and works, 10) all associated underground electrical and communications cabling connecting the wind turbines to the on-site wind farm substation, 11) ancillary forestry felling to facilitate construction of the development, 12) all associated site development works including berms, landscaping, and soil excavation. Advisory note: A planning application is being lodged with Kerry County Council in relation to the elements of the project that are within the townland of Derryreag (Dhoire Aimhréidh) Co.Kerry, including the upgrade of the site entrance off the N22 and permanent forest track upgrade works. The planning application will be accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS).

4.2. Additional note: The Inchamore Wind Farm 38kV substation will be connected to the existing Ballyvouskill 220kV substation via underground cabling (UGC). The UGC route is approximately 19.9km in length and traverses in an east to south-easterly direction from the existing Ballyvouskill 220kV substation to the Inchamore Wind Farm substation location. Of the 19.9km, 1.3km is within the site, with the remaining 18.6km located off-road and in third-party lands. The grid connection is not part of the planning application for development but is assessed within the associated EIAR for the project.

4.3. Surrounding sites:

4.4. ABP ref. 317406-23 / PA reg. ref. 22/816: Subject to current appeal to An Bord Pleanála, concerning planning permission at townlands of Cummeenavrick, Glashacormick, Clydaghroe, Cummeennabuddoge to the north east of the site, REFUSED by Kerry County Council for grid connection cabling and associated works – as follows: i) underground electrical cabling (33kv), (ii) upgrade of access junctions; (iii) access roads (new and upgrade of existing); (iv) temporary access road; (v) borrow pit; (vi) site drainage; (vii) forestry felling; and (viii) all associated site development ancillary works and apparatus. The development subject to this application forms part of grid connection and access arrangements which will facilitate the permitted Knocknamork renewable energy development, Cork County Council ref. No. 19/4972. Concurrent planning applications in relation to the overall grid connection and access arrangements will also be lodged to Cork County Council

and An Bord Pleanála. An operational period and extended planning permission duration to align with the permitted Knocknamork renewable energy development, Cork County Council ref. No. 19/4972 is sought. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the proposed development and accompanies this application.

- 4.5. ABP ref. 314602-22 – Further Information Request issued 20th July 2023 related to application in the townlands of Cahernacaha, Gortnabinna, Derryfineen, Gortyrhilly, Rath West, Derree, Fuhiry, Derreenaculling and other townlands, Co. Cork and Derryreag, Cummeenavrick, Glashacormick, Clydaghroe and Cummeennabuddoge, Co. Kerry for a wind farm development of 14 turbines with 110kV electrical substation and all related site works and ancillary development. Includes the construction of a temporary access road off the N22 in the townland of Cummeenavrick to facilitate a 180 degrees turning manoeuvre by the turbine delivery vehicles.

5.0 Legislation and Policy Context

5.1. National

5.1.1. The National Planning Framework – Project Ireland 2040

- 5.1.2. The National Planning Framework 2018-2040 (NPF) sets ten strategic outcomes. Strategic Outcome 8 is the Transition to a Low Carbon and Climate resilient society. The NPF states that the future planning and development of our communities at local level will be refocused to tackle Ireland's higher than average carbon-intensity per capita and enable a national transition to a competitive, low carbon, climate resilient and environmentally sustainable economy by 2050 through harnessing our country's prodigious renewable energy potential (pg.12). Chapter 9 'Environmental and Sustainability Goals' addresses renewable energy.

- 5.1.3. National Policy Objective 55 seeks to "Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050."

5.1.4. The Climate Action and Low Carbon Development (Amendment) Act 2021

5.1.5. The Climate Action and Low Carbon Development (Amendment) Act 2021 (Climate Act, 2021), commits Ireland to a legally binding 51% reduction in overall greenhouse gas emissions by 2030 and to achieving net zero emissions by 2050. Under section 17 'Amendment of section 15 of the Principal Act' the Board as a relevant body shall, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

5.1.6. Climate Action Plan 2023

5.1.7. The Climate Action Plan 2023 is prepared in accordance with the Climate Action and Low Carbon Development (Amendment) Act 2021 and follows the introduction of economy-wide carbon budgets and sectoral emissions ceilings. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. Section 11 Electricity of the Plan provides a Key Performance Indicator (KPI) of providing 8 GW Onshore wind by 2030.

5.1.8. National Peatlands Strategy, 2015

5.1.9. This document sets out a national strategy for the sustainable management of peatlands and Section 5.3 deals with Peatlands and Climate Change. It describes the role of natural undrained peatlands as carbon stores, and it references the EPA report 'Carbon Reserve -The Potential of Restored Irish Peatlands for Carbon Uptake and Storage 2007-2013' in terms of how peatland management might be used to enhance carbon sequestration and reduce emissions. It provides advice in relation to the management of non-designated peatlands to halt carbon loss and recommends restoration measures to stabilise eroding surfaces, re-establish peatland vegetation and encourage waterlogged conditions to enable peat formation.

5.2. **Regional Planning Policy**

5.2.1. Regional Spatial & Economic Strategy (RSES) for the Southern Region

5.2.2. The RSES provides the framework through which the NPF's vision and related Government policies and objectives will be delivered for the Region. It sets out a strategic profile and vision for the region. The RSES outlines Regional Policy Objectives (RPOs), including the following of note; RPO 95 identifies the objective of implementation of the national renewable energy action plan as well as leveraging the region as a lead and innovator in sustainable energy generation. RPO 96 states it is an objective to support the sustainable development, maintenance and upgrading of the electricity grid infrastructure and to integrate renewable energy sources. RPO 99 states it is an objective to support the sustainable development of wind energy at appropriate locations. RPO 219 also states that it is an objective to support the provision of new energy infrastructure subject to suitable environmental assessments and the planning process to ensure the energy needs of the future population and economic expansion are met in a sustainable manner.

5.3. **Local Planning Policy**

5.4. Kerry County Council Development Plan 2022-2028

- 5.4.1. The following relevant sections and policies/objectives under the Development Plan are noted (not an exhaustive list):
- 5.4.2. The site is zoned 'Rural Areas Under Urban Influence' in map 5.1 of Volume 4 of the Plan. Objective 5-15 under the Rural Settlement Policy for the Plan applies to housing proposals.
- 5.4.3. Chapter 11 'Environment' addresses biodiversity. Relevant policies include KCDP 11-1 which states that EU and national legislation, including the EU Birds and Habitats Directives should be complied with; and KCDP 11-2 which requires the Council to maintain the nature conservation value and integrity of Special Areas of Conservation (SAC), Special Protection Areas (SPA), Natural Heritage Areas (NHA) and proposed Natural Heritage Areas (pNHA).
- 5.4.4. Chapter 12 of the Development Plan sets out the Council's policy and objectives for Energy. Objective KCDP 12-1 supports the provision of a reliable energy supply in the county with emphasis on increasing energy supplies derived from renewable resources, whilst protecting natural resource.

- 5.4.5. The Development Plan includes a framework to maximise harvesting of renewable energy resources, while balancing policies and objectives to protect the County's heritage values and residential amenities.
- 5.4.6. Renewable Energy is addressed in Section 12.5. The relevant objectives include KCDP 12-14, KCDP 12-15, KCDP 12-19 and KCDP 12-20. The site is located outside of the 'Open to consideration areas' and 'Repower areas' as set out in Volume 4 'Maps' of the Development Plan.
- 5.4.7. The site is situated within a designated 'Visually Sensitive Area' and section 11.6.3.1 of the Development Plan states that these are areas that comprise outstanding landscapes throughout the County which are sensitive to alteration. Relevant objectives include KCDP 11-78, KCDP 11-79 and KCDP 11-81.
- 5.4.8. 'Connectivity' is addressed in chapter 14 of the Development Plan. Objective KCDP 14-21 seeks to protect the County's principal transportation assets including strategic road corridors. Section 14.4 addresses the 'Road Network' and Table 14.3 'Priority Roads Infrastructure Projects' identifies the N22. Objective 14-25 seeks to protect and safeguard the significant investment made in strategic infrastructure, in particular the network of roads, through the promotion of appropriate development.
- 5.4.9. Section 14.4.1.1 'Access onto National Roads' states that 'The creation of an access or the intensification of usage of an existing access onto a National Road shall only be considered where it is in compliance with the Spatial Planning and National Roads Planning Guidelines (DoECLG January 2012). Section 2.5/2.6 of the guidelines outline the following:
- 5.4.10. *"Lands adjoining National Roads to which speed limits greater than 60 km/h apply: It is an Objective of this plan to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant."*
- 5.4.11. Objective 14-23 states the following:

“Promote the sustainable development of all transportation links both within and out of the County in co-operation with adjacent Local Authorities to integrate different modes of transport.”

5.4.12. Objective 14-29 states the following:

5.4.13. *“Protect the capacity and safety of the National Road and Strategically Important Regional Road network in the County and ensure compliance and adherence to the provisions of official Government policy outlined in the Section 28 Ministerial Guidelines ‘Spatial Planning and National Roads Guidelines for Planning Authorities’ (DoECLG, 2012) in order to safeguard carrying capacity and safety of National Primary and Secondary Routes and associated national road junctions.”*

5.4.14. Objective 14-30 states the following:

5.4.15. *“Avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to National Roads to which speed limits greater than 60 km/h apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.”*

5.4.16. **Natural Heritage Designations**

5.4.17. The site of the proposed development does not overlap with any natural heritage designations. The following Special Protection Areas (SPA) and Special Conservation Areas (SAC) are most proximate to the site with approximate distance indicated in brackets: -

- Killarney National Park, Macgillycuddy’s Reeks & Caragh River Catchment SAC (000365) (the site at Inchamore is approximately 1.4km south of the Caragh River component of the SAC);
- Mullaghanish Bog SAC (001890) (the site is approximately 6.9km south-southwest of the SAC);
- St Gobnet’s Wood SAC (000106) (the site is approximately 5km west-northwest of the SAC);
- Blackwater River (Cork/Waterford) (002170) (the site is approximately 11km southwest of the SAC);

- Glanlough Woods SAC (002315) (the site is approximately 14km northeast of the SAC);
- Kilgarvan Ice House SAC (000364) (the site is approximately 10km northeast of the SAC);
- Old Domestic Building, Curraglass Wood SAC (002041) (the site is approximately 8.1km east of the SAC);
- The Gearagh SAC (000108) (the site is located approximately 16.8km northwest of the SAC);
- Great Island Channel SAC (001058) (the site is located approximately 62.2km west of the SAC);
- Mullaghanish to Musheramore Mountains SPA (004162) (the site of the proposed wind farm at Inchamore is approximately 6km west of the SPA);
- Killarney National Park SPA (004038) (the site is approximately 14.5km east of the SPA);
- The Gearagh SPA (0004109) (the site is approximately 16.8km northwest of the SPA);
- Cork Harbour SPA (0004040) (closest point along the Turbine Delivery Route is approximately 14m from the SPA);

5.4.18. An Appropriate Assessment of the proposed development has been carried out in Section 8 of this report below in relation to potential impacts on designated European sites.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal of the Planning Authority's decision to refuse planning permission has been submitted.
- 6.1.2. The first three sections of the submitted appeal report sets out the background to the proposed development, developer details, background to the planning appeal and policy context. Section 4 sets out the grounds of appeal and section 5 provides a

conclusion. The principal grounds of appeal are presented as responses to the reasons for refusal and are summarised below.

6.1.3. Refusal Reason No.1

- The proposed development appears to be misunderstood by the Planning Authority for the following reasons:
 - i. Kerry County Council are wrongly applying operational traffic policy to construction traffic.
 - ii. The operational traffic has been assessed in the EIAR. The identified potential effects will be negligible.
 - iii. There is no proposal to enter the site by a right turn from a climbing lane on the N22.
 - iv. Construction phase traffic will be temporary in nature and for a limited period only.
 - v. The construction traffic is highly amenable to control measures.
 - vi. N22 traffic is free-flowing, and even during construction, traffic levels will be well within the capacity of the road.
- There is no proposal to enter the site by a right turn from a climbing lane on the N22. The proposal is to enter the site via an existing forest entrance, by a left turn from the N22 only. Vehicles leaving the site will be via a left turn onto the N22 and a right turn will be precluded. The increased traffic flow will arise during the construction stage and to a limited extent during the decommissioning stage. Very little additional traffic will arise during the operational phase.
- Measures recommended as part of a Stage 1 Safety Audit have been incorporated into the drawings attached at appendix C of the appeal. Procedures and design measures, including signage, are also described to ensure safe access to the site.
- As set out in the EIAR, predicted traffic flows during construction are well inside the guidance capacity and are considered 'very low'. During the operational phase, the wind farm will normally be unmanned. Operational and

remote monitoring activities will be carried out on an ongoing basis via telephone and computer links. For maintenance and inspections, a car or van will normally be used for routine inspections, under normal circumstances, requiring 1-2 visits per week.

- There is a precedent set by An Bord Pleanála to permit planning applications for wind farms which include direct site access onto a national road. On 27th October 2016 ABP approval for a 9 wind turbine scheme in the Townlands of Stonestown, Kilcamin, Crancreagh and Derrinlough, Cloghan, County Offaly which includes the use and upgrade of an existing access directly onto the N62, similar to the proposed development (ref.PL19.244053). ABP accepted that the traffic impact of the proposed development related mostly to the construction period which was deemed to be acceptable as this would be temporary and could be appropriately mitigated. Similar to the proposed development, the Inspector concluded that the operational phase impact of the scheme on the N62 would be negligible.

6.1.4. Refusal Reason No.2

- This application is for a minor development comprising the improvement of an existing forest entrance and access road, to facilitate the construction and operation of a wind farm in Co. Cork.
- The decision by Kerry County Council appears to be based on a report from the Environment Section/Ecologist report, which recommended a request for further information or refusal. Both the planning report and the Ecology report were wholly negative, to a degree that appears disproportionate to the very minor nature of the development applied for. The Environment Report recommended conditions.
- Potential effects of the proposed development on water quality and European sites have been comprehensively identified and assessed in the EIAR and NIS. Mitigation measures have been proposed where effects have been identified. Mitigation measures relating to the Grid Connection Route have been set out in appendix E of the appeal documents.
- The applicant has been treated unfairly in that the proposed development has been deprived of a fair first-instance decision from Kerry County Council. The

decision was wrong on its facts, and was unreasonable, in view of all the above.

- There will be no appreciable impacts on water quality as a result of the proposed development, even more so when mitigation measures are taken into account, which has been assessed in the EIAR.
- There is no direct hydrological connection between the development as applied for and watercourses flowing to the Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC.
- The Ecologist and Planner at Kerry Co. Council are incorrect in their conclusion. The proposed development is very minor and is not likely to have any impact on European sites. Potential effects of the overall project, including grid connections, have been identified. Mitigation measures are set out in the EIAR and the CEMP brings together all of the mitigation measures relating to water quality and proposed grid connections (which do not form part of the proposed development before Kerry Co. Council). The Surface Water Management Plan and CEMP are key pieces of documentation. These mitigation measures have been successful in achieving their aims on wind farm development sites, are in line with the most up to date guidance and are common practice.
- Emphasis in the refusal is placed on potential effects arising from the grid connection, and on the roads associated with the grid connection, which have been fully assessed in the EIAR.
- No potential effects have been identified with respect to terrestrial ecology regarding the upgrade of the two track sections applied for.
- With respect to aquatic ecology, the approach to drainage has been well elaborated and when implemented, will avoid any deterioration of water quality.
- In relation to hydrology and hydrogeology, with successful implementation of mitigation measures, considering the relatively significant distance from sensitive mapped receptors (rivers), alongside the minor scale of works, and in line with baseline or emerging trends in the catchment, the proposed

development does not pose as a significant adverse risk or significant effect on the receiving surface water network.

- 6.1.5. The appellant has also included an addition supporting document for the appeal entitled 'Upgrade of Entrance for Inchamore Wind Farm – Additional supporting information provided by Inchamore Wind DAC'. This explains that the applicant is Inchamore Wind DAC, a joint venture between FuturEnergy and SSE Renewables, and that FuturEnergy is a joint venture company owned on a 50:50 basis by Coillte and ESB. Established in 2021 it 'combines the State's strongest assets and expertise in onshore renewable energy development on behalf of the people of Ireland.' The supporting document sets out the context surrounding renewable energy generation in Ireland and the EU. The supporting document then addresses each of the reasons for refusal, and I summarise this below.
- 6.1.6. In relation to reason no. 1, the only specific concern raised related to vehicles turning right coming from Killarney. This is addressed as follows:
1. Physical barriers will prevent such traffic movements;
 2. Inchamore Wind DAC have no proposals for any such right-turn movements;
 3. The suppliers that have been identified will all travel from Cork direction;
 4. The developer will make a ban on such turning movements part of contract agreement terms and conditions for all site suppliers.

In summary, the movements complained of will not be made. In relation to the allegation that the application indicates inappropriate standards, not in accordance with those set out in DoECLG guidelines, representing a serious safety risk – no further elaboration has been given as to what is meant by this. In terms of the carrying capacity of the National Road, no material intensification of use would arise from the proposed development, because operational traffic will be very low. The DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities are not intended to restrict construction. Construction traffic can be, and is, heavily monitored and controlled in a manner that operational traffic cannot. There is substantial precedent for allowing construction access off national roads (refs. ABP 244053, 242354 and 248413.)

- 6.1.7. With respect to reason no.2, Kerry County Council are incorrect in their view as follows:
1. The Planner's Report was based on a highly mistaken understanding of the Environment Report, which actually recommended conditions.
 2. The risk to Lough Leane and the SAC from development within the Clydagh River catchment is very much misunderstood, in terms of nutrients.
 3. Peat slippage risk from the development ranges from low to none, with respect to the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC.
 4. The view taken of risk to Lough Leane and the SAC from slit release fails to understand the significant track record of the wind energy industry in the day-to-day management of sediment, over a period of more than 30 years. The track record within the Clydagh River Valley speaks for itself. 23 turbines have been successfully constructed in the valley, without any evidence of water quality concerns.
- 6.1.8. The water quality in the Clydagh River is and has always been good. This includes the forestry operations that are ongoing over time in the Clydagh Valley, as well as the 23 turbines that have been constructed, and all their associated infrastructure. The Clydagh River is clearly not the source of pollution. Neither is forestry, in general. Following detailed study, multiply publications acknowledge agriculture as the principal source of phosphorous in Lough Leane, which was the nutrient of most concern in relation to algal bloom. Killarney waste water treatment plant and septic tanks are a significant localised source of phosphorous for Lough Lean.
- 6.1.9. In relation to peat slippage, the proposed development is minor and no excavation is being made into untouched peat. There is no peat slippage risk in practicable terms. There is no peat slippage risk from the wind farm into the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC because that is in a different hydrological catchment in Co. Cork. The risk of peat slippage from the grid connection is extremely low, there is no known risk.
- 6.1.10. There is no evidence of any substantive risk to watercourses from silt and sediment in wind farm construction, as long as sites are managed well. Illustrated by operational wind farms in the area.

6.1.11. Reference made to Article 3(2) of EU Regulation 2022/2577 'Member states shall ensure, at least for projects which are recognised as being of overriding public interest, that in the planning and permit-granting process, the construction and operation of plants and installations for the production of energy from renewable sources and the related grid infrastructure development are given priority when balancing local interests in the individual case.'

6.2. **Planning Authority Response**

6.2.1. It is considered that the proposal and associated planning decision appeal have not adequately taken into account the particular sensitivity of the Lough Leane Catchment to sediment and phosphorus input and within the context of the conservation objectives of the Killarney National Park, McGillycuddy Reeks and Caragh River Catchment SAC, which for Lough Leane, seek to restore (rather than maintain) its favourable conservation condition. It is also noted that no further information has been submitted in respect of the Mullaghanish to Musheramore Mountains Special Protection Area. It is considered that a definitive appropriate assessment cannot be completed in favour of the proposal.

7.0 **Assessment**

7.1. It should be noted that while the proposed development subject to this appeal concerns access road modifications / road upgrades, it also forms part of a wider wind farm renewable energy project (current application with Cork County Council for the main wind farm site ref. 23/5145). Intended grid connection works also form part of the wind farm project, albeit noting that the grid connection does not form part of any current planning application / appeal proposals. Therefore, I have undertaken an assessment of the overall environmental impacts of the project as a whole within my AA and EIA in sections 8 and 9 below.

7.2. I consider that the main issues of the appeal can be dealt with under the following headings:

- Principle of development;
- Access from, and any associated impact upon, the N22; and

- Ecology.

7.3. Principle of development

7.3.1. National, regional and local planning policy all support the provision of renewable energy development and associated electricity infrastructure to support transmission and distribution of this energy via the national grid. The site itself is outside of a designated 'Open to Consideration' or 'Repower Areas' as set out in the Kerry County Development Plan 2022-2028, however I note that the main wind farm site itself is situated within the Cork County boundary and is currently under assessment by Cork Planning Authority ref. 23/5145. The application subject to this appeal concerns the upgrade of 0.8km of existing forest access roads and works at an existing forest road access from the N22, including widening works, to serve as an entrance for turbine delivery / construction haul and for maintenance during the operation of the wind farm. There are no land use zonings over the site that would prevent the road infrastructure upgrade works proposed.

7.4. Access from, and any associated impact upon, the N22

- 7.4.1. This section of my report will address the Local Authority's first reason for refusal which relates to access to the N22 National Road and should be read in conjunction with the transportation section of my EIA in section 9 below.
- 7.4.2. The first reason for refusal relates to the endangerment of public safety by reason of a traffic hazard and obstruction of road users, due to the movement of extra traffic generated, including right turn movements from a climbing lane on the N22, into the subject site. Reference is made to standards as set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and TII Publications, as well as Objectives KCDP 14-23, 14-29 and 14-30 of the Kerry County Development Plan 2022-2028.
- 7.4.3. The Local Authority reason for refusal followed an objection from TII which stated that the proposed development was at variance with official policy in relation to development affecting national roads as outlined in the Spatial Planning and National Roads Guidelines, with reference to the right turn movements from a climbing lane on the N22 into the subject site, without mitigation in the submitted documentation.

- 7.4.4. The Spatial Planning and National Roads Guidelines for Planning Authorities 2012 includes a key principle (section 1.5) concerning road safety, stating that ‘The creation of new accesses to and intensification of existing accesses to national roads gives rise to the generation of additional turning movements that introduce additional safety risks to road users...’ and that authorities should guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60km/hr apply. The Guidelines also recommends that Development Plans protect the capacity, efficiency and safety of national roads (box 2.3). The Kerry County Development Plan 2022-2028 follows the approach set out in the guidelines through its Section 2.5/2.6 and Objectives 14-29 and 14-30, which protect the capacity and safety of National Roads, and ask for the avoidance of increased traffic from existing access points to national roads where speed limits greater than 60km/hr apply. Objective 14-23 of the Development Plan concerns promoting the sustainable development of transportation links.
- 7.4.5. As set out in section 9 below and my EIA of the project, and specifically with reference to potential effects upon traffic and transportation, no significant impact is anticipated upon the road network during either construction or operational phase. The proposed access arrangements utilise an existing forestry access road, with upgrades proposed to ensure appropriateness for turbine delivery and haul route for the project. During construction phase, negligible to minor impact is predicted with respect to traffic volume, which would be experienced over a short-term period. The operational phase would not result in an intensification of use of the access given the low numbers of vehicles associated with ongoing operation and maintenance requirements of the project.
- 7.4.6. The reasons for refusal and TII objection specifically refer to right-turn entry into the subject site as being a traffic hazard. I would agree with that such manoeuvres would represent a significant traffic safety hazard. Having visited the site, I approached along the N22 from the west heading in an easterly direction and was unable to turn right into the site as it would have been unsafe to do so. The N22 has undergone significant upgrade and is a very fast direct route to Cork City. It would be entirely inappropriate to propose such a manoeuvre across this national road, particularly for heavy goods vehicles. However, the applicant identifies this hazard clearly in the submitted document. While both the TII and the Local Authority state that there is no

mitigation proposed with respect to this hazard, I disagree. As set out in my EIA below, mitigation with respect to traffic and transport is set out in section 15.6 of the EIAR. With respect to access and egress from the site, the EIAR confirms on page 56 that “All the traffic to the wind farm site will approach from the east such that they turn left at the forest access. All traffic leaving the site will turn left only and, if required, can turn around at Cummeenavrick turning area. Signage and road markings will be provided to facilitate/promote these manoeuvres.” It is clear therefore, that the intention is that all vehicle movements associated with the project enter the site from an east to west direction on the N22, turning left into the subject site. Mitigation in the form of signage and road markings is also specifically outlined.

7.4.7. The grounds of appeal further reinforce these arrangements and I note that the Local Authority did not provide any comment in relation to the appellants submission in this regard.

7.4.8. I am satisfied from the information submitted with the application and appeal that there would not be adverse impact upon the carrying capacity of the N22 arising from use of the existing access from/onto the N22 during construction or operation (or decommissioning) of the wind farm project. I am also satisfied that with respect to the volume of use of the existing access from the N22, no intensification would be experienced during operational phase. While an increase in traffic movements over the access would be experienced during construction, this would be short-term, and is appropriately mitigated through the application of measures in a traffic management plan as part of a construction management plan for the project. Such temporary disruption caused by construction works is an inevitable consequence of development, which can be controlled with the application of mitigation as is proposed in the current appeal, to contain effect to within acceptable parameters. It would be prohibitive to the delivery of benefits from renewable energy generation on the wider wind farm site, without this temporary short-term disruption, and I concur with the appellant that planning policies with respect to the intensification of traffic use over access points on national roads are not targeting construction works per se, as illustrated through precedent schemes referenced in the appeal grounds.

As a result of the foregoing, I am satisfied that the proposed development for upgraded access and roads to serve a wind farm project is in accordance with principles set out in the 'Spatial Planning and National Roads; Guidelines for Planning Authorities' 2012, and Objectives KCDP 14-23, 14-29 and 14-30 of the Kerry County Development Plan 2022-2028.

7.5. Ecology

- 7.5.1. This section of my report refers to the Local Authority's second reason for refusal which relates to adverse impact upon the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC and should be read in conjunction with my AA in section 8 below.
- 7.5.2. The second reason for refusal relates to adverse impacts on water quality downstream with associated adverse impact upon the integrity of the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC, in conflict with Development Objectives KCDP 11-1 and 11-2 of the Kerry County Development Plan 2022-2028. I also note the Local Authority response to the appeal grounds, which stated that they do not consider that the particular sensitivity of the Lough Leane Catchment to sediment and phosphorus input within the context of the SAC has been adequately taken into account in the appeal, and it was also noted that no further information was submitted with respect to the SPA.
- 7.5.3. Objective KCDP 11-1 concerns adherence to the requirements of EU and national legislation, with particular reference to the EU Birds and Habitats Directive. Objective KCDP 11-2 concerns maintaining the nature conservation value and integrity of designated areas.
- 7.5.4. The application includes an NIS which outlines comprehensive mitigation measures to ensure that the integrity is maintained of any European site that may be potentially affected by the project. These mitigation measures include water quality protection that will prevent silt or other emissions entering the Lough Leane Catchment. I also note that the appeal grounds specifically address the sensitivities of the Lough Leane Catchment to emissions, identifying that "multiple publications acknowledge agriculture as the principal source of phosphorous in Lough Leane, which was the nutrient of most concern in relation to algal bloom."

- 7.5.5. Mitigation also includes that grid connection works will take place outside of bird breeding season with respect to the area identified as being proximate to the Mullaghanish to Musheramore Mountains SPA area. In addition, works will take place in dry weather and roads will be reinstated with a finish to the satisfaction of the local authority. Furthermore, the submitted EIAR identifies that the risk of peat slippage and associated impact is extremely low and does not give rise to any anticipated significant effects.
- 7.5.6. With reference to the findings of my AA in section 8 and EIA in section 9 below, I am satisfied that the proposed mitigation for the project is satisfactory and the development subject to this appeal accords with Development Plan requirements under Objectives KCDP 11-1 and KCDP 11-2.

8.0 **Appropriate Assessment**

- 8.1. This section of the report considers the likely significant effects of the proposal on Natura 2000 European sites with each of the potential significant effects assessed in respect of each of the European sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening and Natura Impact Statement submitted with the application. It should be noted that the submitted reports assess the development as a whole, comprising the construction of 5 wind turbines and associated infrastructure within the boundary of County Cork, as well as the proposed road and access upgrades/works subject to this appeal within the boundary of County Kerry.
- 8.2. I have had regard to the submissions of third parties, prescribed bodies and the Planning Authority in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.
- 8.3. The Project and Its Characteristics
- 8.4. See the detailed description of the proposed development in section 2.0 above.
- 8.5. The European Sites Likely to be Affected (Stage I Screening)
- 8.6. The site being formed of lands both within Counties Kerry and Cork, is located within the townlands of Inchamore, Mileeny, Derryreag and Derreenaling. The area is within the Drrynasagart Mountains, west and south west of the N22. The area is

formed of agricultural, commercial forestry, bog and heath land. The lands which relate to the appeal subject to this report are situated within commercial forestry area and relate to forestry tracks. The proposed grid connections are also described as being 'almost entirely' along forest tracks. In terms of hydrological connections, the wider wind farm site area is located within the Lee, Cork Harbour and Youghal Bay catchment. The site lies entirely within the Inchamore Stream sub-catchment where five tributaries flow into the Bardinch River, which then joins the Sullane River, a tributary of the Lee. All surface water drainage from the development site will eventually combine in Carrigdrohid Reservoir, from which waters eventually flow to Cork Harbour. Non-mapped natural and artificial drainage channels are present across the site. The natural streams within the site are 1st order with high gradients and do not provide suitable habitat for fish or larger aquatic organisms. The Water Framework Directive status for the mapped surface water body / river (Sullane_010) directly draining the site is classified as 'Good'. The site itself is not situated within a European site, proximity to Natura 2000 sites varies when considering the various aspects of the proposed wind farm development as a whole. Approximate distances are set out in table 8.1 below.

8.7. I have had regard to the submitted Screening Report to Inform the Appropriate Assessment Process Screening, which identifies that while the site is not located directly within any European site, there are a number of European sites sufficiently proximate or linked to the site to require consideration of potential effects, including in consideration of hydrological connections. These are listed below with approximate distance to the application site indicated:

- Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC (000365) (the site at Inchamore is approximately 1.4km south of the Caragh River component of the SAC);
- Mullaghanish Bog SAC (001890) (the site is approximately 6.9km south-southwest of the SAC);
- St Gobnet's Wood SAC (000106) (the site is approximately 5km west-northwest of the SAC);
- Blackwater River (Cork/Waterford) (002170) (the site is approximately 11km southwest of the SAC);

- Glanlough Woods SAC (002315) (the site is approximately 14km northeast of the SAC);
- Kilgarvan Ice House SAC (000364) (the site is approximately 10km northeast of the SAC);
- Old Domestic Building, Curraglass Wood SAC (002041) (the site is approximately 8.1km east of the SAC);
- The Gearagh SAC (000108) (the site is located approximately 16.8km northwest of the SAC);
- Great Island Channel SAC (001058) (the site is located approximately 62.2km west of the SAC);
- Mullaghanish to Musheramore Mountains SPA (004162) (the site of the proposed wind farm at Inchamore is approximately 6km west of the SPA);
- Killarney National Park SPA (004038) (the site is approximately 14.5km east of the SPA);
- The Gearagh SPA (0004109) (the site is approximately 16.8km northwest of the SPA);
- Cork Harbour SPA (0004040) (closest point along the Turbine Delivery Route is approximately 14m from the SPA);

8.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as the information on file, including the assessment of the Local Planning Authority and any relevant observations, and I have also visited the site.

8.9. The qualifying interests of all European sites considered are listed below:

Table 8.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
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<p>Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC (000365)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto- Nanojuncetea</i> [3130]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt- laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Depressions on peat substrates of the <i>Rhynchosporion</i> [7150]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Taxus baccata</i> woods of the British Isles [91J0]</p> <p><i>Geomalacus maculosus</i> (Kerry Slug) [1024]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Rhinolophus hipposideros</i> (Lesser Horseshoe Bat) [1303]</p>
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	<p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p> <p>Najas flexilis (Slender Naiad) [1833]</p> <p>Alosa fallax killarnensis (Killarney Shad) [5046]</p>
<p>Mullaghanish Bog SAC (001890) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Blanket bogs (* if active bog) [7130]</p>
<p>St Gobnet's Wood SAC (000106) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>
<p>Blackwater River (Cork/Waterford) (002170) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p>

	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>
<p>Glanlough Woods SAC (002315) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>Kilgarvan Ice House SAC (000364) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>

<p>Old Domestic Building, Curraglass Wood SAC (002041) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>The Gearagh SAC (000108) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Rivers with muddy banks with Chenopodium rubri p.p. and Bidention p.p. vegetation [3270]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Lutra lutra (Otter) [1355]</p>
<p>Great Island Channel SAC (001058) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p>
<p>Mullaghanish to Musheramore Mountains SPA (004162) To restore the favourable conservation condition of qualifying interests/species</p>	<p>Hen Harrier (Circus cyaneus) [A082]</p>

<p>of conservation interest for which the SPA has been selected.</p>	
<p>Killarney National Park SPA (004038) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Merlin (<i>Falco columbarius</i>) [A098] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p>
<p>The Gearagh SPA (004109) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Mallard (<i>Anas platyrhynchos</i>) [A053] Coot (<i>Fulica atra</i>) [A125] Wetland and Waterbirds [A999]</p>
<p>Cork Harbour SPA (004030) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] 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] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>

	<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>
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8.10. The above Table 8.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

8.11. Potential Effects on Designated Sites

8.12. The submitted report considers the proposed wind farm project as a whole, including access roads subject to this appeal, as well as grid connection works not included in the development proposals, in consideration of potential effects upon European sites. The submitted report identifies any pathways or links from the subject site to European Sites considered in this screening assessment, and I summarise this below.

8.13. The majority of the grid connection works are located along an existing forestry road which runs parallel to the Clydagh River. While the closest distance between the cable route corridor and the SAC is 41m, the route crosses three main streams and numerous drains which flow into the Clydagh. The report therefore identifies that there is a hydrological connection between the grid connection works and Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment. While the grid connection works are not part of the development proposals subject to this appeal or the planning application for a wind farm before Cork County Council associated with works subject to this appeal, the grid connection works are part of the same 'project' and therefore require consideration with respect to AA (and EIA) (as established in Ó

Grianna v An Bord Pleanála). The report identifies that further assessment is required of potential impact from the grid connection works upon Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC. No other potential impacts are identified with respect to this aforementioned SAC, and there are no other ecological or hydrological linkages between the project and this SAC.

- 8.14. A section of the grid connection corridor runs within a forest track 632m from the Mullaghanish Bog SAC, however this SAC is on higher ground on the forest tract with established forestry and heath between, as such there is no potential for significant effects identified. Given the distance between the SAC and the project and lack of hydrological or ecological connections, no potential impact to this SAC is identified.
- 8.15. St Gobnet's Wood SAC is not linked to the proposed turbine delivery route or grid connection works for the project; however the site of the wind farm development and this SAC are linked hydrologically by the Sullane River. While a hydrological connection exists, the QI for this SAC is Old Sessile Oak Woods, which occurs on ground above the high water mark and therefore no potential for impact arises.
- 8.16. A hydrological connection exists to the Gearagh SAC, Great Island Channel SAC, The Gearagh SPA and Cork Harbour SPA via the Sullane River which drains the proposed wind farm site. However, given the distance between the project and these European sites, any contaminants would be extensively diluted and dispersed. In addition, with respect to European sites at the Gearagh, the continuation of the flow to Cork Harbour means that water drained from the proposed wind farm will not mix with water in those areas. Even in extreme scenarios and without mitigation, water will be attenuated (dilution, dispersal and settlement). Therefore, there is no potential for significant effects identified on the Gearagh SAC, Great Island Channel SAC, The Gearagh SPA and Cork Harbour SPA.
- 8.17. There is no hydrological, ecological or any other potential connection to Blackwater River (Cork/Waterford) SAC, Glanlough Woods SAC, Kilgarvan Ice House SAC and Old Domestic Building Curraglass Wood SAC. There is also no connection to QI bat species associated with the relevant European sites above to the project, given the distance that these QI bat species would normally fly.

- 8.18. There are habitats within the proposed wind farm site that have the potential to support foraging hen harriers, a QI of the Mullaghanish to Musheramore Mountains SPA. As a result, the report concludes that further assessment is required of potential effects. No other hydrological, ecological or other connection to this SPA to the project is identified.
- 8.19. Habitats within the proposed wind farm site also have the potential to support foraging merlin, a QI of the Killarney National Park SPA. The submitted report states that from a review of the literature (Cramp 1980, Newton et al. 1978, Orchel 1992, Sale 2016), it can be concluded that the hunting range of merlin's breeding within the Killarney National Park SPA does not extend into the proposed wind farm site. No other connection or potential impacts are identified with respect to this SPA.
- 8.20. AA Screening Conclusion
- 8.21. I concur with the conclusion of the applicant's screening, with respect to the possibility for significant effects on European sites at Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA with respect to the following:
- Potential for release of suspended solids/nutrients, concrete and hydrocarbons during construction via a hydrological connection resulting from the grid connection works, with associated adverse effect upon QIs of the Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC;
 - Potential for disturbance effects / effect on breeding hen harriers during construction as a result of the grid connection work; as a result of habitats within the proposed wind farm site that have the potential to support foraging hen harriers, a QI of the Mullaghanish to Musheramore Mountains SPA.
- 8.22. I note that the submitted report also references the turbine delivery route on page 33 in addressing potential effects, however throughout the remaining report, it is clear that no potential adverse effects are anticipated with respect to the turbine delivery route. I am satisfied that there are no adverse effects that would result to European sites as a result of the turbine delivery route, with potential effects isolated to those highlighted in the above bullet points.

- 8.23. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status. The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects arising from emissions and disturbance associated with the construction of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of the European sites identified. As such, likely effects on Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required. The potential impacts are expanded upon in further detail as part of a Stage 2 Appropriate Assessment below.
- 8.24. In relation to the remaining European sites considered, taking into consideration the distance between the proposed development site to these designated European sites, the lack of a direct hydrological pathway with the potential to facilitate significant effect, and/or dilution and dispersal effects, as well as the lack of any other pathway or link to these European sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the conservation objectives or features of interest of Mullaghanish Bog SAC; St Gobnet's Wood SAC; Blackwater River; Glanlough Woods SAC; Kilgarvan Ice House SAC; Old Domestic Building, Curraglass Wood SAC; The Gearagh SAC; Great Island Channel SAC; Killarney National Park SPA; The Gearagh SPA; and Cork Harbour SPA. Therefore, I agree with the applicant's submitted screening report that a Stage 2 Appropriate Assessment is not required with respect to these aforementioned European sites.
- 8.25. Stage 2 – Appropriate Assessment
- 8.26. The submitted NIS identifies the potential for negative effects upon Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA as a result of the proposed development and I concur

that an Appropriate Assessment of the proposed development is required with respect to these aforementioned European sites.

- 8.27. The site-specific conservation objectives and qualifying interests / species of conservation interests of Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA are summarised above in table 8.1. A description of Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA is set out below. The submitted NIS details the potential effects of the proposed development upon these European sites, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is then provided. A summary of this assessment is set out below.
- 8.28. Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC: A large number of plant and animal species of interest occur within the site. For example, two plant species listed on Annex II of the EU Habitats Directive occur, Slender Naiad (*Najas flexilis*) is found in some of the lakes at the site and the Killarney Fern (*Trichomanes speciosum*) is another listed and well-known rarity. An additional twenty-two Red Data Book plant species have been recorded, but only twelve of these have been seen recently. The site is very important for oceanic bryophytes, particularly the woodland species. The Killarney Woods are notable for the number of rare species of Myxomycete fungus that have been recorded. The site has six bird species which are listed on Annex I of the E.U. Birds Directive. The site supports most of the Irish mammal species. Of particular note is the occurrence of two EU Habitats Directive Annex II species: Lesser Horseshoe Bat and Otter. Perhaps the best known mammals of the Killarney National Park are the Red Deer. Sika Deer also occur. Pine Marten is another notable species. The site is valuable for its rare fish species, five of which are listed on Annex II of the E.U. Habitats Directive. There are numerous rare invertebrates within the site.
- 8.29. Mullaghanish to Musheramore Mountains SPA: This site is a stronghold for Hen Harrier. The mix of forestry and open areas provides optimum habitat conditions for this rare, Annex I listed (of the EU Birds Directive) bird. Hen Harriers will forage up to c.5km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. The site is of ornithological importance because it provides excellent nesting and foraging habitat for breeding Hen Harrier.

- 8.30. Potential effects:- The submitted report identifies that the majority of the grid connection route is located along an existing forestry road which runs parallel to the Clydagh River, and this river is situated within the Killaryney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. The route crosses three main streams and numerous drains which flow into the Clydagh. The three streams will be crossed by horizontal directional drilling while the minor streams and drains will be crossed on existing culverts. As a result, construction of the grid connection has the potential to cause negative effects to receiving watercourse and ultimately relevant QIs of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC. Effects during operational phase are not anticipated.
- 8.31. The construction related water quality impact relates to the potential for the release of suspended solids/nutrients, concrete and hydrocarbons into the drainage network arising from the grid works. Aquatic species can be affected by sediment loading which reduces both aquatic species diversity and food resource. Suspended solids often hold nutrients such as phosphorus that can result in eutrophication and reduced oxygen levels. Instream works are proposed to be avoided for most of the watercourse crossings where there is sufficient depth over existing culverts to accommodate trenching of cable within the road structure. There are three water crossings along the grid connection route which do not have sufficient depth of material on the existing culverts. To avoid instream works, directional drilling technology is proposed and described in detail in section 2.9.5.2 of the submitted EIAR. Where there is sufficient depth over existing culverts, there is a low-risk of generating suspending solids or other pollutants, which can be controlled through mitigation. Where directional drilling is proposed, this addresses the potential risks of siltation or other pollutants entering watercourses. In addition, there are a number of minor ditches running under the existing road, which are either dry or have minimal flows, that will be crossed by damming the ditch upstream and over-pumping (if necessary) during trenching. Without mitigation, these crossings present a temporary minor risk of sediment release and of other pollutants entering the Clydagh River downstream.
- 8.32. In addition, the report identifies the potential for habitat suitable for hen harrier, a QI of the Mullaghanish to Musheramore Mountains SPA, in two locations within the wind farm project site at Inchamore. Baseline bird surveys were undertaken for the

site and set out in detail in Chapter 7 of the EIAR. In summary, the submitted report describes that hen harrier is an occasional winter visitor (October to March) to the site of the wind farm project. Birds were recorded either foraging or flying through the main wind farm site area and adjoining areas to the south (detailed in Appendix 7.16 of the submitted EIAR). There was no evidence of winter roosting within the site or surroundings. The presence of birds in winter in areas such as the wind farm site is consistent with dispersal from breeding areas. The surveys were undertaken in the summer 2017, winter 2017/2018, summer 2018 and winter 2018/2019 periods (Appendices 7.18 and 7.19 of the submitted EIAR). The surveys therefore indicate that the main wind farm site is not used for breeding by hen harrier, and breeding is focused within the SPA itself. Part of the construction grid connection route is located along the route of an existing forestry road which runs north of the Mullaghanish to Musheramore Mountains SPA. The closest distance between the cable route corridor and the SPA is 170m. Construction works along the grid connection route, if carried out during the breeding season, could have disturbance effects on hen harriers breeding within the SPA. The report outlines that in the absence of mitigation, the construction of the section of grid connection cable route which passes close to the SPA could have a significant adverse effect on breeding hen harriers within the SPA if carried out during breeding season.

- 8.33. In-combination/Cumulative effects:- Section 3.7 of the submitted report addresses in-combination effects, with plans and projects highlighted that have potential for in-combination effects alongside the wind farm project (inclusive of proposed access roads) due to their size, scale and connectivity. The most prominent project that could result in cumulative effect alongside the proposed access roads subject to this appeal, is the proposed wind farm itself under consideration by Cork Council, as well as the grid connection works which do not form part of the development proposals. The potential impact of these elements is considered as part of effects highlighted above in this Stage 2 Assessment. Nearby projects highlighted relate to proposed, permitted and operational wind farms within a 20km radius of the proposed turbines as part of the proposed wind farm project. These are mostly to the north-east, south and south-west of the Inchamore site relevant to this appeal. No in-combination adverse effects are anticipated with reference to these surrounding wind farm projects.

- 8.34. While decommissioning of the project will be scheduled to take place after a proposed 35 year lifespan, the grid connection cable and on-site substation will be left in-situ as these infrastructure will remain under the ownership of ESB.
- 8.35. Mitigation:- Section 3.3.1.2 of the submitted report describes proposed mitigation. This follows details set out in Chapter 9 of the EIAR with respect to drainage measures which are incorporated into a Construction and Environmental Management Plan (CEMP), including Construction Method Statements for key works. The CEMP includes a Surface Water Management Plan, Water Quality Monitoring Plan, Watercourse Crossing Plan and a Waste Management Plan. With respect to hen harrier, the laying of the relevant grid connection section close to the Mullaghanish to Magheramore Mountain SPA will take place outside of bird nesting season (March-August).
- 8.36. Table 6 of the submitted report sets out a summary of effects and mitigation. Key mitigation measures during the construction phase of the grid connection are highlighted below:
- Establishment of a 65m buffer zone between work areas and watercourses. Where the buffer zone is less than 65m (as along sections of the cable route), further specific mitigation will be implemented;
 - Provision of sediment traps or settlement ponds;
 - Monitoring;
 - Measures around the storage of oils, hydraulic fluids etc.;
 - Pouring of concrete etc. to be completed in dry weather;
 - Refuelling of vehicles off-site where possible;
 - Culverting works to be undertaken in dry flow conditions on drains that do not run dry. Use of double silt fences during culvert installation works;
 - Reinstatement of bank sides and streambeds;
 - No concrete batching on site;
 - In the unlikely event of pollution to watercourse, implementation of measures set out in a site specific Emergency Response Plan included in the CEMP;

- Excavated trenches will be dewatered if required, with dirty water attenuated before discharge. Grass will be reinstated if required, to prevent loose soil/sediment material entering surface water features.
- Drainage measures to attenuate runoff, guard against soil erosion, soil compaction and safeguard local water quality.
- Silt fencing filtration system;
- Reinstatement of roads;
- Installation of precast concrete cable joint bays within excavated trenches;
- Finish of surface above cable joint bay in bituminous layer to the satisfaction of the local authority; and
- No works will take place along the identified section of the grid connection route in proximity to the Mullaghanish to Magheramore Mountain SPA during the breeding season (March-August inclusive).

8.37. The submitted report references mitigation measures during the operational phase to protect water quality from pollutants on page 44. However, there are no potential adverse effects identified during operational phase arising from the proposed wind farm project and associated works. The report confirms that potential effects are isolated to the construction phase on pages 34/35 and 36/37. I am also satisfied that there is no potential for adverse effects requiring mitigation during the operational phase and that the proposed wind farm project would not generate the potential for pollutants during operation. As such, I have not taken into account the reference to mitigation during operation on page 44 of the submitted report. I also note that it is confirmed throughout the report that decommissioning does not apply to the grid connection which will remain within ESB ownership, and therefore mitigation is not relevant in this regard.

8.38. With the application of the mitigation measures outlined in the NIS and summarised above, the NIS concludes that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European Sites. I am satisfied with the data presented in the submitted NIS and concur with the conclusions reached with regard to the proposed mitigation measures and the overall potential significance of impact to Killarney National Park,

Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA.

8.39. Submissions:-

8.40. Kerry County Council refused the proposal, in part, due to the potential for impact upon water quality downstream resulting in adverse impacts on the integrity of the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC. In a response to the appeal, the Local Authority stated that they do not consider that the particular sensitivity of the Lough Leane Catchment to sediment and phosphorus input within the context of the SAC has been adequately taken into account in the appeal, and it was also noted that no further information was submitted with respect to the SPA.

8.41. Reason for refusal no.2 concerns the potential for adverse effect upon the water quality downstream, impacting on the integrity of the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC. The Environment Section for the Local Authority recommended conditions relating to environmental mitigation and measures to protect water quality. The Appellant's grounds of appeal outlines that they consider the Local Authority Planner's Report and Ecologist Report to be disproportionately negative with reference to the scale of the development proposed.

8.41.1. I am satisfied that the Local Authority has correctly considered the overall impact of the proposed wind project as a whole, including grid connection, in consideration of potential impact upon European sites, and I have considered the same in my Stage 2 Appropriate Assessment above. The Applicant also addressed potential impacts arising from the proposed project as a whole in their submitted NIS. I therefore do not agree with the appellant that the assessment of the proposed development should be considered minor in nature, implying that consideration be focused upon impacts associated with the element of the project subject to this appeal, and namely proposed access roads. I accept that it is the grid connection works that are linked to potential impact upon European sites, which do not form part of the development proposals subject to this appeal (or indeed those proposals before Cork Co. Council for the wind farm), but the grid connection works are inextricably linked to the wider development proposals, all as part of one wind farm project and therefore require assessment for AA (and EIA) purposes. Albeit, while the appellant suggests the

development is minor (confined to access roads), the submitted NIS actually provides a comprehensive review of impacts of the entire wind farm project, and specifically how the grid connection works might adversely impact European sites, including potential for adverse impact upon water quality in the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment SAC. The appellant has also addressed concerns regarding the potential for peat slippage in the NIS and additional supporting information provided, confirming that there is no peat slippage risk from the proposed wind farm into the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC because that is in a different hydrological catchment in Co. Cork. There is also no excavation proposed that would lead to peat slippage as part of works proximate to the SAC area. Overall, I am satisfied that there is no known risk with respect to peat slippage as a result of the proposed wind farm project. I am also satisfied that the submitted NIS outlines appropriate mitigation (as described above) with respect to the grid connection works, which will ensure that water quality is protected, and as such the integrity of the Killarney National Park, MacGillycuddy's Reeks and Caragh River Catchment SAC will not be adversely affected.

8.41.2. The Local Authority Ecologist notes that it is proposed to undertake the grid connection works between September and March (outside bird breeding season) when ground conditions are more challenging during the winter months. The Ecologist considers that the condition of roadways/trackways for the grid connection could have been more clearly outlined to facilitate environmental assessment of the proposal. However, I am satisfied that mitigation identified in the NIS specifically identifies that grid connection works will take place outside of bird breeding season with respect to the area identified as being proximate to the Mullaghanish to Musheramore Mountains SPA area and therefore where the potential risk arises from. In addition, concrete pouring etc. will take place in dry weather and roads will be reinstated with a finish to the satisfaction of the local authority. I am satisfied that these measures are appropriate.

8.41.3. In relation to the Local Authority response and reference to lack of further information with respect to the Mullaghanish to Musheramore Mountains SPA; reason for refusal no.2 does not highlight concern in relation to this SPA area and it is therefore understandable in my view, that the appellant did not provide any additional

information in this regard. I do however note the Local Authority's Ecologist comments that with regard to the hen harrier population trends a wider consideration of potential for impact on the species would be beneficial. However, it is unclear what specifically is being requested by the Ecologist with respect to impact upon hen harrier. The submitted report and associated surveys within the submitted EIAR evidence that the wind farm project site is not a significant site or breeding site for hen harrier. The NIS identifies potential for grid connection works to disturb breeding habitat for hen harrier due to the proximity of these works to Mullaghanish to Musheramore Mountains SPA. As such mitigation is outlined to avoid grid connection works during bird breeding season, and I am satisfied that this will be sufficient to prevent adverse impact (disturbance) to hen harrier.

8.42. AA determination – Conclusion

8.43. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.44. Having carried out a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely adverse effects on Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA could not be ruled out, due to potential hydrological links to the subject site and proximity of grid connection works to these European sites, with respect to potential for adverse effect upon water quality and breeding bird QI species (specifically hen harrier). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.45. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) relating to measures to control construction impact, as well as measures to control and manage potential emissions during construction of the grid connection to water bodies and the prevention of grid construction works during bird breeding season (March-August), the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and

Mullaghanish to Musheramore Mountains SPA, or any other European site, in view of the sites Conservation Objectives.

- 8.46. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

9.0 Environmental Impact Assessment

- 9.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for construction of access roads to a proposed wind farm project as follows:

- Upgrade of 0.8km existing forest access roads to include passing bays and all associated drainage infrastructure;
- Works at the entrance of an existing forest road accessed off the N22 to include localised widening of the forest road and creating of a splayed entrance, removal of existing vegetation for visibility splays and removal of street furniture.

- 9.2. The site subject to the current appeal is located within the area of Kerry County Council while the wider site area for the wind farm project includes area within Cork County Council.

- 9.3. The proposed development does not comprise a project listed under Annex I of the EIA Directives and is below the relevant thresholds as set out in the Planning and Development Regulations 2001 for Annex II projects. However, the proposal is linked to the delivery of a wind farm project and associated planning application Reg. Ref. 23/5145 before Cork County Council currently subject to a Further Information Request. Accordingly, the proposed development which constitutes access roads, forms part of a larger renewable energy development (windfarm project) including provision of 5 turbines with a capacity of between 5.6 and 6.6 megawatts and electrical substation, as well as associated grid connections, and falls within a class of development in Schedule 5, Part 2 (3) (i) wind farms with more than 5 turbines or having a total output of greater than 5 megawatts and accordingly an EIA is required for the proposed development.

- 9.4. A number of topics and issues raised in submissions that concern environmentally related matters have already been addressed in the wider planning assessment described above, and where relevant I have cross-referenced between sections to avoid unnecessary repetition.
- 9.5. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 1 of the main volume identifies the contributors to the report and their expertise in the preparation of the EIAR, and a description of mitigation measures is set out in each chapter.
- 9.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 9.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application and appeal, including the EIAR, and to the planning assessment completed in section 7 above, as well as the submissions received from the prescribed bodies and the Local Authority which are summarised in sections 3 and 6 of this report above.
- 9.8. Vulnerability of Project to Major Accidents and/or Disaster
- 9.9. Chapter 16 Major Accidents and Natural Disasters describes the likely significant effects on the environment arising from the vulnerability of the project to risks of major accidents and/or natural disasters. The EIAR confirms specific construction, operational and decommissioning related risks associated with the project. These include severe weather, flooding, peat stability, traffic incident, contamination, industrial accident (fire/gas explosion), collapse/damage to structures and loss of

critical infrastructure. All of the identified risks are classified as 'low risk scenarios' within the EIAR. The main mitigation for the project is set out within a Construction and Environmental Management Plan, which also includes an Emergency Response Plan to be implemented in the event of an emergency. With the implementation of mitigation measures, there will be no significant residual effect(s) associated with the Project.

9.10. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

9.11. Alternatives

9.12. Chapter 3 Alternatives in the submitted EIAR considers the reasonable alternatives that have been considered. Under the 'do nothing' scenario, the EIAR explains that the land use of the site would remain unchanged, the prospect of creating sustainable energy would also be lost. This would not assist in Ireland's contribution to reducing global warming and would fail to contribute to limiting warming as agreed to in the Paris Agreement. The wind farm project has the potential to prevent approximately between 30,038 and 35,373 tonnes of CO₂ emissions per annum.

9.13. The EIAR explains the process undertaken as part of site selection. The selection process sort to identify an area that would be capable of accommodating a wind farm development while minimising the potential for adverse impact on the environment. The potential for grid connection is also identified as a key component in site selection. Sites that emerged from the selection process have been brought forward as separate planning applications. The EIAR states that the alternative to this would be to bring forward a site that did not pass the above phases of the screening process, which would generate adverse environmental effects. Other sites would also potentially be outside of practical proximity to existing grid infrastructure and not be economically viable. The process for the wind farm design and layout is described, ultimately leading to a reduction in the red-line boundary from 481ha to 170.1ha. Alternative wind turbine designs were also considered, and it was concluded that the provision of fewer, larger turbines with greater power output was in line with industry trends, increasing energy efficiency and improving energy

output. Alternative renewable energy technologies, turbine haul route and mitigation measures are also set out in Chapter 3.

- 9.14. Specifically in relation to consideration of the internal site access road layout (page 20 of the EIAR), the alternative to utilising the existing road network would result in the construction of a new road network and was discounted in order to minimise potential impacts.
- 9.15. A comparison of potential environmental effects for an alternative grid connection arrangement is set out in tables 3.8 and 3.9 of the EIAR, and alternative grid connection routes are considered in section 3.8.2. The selected grid connection route contains less bridges than alternatives, and the majority of it is located within lands in the applicant's control. Consideration of connections to hydrological catchments and drainage implications informed this process as set out in the EIAR (table 3.9).
- 9.16. The Local Authority stated in their Planner's Report that with respect to alternatives, greater consideration could have been given to the selection of an alternative route outside of the Lough Leane Catchment. However, it is clear from the considerations set out in the EIAR in relation to alternatives that ecological impact and screening of sensitive habitat was a key component to the selection process.
- 9.17. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied.
- 9.18. Consultations
- 9.19. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.
- 9.20. Likely Significant Direct and Indirect Effects
- 9.21. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.
- 9.22. Population and Human Health
- 9.23. Population and Human Health is considered in Chapter 4 of the EIAR. This chapter describes the baseline characteristics of the study areas in terms of population and settlement patterns, economic activity, land use, tourism and human health,

consideration of the impact of wind farms upon these characteristics, as well as upon property value and in relation to natural disasters/accidents is outlined. Potential impact is then described in section 4.4. No significant impacts are identified upon population and human health. Slight negative impact is anticipated during the construction and decommissioning phases arising from short-term construction related effects, specifically with regards to traffic noise, volume and dust, impacting population and tourism. Positive economic and employment impact is predicted arising from short-term effect from construction worker employment and spend in the area, with long-term positive economic effect during operation resulting from a high-quality energy supply making the region attractive to business. Mitigation is described in section 4.5 and includes a range of construction related remedial mitigation measures. Mitigation is embedded in the project proposals.

- 9.24. Section 4.9 of the EIAR sets out an assessment of the potential for Shadow Flicker associated with the project. The 2018 Review of the 2006 Wind Energy Development Guidelines confirms that: "Shadow Flicker occurs when the sun is low in the sky and the rotating blades of a wind turbine casts a moving shadow which, if it passes over a window in a nearby house or other property results in a rapid change or flicker in the incoming sunlight. The time period in which a neighbouring property may be affected by shadow flicker is completely predictable." Shadow flicker will only occur when the sun is shining, the turbine is directly between the sun and the property and the turbine blades are moving. Shadow flicker effect from wind turbines is considered an effect on residential amenity, rather than having the potential to affect the health of residents. The 2006 Guidelines state that "It is recommended that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day." However, the Draft Revised Wind Energy Guidelines December 2019 provides for zero shadow flicker. The submitted assessment is based on compliance with the current 2006 Guidelines, however the EIAR notes that if the draft guidelines are adopted while development proposals are in the planning system, the project can be brought in line with the any new requirements through the implementation of mitigation measures, subject to a time allowance for the turbine to safely stop rotating. An assessment of predicted impact from shadow flicker from the project, both from individual turbines, and collectively, and with reference to potential cumulative effect is set out in section 4.9 of the EIAR. Mitigation is also described,

and formed an automatic shut down to a turbine during periods when shadow flicker exceeds the thresholds as set out in the 2006 guidelines, restarting when the potential for shadow flicker ceases. Overall it is concluded that with the implementation of this mitigation, and installation of a blade shadow control system, the project will not result in significant impacts in relation to shadow flicker. In addition, with the application of mitigation no significant residual cumulative effect is identified.

9.25. Overall, I concur with the conclusions of the EIAR with respect to population and human health.

9.26. Biodiversity

9.27. Chapter 5 of the EIAR addresses potential effects of the project upon biodiversity. Existing habitats on the site are described as well as surveys of fauna species. Chapter 6 specifically addresses Aquatic Ecology and Chapter 7 focuses on Ornithology.

9.28. In terms of habitat species, the site is dominated by conifer plantation (WD4), the unplanted area of the site is mostly wet heath (HH3), with areas of upland blanket bog (PB2) and cutover bog (PB4). Both wet heath and blanket bog are Annex I listed habitats, with active blanket bog having priority status. Other habitats represented within the site are dry siliceous heath (HH1), exposed siliceous rock (ER1) (both of which are also Annex I habitats) and eroding/upland rivers (FW1). The grid connection route is almost entirely along existing forest tracks. In terms of potential connection to European sites, I address this as part of my AA in section 8 above. The submitted EIAR sets out the results of the NIS for the project. In terms of other designated sites, the project site is hydrologically linked to Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment and St. Gobnet's Wood proposed Natural Heritage Areas (pNHAs). There is no ecological or hydrological connectivity to Natural Heritage Areas (NHA) or any other proposed Natural Heritage Areas surrounding the site (pNHA).

9.29. Bat surveys were undertaken of the site and nearby areas in 2022. There were four sets of buildings inspected, one set within the site but not in the area of proposed infrastructure and three located outside of the site. Building 2 within the site was recorded as a bat roost for three species of bat: lesser horseshoe, Natterer's and

brown long-eared bat. Surveys of the wider site area recorded soprano pipistrelle, common pipistrelle, Myotis species, Leisler's, Natterer's, whiskered, Daubenton's, lesser horseshoe and brown-long eared bat. During summer surveys, bat activity ranged from low to high depending upon location within the site. All bat species are recorded as 'Least Concern' on the Irish Red List and protected under the EU Habitats Directive Annex IV and Wildlife Acts, and the Lesser Horseshoe is listed as Annex II under the Directive.

- 9.30. All mammal species recorded on the site or expected to occur on the site are listed as 'Least Concern' on the Irish Red List. Irish hare, pine marten and all deer species which may occur on the site are protected under the Wildlife Acts 2007-2022 as amended. The common frog and common lizard which may occur on the site are protected under Wildlife Acts and are listed as 'Least Concern'. A 2020 survey of the site supports the conclusion that the habitat types wet heath / blanket bog and rock outcrop habitat at the site support an important population of Kerry Slug, which is rated as being of County Importance.
- 9.31. In relation to aquatic ecology, watercourses within the proposed wind farm site itself are small 1st order tributaries with high gradients and do not provide suitable habitat for fish or larger aquatic organisms. There are three minor watercourses within the site which will be crossed by the proposed road network, with clear-span structures, that avoid instream works. There are three minor streams along the length of the grid connection route which have no fisheries value and that will be crossed by horizontal directional drilling avoiding any instream works. Other minor watercourses will be crossed on existing culverts. The turbine delivery route does not require any modification to watercourses. Surveys were undertaken in 2020 of watercourses at the site and within a potential zone of influence of the development with reference to hydrological connections, as well as c.500m downstream of the site. Inchamore Stream contains areas of moderate to good and very good quality brown trout habitat, spawning and nursery habitat. No evidence of freshwater pearl mussels was recorded, with the exception of a single dead shell. However, freshwater pearl mussels occur on the River Sullane, the River Flesk and the lower reaches of the Clydagh River which extends into the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, of which they are a QI of. The construction grid

connection route, in part, runs parallel to the Clydagh River. All watercourses sampled had a High Water Framework Directive water quality status.

- 9.32. Bird surveys were carried out between April 2017 and June 2021, comprising flight activity, breeding moorland/wader, breeding and winter bird transect, hinterland, merlin and red grouse surveys. The following species were recorded in on-site surveys and are species of European conservation importance (Annex I of the Birds Directive) and/or are species of national conservation importance (Red or Amber listed): white tailed eagle; hen harrier; kestrel; merlin; peregrine; red grouse; golden plover; snipe; woodcock; lesser black-backed gull; goldcrest; skylark; swallow; willow warbler; starling; wheatear; grey wagtail; meadow pipit; and linnet. Sparrowhawk and buzzard were also observed, and while not of conservation importance, are sensitive to wind energy projects. On the basis of providing breeding, foraging and roosting habitat for several Annex I listed and Red-listed species, the bog and heath component of the site is rated as of county importance for birds. The afforested area of the site is of low importance for birds and is rated as local importance (low value).
- 9.33. In terms of potential impact in the absence of mitigation, there is potential for contaminants originating from the project site during construction / decommissioning reaching those pNHAs hydrologically linked to the site. There will also be disturbance and loss habitat, specifically loss of conifer plantation (rated as not significant) and loss of 2.5ha of wet heath and wet heath/blanket bog mosaic classified as a significant adverse effect of permanent duration. Disturbance of this Annex I habitat during construction is also concluded to be a significant adverse effect of medium duration. There will also be loss of 1.63ha of cutover bog, rated as poor quality, with a slight adverse permanent effect. Replacement of conifer plantation with more open habitat which supports native plant species will benefit small mammals and is rated as a positive effect of moderate significance over the long-term. In the absence of mitigation, significant adverse impact could result to terrestrial mammals, amphibians, invertebrates (Kerry Slug), nesting birds and reptiles during construction or decommissioning activity associated with the project. With regards to the potential for collision between turbine and bat species, the EIAR includes a risk assessment which demonstrates potential high risk associated with one turbine and medium risk with a further turbine, with other turbines classified as

low risk. It is predicted that the cumulative impact of exiting forestry operations alongside the project will not cause a significant increase in potential impacts.

- 9.34. Potential impact upon aquatic species relate to potential construction (and decommissioning) related negative effects as a result of the release of suspended solids, concrete and hydrocarbons in run-off. Increased silt loads could negatively impact on water quality, salmonid spawning habitat and freshwater pearl mussel. Without mitigation, there is a minor risk of sediment release and of other pollutants entering the Clydagh River downstream. In the absence of mitigation, impact upon freshwater pearl mussel and salmonids is considered a medium term significant negative effect at the international scale. There are no likely significant negative effects identified for the operational phase.
- 9.35. Potential impact upon bird species relates to habitat loss, disturbance of breeding birds and nest damage or destruction during construction phase. During operational phase, potential effects relate to collision, displacement and barrier effects.
- 9.36. Mitigation is described in sections 5.6, 6.5 and 7.5 of the EIAR and can be summarised as follows: water quality control measures; implementation of mitigation set out in a CEMP for the project (including avoiding works during bird breeding season); an Ecological Clerk of Works / Environmental Manager overseeing the implementation of mitigation for the project; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones (to bats and breeding birds); specific mitigation to protect bats during construction and operation; measures to minimise impact upon Kerry Slug; implementation of a Habitat Enhancement Plan; measures to reduce collision risk, and monitoring. With the implementation of mitigation as described in the EIAR, not significant impacts are predicted with respect to biodiversity, including aquatic and bird species, except in relation to local bat populations, with impact predicted to be slight to imperceptible negative effect with no effect to the conservation status of local bat species; significant negative long-term adverse effect to wet heath and blanket bog habitats; slight adverse to moderate adverse negative effect to kestrel and golden plover due to collision risk and slight significant adverse effect of short-term duration related to disturbance of nests during construction phase. This significant effect upon wet heath and blanket bog is proposed to be compensated through a Habitat Enhancement Plan.

- 9.37. The Local Authority Planner's Report considers that the submitted EIAR does not adequately identify and describe effects of the proposed development on the Environment, or the overriding need to use the site. The Local Planning Authority is not satisfied that the project would not negatively impact on the ability of water bodies in the vicinity of the project to achieve relevant water quality status required under the Water Framework Directive. The Local Authority also states that it is not possible to conclude beyond reasonable scientific doubt that the proposal would not adversely impact the Killarney National Park, McGillycuddy Reeks and Caragh River Catchment SAC. I address potential impact upon European sites as part of my AA in section 8 above. In summary, I am satisfied that with the implementation of proposed mitigation, and specifically water quality control measures, the project will not adversely effect the integrity of European sites. I do not agree with the Local Authority that the EIAR has not adequately identified and described potential effects of the proposed development, and I consider the EIAR to be comprehensive in this regard. The submitted EIAR reflects mitigation as outlined in the NIS, which is reflected in the CEMP for the project. This mitigation will ensure the protection of water quality, particularly during construction works associated with the grid connection / cable connection works.
- 9.38. I concur with the conclusions reached in the EIAR with respect to biodiversity, including aquatic species and ornithology, as summarised here, with slight to moderate significant negative residual effect identified relating to bats and birds, and significant adverse impact resulting from the loss of wet heath and blanket bog habitat. The impact upon bats and birds would not be at a population level, and appropriate mitigation and monitoring measures are outlined in the EIAR to combat this effect. The significant effect to wet heath and blanket bog habitat will also be adequately compensated through implementation of a Habitat Enhancement Plan for the project.
- 9.39. Land, soil, water, air and climate
- 9.40. Soils and geology are addressed in Chapter 8 of the EIAR. This includes an overview of the baseline characteristics of the site informed by site investigation and desktop study. A peat slide risk assessment is also presented. Potential effects relate to land take (for the wind farm development, grid connection and turbine delivery route); felling of forestry causing soil erosion, compaction, degradation,

changes to geology, changes in hydrological processes, increased sediment runoff and nutrient pollution in waterways, and soil nutrient loss; subsoil and bedrock removal resulting in the release of contaminants; excavations including at turbine hardstand areas, for a burrow pit, for site cabling trenches, for the turbine delivery route (including widening of the entrance to the N22), and grid connection trenches; land stability; spoil management; geological stability; and soil contamination.

- 9.41. Potential effect upon soils and land from site access roads is specifically addressed in section 8.4.3.4.2 of the EIAR. The formation of roads requires excavation to a level where the underlying soil or rock can bear the weight of traffic and they will be constructed using rock from on-site burrow pits and capping stone from nearby quarriers. Imported stone will undergo quality testing. The formation of site access roads will have a slight to moderate, adverse, direct, permanent but reversible effect.
- 9.42. Mitigation is identified in section 8.5 and is largely formed of undertaking works in accordance with best practise and implementation of measures set out in the project CEMP. Excavated materials from the site will also be reused where possible, including bedrock and peat. Peat and slope stability investigations at the site indicate that the site has a generally low risk probability with respect to peat slippage and slope failure, however mitigation is still intended to further minimise this risk. Measures are outlined to prevent soil contamination. With the implementation of mitigation, effects are anticipated to range from neutral, slight, to slight to moderate in terms of significance.
- 9.43. Chapter 9 deals with Hydrology and Hydrogeology, with findings informed by a desk top study and field investigations, including baseline sampling of surface waters. The wind farm site is underlain by areas classified predominantly as 'Extreme (E)' groundwater vulnerability rating which tend to be at lower elevations, with some areas mapped as 'Rock at or Near Surface (X)' vulnerability rating particularly at higher elevations. The site is characterised by low to very low recharge rates in overburden (soils/subsoils) and very low recharge capacity in the underlying bedrock aquifer, meaning that the majority of water in wet conditions, will drain off as surface water runoff. Potential effects include the following: excavations with potential to impact on surface water and groundwater; effects associated with forestry felling relating to soil erosion, compaction, degradation, changes in geology, changes in hydrological processes, water quality impact and soil nutrient loss or loading; release

of suspended solids into runoff; vehicular movements causing localised stability issues giving rise to impacts on surface water; release of hydrocarbons into waters; impact on bog water levels or drainage channels; dewatering of excavations; and upgrading and installing watercourse crossings associated with drying, wetting, increased hydrological response to rainfall or release of suspended solids.

- 9.44. The EIAR identifies that for a worst-case scenario and in the absence of mitigation, there is potential for direct, negative, potentially significant impacts associated with release of contaminants during works along the grid connection route related to culverts, hydrologically linked to the surface waterbody Garrange [Lee] (EPA Code: 19G03). While such impact at the site would likely be short lived or temporary, potential secondary impacts to downstream receptors through leeching can be long lasting or permanent.
- 9.45. During operational phase, the scale of potential impacts would be small relative to construction or decommissioning phases, however relevant mitigation measures outlined for the construction phase would be applied to maintenance and monitoring operations during the operational phase to prevent adverse effects. No significant excavations will occur during decommissioning phase, therefore no new impacts are anticipated during decommissioning and no additional mitigation is required.
- 9.46. Mitigation is set out from section 9.6. Mitigation by avoidance (including buffer zones) and design forms the primary approach to the project. Sustainable drainage systems (SuDS) will be employed to attenuate runoff and reduce the hydrological response to rainfall at the site. The drainage design for the project is set out in a Surface Water Management Plan appended to the EIAR. Attenuation features will be implemented, including check dams and stilling ponds and buffer outfalls. Excavated peat will be deposited in order to restore infilled excavation areas and one successfully restored / revegetated it will promote the recovery and development of peatland habitats which will lead to improvements to the hydrological regime. Specific mitigation is described to manage and mitigate potential adverse impacts arising from earth works and management of spoil. Mitigation is also highlighted in relation to excavation dewatering. Mitigation is included in the project CEMP 'Management Plan 2- Water Quality Management Plan' Appendix 2.1.

- 9.47. In relation to the grid connection route, excavation will be controlled, with surface water buffer zones and management of excavated material. Spoil from public roadways will be transported to a licenced facility due to the presence of bituminous material and potential hydrocarbon contaminants. Measures will be implemented to control temporary stockpile areas and earthworks will be limited to meteorological dry periods and will not occur during sustained or intensive rainfall events. Specific measures are also highlighted to mitigate potential adverse impact associated with excavation of cable trenches, watercourse crossings and horizontal directional drilling. This includes an Environmental Clerk of Works who will be onsite to lessen environmental disruption and ensure site integrity is maintained.
- 9.48. Detailed mitigation is outlined in sections 9.7 and 9.8 regarding impact posed by release of suspended solids to the surface water environment and to reduce potential impacts from the environmental release of hydrocarbons and other harmful chemicals to surface waters. Measures to mitigate potential impact during water crossings, culverts, drainage diversions and to prevent effect upon groundwater are also highlighted. Monitoring measures are also outlined in the EIAR.
- 9.49. With the implementation of mitigation, the overall residual impact upon Hydrology and Hydrogeology is anticipated during construction phase to be direct, negative, imperceptible and temporary. There would be no significant adverse impacts following mitigation, with individual effects ranging from neutral, neutral to slight, and slight. It is also predicted that with the application of mitigation, the project will not contribute to cumulative surface water or groundwater effects.
- 9.50. Potential effect upon air quality and climate is outlined in Chapter 10 of the EIAR. This describes the existing air quality conditions of the area and potential effect as a result of the project. The main potential impact during construction will be the generation of dust emissions. There will also be emissions from plant and machinery / vehicles associated with the construction of the project. These effects would result in short-term, slight, negative impact. During operational phase there will be an imperceptible negative impact due to the low number of vehicles accessing the site and the nature of the project. During decommissioning phase, impact is predicted to be imperceptible. Mitigation is set out in section 10.2.8 of the EIAR and largely relates to good practise site control, with implementation of measures set out in the CEMP for the project. No cumulative construction phase air quality effects are

predicted. Operational phase would have imperceptible negative cumulative effect. With the application of mitigation, no potentially significant negative effects would result. Long-term significant positive impact on air quality would result from the wind energy created by the project resulting in emissions savings when compared to coal, oil or gas.

9.51. Section 10.3 of the EIAR considers climate and greenhouse gases associated with the project. Short-term, slight, negative impact is predicated to result from emissions associated with vehicles and plant for construction and decommissioning activities for the project. During operational phase, the generation of electricity from a renewable source will assist in reducing carbon dioxide emissions resulting in long-term, moderate, positive effect on the climate. Cumulative impact is also predicted to be positive in terms of carbon reduction and climate, however slight short-term construction/decommissioning phases and imperceptible long-term operational phase, negative cumulative impact is anticipated on the climate from combined emissions. No potential significant residual effects are identified in the EIAR with respect to climate.

9.51.1. I note the concerns of the Environment Department of the Council in the Planner's Report. Potential for water quality impact within the Lough Leane Catchment is highlighted, as is the issue of peat stability. I am satisfied that the submitted EIAR sets out a comprehensive description of the potential effects of the project as a whole upon water quality with appropriate mitigation to ensure that significant negative impact is not likely to result. As such, this matter has been adequately addressed in the application in my view. Similarly, with respect to peat stability, the EIAR sets out in detail why there is little risk of this, but with mitigation also described to control any unlikely effects. Therefore, I do not agree with the Local Authority that further investigation is required of this matter, which is substantially addressed in the EIAR. The Local Authority also state that they are not satisfied that the proposed development would not negatively impact upon the ability of water bodies in the vicinity of the proposed development to achieve the relevant water quality status, linking this to the carrying out of works outside of bird breeding season. I have also addressed this matter as part of my AA in section 8 above. In short, I am satisfied that mitigation is sufficient in this regard. Including measures that works take place in dry weather and that roads will be reinstated with a finish to the satisfaction of the

local authority. I am therefore content that no significant negative impacts are predicted to arise with the application of this mitigation.

- 9.52. I concur with the conclusions of the EIAR with respect to lands, soils, geology, hydrogeology, hydrology and air quality as described above, and consider that with the application of mitigation as described, impact will be within acceptable parameters.
- 9.53. Noise and vibrations
- 9.54. Chapter 11 'Noise' of the EIAR addresses noise and vibration and includes description of a baseline noise survey of the site, as well as relevant applicable guidance with respect to noise and vibration.
- 9.55. The construction process is not considered intensive and is temporary works, most of which being carried out a considerable distance from receptors. The main noise sources will be associated with construction of the turbine foundations, hardstands, grid connection, extraction and processing in the burrow pit, with lesser sources being site access roads, construction of the substation, compound and widening of a road along the turbine delivery route. Noise will also result from vehicles delivering to the site. Decommissioning is predicted to result in similar impact. In the absence of mitigation, these activities would result in not significant, negative, temporary effect. During operational phase, an assessment of predicted noise levels against noise limits in the Wind Energy Development Guidelines 2006 is presented in the EIAR. The predicted noise levels at all receptors are lower than the noise limits in all cases, at all wind speeds, and therefore not significant in terms of EIA. Additionally, cumulative impact is demonstrated in the EIAR to not exceed noise limits.
- 9.56. The main vibration impact will result from blasting in the burrow pit, as well as air overpressure. This activity is proposed in excess of 600m from the nearest receptor, and at this distance, is not predicted to result in significant effects.
- 9.57. Mitigation is described from section 11.17. No significant residual effects are predicted to result in the EIAR with respect to noise and vibration arising from the project and I concur with this conclusion.
- 9.58. Material assets (land use, telecommunications, electricity networks, air navigation, quarries, and utilities)

- 9.59. Chapter 13 of the EIAR concerns 'Material Assets and Other Issues'. Topics covering included land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste).
- 9.60. In terms of commercial forestry and agricultural land use, no significant impacts are predicted. Potential impact relates to loss of use of the land for forestry or agricultural activities. Mitigation includes avoidance, the channelling of cables underground, the use of existing forestry roads and accesses, and the management of construction works through a CEMP as well as communication around access to lands if effected by construction activities.
- 9.61. In relation to telecommunications, the EIAR confirms that all electrical elements of the development are designed to ensure compliance with electro-magnetic fields (EMF) standards for human safety. Potential impact relates to obstruction to telecommunication links. Mitigation is in the form of avoidance, with known routes of telecommunications links plotted and a buffer applied, outside of which the proposed turbines are located. The Developer will also accept financial responsibility for any remedial measures required should negative impact result. No significant residual effects are predicted upon telecommunications with the implementation of mitigation.
- 9.62. For electricity networks, there will be no impact on the overhead network. Potential negative impact relates to disruption not networks. However, the development will contribute directly and in the long term to the electricity network through additional renewable energy. Mitigation by design and avoidance minimise impacts on existing electricity networks. No significant negative impact on the grid connection or network are anticipated. Long-terms slight positive residual impact on transmission infrastructure in the area is predicted with no impact on distribution.
- 9.63. With regards to air navigation, potential impact relates to obstruction of aviation activities due to cranes or turbine heights. No significant effects are predicted; however mitigation is still intended in a precautionary approach and includes an aeronautical lighting scheme and communication with the Irish Aviation Authority of intention with regards to turbine locations and commencement of crane operations.
- 9.64. For quarries, the construction of the development will impact on natural resources such as aggregates sourced from quarries. Mitigation includes the use of existing tracks where possible, use of an on-site borrow pit, use of local quarries and use of

stone chemically similar to that occurring at the site. With the application of mitigation, no significant negative impact on local quarries is anticipated. There will be a slight permanent negative residual impact on natural resources in the area.

- 9.65. Utilities are addressed in section 13.10 of the EIAR. There is no potential for impact upon the gas network as there are no existing gas services within the project area. No detailed information was provided by Irish Water or the County Council in relation to water services and therefore it is assumed that there is no potential for encountering local water services. The locations of watermains, fire hydrants, metres and sluice valves are recorded as part of the survey for the grid connection route. The potential for impact upon water services is assessed as part of hydrology and hydrogeology, as well as population and human health above. In relation to waste, the EIAR calculates estimated waste production as a result of construction, operation and decommissioning of the development. Waste will arise from staff facilities, sewage, use of concrete, use of hazardous waste, refuelling, packaging, metals and excavated materials. Mitigation is set out in section 13.10.6-7 and relates to mitigation already set out with respect to water above in this EIA, and measures to limit the production of, and manage the disposal of, waste. No significant residual effects are identified with the implementation of mitigation.
- 9.66. No cumulative impacts are identified for any of the aforementioned material assets. No significant residual effects are predicted to result in the EIAR with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project and I concur with this conclusion.
- 9.67. Material assets (traffic and transport)
- 9.68. Chapter 15 of the EIAR addresses 'Traffic and Transport'. This sets out a description of the project with respect to transportation considerations and identifies any sensitive receptors to transportation impacts. Road access to the site is considered from section 15.3.3 and includes a detailed description of the vehicular route to the site and how access would take place from the N22, utilising an existing forestry access that is proposed to be upgraded as part of works under the appeal scheme. Photos are also included to illustrate the access point. The EIAR states that when exiting the site, vehicles associated with turbine delivery will exit and turn left onto

the N22, then turn right at the northern end of the existing island junction at Cumeenavrick and complete a 180 degree turning manoeuvre and continue on the N22. This manoeuvre is further described on page 35 of the EIAR as follows:

“...For slow moving HGV’s leaving the site on the forest track construction haul route, a right turn would have to cross the eastbound overtaking lane, which is considered to be a potentially dangerous manoeuvre. To address this, the empty turbine delivery HGV’s will turn left onto the N22, then turn right at the northern end of the existing island junction at Cummeenavrick and complete a 180 degree turning manoeuvre and continue on the N22 (see figure 15.1). In addition, it is proposed that a ‘stop’ sign and a ‘no right turn’ sign and road markings will be placed at the exit from the forest road and the N22 such that HGV’s only turn left (westwards) and will turn around at the former N22 area at Cummeenavrick which is c.2.km from the wind farm (see Appendix 15.1).”

9.69. Existing traffic volumes are described from section 15.3.6 with average counts described from 2019 and 2022. Predicted traffic volumes are also described for the assumed construction year 2026, up to 2030. The total number of HGV loads and abnormal loads associated with the project is estimated to be 3,040. These movements would take place over a 21 month period, with an estimated maximum peak of 359 trips during month 10, with an average of 16 HGV trips per a day in this period. For staff worker / light good vehicle movements, it is estimated that 60 trips a day would result. Overall, the EIAR concludes that the effects on the local road network during construction associated with HGV trips can be predicted to be direct, negative, negligible to minor (depending upon the section of road as detailed in the EIAR section 15.5.3), and short-term in nature. Negligible to low impact is also predicted with respect to movements associated with staff workers. No significant impact is predicted with respect to air quality, noise / vibration, pedestrians / vulnerable road users, driver delay and severance. Potential nuisance arising from debris from HGVs leaving the site, such as mud, stones etc. is predicted to generate direct, negative, minor, short-term effect in the absence of mitigation. During operation, while the wind farm will normally be unmanned, regular visits to the site will be necessary for maintenance and routine inspections, generally attracting 1-2 visits to the site per a week. More intensive visits would be required in the case of turbine breakdown or repair. Impact is predicted to be imperceptible upon traffic

during normal operational times, however if more major works are required to turbines, slight, temporary, short-term effects would result. Impact during decommissioning would be less than that during construction phase.

- 9.70. Mitigation is set out in section 15.6 of the EIAR. A Traffic Management Plan is attached to the CEMP for the project. With respect to access and egress from the site, the EIAR confirms on page 56 that “All the traffic to the wind farm site will approach from the east such that they turn left at the forest access. All traffic leaving the site will turn left only and, if required, can turn around at Cummeenavrack turning area. Signage and road markings will be provided to facilitate/promote these manoeuvres.” Additional mitigation measures to minimise and control the impact upon traffic and transportation are also outlined.
- 9.71. Cumulative effects are addressed from section 15.7 of the EIAR. There are six wind farms that are planned for development, but not yet constructed, which will use the N22 and have potential for similar impact during their construction phases. Two of these have planning consent. If the construction phases of the consented but not yet constructed windfarms were to overlap, then there is potential for cumulative effects on the road network from construction traffic and turbine delivery. However, as these developments are already consented, they are likely to be constructed prior to the project subject to this appeal. Such impact is considered to be slight to moderate of short duration. Cumulative effect could arise in the event that repair or replacement works were undertaken at a constructed wind farm during the construction works for the project, however such effect is considered of low probability, slight impact and of short duration. Traffic during the operational periods of Inchamore Wind Farm as well as neighbouring sites will be low and predicted to be insignificant. It is unlikely that any significant cumulative impact would arise during decommissioning as the operational life of proximate wind farms will vary.
- 9.72. Overall, the EIAR anticipates that effects of the project upon traffic and transport will be not significant with the application of mitigation measures.
- 9.73. I specifically address the Local Authorities reason for refusal with respect to traffic and the N22 national road (as well as TII’s observation) in section 7 as part of my planning assessment above which should be read in conjunction with this part of my EIA. In summary, I am satisfied that no right turn site entry manoeuvres are

intended, with reference to extracted text from the EIAR above, and that the carrying capacity of the national road will not be adversely affected by the projected.

Satisfactory mitigation is described to ensure safe access and egress to this existing access (to be upgraded) on the N22. I concur with the conclusions of the EIAR in relation to traffic and transport impact arising from the proposed development during both construction and operational phases, and I am satisfied that no significant adverse impact is predicted.

9.74. Archaeology and cultural heritage

9.75. The EIAR describes Cultural Heritage in Chapter 14. This describes a detailed description of the archaeological, architectural and cultural heritage of the site and surrounding area. The site contains one field boundary field and an enclosure site, both of which are located within Inchamore townland area between turbines 1 and 2. These are both situated c.150m away from any proposed construction areas. The surrounding 1km study area also contains two archaeological sites of potential or likely Bronze Age date. A review of the landscape extending for 10km from the wind farm site revealed the presence of various extant prehistoric monuments of probable Bronze Age origin which have likely ritual alignments across the wider landscape, and comprise five stone circles, thirteen wedge tombs, two unclassified megalithic structures and one row. One of these has a recorded alignment facing towards the site, a wedge tomb. There is one potential early medieval site located within the study area and comprises a holy well in Inchamore townland, c.670m south of the redline boundary for the project. During field surveys, two potentially previously unrecorded archaeological features noted during inspections c.40m north of turbine 2 are detailed, comprising an upright stone and nearby small arc of surface stones which may form the remains of a potential hut site. These features would remain in situ and are both c.30m outside of the redline boundary. Two farm buildings are shown within the site on the historic OS maps, one has since been levelled and a farmyard is located in its place, while the other is derelict. There is no construction proposed within 110m of this derelict farm building. There are no designated architectural structures located within the site and no undesignated features of cultural heritage interest within proposed construction areas.

9.76. In terms of potential impact, no direct impact upon cultural heritage is identified. There is low potential for the presence of unrecorded archaeological features within

construction areas on the site, which requires mitigation to prevent negative effect. With respect to the two recorded archaeological sites within the project site, the settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. No other impact upon recorded archaeological monuments within 1km of the site are predicted. As the project site is located within the Múscaí Gaeltacht area, the arrival of construction works to the area, will result in negligible, indirect, not significant impact on the Irish Language or cultural heritage of the Gaeltacht area during the construction phase. The operational phase of the project will result in no predicted direct physical impact upon known archaeological, architectural and cultural heritage resource. The operational phase will however result in a range of indirect negative visual impacts on the setting of a number of recorded archaeological sites, ranging from not significant to moderate in significance. Overall, while the turbines within the site will be visible from various cultural heritage assets in the surrounding landscape, no likely significant, indirect impacts on examples with notable visual or amenity sensitivities are predicted during the operational phase.

- 9.77. Mitigation is set out in section 14.5 of the EIAR and includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. In addition, any signage erected within the public realm during the construction phase will include Irish and English text. With the application of mitigation, no predicted significant, direct, indirect or cumulative effects are anticipated upon cultural heritage resource (including archaeology).
- 9.78. I concur with the conclusions of the EIAR in relation to cultural heritage and archaeology arising from the proposed development during both construction and operational phases, and I am satisfied that with the application of archaeological mitigation, which is known to be effective, no significant adverse impact is predicted.
- 9.79. Landscape and visual
- 9.80. A landscape and visual impact assessment is described in Chapter 12 of the EIAR. This describes the existing baseline condition of the landscape context for the project site and a wider study area. Areas with a scenic designation under either the Kerry or Cork County Development Plans are addressed in the EIAR. There are 24 viewpoints assessed in order to determine potential effects. Negative effects ranging

from imperceptible, neutral, slight to moderate are identified with reference to each relevant viewpoint. There are no viewpoints specifically related to the elements of the development subject to this current appeal, specifically relating to the works to vehicular access from the N22 and internal roads. In terms of cumulative effect, the contribution of the project to cumulative impact is concluded to be low. There are no significant effects upon landscape and visual impact anticipated as part of the project.

9.81. The interaction between the above factors

9.82. Chapter 17 of the submitted EIAR is entitled 'Interactions of the foregoing and a summary of mitigation measures'. Table 17.2 of the EIAR highlights the potential for interactions between topic areas. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures contained in the EIAR, I am satisfied that residual impact resulting from interaction between all factors is minimised.

9.83. Cumulative impacts

9.84. The proposed development would occur in tandem with the development of other sites that are in the area. Such development would reflect land uses envisaged under the city development plan which has been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in Chapter 1 and Appendix 2.4 of the submitted EIAR.

9.85. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The potential cumulative impacts primarily relate to nuisances (such as emissions, traffic etc) arising from the construction of the development, with other planned or existing projects, and each of the EIAR chapters has regard to these in the assessment and mitigation measures proposed. It is concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

9.86. Reasoned Conclusion on the Significant Effects

- 9.87. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:
- 9.88. **Population and human health** – Short term positive economic and employment impact during construction phase, with long-term positive economic effect during operation resulting from a high-quality energy supply. Slight negative impact is anticipated from traffic noise, volume and dust during construction. With the application of mitigation, largely comprising implementation of a Construction Environmental Management Plan, no significant residual effect upon human health / safety is expected. In addition, with the implementation of mitigation, and installation of a blade shadow control system, the project will not result in significant impacts upon population in relation to shadow flicker.
- 9.89. **Biodiversity** – Slight to moderate significant negative residual effect identified relating to bats and birds, and significant adverse impact resulting from the loss of wet heath and blanket bog habitat. The impact upon bats and birds would not be at a population level. Mitigation measures include control of water quality control; an Ecological Clerk of Works; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones; protection of bats; measures to minimise impact upon Kerry Slug; implementation of a Habitat Enhancement Plan; measures to reduce collision risk and monitoring. The significant effect to wet heath and blanket bog habitat will also be adequately compensated through implementation of a Habitat Enhancement Plan for the project.
- 9.90. **Land, soils, geology, water, air quality or climate** - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, there is no risk of significant negative impacts.
- 9.91. **Noise and vibration** – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and

abatement of noise during construction and the implementation of a Construction Environmental Management Plan.

- 9.92. **Material assets (land use, telecommunications, electricity networks, air navigation, quarries, and utilities)** - Mitigation includes avoidance, implementation of measures through a Construction Environmental Management Plan for the project, aeronautical lighting/communications, and measures to protect water and limit the production of waste. No significant residual effects are predicted to result with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project.
- 9.93. **Material assets – traffic and transportation** – Direct, negative, negligible to minor impact, that is short-term, will arise during the construction phase. With respect to mitigation, a Traffic Management Plan is attached to the Construction and Environmental Management Plan for the project. No right turn entry is proposed and mitigation includes signage and road markings to prevent such manoeuvres.
- 9.94. **Archaeology and cultural heritage** – No direct impact upon cultural heritage and low potential for the presence of unrecorded archaeological features on the site. With respect to two recorded archaeological sites within the project site, the settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. Mitigation includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. With the application of mitigation, no predicted significant effects are anticipated upon cultural heritage resource (including archaeology).
- 9.95. **Landscape and visual impacts** – Negative effects ranging from imperceptible, neutral, slight to moderate are identified. Cumulative impact is concluded to be low. There are no significant effects upon landscape and visual impact anticipated as part of the project.
- 9.96. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

10.0 Conclusion

I am satisfied from the information submitted with the application and appeal that there would not be adverse impact upon the carrying capacity of the N22 arising from the wind farm project. In addition, no intensification of use of the existing access (that is proposed to be upgraded) will result from operation of the wind farm project. There will be short-term temporary increases in traffic movements over the access during the construction phase that will be appropriately mitigated through the application of measures in a traffic management plan as part of a construction management plan for the project. The proposed development for upgraded access and roads to serve a wind farm project is in accordance with principles set out in the 'Spatial Planning and National Roads; Guidelines for Planning Authorities' 2012, and Objectives KCDP 14-23, 14-29 and 14-30 of the Kerry County Development Plan 2022-2028.

- 10.1. With reference to the findings of my AA in section 8 and EIA in section 9 above, I am satisfied that the proposed mitigation for the project is satisfactory and the development subject to this appeal accords with Kerry County Development Plan 2022-2028 requirements under Objectives KCDP 11-1 and KCDP 11-2. Overall, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA, or any other European site, in view of the sites Conservation Objectives.

11.0 Recommendation

- 11.1. I recommend that planning permission should be GRANTED for the proposed development for the reasons and considerations set down below, and subject to the attached conditions.

12.0 Reasons and Considerations

- 12.1. Having regard to the nature and scale of the proposed development, mitigation measures proposed for the construction, and operation of the site and subject works,

the planning history including the current application before Cork County Council for a proposed renewable energy development (Reg Ref 23/5145), and the policies and objectives of the Kerry County Development Plan 2022-2028, it is considered that subject to compliance with the conditions set out below, the proposed development would not have a significant negative impact on the water quality downstream and would not have a serious adverse impact on the conservation objectives of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC [000365], the carrying capacity of the N22 or create safety concerns with regards to access from the national road. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 interests of clarity and of proper planning and sustainable development of the area.</p>
2.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report and NIS submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>

3.	<p>Details to be submitted to the Planning Authority and approved in writing prior to commencement of the development, confirming the incorporation of recommendations set out in the Road Safety Audit for the development.</p> <p>Reason: In the interest of traffic safety.</p>
4.	<p>In the interest of clarity, no right turn entry movements are permitted from the N22 national road into the development site.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Road upgrades and surfaces shall be finished to the satisfaction of the planning authority at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to ensure a satisfactory standard of development.</p>
6.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including (but not limited to):</p> <ul style="list-style-type: none"> a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Hours of development and building works, and periods when high noise generating activities will be undertaken;

	<p>e) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site, and to specifically mitigate impact upon the national road;</p> <p>g) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>m) A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
8.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
9.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and</p>

geotechnical investigations) relating to the proposed development, and
(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

18th December 2023