



An
Bord
Pleanála

Inspector's Report ABP-318507-23

Question

Whether the replacement of nacelle components on 2 no. wind turbines is or is not development and is or is not exempted development.

Location

Kilvinane Wind Farm, Kilvinane,
Dunmanway, Co. Cork.

Declaration

Planning Authority

Cork County Council (West)

Planning Authority Reg. Ref.

D/37/23

Applicant for Declaration

Cork Sustainable Energy Ltd.

Planning Authority Decision

No declaration made

Referral

Referred by

Cork County Council (West)

Owner/ Occupier

Cork Sustainable Energy Limited

Observer(s)

None.

Date of Site Inspection

23 September 2024

Inspector

Claire McVeigh

Contents

1.0 Site Location and Description	3
2.0 The Question	3
3.0 Planning Authority Declaration.....	3
3.1. Declaration.....	3
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy Context.....	7
6.0 The Referral.....	8
7.0 Statutory Provisions.....	10
8.0 Assessment.....	11
9.0 Recommendation.....	17

1.0 Site Location and Description

- 1.1. Kilvinane Wind Farm, Kilvinane, Dunmanway, Co. Cork is a small windfarm located in a rural area approximately 8 kilometres east of Dunmanway. The windfarm comprises three no. turbines (T1, T3 and T4), a substation and associated access roads. Turbine T2, as originally permitted was never constructed (please see planning history in section 4.0).
- 1.2. T1 (0.85 MW) has a hub height of 55m and a rotor diameter of 58m giving a maximum blade tip height of 84m. T3 and T4 (2x 2MW) have a permitted hub height of 60m and a rotor diameter of 80m giving a turbine blade tip height of 100m. Drawing no. 122004-221 provide a wind turbine elevation for both T3 and T4, the turbines subject of this section 5 referral.

2.0 The Question

- 2.1. Whether the proposed replacement of equivalent 2 MW nacelles components with corresponding external dimensions and operational characteristics (No change to hub height, blade tip height or power output) on 2 no. wind turbines, is or is not development **and** is or is not exempted development.
- 2.2. Application documents include a planning statement, method statement, Appropriate Assessment (AA) screening, ecological report, site location maps, site layout maps, wind turbine elevation drawing, Gamesa G80 brochure and Vestas V80 brochure.

3.0 Planning Authority Declaration

3.1. Declaration

No declaration has been made. Report from the Senior Planner, dated 26 October 2023, indicates that there is a differing of opinion between the applicants and the planning authority. The report of the area planner recommends that the question be referred to An Bord Pleanala under section 5 (4).

3.2. Planning Authority Reports

3.2.1. Planning Reports

Area Planner considers the replacement of nacelle is development and is not exempted development on the grounds that:

- The planning authority previously considered that there is no provision for exemption for the proposed works in wither section 4 of the Planning and Development Act, 2000 (as amended) or article 6 of the Planning and Development Regulations, 2011 (as amended).
- The planning authority considers that to issue a section 5 declaration would subvert mandatory requirements of the Act and as such would be a material departure from the permission granted (04.SU.0135).

Concludes that given this is the second application for exempted development by the applicants within 12 months and the conflicting opinions between the applicants and the planning authority that a determination be requested from An Bord Pleanala.

4.0 Planning History

Reference	Description	Decision and Date
Planning Applications		
Planning register reference 01/980 PL04.127137 (T1, T3 and T4)	The construction of 4 no. wind turbines at Kilvinane and Garranure, Ballinacarriga, Dunmanway. Co. Cork *only 3 of the 4 turbines were constructed.	Grant of permission 19/07/2002
Planning register reference 07/1892	Extension of duration of permission.	05/09/2007
Planning register reference 10/342	Extension of duration of permission.	28/06/2010

Planning register reference 10/781 and PL88.239280	Alterations to the existing windfarm constructed pursuant to PL04.127137. T1 replacement of the Gamesa G58 850 KW wind turbine with a larger turbine with maximum hub height of 67m and rotor diameter of 90m. T2 replacement of the permitted turbine with a larger turbine with a maximum hub height of 67m and rotor diameter of 90m T5 the erection of a new turbine with a maximum hub height of 67, and rotor diameter of 90m.	Refuse permission 06/11/2012.
Planning register reference 11/676 and PL88.240143	T3 and T4 – replacement of the existing Gamesa G80 2 MW wind turbine with larger turbine with a maximum hub height of 67m and rotor diameter of 90m	Refuse permission 06/11/2012.
Substitute consent 04.SU.0135 Relating to planning register reference:(01/980)	Development of a wind farm	Grant of substitute consent 02/03/2017.
Section 5 Declarations and Referrals		
PL88.RA2011	Whether an application for development (Reg. Ref: 11/625) is the same development as that which is subject of appeal PL 88.239280.	No Board jurisdiction 27/10/2011
PL88.RA2013	Whether an application for development (Reg.Ref: 11/676) is the same development, or for development of the same description as that which is subject of a current appeal PL 88.239280.88.	No Board jurisdiction 12/12/2011

<p>Section 5 D/14/11 and Referral 88.RL.2891</p>	<p>Whether the alterations to the turbines of the windfarm as constructed, (Reg Ref 01/0980, ABP Ref PL04.127137), is or is not development and is or is not exempted development.</p>	<p>The erection of the turbines was development per S. 3 of PDA, 2000</p> <p>The relocation of and alterations to turbines did not come within the scope of the extant permission,</p> <p>There was no provision for exemption for the said relocation and alterations provided for in either Section 4, as amended, of the said Act or Article 6 of PDR, 2001 on the 23/12/2011.</p>
<p>Section 5 D/22/22 by Cork County Council</p>	<p>Replacement of existing nacelle and blades on two of the existing turbines (T3 and T4) at Kilvinane Windfarm with two newly refurbished Vestas V80 2MW nacelles and blades. The scope of works includes minor remedial works to the existing crane hardstanding areas, minor earthworks in the vicinity of the existing reinforced concrete turbine foundations to facilitate an inspection of the integrity of the foundations and complete any remedial works to foundations.</p>	<p>The proposal constitutes development and is not exempted development.</p> <p>13/09/2022</p>

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The subject site is unzoned land located in the West Cork Strategic Planning Area.

- Section 8.21.1 Renewable energy projects can contribute to the diversification of the rural economy and benefit local communities. The Council will support the provision of appropriate renewable energy proposals in accordance with the provision of the plan, and in particular, the objectives of Chapter 13 Energy and Telecommunications.
- Chapter 13 Energy and Telecommunications outlines the overall policy and national renewable energy targets on renewable energy and notes the wind energy capacity in County Cork.
- Wind Strategy Map – **Open to Consideration** designation.
 - **Section 13.6.7 Open to Consideration’:**
 - **County Development Plan Objective ET 13-7: Open to Consideration** Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:
 - Residential amenity particularly in respect of noise, shadow flicker and visual impact;
 - Urban areas and Metropolitan/Town Green Belts;
 - Natura 2000 Sites (SPA’s and SAC’s), Natural Heritage Areas (NHA’s), proposed Natural Heritage Areas and other sites and locations of significant ecological value.
 - Architectural and archaeological heritage;
 - Visual quality of the landscape and the degree to which impacts are highly visible over wider areas. In planning such development, consideration should also be given to the cumulative impacts of such proposals.

- Scenic Route S31 Road between Ballineen and Ballincarriga to Dunmanway

5.1.1. Other

- Wind Energy Development Guidelines (2006)
- National Energy and Climate Plan 2021-2030
- Climate Action Plan 2024
- Cork Climate Action Plan 2024-2029

5.2. Natural Heritage Designations

Proposed Natural Heritage Area: Bandon Valley South of Dunmanway (Site Code 001035) and Special Area of Conservation (SAC) Bandon River SAC (Site Code 002171) is approximately 4km west of the subject site.

6.0 The Referral

6.1. Referrer's Case

The planning authority, Cork County Council (West), have referred the question as received from Cork Sustainable Energy Limited to the Board for decision, no declaration was made. The referrer's case made by Cork Sustainable Energy Limited is based on a consideration of the proposal constituting 'works' by reason that the replacement of the nacelle components represents an 'alteration' to the existing permitted wind turbines. It is put forward that the proposed works comprise alterations to a structure in line with section 4(1)(h) of the 2000 Act (as amended).

Section 4.2 of the submitted section 5 declaration request provides an assessment of the 'materiality' or 'significance' of the proposed works, with reference to the decision of the courts in *Kenny v. Dublin City Council* [IESC 9], *Cork County Council v. Cliftonhall Ltd.* [IEHC 85] and *Cork County Council v. Slattery Pre-cast Concrete Ltd.* [IEHC 291], having regard to the following:

- The context/need for change
- How the proposed replacement components relate to the information submitted to and approved by An Bord Pleanála
- Potential impacts – including third party impacts (and public safety), visual impact, traffic impact, material change or intensity of use, potential impact on the general amenities of the area and other impacts.
- Whether the change is a ‘*de minimus*’ or immaterial departure from the approval granted by An Bord Pleanála.

Summary of case law provided to support the referrer’s case.

- Cronin (Readymix) v. An Bord Pleanála & Ors [2017] 2I.R. 658
- McCabe v. CIE [2006] IEHC 356
- Dublin Corporation v. Lowe and Signways Holdings Limited [2004] IESC 106

Subsequent submission received, 4 December 2023, from Cork Sustainable Energy Limited following referral to the Board to convey the ‘*strategic importance of this forthcoming decision*’, in summary:

- To achieve accelerated renewable electricity generation, CAP 23 highlights the need for a flexible and supportive planning policy framework and recognises that renewable energy generation projects and associated infrastructure must be considered to be in the overruling public interest.
- The importance of the renewable energy sector to the implementation of legally binding national climate change targets cannot be understated.
- As with any industry reliant on plant and machinery, routine maintenance at wind energy installations occasionally requires the replacement of parts to ensure optimal and continued operation in a safe and effective manner.
- The decision in this matter will have far-reaching consequences within the State, providing greater certainty for all windfarm operators and for planning authorities, as to the planning implications, if any of carrying out maintenance

works that include replacement of wind turbine components with like for like parts.

6.2. Planning Authority Response

- None received.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 2 – Interpretation

'development' has the meaning assigned to it by section 3 and *'develop'* shall be construed accordingly.

'exempted development' has the meaning specified in section 4.

'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure

'alteration' includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

'structure' means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate, and...

Section 3 – Development

Section 3 (1). In this Act, except where the context otherwise requires, ‘*development*’ means—

- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
- (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).]

Section 4 – Exempted Development

Section 4 (3) A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1) or (1A), or
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

Section 4(1)(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures

Section 4 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

8.0 Assessment

The purpose of this referral is not to determine the acceptability or otherwise of the proposed replacement of the existing nacelle components on the two Gamesa 2MW turbines (T3 and T4) with two newly refurbished Vestas V80 2MW nacelles in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

8.1. Is or is not development

- 8.1.1. The question put forward related to whether the replacement of the existing nacelle components to two no. turbines (T3 and T4) is in the first instance development or is not development, as considered in this section, and then secondly if it is development is the development exempted or not exempted development, section 8.2 relates.
- 8.1.2. The first question to consider is whether or not the proposal constitutes 'development' under the definition in the Planning Act. Section 3 (1) of the Act defines 'development' as the 'carrying out of any works on, in, over or under lands or the making of any material change in the use of any structures or other land'.
- 8.1.3. The referrer provides an overview of the scope of the proposal in section 3 of the submitted Section 5 Declaration Request. The scope of works is confined to the replacement of the existing nacelle components on the turbines referred to as T3 and T4 in Kilvinane Windfarm, as compared with a previous section 5 request D/22/22 as detailed in section 4 of my report which included replacement blades, remedial works to hardstanding areas, earthworks to expose and facilitate an inspection of the integrity of the existing foundations and remedial works as necessary.
- 8.1.4. The nacelle component is explained as being found at the top of the turbine tower and accommodates the mechanical and electrical control unit, which generates electricity from the moving blades. The reason given for their replacement is stated that these units have become unreliable due to long term operation. The submitted method statement outlines that the '*... O & M operator has advised that nacelles components are at the end of their life and require replacing*'. It is stated in the referrer's submission that the Gamesa G80 2MW wind turbines are no longer supported by the turbine manufacturer and this has presented significant difficulties for the windfarm owners and operators sourcing replacement parts. It is for this reason that the proposal is now to replace the nacelle on the existing two Gamesa G80 2MW with two Vestas V80 2MW nacelles.
- 8.1.5. The referrers submission states that the two Vestas V80 2MW will have the exact same dimensions and operating parameters as the Gamesa G80 2MW nacelles, they will be of equal scale and dimensions, have a like for like profile and

appearance as the current nacelles and will be prepared off site before installation on site. I note the method statement submitted from Cork Sustainable Energy Limited which states that it is not possible to reuse the existing nacelle as the maintenance cannot be carried out in-situ for health and safety reasons. It is proposed that a like for like nacelle is prepared off site and replaced during the same works as taking the existing nacelle down, this will reduce the time spent working at height and subsequently reduce health and safety risks. The proposal includes the following:

- A crane will be delivered to site using the existing site infrastructure and hard stand.
- Existing blades will be removed, and the old nacelle component lifted off and replaced with a reconditioned nacelle which is the best available nearest equivalent as the current nacelle. Like for like profile and appearance and the existing nacelle support frame will be reused.
- Existing blades will be reattached to the hub and the turbine powered on.
- No physical works are required to accommodate this replacement on site or to the local roads.
- Works are forecast to take 12-14 days followed by approximately 16 days for completing all mechanical and electrical testing, cleaning and full service of both turbines. Work to be conducted during standard business hours on weekdays.

8.1.6. In terms of determining whether the proposal constitutes 'works' I would be of the view that the proposal to replace the existing nacelle components constitutes works over and above ongoing minor maintenance. Having regard to the interpretation of 'works' which includes alteration I am of the opinion that the replacement of the existing nacelle component with a new nacelle component represents an alteration of the structure as part of the repair and renewal of the existing turbines. As such, the proposal constitutes 'works' as defined in section 2 of the 2000 Act (as amended) and, therefore, is development.

8.2. Is or is not exempted development

8.2.1. Having regard to the determination that the proposal is development I shall now assess whether or not it comes within the scope of the provisions for exempted development as set out in section 4 (1) of the Act.

8.2.2. The referrer has put forward their planning consideration that the proposed works comprise alterations to a structure in line with section 4(1)(h) of the Act which allows for: -

development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

8.2.3. I would consider that the proposed works comprising changing the nacelle component of turbines T3 and T4, from a model called Gamesa G80 2MW to a Vestas V80 2MW, as an alteration of the structure as part of repair and renewal operation works could possibly be considered in light of the exemption provision of 4 (1)(h) subject to whether the works materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures.

8.2.4. To assist my assessment of whether the works materially affect the external appearance of the structure I acknowledge the referrer's assessment of materiality in section 4.2 of their 'Section 5 Declaration Request' document and acknowledge the case law provided to support their methodology, as noted in section 6.1 above. I would agree that taking such an approach to the consideration of materiality, which I note is in relation to deviation from the terms of a planning permission I nevertheless consider there is value to the approach taken and its applicability to this particular section 5 referral. In this respect as summarised in Browne's Simons on Planning Law (2021) the Court of Appeal held in *Bailey v. Kilvinane Wind Farm Ltd* [2016] IECA 92 that the question of material/non-material deviations from the terms of an existing permission should be approached in a practical and common-sense perspective. The relevant tests are identified as: is the deviation of such materiality

that it would realistically impact on the rights or interests of third parties or be such as would affect planning considerations?

8.2.5. Having regard to section 4(1)(h) the specific test is whether the works materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures. I note from the submitted Section 5 Declaration Request report that the proposed replacement apparatus will have:

- The same generating capacity/energy output as that proposed to be replaced (2MW),
- No alteration to the hub height and turbine blade height,
- The existing blades proposed to be re-used,
- There will be no alteration to the turbine sound power level or noise emissions,
- The nacelle components, their scale, dimensions, materiality and colour of the nacelle covers will be visually consistent with the technical specification with those proposed to be replaced.

The referrer highlights, section 4.2 of the submitted report, that ESB has approved the proposed works and confirmed that, as the replacement refurbished nacelle is the best available like for like equivalent on the market, there are no changes to the network connection or infrastructure required to facilitate the works. I highlight for the Board that no correspondence from ESB is submitted on file to evidence this statement.

8.2.6. Having regard to the submitted information on the file with respect to the nature and scale of the proposed replacement nacelle components, the submitted brochures and technical specification of both the Gamesa G80 2MW and the Vestas V80 2MW, and having carried out my site inspection of the existing turbine structures T1, T3 and T4 at Kilvinane Wind Farm, applying a practical and common-sense approach, I consider that the proposed nacelle replacements would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures. As such, the proposed works meet the provisions of section 4(1)(h) for exempted development.

8.2.7. In my assessment, I accept the bone fides of the submitted details in respect to the statement that there will be no change to noise emissions. Notwithstanding, I acknowledge that noise emissions are subject to compliance with conditions under SU04.SU0135.

8.2.8. Separately I note the referrers commentary on the previous section 5 decision by Cork County Council in respect of D/22/22. I consider that the scope of works contained in that reference to be broader than what is contained in this subject referral and, as such, in my opinion does not provide a precedent case.

8.3. Restrictions on exempted development

8.3.1. See assessment contained in section 8.4 and 8.5.

8.4. Environmental Impact Assessment (EIA) Preliminary Examination

8.4.1. Development in respect of which an environmental impact assessment or appropriate assessment is required cannot be exempted development (Section 4(4) of the Planning and Development Act 2000 (as amended)). Schedule 5, Part 1 and Part 2 of the Planning and Development Regulations, 2001 (amended) sets out specified development for which EIA is mandatory and development which requires screening for EIA.

8.4.2. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. An EIA screening determination or an EIA, therefore, is not required.

8.5. Appropriate Assessment

8.5.1. An Appropriate Assessment Screening report, submitted by Cork Ecology,

8.5.2. Please see Appendix 3 - Screening the need for Appropriate Assessment.
Screening Determination

8.5.3. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European

Sites namely, Bandon River SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.5.4. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak indirect connections to the European sites

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the proposed replacement of equivalent 2 MW nacelles components with corresponding external dimensions and operational characteristics (No change to hub height, blade tip height or power output) on 2 no. wind turbines, is or is not development and is or is not exempted development:

AND WHEREAS Cork Sustainable Energy Limited requested a declaration on this question from Cork County Council on the 29 day of September 2023,

AND WHEREAS Cork County Council referred this declaration for review to An Bord Pleanála on the 20 day of November, 2023:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,

- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) the planning history of the site,
- (e) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed replacement of two nacelle components constitutes development as defined under section 3(1)(a) of the Planning and Development Act 2000 (as amended),
- (b) The proposed replacement of the two nacelle components with like for like refurbished components would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures and meets with the provisions of section 4(1)(h) of the Planning and Development Act 2000 (as amended), and
- (c) Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations there is no real likelihood of significant effects on the environment arising from the proposed development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the proposed replacement of equivalent 2 MW nacelles components with corresponding external dimensions and operational characteristics (No change to hub height, blade tip height or power output) on 2 no. wind turbines is development and is exempted development.

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.

Claire McVeigh
Planning Inspector

07 October 2024

**Appendix 1: Form 1
EIA Pre-Screening
[EIAR not submitted]**

An Bord Pleanála Case Reference	318507-23		
Proposed Development Summary	Whether the replacement of nacelle components on 2 no. wind turbines is or is not development and is or is not exempted development.		
Development Address	Kilvinane Wind Farm, Kilvinane, Dunmanway, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	√		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No			
Yes	√	The substitute consent application with remedial EIA (rEIS) was considered by the Board under ABP Ref 04.SU.0135 taking into account Class/Threshold Class 3(i) Energy Industry Part 2 of Schedule 5 of the Planning and development Regulations 2001 (as amended). Class 13. Changes, extensions, development and testing (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class	The purpose scope of works will not alter the development as permitted and will not increase the total output of the windfarm. Proceed to Q.4

	listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than - - 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.		
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4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2: Form 2 EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318507-23	
Proposed Development Summary	Whether the replacement of nacelle components on 2 no. wind turbines is or is not development and is or is not exempted development.	
Development Address	Kilvinane Wind Farm, Kilvinane, Dunmanway, Co. Cork.	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the proposed development is not exceptional in the context of the existing permitted windfarm. (ABP 04:SU.0135).</p> <p>The submitted information outlines that there will be no alteration to the turbine sound power level or noise emissions as a result of the replacement components. Therefore, I consider the proposed change to nacelle component does not meet or exceed the thresholds as set in Class 13 Part 2 of the Planning and Development Regulations 2001, as amended.</p> <p>There will be temporary increase of traffic movements to accommodate the proposed works during the planned 12-14 days followed by approximately 16 days for completing all mechanical and electrical testing, cleaning and full service of both turbines. Work to be conducted during standard business hours on weekdays.</p>	No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The proposed replacement nacelles are on a like for like basis and the generating capacity/energy output remains consistent with that proposed to be replaced.</p>	No

<p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>A 20kV overhead cable connects the wind farm to a substation at Enniskean. The cable route is approximately 7km in length. There are no stated changes to the network connection or infrastructure required to facilitate the works.</p> <p>Given the minor nature of the proposed replacement works I consider that there will no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>Proposed Natural Heritage Area: Bandon Valley South of Dunmanway (Site Code 001035) and Special Area of Conservation (SAC) Bandon River SAC (Site Code 002171) is approximately 4km west of the subject site.</p>	<p>No</p>
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3: Screening the need for Appropriate Assessment

Appropriate Assessment Screening Determination

(Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development of a storage warehouse in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment, as prepared by Cork Ecology, was submitted by the referrer to the planning authority. This screening report concludes that the proposed activities at Kilvinane Wind Farm will not cause adverse direct impacts on the conservation objectives and qualifying interests of any SACs or SPAs based on the scale and short-term duration of the activities and the distance between the wind farm and designated sites. Considering potential indirect impacts and potential in combination effects, it is considered that there will be no impacts on these designated Natura 2000 sites.

A detailed description is presented in Section 2.0 of my report. In summary, the proposed development site is an existing windfarm, comprising 3 no. Turbines namely T1, T3 and T4 and access tracks. In summary, the proposed works comprise the replacement of the nacelle components to turbines T3 and T4.

The subject site is located at Kilvinane, approximately 8km east of Dunmanway, Co. Cork. The ecology report, prepared by Cork Ecology, submitted with the section 5 referral notes that the lowland landscape is dominated by livestock farming, and tillage production. Overall the vegetation is that of lowland pasture land with limited biodiversity, which is restricted to hedgerows and tree lines.

There are two small fast-flowing streams that drains from the site into the Bandon River. The upper reaches are spring fed by non-calcareous springs. The eastern stream has characteristics of an eroding upland stream, while the western stream has been converted in places into a drainage ditch, although still classified as an eroding stream (Cork Ecology, 2010). These streams are upstream of the designated Bandon River SAC.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

One European site is located within 4 Kilometers west of the potential development site.

- Special Area of Conservation (SAC) Bandon River SAC (Site Code 002171)

Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those of Bandon River.

European Site	Qualifying Interests (summary)	Distance	Connections
Special Area of Conservation (SAC) Bandon River SAC (Site Code 002171)	<p>Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260]</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>Lampetra planeri (Brook Lamprey) [1096]</p>	4 km	No direct

Likely impacts of the project (alone or in combination)

Due to nature, scale and duration of the proposed works, I consider that the proposed development would not be expected generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

The proposed development would not have direct impacts on any European site.

During the proposed replacement of the nacelle components, possible impact mechanisms of a temporary nature include generation of noise, dust and emissions from access vehicles and personnel.

The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to Bandon River SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

In combination effects

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

No mitigation measures are required to come to these conclusions.

Overall Conclusion**Screening Determination**

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within Bandon River SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak indirect connections to the European sites