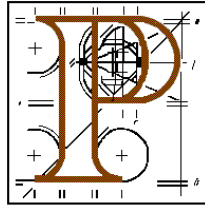


An Bord Pleanála



Inspector's Report

An Bord Pleanála Ref.: ABP-318764-23

Development: Proposed alterations to previously permitted windfarm development (ABP-308806-20)

Site Address: Various townlands at Tooslenagh, Treankeel & Aughkeely, County Donegal

Applicant: Drumnalough Wind Farm DAC

Type of Application: Request for the Board to amend the terms of an approved development under section 146B of the Planning and Development Acts 2000 (as amended).

Date of Site Inspection: N/A

Inspector: Karla Mc Bride

1.0 INTRODUCTION

Planning permission was granted under ABP-308806-20 for a 12 x turbine windfarm with ancillary development and associated site works at various townlands at Tooslenagh, Treankeel & Aughkeely, in SE County Donegal. The Requester has submitted this request to An Bord Pleanála, pursuant to section 146B of the Planning & Development Act 2000 (as amended), for alterations to the terms of that permission that have arisen as a result of the unavailability of the previously selected model. It is proposed to alter the hub height, rotor diameter and blade length under three Options (A, B & C), to retain and permitted turbine tip height of 167.5m under two of the Options (B & C) and reduce the turbine tip height to c.149.6m in one of the Options (A). The permitted layout would be retained under all three Options (A, B & C). Three Options have been proposed so as to avoid future similar procurement or availability difficulties, and the selected model will be used throughout the project.

2.0 PLANNING HISTORY

ABP-308806-20: Permission granted for a 12 - turbine windfarm (incl. met mast & borrow pits) and associated site works (incl. foundations, drainage & access tracks), subject to 18 x conditions:

Condition no. 4 (a) stated that the hub height shall be 95m, the rotor diameter shall be 145m, and the blade length shall be 71m. The overall tip height shall be 167.5m & the height of the permanent met mast shall be 110m

A total of 5 x submissions were received from Prescribed Bodies (DHLG&H, IW, IAI & TII), and the N & W Regional Authority, and 1 x Observation from Birdwatch Ireland. The following concerns were raised:

- Landscape character & visual amenity.
- European sites & Ecology (habitats, flora, fauna, birds & fish).
- Drainage, peat stability & water quality.
- Roads, telecommunications & aeronautics.

Similar case types:

Several similar requests for S.146B amendments to permitted windfarms have been determined by the Board in relation to blade length, rotor diameter and hub height.

ABP-312876-22: Section 146B request to make alterations to previously permitted SID windfarm to alter the rotor diameter and hub height dimensions of the permitted turbines while remaining within the previously permitted maximum tip height of between 156m and 166m. The Board decided that the making of the alterations did not constitute the making of a material alteration of the terms of the development as granted permission under 16.PA0032 and alteration Ref. No. ABP-307357-20.

ABP-307357-20: Section 146B request to make alterations to previously permitted SID windfarm to increase the blade length to the permitted turbines while remaining within the previously permitted maximum tip height of between 156m and up to 166m. The Board decided that the making of the alterations did not constitute the making of a material alteration of the terms of the development as granted permission under PL19.PA0032.

ABP-303729- 19: Section 146B request to make alterations to previously permitted SID windfarm to lengthen the blade of the turbines while remaining within the previously permitted tip height of 156.5m. The Board decided that the making of the alterations did not constitute the making of a material alteration of the terms of the development as granted permission under ABP-300460-17.

ABP-303313-18: Section 146B request to make alterations to previously permitted SID windfarm to lengthen the blade of the turbines while remaining within the previously permitted tip height of 170m. The Board decided that the making of the alterations did not constitute the making of a material alteration of the terms of the development as granted permission under 19.PA0047.

PL04.RP2104: Point of dispute under section 34(5) in relation to compliance with condition 6(a) of a permitted windfarm which required turbine details to be agreed with the planning authority. The developer and planning authority failed to reach an agreement and the Board was requested to adjudicate. It concluded that the additional increase in blade length was not material.

3.0 LEGISLATIVE PROVISIONS

- 3.1 Section 146B. — (1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.
- 3.2 (2)(a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.
- (b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.
- 3.3 (3)(a) If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.
- (b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall —
- (i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II) , unless the requester has already provided such information, or an

environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to —

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

3.4 (3A) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

3.5 (3B) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration.

3.6 (4) Before making a determination under subsection (3)(b)(iii), the Board shall determine whether the extent and character of —

(a) the alteration requested under subsection (1), and

(b) any alternative alteration it is considering under subsection (3)(b)(ii)(II)

are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall

have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

4.0 PROPOSED ALTERATION

The following documents accompanied the request:

- Planning Report
- AA Screening Report
- EIAR Screening Report
- Environmental Assessment Report
- Drawings & Photomontage Booklet

Background:

- Permission granted for a 12-turbine windfarm with a generating capacity > 50MW & overall ground to blade tip height of up to 167.5m.
- ABP Condition 4(a) was prescriptive for the hub height (95m), rotor diameter (145m), blade length (71m), and overall tip height (167.5m).
- Three Options are proposed so as to avoid future similar procurement or availability difficulties, and the selected model will be used throughout the project.
- Can be achieved without altering NIS and EIAR conclusions, AA, EIA or planning conditions.

Proposed Options:

	<i>Permitted</i>	Option A	Option B	Option C
Tip height	167.5m	149.6m	167.5m	167.5m
Hub height	95m	83m	92.5m	99.5m
Rotor diameter	145m	133.2m	150m	136m
Blade length	71m	65.5m	73.65m	66.7m

Planning context:

- Complies with national, regional & local planning & climate policy.
- Complies with Draft Wind Energy Guidelines 2019.
- Complies with County Development Plan 2018-2024 (as Varied).
- Existing consented windfarm now lies within “Areas Open for Consideration” & “Not Normally Permissible” (Map 8.2.1).
- Existing consented windfarm was considered acceptable given that a precedent had been set by a previously permitted 15-turbine windfarm at this location, and having regard to strategic national and regional objectives for renewable energy.

Materiality of Alteration:

- Seek confirmation that the installation of turbines with a different hub height, rotor diameter & blade length do not constitute the making of a material alteration.
- Overall terms & conditions of the permitted windfarm can still be met.
- Windfarm will still comprise 12-turbines with a maximum tip height of 167.5m.
- Changes to the hub height, rotor diameter & blade length are minor in nature.
- Any potential adverse environmental impacts would be nil or negligible.

Precedent:

- ABP previously considered a similar matter in relation to an amended turbine type (incl. hub height, blade length and /or rotor diameter) with no overall increase in height (incl. 307357, 312876, 303729 & 303313).
- The Board considered all potential impacts and concluded that the minor alterations would not be deemed material.
- Proposed change in hub height, rotor diameter and blade length would not give rise to a material change or any increase in potential environmental impact.
- The alteration could not be construed as material in terms of the Act.

Potential for Environmental Impacts:

- No alterations to the site layout, turbine locations and overall height, vehicular access arrangements, drainage provisions, construction activities or mitigation measures.
- No significant additional impacts predicted on Human Beings, Population & Human Health; Flora, Fauna & Biodiversity; Bats; Ornithology (minor increase in collision risk); Land, Soils & Geology; Water; Air & Climate; Noise & Vibration (compliance with established noise criteria still required); Landscape & Visual (updated photomontages submitted); Archaeology & Cultural heritage; or Material Assets).
- No significant additional impacts predicted with respect of interactions or cumulative impacts.
- EIA Screening concluded that the proposed Options do not equal or exceed any class of development within Schedule 5, Parts 1 or 2 of the P&D Regulations, and significant sub-threshold impacts are unlikely.

Appropriate Assessment Screening:

- Revised NIS considered the surrounding European sites.
- Proposed alterations, individually or in combination with other plans and projects, will not have a significant effect on European sites.
- No requirement for AA for any of the Options (A, B or C).

5.0 BOARD CORRESPONDENCE

The Board informed Donegal County Council on 05th January 2024 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection. The planning authority was not invited to make any submission at this stage.

5.0 ASSESSMENT

The issues arising relate to:

- Consideration of materiality
- Public consultation
- Appropriate Assessment

5.1 Consideration of materiality

The first consideration in relation to this request to alter the terms of ABP-308806-20 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the Drumnahough Windfarm development as granted. The requester proposes to install a type of turbine that would differ from the turbine type that formed the basis of the EIA under ABP-308806-20. The requester states that the need for an alteration to the terms of that permission have arisen as a result in a change in turbine technology and the current unavailability of the previously selected model. Three Options have been proposed so as to avoid future similar procurement or availability difficulties, and the selected model will be used throughout the project.

Original application:

Under the original application, the EIAR stated that the final turbine type will be chosen in advance of the construction phase based on available technologies at that time, but it will not exceed 167.5m in tip height, and this formed the basis of the applicant's EIAR assessment and the Board's environmental impact assessment of the proposed development. Condition no.1 required that the development be carried out in accordance with the plans and particulars lodged with the application subject to any requirements necessary to comply with the other attached conditions. Condition no. 4 (a) required that the hub height should be 95m, the rotor diameter shall be 145m, and the blade length shall be 71m.

Proposed alterations:

The proposed alterations contain the following three Options.

- ***Option A*** would reduce the hub height by c.12m from 95m to 83m, the rotor blade diameter by c.11.8m from 145m to 133.2m, and the rotor blade length by c.5.5m from 71m to 65.5m, with a corresponding reduction in the overall tip height by c.17.9m from 167.5m to 149.6m. (***Nordex 133/48***)
- ***Option B*** would reduce the hub height by c.2.5m from 95m to 92.5m, increase the rotor blade diameter by c.5m from 145m to 150m, and the rotor blade length by c.2.56m from 71m to 73.65m, whilst retaining the permitted tip height of 167.5m. (***Vestas 150-6.0***)
- ***Option C*** would increase the hub height by c.4.5m from 95m to 99.5m, reduce the rotor blade diameter by c.9m from 145m to 136m, and the rotor blade length by c.4.3m from 71m to 66.7m, whilst retaining the permitted tip height of 167.5m. (***Vestas 150-6.0***)

The proposed alterations under the three Options will not require any alterations to the overall site layout, turbine locations, drainage provisions or any associated infrastructure.

The Environmental Report submitted with the request refers to the topics addressed in the EIA on ABP-308806-20 in the context of the proposed alterations. The report states that there would be no change to the overall height of the turbines under Options B and C, with a small decrease in overall height under Option A, the layout and configuration of the site, the drainage provisions, vehicular access arrangements or mitigation measures. The report concludes that there would be no significant additional impacts over those already identified in the original EIA as a result of the proposed alterations on all aspects of the environment as outlined in the original EIAR. The report also concluded that there would be no change to the original EIA on ABP-308806-20 with respect to interactions and cumulative impacts. Therefore, the main issue is whether the proposed turbine configuration is materially different compared with that subject of the previous assessment.

The proposed alterations under the three Options would result in the turbines having a different hub height, blade length and rotor diameter than the indicative turbine type reviewed at the time of application. These changes, as outlined above, would not represent a significant increase or decrease in hub height, rotor blade diameter or rotor blade length from that reviewed in the EIAR and assessed in the EIA. The overall maximum permitted tip height of 167.5m would not be exceeded under any of the Options and it would be slightly reduced under Option A.

Environmental Assessment:

Human Beings, Population & Human Health: There would be no alterations to the location and overall maximum height of the turbines, the construction phase activities or transport arrangements. Thus, the predicted impacts of noise, dust, shadow flicker, transport and construction activities will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 6, 9, 10, 12, 13 & 14 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on human beings, population and human health.

Flora, Fauna & Biodiversity: There would be no alterations to the site layout, the location or maximum tip height of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures (with particular respect to water quality). Thus, the predicted impacts on habitats, and terrestrial and aquatic ecology will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 6, 7, 8 & 14 of Board's decision on ABP-308806-20. The Environment Report noted that the proposed alterations could potentially affect bats, however any potential increase in collision risk or barotrauma would be minor and insignificant. I am therefore satisfied that there would be no additional significant impacts on flora, fauna and biodiversity.

Ornithology: There would be no alterations to the location or maximum height of the turbines. However, the Environment Report acknowledges that the alterations could potentially have an impact on birds as a result of the larger rotor area and swept path under two of the Options (A & B), which could result in an increased risk of collision. A slight reduction in collision risk under Option C was anticipated. The Environment Report carried out a re-run of the Collision Risk Assessment model for Options A and B, and a very slight but negligible increase in collision risk was recorded. The increased risk is not significant and the predicted impacts on birds will remain unchanged and subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition no. 6, 7 & 8 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on ornithology.

Land, Soils & Geology: There would be no alterations to the site layout or footprint of the development, the location of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures. Thus, the predicted impacts on land, soil and geology (incl. peat stability) will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 6 & 14 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on land, soils and geology.

Water: There would be no alterations to the site layout or footprint of the development, the location of the turbines, the drainage provisions, construction phase activities or the post construction mitigation measures. Thus, the predicted impacts on site drainage and water quality (incl. water dependent habitats) will remain unchanged. The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 6 & 14 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on water.

Air & Climate: There would be no alterations to the site layout or the location and height of the turbines. I am therefore satisfied that there would be no additional significant impacts on air and climate.

Noise & Vibration: There would be no alterations to the site layout or the location and height of the turbines. Irrespective of turbine type, the development will continue to be subject to compliance with the criteria set out in the EIAR noise impact assessment, the relevant mitigation measures and planning conditions, and in particular Condition nos. 9 & 14 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts as a result of noise and vibration.

Landscape & Visual: There would be no alterations to the site layout, footprint of the development or the location and overall maximum height of the turbines. The Environment Report carried out an additional visual impact assessment which included updated photomontages that superimpose the preferred turbine configuration on to the previously permitted images. There would be no additional visual impacts on the landscape and visual amenity, having regard to the scale of the proposed alterations, the nature of the overall project and the extent of the receiving environment. The development will continue to be subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition no. 4 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on the landscape or visual amenity.

Archaeology & Cultural heritage: There would be no alterations to the site layout, location of the turbines or infrastructure arrangements. Thus, the predicted impacts on archaeology and cultural heritage will remain unchanged. The development will continue to be subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition no.6 of Board's decision on ABP-308806-20. I am therefore satisfied that there would be no additional significant impacts on archaeology and cultural heritage.

Material Assets: There would be no alterations to the site layout or turbine locations and the predicted impacts on telecommunications and aeronautics will remain unchanged, subject to compliance with the relevant mitigation measures and planning conditions, and in particular Condition nos. 6, 10 & 11 of Board's decision. There would be no alterations to the traffic and transport arrangements. The Environment Report assessed any impacts arising from the transport of longer rotor blades and it concluded that there would be no significant change with respect to the original swept path analysis. Thus, the predicted impacts on the road network will remain unchanged, subject to compliance with mitigation measures and planning conditions, and in particular Condition no.13 of Board's decision on ABP-308806-20. I am satisfied that there would be no additional significant impacts material assets.

Interactions: Having regard to the foregoing, I am satisfied that there would be no significant additional interactions as a result of the alterations.

Cumulative impacts: Having regard to the foregoing, and to the additional visual impact studies that accompanied this submission, I am satisfied that there would be no significant additional cumulative impacts.

Conclusion on materiality:

Having regard to the foregoing, I am satisfied that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for ABP-308806-20. Any impact on the landscape, visual amenity, birds, bats and the road network would be marginal. Having regard to the nature and scale of the proposed alterations and the development as granted under ABP-308806-20, I am satisfied that the Board would not have determined the proposal differently had the hub height, rotor blade diameter and blade length now proposed in the alteration under Options A, B or C formed part of the original application. Therefore, the proposed alteration does not constitute the making of a material alteration of the development as granted under ABP-308806-20.

5.3 Public consultation

The provisions of section 146B(2)(b) provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration and the information on file; the nature, scale and extent of the windfarm development granted permission under ABP-308806-20 and the accompanying information, including the submissions from prescribed bodies; and the nature of the site and surrounding area; I am satisfied that the inviting of submissions from the public in this instance is not necessary or required for the purposes of the Board determining the matter.

5.4 Appropriate Assessment

The Board completed an Appropriate Assessment Screening exercise under ABP-308806-20 in relation to 9 European sites within a 15km radius of the application site which resulted in 5 of the sites being screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under ABP-308806-20 on the 5 sites that were not screened out:

- Derryveagh & Glendowan Mountains SPA (Site code: 004039),
- Louth Swilly SPA (Site code: 004075),
- River Finn SAC (Site code: 002301),
- River Foyle & Tributaries SAC (UK 030320), and
- Meentygrannagh Bog SAC (Site code: 000173).

The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of the sites' conservation objectives.

A NIS was prepared and submitted as part of the application in relation to ABP-308806-20. The requester has submitted an AA Screening Report in relation to the alterations that are the subject of this section 146B request. The 5 sites that were subject of the AA Screening in ABP-308806-20 are again considered in the context of the alterations subject of this section 146B request. The AA Screening report holds that, in relation to the European sites that were subject of the Appropriate Assessment in ABP-308806-20, the proposed amendments are minor changes to

the permitted windfarm project and are all within the existing enclosing perimeter for impacts of the permitted project. It concludes that any potential pathways for impacts of the permitted windfarm project have already been assessed under an Appropriate Assessment of that application and that the proposed amendments do not give rise to any new or different issues or impact pathways that would now need to be assessed.

Having considered the Board's determination on Appropriate Assessment on ABP-308806-20; section 13.0 of the Inspector's Report on ABP-308806-20; the nature, scale and extent of the alterations relative to the development subject of ABP-308806-20, and the information on file (which I consider adequate to carry out AA Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on the European sites located within the zone of influence or 15km radius in view of the sites' conservation objectives.

6.0 RECOMMENDATION

I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration of the terms of the development as granted permission under ABP-308806-20. However, the Requester should be required to confirm to the Board which of the three Options has been selected for installation.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the ABP-308806-20 from Drumnalough Wind Farm DAC under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Drumnahough Wind Farm strategic infrastructure development the subject of a permission under An Bord Pleanála reference number ABP-308806-20.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the ABP-308806-20.

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

AND WHEREAS the proposed alteration is described as follows:

Amend the hub height, rotor blade diameter and rotor blade length of the turbines while remaining within the previously permitted tip height of 167.5m.

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the permitted development shall be altered in accordance with the plans and particulars.

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature and scale of the wind farm development permitted under An Bord Pleanála Reference Number ABP-308806-20 for this site, which includes 12 turbines with an overall tip height of 167.5m,
- (ii) the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- (iii) the limited nature and scale of the alterations when considered in relation to the overall permitted tip height of 167.5m
- (iv) the absence of any significant new or additional environmental concerns (including in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's inspector, which is adopted,

It is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations, subject to the Board being notified of the selected Option A, B or C.

Professional declaration

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.

Karla Mc Bride

Inspectorate

22nd February 2024