



An  
Bord  
Pleanála

## Inspector's Report ABP-318971-24.

### Development

Proposed 10 to 12 no. wind turbines with a maximum height of 185m and expected capacity export of circa 60MW to 72MW, including an underground cable connection to the national electricity grid, and turbine delivery route.

### Location

Townlands of Brittas, Rossestown, Killeenliegh, Brownstown & Clobanna, Thurles, Co. Tipperary

### Planning Authority

Tipperary County Council

### Prospective Applicant

Brittas Windfarm Limited.

### Type of Application

S37CC Pre-application Consultation on Design Flexibility.

### Date of S37CC Pre-Application Meeting:

1<sup>st</sup> March 2024

**Date of Site Inspection**

14<sup>th</sup> April 2023.

**Inspector**

Alaine Clarke

## **1.0 INTRODUCTION**

- 1.1. This report relates to pre-application discussions held with Brittas Windfarm Limited in respect of proposed development known as Brittas Windfarm, a proposed 10 turbine development and ancillary development including on-site substation and 110kV grid connection in relation to which the prospective applicants request an Opinion on Flexibility from the Board. A formal pre-consultation request was received by the Board on February 1<sup>st</sup>, 2024.
- 1.2. This report describes the location and nature of the proposed development, the nature and extent of the flexibility requested, and the legal provisions which are relevant to the Board's consideration of flexibility for the proposed development.
- 1.3. The Board's representatives met with the prospective applicant on one occasion in relation to the requested Opinion on Flexibility. The presentation provided by the prospective applicant and written record of this meeting are on the file. This report should be read in conjunction with the written record on file of the design flexibility consultation meeting held with the prospective applicant. It is not proposed to repeat the contents of this record in detail in this report.
- 1.4. The Board's representatives also met with the prospective applicant on one occasion in relation to the proposed development under section 37B of the Planning and Development Act. The presentations provided by the prospective applicant and written records of these meetings are on the relevant file (ABP Ref. 315655-23).

## **2.0 SITE DESCRIPTION**

- 2.1. Having reviewed the site location map submitted as part of the presentation documentation, dated March 1<sup>st</sup> 2024, the prospective site appears to be located in the townlands of Brittas, Rossestown, Killeenliegh, Brownstown, Clobanna, north of Thurles, Co. Tipperary.
- 2.2. The lands are made up of agricultural fields, farms and rural dwellings bounded by hedgerows and treelines. An area of broadleaf forestry is located to the southwest of the site. The River Suir transects the site from north to south. The N62 is located west of the site, running north to south. The N62 connects to the M6, M7 and M8

motorways. The L8017 local road traverses the centre of the site from east to west and crossing the River Suir.

- 2.3. There are a small number of recorded monuments within the site boundary including two ringforts and two enclosures, one of which is located north of the bridge crossing (Rossestown Bridge) of the River Suir. Brittas Castle is located in the southwest of the study area.
- 2.4. The site and wider area is generally flat although to the west and northwest are mountains and uplands. Part of the site is traversed by the route of a permitted 38kv overhead electricity line connecting the Borrisoleigh substation to the Thurles substation. The proposed site is located c. 8km east of Lower River Suir SAC, c. 1.7km north east of the proposed NHA Cabragh Wetlands.

### **3.0 PROPOSED DEVELOPMENT**

- 3.1. The proposed development, as described in Appendix B of the pre-consultation application documentation, includes the following elements:
  - Construction of 10 no. wind turbines including foundations, hardstand areas and new and upgraded internal access tracks.
  - 1 no. permanent Lidar and foundation and associated hardstand areas for Meteorological Monitoring;
  - 1 no. substation (110kV) including associated ancillary buildings security fencing and all associated works including underground connections from the turbines to the substation;
  - Battery storage facility;
  - Grid connection from the proposed on-site substation to Thurles 110kV substation
  - Turbine delivery route from Foynes Port.
- 3.2. During the pre-application meeting the description of the proposed development was discussed, in particular the introduction of the battery storage facility, which did not form part of the proposed development description being considered under ABP 315655-23. The Board should note that the proposed development description was

clarified by the prospective applicant in correspondence to the Board dated 25<sup>th</sup> March 2024 in respect of ABP 315655-23 and the Inspector's Report and associated recommendation is based on the most up-to-date proposed development description, which is as follows:

- Construction of 10 no. wind turbines with a tip height of 180m;
- Construction of turbines foundation and crane pad hardstanding areas including associated drainage infrastructure;
- Construction of new permanent site tracks and associated drainage infrastructure;
- 1 no. borrow pit and associated ancillary access and drainage;
- 2 no. temporary construction site compounds;
- Construction of 1 no. permanent on-site 100kV electrical substation including control buildings, electrical plant and equipment and ancillary infrastructure and compound;
- Installation of medium voltage underground electrical and communication cabling connecting the wind turbines to the proposed on-site substation;
- Installation of permanent high voltage 110kV underground electrical and communication cabling between the proposed on-site substation to the existing Thurles 110kV substation within the townland of Ballygammane. The cabling will be laid primarily within the public road;
- Tree felling to accommodate the construction and operation of the proposed development;
- Installation of a permanent Lidar Unit and associated hardstanding area for meteorological monitoring; and
- Temporary accommodation works for the turbine delivery between Foynes port and Brittas Wind Farm site.

3.3. The proposed windfarm will have a maximum export capacity of between 57MW and 66MW. A battery energy storage system will be assessed as part of the project but will not form part of the planning application.

## **4.0 REQUEST FOR AN OPINION ON FLEXIBILITY**

### **4.1. Context**

- 4.1.1. The Prospective Applicant entered into pre-application discussions with the Board under ABP-315655-23 with respect to the development of the proposed Brittas Windfarm which was initially described as 10-12 wind turbines with a maximum height of 185m and expected capacity export of c. 60MW to 72MW, including an underground cable connection to the national electricity grid, and turbine delivery route. During the course of pre-application discussions the project description was refined as set above in section 3.2 of this Inspector's report.
- 4.1.2. The Planning and Development, Maritime and Valuation (Amendment) Act 2022, provides for design flexibility in the case of applications for permission for any development specified in the Seventh Schedule, primarily relating to the rapidly changing technology available in renewables, and the potentially long lead-in times between the making of a planning application and procurement of equipment.
- 4.1.3. The prospective applicant has submitted a request to the Board for an Opinion on Flexibility in respect of the windfarm, relative to a series of options and parameters that may be provided later for the Board's approval.
- 4.1.4. Section 37CC material for formal consultation was submitted to the Board on 1<sup>st</sup> February 2024, including prescribed Form 20 as set out in the Planning and Development (amendment) (no.3) Regulations 2023. The request included all relevant information as set out in Section 37CC (2) of the Act, in order to assist the Board in informing its opinion, including:
- Name and address of the applicant
  - A site location map
  - Description of the nature and purpose of the proposed development and its possible effects on the environment.
  - A draft layout plan of the proposed development
  - Details of the development which are considered unlikely to be confirmed at application stage and the need for flexibility on a number of matters are noted for the following reasons:

- Procurement
- Potential obsolescence of existing technology
- To allow Orsted to take advantage of new technologies which may become available during the consenting process.

## 4.2. The Request Details

4.2.1. The request for a meeting with respect to seeking an Opinion on Flexibility was made under section 37CC of the P&D Act, 2000 (as amended), and received by the Board on 1<sup>st</sup> February 2024.

4.2.2. The following elements (details) of the development are those for which flexibility is being sought:

- Alternative turbine models which include different hub heights, rotor diameters, blade lengths, export capacity and variations in the hardstanding areas at the base of each respective turbine model.

4.2.3. The request was accompanied by 3 options, and the following information in relation to the details, or groups of details, for which flexibility is being sought to avail of technology advances is as follows:

Model	Tip Height	Rotor Diameter	Hub Height	Blade Length	MEC*	Hardstanding Areas
Option 1	180m	150m	105m	73.7m	6MW	7,355m sq
Option 2	180m	155m	102.5m	76m	6.6MW	6,330m sq
Option 3	180m	149m	105.5m	73m	5.7MW	8,675m sq

Table 4.1: Options presented

4.2.4. At the meeting with Board representatives, the prospective applicant queried whether there was scope for flexibility in relation to the proposed substation element owing to potential changes in Eirgrid standards. A discussion followed in which the applicant indicated that it was likely that the grid connection and substation would be applied for under s.182 of the Planning and Development Act 2000, as amended. The Board representatives noted that if the prospective applicant submits a separate application under section 182 for the proposed grid connection and the substation, then any flexibility request related to the proposed substation will need to be

submitted as a design option flexibility request under section 182 (Section 182F as introduced by the Planning and Development, Maritime and Valuation (Amendment) Act 2022).

- 4.2.5. Also of note, the Board's representatives clarified that the design options are not restricted to the three presented design options, rather that the application be accompanied by two or more options, parameters or a mixture of options and parameters in respect of each detail for which flexibility has been sought.
- 4.2.6. In relation to export capacity, the Board's representatives stated that the maximum export capacity may not be considered a flexible design detail as it is an output of the other details in respect of which flexibility is sought but this will be clarified in the final opinion.

## **5.0 POLICY CONTEXT**

- 5.1. The following policy documents are of relevance but, it should be noted, do not comprise an exhaustive list:

- Project Ireland 2040 – National Planning Framework 2040 & National Development Plan 2018-2027
- Climate Action Plan 2024
- Regional Spatial & Economic Strategy for the Southern Region 2020
- Tipperary County Development Plan 2022-2028

## **6.0 MEETING HELD**

- 6.1. One meeting was held with the prospective applicant's representatives on March 1<sup>st</sup>, 2024. Presentations were provided at the meeting and are included in the file. The record of the meeting is also contained in the file. Issues raised at the meeting are identified and considered in Section 9 below.

## **7.0 Legislative Provisions**

- 7.1. **Planning and Development, Maritime and Valuation (Amendment) Act 2022**



This Act, in recognition that certain applications require a degree of flexibility, introduced amendments to the Planning and Development Act 2000 (as amended) and the Maritime Area Planning Act 2021, to facilitate procedures that will enable planning authorities and the Board to consider design flexibility as part of the assessment of planning applications.

## **7.2. Section 37CC Planning and Development Act, 2000 (as amended)**

This section of the Act sets out the requirements for requesting the Board to consider design flexibility, and the Board procedures for consideration of the request as part of the assessment of planning applications.

**Section 37CC (1)** states that a prospective applicant who proposes to make an application for any development specified in the Seventh Schedule may, before making such an application, request a meeting with the Board for the purpose of section 37CD as part of consultations referred to in section 37B(1).

**Section 37CC(2) (a-d)** lists the details required in the application. (incl. site location map, draft layout plan, brief project description & possible effects on the environment).

**Section 37CC (2) (e)** requires a description of -

*(i) the details, or groups of details, of the proposed development that, owing to the circumstances set out in subparagraph (ii), are unlikely to be confirmed at the time of the proposed application, and*

*(ii) the circumstances relating to the proposed development, including such circumstances as the Minister may prescribe in relation to any class or description of development for the purposes of this subparagraph, that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in subparagraph (i) including, in particular, whether the prospective applicant may be able to avail of technology available after making the proposed application that is more effective or more efficient than that available at the time of the application,*

**Section 37CC (2) (f)** requires an undertaking to provide with the proposed application either—

*(i) two or more options in respect of each detail or group of details referred to in paragraph (e)(i), containing information on the basis of which the proposed application may be made and decided,*

*(ii) parameters within which each detail or group of details referred to in paragraph (e)(i) will fall and on the basis of which the proposed application may be made or decided, or (iii) a combination of subparagraphs (i) and (ii),*

**Section 37CC (2) (g-h)** lists other information that may be provided or prescribed.

**Section 37CC (3)** provides for the Board to convene a meeting.

**Section 37CC (4)** provides for the Minister to make regulations in relation to procedures and administration for the purposes of holding a meeting.

### **7.3. Circular Letter PL11/2023 – New Design Flexibility Provisions with regard to certain unconfirmed details as part of application for planning permission**

This document refers to the opinion on flexibility which developers may wish to avail of. It notes that applicants may wish to seek permission before certain details of the proposed development are confirmed. It provides an example of a windfarm and notes that details such as the precise height or blade length of a turbine or the precise grid connection point and route may not be confirmed at the time of application. In addition, it notes that the process is not intended to apply to points of detail generally dealt with by way of compliance condition and agreed between the applicant and the Board post-consent.

The document states that the applicant must set out the circumstances why it would be appropriate for the proposed application to be made and decided before the details are confirmed. It provides that a separate meeting may take place to discuss the flexibility request as part of the existing pre-application arrangements. It also states that existing consultations which may take place in advance of the flexible meeting request may concern the scope of details not likely to be confirmed at application stage and likely to be subject to a request for an opinion on unconfirmed details.

It further provides for matters of public notification and transparency in respect of the new arrangements and prescribes the forms to be used for the various stages of the process - flexible meeting request (Form 19); opinion on unconfirmed details issued

by the Board (Form 20); and supplementary statement of unconfirmed details to accompany a planning application (Form 21).

## 8.0 PRE-APPLICATION REQUESTS

8.1. This application is the first of its kind under section 37 CC, however several similar flexibility pre-application consultation requests under section 287A relating to maritime developments have been considered by the Board and are listed below. These cases are now closed:

- **ABP-316331-23:** The *Arklow Bank* offshore windfarm project
- **ABP-316332-23:** The *North Irish Sea Array* offshore windfarm project
- **ABP-318274-23:** The *Oriel* offshore windfarm project
- **ABP-318552-23:** The *Dublin Array* offshore windfarm project
- **ABP-318588-23:** The *Codling* offshore windfarm project

The following case is also relevant, but has not yet been considered by the Board:

- **319151-24:** Proposed windfarm development including the provision of a dedicated grid connection, Co. Clare.

## 9.0 CONSIDERATION OF REQUEST

### 9.1. Context

9.1.1. The request for a meeting with respect to seeking an Opinion on Flexibility was made under section 37CC of the P&D Act, 2000 (as amended), and details of the accompanying documentation is summarised in section 4.0 above.

9.1.2. The application contained the following information:

- a) The details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided.
- b) The circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in (a) above.

### 9.2. Consideration of request

9.2.1. Table 9.1 below sets out the details and circumstances for section 37CC flexibility requested by the Prospective Applicant as well as my consideration and recommendation in relation to the various elements.

Details / Groups of Details	Circumstances	Consideration	Accept Flexibility
<b>Hub height</b>  3 turbine model options presented, as Model 1, 2 and 3; 7355, 6330 and 8675 models.  Model 1: 105m Model 2: 102.5m Model 3: 105.5m	<ul style="list-style-type: none"> <li>• Procurement process will not take place until the planning process is complete and pre-construction planning commences.</li> <li>• Potential for obsolescence of existing technology.</li> <li>• Take advantage of new technologies - New turbines models or variants may be available, due to advancements in technology but which fit within identified parameters.</li> <li>• Similarly,</li> </ul>	I am satisfied that the flexibility sought in height changes is reasonable and minimal and note that the height of the turbine is dependent on the final turbine design.  Notwithstanding that the prospective applicant is not limited to the specific ranges detailed in the request, I am satisfied that the range of flexibility sought can be considered and assessed fully in any future application and EIAR.	Yes
<b>Rotor Diameter -</b>  3 turbine model options presented, as Model 1, 2 and 3; 7355, 6330 and 8675 models.  Model 1: 150m Model 2: 155m Model 3: 149m	advancements in technology may allow for turbines with the same parameters to produce a greater export capacity than what is available on the market at the pre-planning stage.	I am satisfied that the flexibility sought in rotor diameter is reasonable and minimal and note that rotor diameter is dependent on the final turbine design.  Notwithstanding that the prospective applicant is not limited to the specific ranges detailed in the request, I am satisfied that the range of	Yes

		flexibility sought can be considered and assessed fully in any future application and EIAR.	
<b>Blade Length</b>  3 turbine model options presented, as Model 1, 2 and 3; 7355, 6330 and 8675 models.  Model 1: 73.7m Model 2: 76m Model 3: 73m		I am satisfied that the flexibility sought in blade length is reasonable and minimal and note that blade length is dependent on the final turbine design. Notwithstanding that the prospective applicant is not limited to the specific ranges detailed, I am satisfied that the range of flexibility sought can be considered and assessed fully in any future application and EIAR.	Yes
<b>Export Capacity</b>  3 turbine model options presented, as Model 1, 2 and 3; 7355, 6330 and 8675 models.  Indicated to be between 57MW and 55MW or between 5.7MW and 6.6MW per turbine.		Export capacity is dependent / consequent of turbine design and is not a physical attribute on which it is possible to measure or assess impact. It is accepted that there may be a variation in export capacity arising as a result differing turbine models. The stated range of capacity of between 5.7MW and 6.6MW per turbine is noted.	No

<p><b>Hardstanding area at the base of each turbine</b></p> <p>3 turbine model options presented, as Model 1, 2 and 3; 7355, 6330 and 8675 models.</p> <p>Model 1: 7,355m Model 2: 6,330m Model 3: 8,675m</p>		<p>I am satisfied that the hardstanding area is reasonable and is dependent on the final turbine design.</p> <p>Notwithstanding that the prospective applicant is not limited to the specific ranges detailed, I am satisfied that the range of flexibility sought can be considered and assessed fully in any future application and EIAR.</p>	Yes
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**Table 9.1: Consideration of Section 37CC request**

## 10.0 CONCLUSION

10.1. Following the completion of the section 37CC meeting on 1<sup>st</sup> March 2024, and having regard to the information provided by the applicant in relation to the request for flexibility and to the circumstances which support this request, and based on my consideration of the applicant's request for flexibility, as set out above, I consider it reasonable that the following details / groups of details of the proposed development, may be confirmed after the proposed application has been made and decided by the Board:-

1. **Model of turbines**, and by extension the following dimensions:

- a) Hub height
- b) Rotor diameter
- c) Blade length
- d) Hardstanding area at the base of each turbine

10.2. For each of the detail or group of details listed above, the prospective applicant shall provide with the proposed application two or more options in respect of each detail or

group of detail and / or parameters within which each of the detail or group of details will fall.

- 10.3. Normal construction related details that are intrinsic to the installation of the windfarm infrastructure that are not clarified at the application stage should be set out and assessed in the application (incl. EIAR & NIS), and subject to a compliance condition which could include the submission of a CEMP.
- 10.4. The request for flexibility on export capacity was considered. Export capacity is dependent / consequent of turbine design and is not a physical attribute on which it is possible to measure or assess impact. I accept that there may be a variation in export capacity arising as a result differing turbine models.

## 11.0 RECOMMENDATION

I recommend that the following details / groups of details, of the proposed development, may be confirmed after the proposed application has been made and decided by the Board. The Board should notify the prospective applicant of its Opinion in respect of flexibility under section 37CD of the P&D Act, 2000, as amended, in accordance with the following Draft Opinion.

## 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.



Elaine Clarke

Senior Planning Inspector

23<sup>rd</sup> April 2024

## DRAFT OPINION

### 1) An Bord Pleanála Opinion on Flexibility

2) Request for meeting	
<b>Request under section 37CC of the Act:</b>	Request for Design Flexibility in relation to a proposed Brittas Windfarm.
<b>Request reference Number:</b>	ABP-318971
<b>Name of the requestor/ prospective applicant:</b>	Brittas Windfarm Limited.
<b>Location, townland or postal address of the land or structure to which the application relates (as may be appropriate):</b>	Townlands of Brittas, Rossestown, Killeenliegh, Brownstown & Clobanna, Thurles, Co. Tipperary
<b>Nature and extent of the proposed development:</b>	Proposed 10 to 12 no. wind turbines with a maximum height of 185m and expected capacity export of circa 60MW to 72MW, including an underground cable connection to the national electricity grid, and turbine delivery route.
<b>Date of receipt of the request:</b>	1 <sup>st</sup> February 2024
<b>Opinion Reference Number:</b>	ABP-315655-23
<b>Date of Opinion:</b>	



**3) Was the following Information included where relevant, with the Flexibility Meeting Request under section 37CC of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended.**

Information	Enclosed with Request		
(a) A site location map sufficient to identify the maritime area/land on which the proposed development would be situated.	Yes: [ x ]	No: [ ]	
(b) A brief description of the nature and purpose of the proposed development and of its possible effects on the environment.	Yes: [ x ]	No: [ ]	
(c) A draft layout plan of the proposed development.	Yes: [ x ]	No: [ ]	
(d) A description of the details, or groups of details, of the proposed development that, owing to the circumstances set out in (e) below, are unlikely to be confirmed at the time of the proposed application.	Yes: [ x ]	No: [ ]	
(e) A description of the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in (d) above.	Yes: [ x ]	No: [ ]	
(f) An undertaking to provide with the proposed application, either -  i. two or more options, in respect of each detail or group of details referred to in (d) above containing information on the basis of which the proposed application may be made and decided,	Yes: [ x ]	No: [ ]	

ii. parameters within which each detail referred to in paragraph (d) above will fall and on the basis of which the proposed application may be made and decided, or iii. a combination of (i) and (ii).			
(g) Such other information, drawings or representations as the prospective applicant may wish to provide or make available.	Yes: [ ]	No: [ ]	N/A: [ x ]
(h) The appropriate fee.	Yes: [ x ]	No: [ ]	

**4) Opinion of the Board under section 287B of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended.**

Information	Details/ Circumstances
a) The details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided.	<p>1. Model of turbines, and by extension the following dimensions:</p> <p>a) Hub height</p> <p>b) Rotor diameter</p> <p>c) Blade length</p> <p>d) Hardstanding area at the base of each turbine</p> <p>In deciding not to accept the request for flexibility for export capacity the Board considered that this element of the project relates is consequent oo turbine design and is not a physical attribute on which it is possible to measure or assess impact. It is accepted that there</p>

	may be a variation in export capacity arising as a result of differing turbine models.
b) The circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a) above.	<ul style="list-style-type: none"> <li>i. To avail of ongoing advances in technology;</li> <li>ii. To facilitate the procurement process;</li> <li>iii. To ensure against the potential obsolescence of existing technology.</li> </ul>

**For each detail, or groups of details, referred to in paragraph 4(a) above, the proposed application shall, in addition to any other requirement imposed by or under the Planning and Development Act 2000, as amended, be accompanied by the information referred to in the undertaking submitted with the flexibility meeting request under section, 37CC(2)(f) of the Planning and Development Act 2000, as amended.**

**The proposed application must be consistent with the opinion provided in accordance with section 37CD of the Act.**