



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319903-24

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#### Development

Proposed amendments to previously authorised White Hill Wind Farm (ABP-315365-22) to alter the location of 2 number wind turbines

#### Location

Ridge, Knocknabranagh and Knockbaun, Baunreagh, and Agharue, Co. Carlow and Coolcullen, Cloneen and Coan East, Co. Kilkenny

#### Local Authority

Carlow County Council  
Kilkenny County Council

#### Type of Application

Section 146B – Alterations to SID permission.

#### Date of Site Inspection

25/07/2024.

#### Inspector

Auriol Considine

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## 1.0 Introduction

### 1.1. Introduction

1.1.1. This report relates to a request by White Hill Wind Limited that the Board, pursuant to Section 146B of the Planning and Development Acts, 2000 (as amended), alter the terms of the planning approval for the White Hill Windfarm development (ABP-315365-22). The alterations sought provide for the relocation of two turbines.

1.1.2. The request is accompanied by the following supporting documentation:

- Planning Statement
- Environmental Impact Assessment Screening - Schedule 7A Information
- Addendum to Appropriate Assessment Screening and Natura Impact Statement
- Environmental Report and associated Annexes
  - Annex 1 - Surface Water Management Plans
  - Annex 2 - Ecological Assessment (Addendum to EIAR Biodiversity Chapter)
  - Annex 3 - Land & Soil Assessment
  - Annex 4 - Water Assessment
  - Annex 5 - Air Quality and Climate
  - Annex 6 - Landscape Assessment
  - Annex 7 - Photomontages – 7 Viewpoints
  - Annex 8 - Cultural Heritage Assessment
  - Annex 9 - Noise & Vibration
  - Annex 10 - Shadow Flicker
- Drawings, plans and particulars.

## 2.0 Site and location

- 2.1.1. The proposed amendments sought relate to the site of the previously permitted wind farm. The overall 290-hectare site on Castlecomer Plateau - the Killeshin Hills is located across two planning jurisdictions with the western area of the site being located in Co. Kilkenny and the eastern area being located in County Carlow. The site lies approximately 13km to the southwest of Carlow town, 14km to the northeast of Kilkenny City and approximately 4km west of Oldleighlin.
- 2.1.2. This area of both counties can be described as being quite rural with a high proportion of dispersed one-off housing noted in the area. In addition, there are a number of farm holdings, and associated farmyards and buildings in the wider area.
- 2.1.3. The specific area associated with this request lies to the northwest of the overall site and primarily within an area of forestry.

## 3.0 Planning History

- 3.1. **ABP-315365-22:** The Board granted a ten-year planning permission under Section 37E of the Planning and Development Act, 2000 as amended, on the 21<sup>st</sup> of November 2023 for a development comprising the following:

- 1. 7 no. wind turbines with hub height of 104 metres, a rotor diameter of 162 metres and an overall tip height of 185 metres;
- 2. All associated turbine foundations and crane hardstanding areas;
- 3. All associated underground electrical and communications cabling;
- 4. Construction of internal wind farm access tracks;
- 5. Construction of a site entrance from the L3037 local road and upgrades to 2 no. existing agricultural entrances from the L7122 local road;
- 6. 1 no. guy-wired meteorological mast with an overall height of 30 metres;
- 7. 1 no. temporary construction compound;
- 8. 3 no. borrow pits which, when exhausted, will be utilised to permanently store excess excavated material;
- 9. The storage, as required, of excavated material at 2 no. further dedicated spoil deposition areas;

10. Change of use of existing residential dwelling to wind farm site office;
11. Felling of 15 hectares of commercial forestry plantation to facilitate the construction of wind farm infrastructure;
12. The construction of a temporary access track (150m in length) between the N78 national road and L1834 local road;
13. Carriageway strengthening works at 'Black Bridge' on the L1835 and L3037;
14. All associated and ancillary site development, excavation, construction, landscaping and reinstatement works, temporary works to public roads along the turbine component haul route, the provision of site drainage infrastructure and environmental mitigation measures; and,
15. A 35-year operational life from the date of commissioning of the entire proposed development.

3.1.1. The above SID application was subject to pre-application consultations with the Board under Section 37B of the Planning and Development Act, 2000 (as amended) (ABP-312224-21 refers). One pre-application meeting took place with the Board on 13<sup>th</sup> April 2022.

3.1.2. Full details of the planning history of the wider area are included in the Inspectors Report associated with ABP-315365-22.

## **4.0 The Alteration Requested**

### **4.1. Background:**

4.1.1. Planning permission was granted on the 21<sup>st</sup> of November 2023, for a 7-turbine windfarm with an electrical output of 50.4MW, on lands across Co. Carlow and Co. Kilkenny. This development is known as the White Hill Wind Farm (ABP ref: ABP-315365-22). The permitted turbines have a hub height of 104m, a rotor diameter of 162m and an overall tip height of 185m.

4.1.2. The alteration sought as part of this application relates to the relocation of two of the permitted turbines, T6 and T7 from their permitted locations. The reason for the amendments sought are due to the withdrawal of involvement by two landowners

from the project. The above-mentioned turbines were permitted within these landholdings.

- 4.1.3. It is submitted that the permitted development was subject to EIA and it is submitted that the requested alteration will not, of itself, give rise to a development of a type listed at Part 1 of Schedule 5 of the Regulations, will not generate or result in a development listed at paragraphs 1-12 of Part 2 of Schedule 5 and will not result in an increase in the size of the permitted development by greater than 25% or an increase in size equal to 50% of the appropriate threshold set out at Schedule 5, Part 2, Para. 3(j).
- 4.1.4. The permitted development was subject to AA, and a Natura Impact Statement was submitted. An Addendum NIS has been prepared to support the request for alteration which concluded that the alterations will not have a direct, indirect or cumulative adverse effect on the conservation status or integrity of any European site, having regard to their conservation objectives.
- 4.1.5. The alterations requested can be implemented in full compliance with the 22 conditions attached to the consent for the windfarm.

#### 4.2. **Proposed Alteration:**

- 4.2.1. The amendments are indicated as follows:
  - 1. T6 - c170m to the southwest of its permitted position
  - 2. T7 - c220m to the south of its permitted position
  - 3. Alter the location on ancillary wind turbine infrastructure including foundations and crane hardstanding
  - 4. Alter the alignment of access tracks and underground electricity and communications cabling associated with turbines T6 and T7
  - 5. Undertake all associated ancillary site development works related to the above alterations including excavations and groundworks, drainage infrastructure, felling of existing commercial forestry plantation, watercourse crossing, landscaping and site reinstatement.

#### 4.3. **Supporting Documentation**

- 4.3.1. The application included the following accompanying documents:

- Planning Statement
  - Summarises the background to and scope of the request and the legislative context.
  - Presents a summary of EIA considerations in terms of Schedule 5 of the Regulations
  - Presents a summary of AA considerations in terms of Section 146(3A) of the Act.
  - Considers the proposed amendments in terms of compliance with the conditions of consent applicable to ABP-315365-22.
  - Concludes requesting that the Board alter the terms of the planning permission to provide for the re-siting of turbines T6 and T7 and attendant infrastructure.
- Environmental Impact Assessment Screening - Schedule 7A Information
  - Sets out the information against which the proposed amendments must be considered in tabular form.
  - Concludes that the proposed alteration is not of a type, scale or threshold where an EIA would be mandatory.
  - The proposed alteration will not give rise to impacts of a magnitude which on its own or cumulatively, could cause a likely significant effect on the environment.
  - EIA and the submission of an EIAR is not required.
- Addendum to Appropriate Assessment Screening and Natura Impact Statement
  - The report includes the results of the updated desktop study and 2024 field survey which determined that there were no Annex I habitats, or Annex II of IV species recorded within proximity of the proposed alteration.
  - The minor alterations proposed will not affect the previously described pathways for impact on designated sites or introduce any additional pathways for impacts to occur.

- Changes to the NIS impact assessment are considered with no significant effects on considered designated sites.
- The alterations will not require the amendment of any mitigation measures.
- The proposed alteration does not affect the conclusion of the 2022 NIS.
- Archaeological, Architectural and Cultural Heritage Assessment – Alterations to Permitted Development
  - The updated report considers the effects of the proposed alterations on the archaeological, architectural and cultural heritage resources.
  - The report assesses that the proposed alterations will have no direct, indirect or residual construction phase effects
  - There will be no direct, indirect or residual operational phase effects.
  - No cumulative effects arising.
  - Mitigation measures remain as those previously proposed and permitted, including monitoring.
- Environmental Report (including 10 Annexes)
  - The ER notes that an EIAR is not required and considers all of the environmental factors assessed in the previous EIAR as required by Article 3 of the EIA Directive.
  - The ER includes details of contributors to the report and considers the impact assessment and cumulative assessment as well as details of the alterations proposed.
  - The Report notes that the proposed alteration to the location of T6 will be from the permitted location within an agricultural field 170m to the southwest to within a commercial forest. T7 is permitted within commercial forestry and its relocation 220m to the south will also be within commercial forestry.
  - The crane hardstanding for T6 will be rotated, anti-clockwise by 90° to an east – west orientation. The proposed alteration of T7 will provide



for the rotation of the hardstanding by 180° in the new location and to the south of the proposed turbine position.

- The alignment of the access track due to the re-siting of T6 will also be revised and due to the overall revised locations of both turbines, there will be a reduction of approximately 300m of access track required.
- There will be no notable alterations in the extent or volume of material to be excavated, and there is no requirement for additional aggregate material required.
- There will be a reduction of c1,700m<sup>3</sup> of material to be excavated and will avoid c1,750m<sup>3</sup> of aggregates (c205 no. HGV deliveries) being imported to the site.
- All surface water control and drainage infrastructure committed to in the EIAR will be installed. The proposed alteration will have no effect on the mitigation measures.
- The alterations will give rise to the felling of an increase of 2.45ha of commercial forestry (30 no. additional HGV movements). An equivalent area will be replanted elsewhere.
- In terms of the likely significant effects, the following is submitted:
  - **Population & Human Health:** there will be limited effects with no perceptible adverse effects experienced in addition to those already assessed.  
Due to the relocation, there may be slight increase in noise and / or shadow flicker effects during the operational phase, but this will be minimal and insignificant.
  - **Biodiversity:** An ecological assessment is submitted – see further below – which concludes that no significant effects are likely.  
An Addendum NIS has also been submitted which concludes beyond all reasonable scientific doubt that the proposed alterations, either alone or in combination with other plans or projects, will not undermine the conservation objectives of any

Natura 2000 site or have any adverse effects on the integrity of a site.

- **Land & Soil:** The proposed alterations will not change the geological environmental location, and no infrastructure will be located within areas of mapped peat.  
All environmental controls and mitigation measures set out in the EIAR will be implemented and adapted for the proposed alteration where necessary.  
Residual effects will be imperceptible.
- **Water:** The alterations will result in the relocation of two permitted watercourse crossings, but the infrastructure involved will be the same as previously permitted.  
Significant effects are not assessed as likely to arise as a consequence of the alteration, with no residual effects on the hydrological or hydrogeological environment.
- **Air Quality & Climate:** As there is no impact on the number of turbines or electrical generating capacity, the alteration will have no impact on the long-term positive effects of the permitted development.  
While there have been revisions to the legislation and guidance applicable to air quality and climate since the preparation of the EIAR, the alterations will not give rise to residual effects of any significance.
- **Landscape:** The proposed alterations will not result in a significant visual effect either individually or in combination with the other existing, permitted or proposed developments, with no significant residual effects.
- **Cultural Heritage:** There are no archaeological, architectural or cultural features located within the footprint, or environs, of the proposed alteration sites. The proposed alterations will not give rise to any significant effects on cultural heritage features.

- **Noise & Vibration:** Construction impacts will not change from those conclusions of the EIAR. The operational phase will result in an increase of up to a maximum of 0.6dB<sub>LA90</sub>, which will not be detectable, with no significant effect resulting. The alterations will not give rise to any likely significant vibration effects due to the separation distances.
  
- **Shadow Flicker:** A comparative analysis of the proposed relocation of T6 and T7 is presented to quantify the change in shadow flicker levels predicted. The modelling results indicate no effect at the majority of the houses, with an increase of between 1 minute and 9 minutes at a total of 11 houses and a reduction of between 1 minute and 22 minutes at 20 houses. Under expected conditions, the annual shadow flicker levels will increase by between 2 minutes and 8 hours, 14 minutes at a total of 16 houses, and reduced by between 1 minute and 4 hours 35 minutes at 32 houses. Notwithstanding, the requester is committed to the elimination of shadow flicker effects at all dwellings, schools and places of work and accordingly, the proposed alteration will not result in any shadow flicker effects.
  
- **Material Assets:**
  - **Traffic & Access:** The alterations will result in an additional 30 HGV movements due to additional tree felling, and a reduction of 205 HGV deliveries due to the reduction in the length of the access track, with a net reduction of c175 HGV movements during the construction phase.
  - **Aviation:** No effects are assessed to occur due to the alterations proposed.
  - **Telecommunications:** The requester has previously committed to rerouting the existing telecommunications

links which pass through the site. There will be no further effects arising due to the alterations proposed.

In the event of effects being experienced by other telecommunication links, the mitigation measures set out in the EIAR will be implemented.

- **Resources & Utility Infrastructure:** The proposed alterations will have no effect on renewable resources or on utility infrastructure during any phase of the development.
- **Interactions of the Foregoing:** All potential interactions have been assessed and no likely significant interactive effects on the environment are assessed.
- The ER concludes that the proposed alteration will not result in any likely significant effects on the environment.
- Annex 1 – Surface Water management plans
  - Revised surface water management plans submitted
- Annex 2 – Ecological Assessment (Addendum to EIAR Biodiversity Chapter)
  - The addendum report to be read in conjunction with Chapter 5 (Biodiversity) Volume I of the EIAR submitted with original application.
  - The report presents an updated desktop study and 2024 field survey to ground-truth the baseline environment, and to determine changes, if any since the 2022 EIAR.
  - There are no changes to the designated conservation sites, including connectivity to the sites, identified previously, and habitats remain unchanged from those previously reported.
  - The relocation to T6 will result in it now being located within a conifer plantation as opposed to the improved agricultural grassland previously permitted. T7s relocation will remain within a conifer plantation.

- No changes to birds, mammals, aquatic ecology or other taxa arise
  - There are no changes to the likely effects predicted for biodiversity in terms of habitats, species or birds arising due to the proposed alteration.
  - Previously committed-to environmental mitigation measures remain appropriate and no additional measures are required, with no residual impacts are not likely.
- Annex 3 – Land & Soil Assessment
    - The report sets out the findings of additional survey carried out in April 2024 noting that the location of the proposed turbines within dense forestry precluded the completion of additional trial pitting due to access constraints.
    - Existing trial pitting conducted as part of the original EIAR are deemed to be representative.
    - The revised locations of the turbines are considered under a number of headings, with no notable alteration in the volume of excavations and/or groundworks to be undertaken.
    - It is concluded that the proposed alteration will not result in any likely significant effects on land, soils and geological environment.
  - Annex 4 – Water Assessment
    - The report sets out the findings of additional survey carried out in April 2024. No additional hydrological constraints were found.
    - The proposed alteration presents no likelihood of significant effects on surface or groundwater quality following the implementation of mitigation measures.
    - No cumulative effects arise due to the proposed alteration.

- Annex 5 - Air Quality and Climate
  - There is no alteration to the potential renewable power generation of the permitted development, therefore the operational phase assessment remains unchanged.
  - Overall, there will be no significant change to the traffic volumes arising as assessed under the original EIAR. The conclusions of Chapter 8 of the EIAR, therefore, remain valid.
  - No updates to the mitigation measures required.
  - The proposed amendments remain in accordance with the legislative and policy updates since the publication of the EIAR.
  - The proposed re-siting of T7 will result in the reduction of access track being constructed by 300m, amounting to a reduction of c1,700m<sup>3</sup> of material to excavated, and the avoidance of c1,750m<sup>3</sup> of aggregate (205no HGV deliveries) being imported to the site.
  - The relocation of turbines will require an increased felling area of 2.45ha, amounting to c30 no additional HGV movements, with increased GHG emissions due to the additional felling.
  - Once mitigation to ensure GHG emissions associated with the construction phase takes account of the latest CAP, no additional likely significant effects arise.
- Annex 6 - Landscape Assessment
  - 7 viewpoints were updated to assess the likely significant additional visual effects associated with the proposed alteration.
  - It is assessed that the proposed alteration will not result in a significant landscape effect and will result in no real discernible difference in landscape impacts assessed in terms of the permitted development.
- Annex 7 - Photomontages
  - Viewpoint 10 – L7122 at Knocknabrangah

- Scale and intensity remain unchanged.
  - Visual envelope reduced.
  - Array appears slightly more condensed, but still with relatively even spacing.
  - Residual magnitude of effects remains unchanged when compared to permitted development.
- Viewpoint 13 – L30373 at Ridge
    - Scale and intensity remain unchanged.
    - Slight reduction in the horizontal extent due to the alteration, but no change in visual effect.
    - Significance of visual effect remains unchanged when compared to permitted development.
- Viewpoint 14 – Local road at Kane's Bridge
    - Uphill and contained view.
    - Visual envelope slightly reduced.
    - Both turbines are heavily screened by conifer plantation.
    - Residual magnitude of effects remains unchanged when compared to permitted development.
- Viewpoint 17 – L30373 at Baunreagh
    - Elevated view, with majority of turbines clearly visible.
    - Little discernible difference due to the relocation of T7.
    - Relocation of T6 will result in it presenting as slightly stacked, generating a sense of visual clutter with blade sets overlapping with T5.
    - The clutter arising is minimal and will have little notable consequence to the view.
    - Significance of visual effect remains unchanged when compared to permitted development.

- Viewpoint 18 – Local road at Coolcullen
  - T6 and T7 are not the most prominent turbines in this view.
  - Alterations to the locations of T 6 and T7 are barely discernible and will have no significant visual effect.
  - Residual magnitude of effects remains unchanged when compared to permitted development.
- Viewpoint 19 – L7117 at Baunreagh
  - Contained view from local road.
  - Turbines present in a condensed cluster
  - The relocation of T6 and T7 will not be discernible, with T6 set slightly away from the array, marginally reducing the condensed cluster.
  - Significance of visual effect remains unchanged when compared to permitted development.
- Viewpoint 20 – Local road at Reevanagh
  - The proposed alteration will result in T6 and T7 presenting slightly closer to each other.
  - Significance of visual effect remains unchanged when compared to permitted development.
- Overall, it is assessed that the proposed alteration will not give rise to significant landscape or visual effects, with no notable changes to the effects previously assessed.
- Annex 8 - Cultural Heritage Assessment
  - This desk-based assessment includes a consideration of the proposed alteration in terms of archaeological, architectural and cultural heritage resources.
  - There are no recorded monuments at the revised locations of T6 or T7, or within 1km of the sites.



- There are no archaeological or architectural features recorded on aerial photography at the revised locations and no entries recorded in the Topographical Files for the locations.
  - There are no National Monuments with Preservation Orders or Temporary Preservation Orders at the revised location sites and no World Heritage Sites within 20km.
  - The report concludes that the relocation of the turbines will not result in any significant effects on the archaeological, architectural or cultural heritage resource.
  - Previously committed-to mitigation measures remain appropriate.
- Annex 9 - Noise and Vibration
    - The changes in the predicted noise levels at NSLs are negligible and confirms that there will be no significant changes.
    - Any changes remain in compliance with the applicable noise criteria.
    - The findings of the original EIAR remain unchanged, and the proposed alteration will operate in accordance with noise limits stated in Condition 11<sup>1</sup> of the Boards planning permission.
  - Annex 10 - Shadow Flicker Prediction Model
    - The commentary around Shadow Flicker is presented in Section 3.9 of the ER submitted.
    - A comparative analysis of the permitted development and proposed alteration has been undertaken to quantify the change in shadow flicker levels predicted.
    - Under the 'worst case scenario' conditions daily shadow flicker levels are predicted to increase by between 1 and 9 minutes at a

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<sup>1</sup> The Board will note that it is Condition 8 of the grant of planning permission ABP-315365-22 that relates to noise limits.

total of 11 dwellings, with a reduction in annual shadow flicker levels by between 1 and 22 minutes at 20 dwellings.

- Under 'expected' conditions it is predicted that annual shadow flicker levels will increase by between 2 minutes and 8 hours 14 minutes at a total of 16 dwellings and reduced by between 1 minute and 4 hours 35 minutes at 32 dwellings.
- Subject to design and mitigation measures set out in the EIAR for the permitted development, the requester is committed to the elimination of shadow flicker effects at all dwellings, schools and places of work.
- It can be concluded that the proposed alteration will not result in any shadow flicker effects.

#### **4.4. Conclusion of Supporting Arguments**

- 4.4.1. The requester makes the case that the purpose of the request to alter the permitted development arises due to the withdrawal of two landowners from their involvement in the permitted development. As the two turbines, T6 and T7, are located within the affected lands, there is a need to relocate the turbines.
- 4.4.2. The requester submits that the alteration proposed represents an immaterial alteration to the permitted development and will not result in any likely significant adverse effects on the environment. Should the Board be of the opinion that the proposed alteration is a material alteration, the requester submits that all the relevant information required under Section 146B(3)(b)(i) has been furnished.

## 5.0 Legislative Provisions

- 5.1. Section 146B of the Act provides for the alteration by the Board of a strategic infrastructure development in response to a request made of it. The Board will note that the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018) has provided for a number of amendments to Section 146B of the Act and these amendments are reflected in the following outline of the legislative provisions.
- 5.2. Initially under the terms of section 146B(2)(a) the Board must decide as soon as practicable after the making of such a request, whether or not the making of a proposed alteration would constitute “the making of a material alteration of the terms of the development concerned”. Section 146B(2)(b) provides that “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”.
- 5.3. Alteration not a material alteration - Section 146B(3)(a) states that “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”.
- 5.4. Alteration is a material alteration - Section 146B(3)(b) provides that 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.

5.5. In respect of Section 146B(3)(b)(i), the Act states at subsection 3(A), (as amended by European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018)), that “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”. Subsection (3B) as amended by same, states that “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”.

5.6. Section 146B(4) provides that before making a determination under subsection (3)(b)(ii), the Board shall determine whether (a) the extent and character of the alteration requested under subsection (1), and (b) any alternative alteration 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).

5.7. Section 146B(4A) states as follows:

- (a) Subject to paragraph (b), within 8 weeks of receipt of the information referred to in subsection (3)(b)(i), the Board shall make its determination under subsection (4).
- (b) Subject to paragraph (c), the Board shall not be required to comply with paragraph (a) within the period referred to in paragraph (a) where it appears to the Board that it would not be possible or appropriate, because of the exceptional circumstances of the alteration under consideration (including in relation to the nature, complexity, location or size of such alteration) to do so.
- (c) Where paragraph (b) applies, the Board shall, by notice in writing served on the requester before the expiration of the period referred to in paragraph (a) , inform him or her of the reasons why it would not be possible or appropriate to comply with paragraph (a) within that period and shall specify the date before which the Board intends that the determination concerned shall be made.

5.8. Section 146B(5) states that “if the Board determines that the making of either kind of alteration referred to in subsection (3)(b)(ii) —

- (a) is not likely to have significant effects on the environment, it shall proceed to make a determination under subsection (3)(b)(ii), or
- (b) is likely to have such effects, the provisions of section 146C shall apply”.

5.9. Section 146B(6) states that “if, in a case to which subsection (5)(a) applies, the Board makes a determination to make an alteration of either kind referred to in subsection (3)(b)(ii), 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”.

5.10. Section 146B(7)(a) states that “in making a determination under subsection (4), the Board shall have regard to —

- (i) the criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under section 176,

- (ii) the criteria set out in Schedule 7 to the Planning and Development Regulations 2001,
- (iii) the information submitted pursuant to Schedule 7A to the Planning and Development Regulations 2001,
- (iv) the further relevant information, if any, referred to in subsection (3A) and the description, if any, referred to in subsection (3B),
- (v) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (vi) in respect of an alteration under consideration which would be located on, or in, or have the potential to impact on —
  - (I) a European site,
  - (II) an area the subject of a notice under section 16 (2)( b ) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),
  - (III) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,
  - (IV) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),
  - (V) land designated as a refuge for flora or a refuge for fauna under section 17 of the Wildlife Act 1976,
  - (VI) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or
  - (VII) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage

Areas published on the National Parks and Wildlife Service website,

the likely significant effects of such alteration on such site, area, land, place or feature, as appropriate”.

- 5.11. Subsection (b) states that “the Board shall include, or refer to, in its determination under subsection (4) the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based”.
- 5.12. Section 146B(7A) states that “where the determination of the Board under subsection (4) is that the alteration under consideration would not be likely to have significant effects on the environment and the applicant has, under subsection (3B) , provided a description of the features, if any, of the alteration concerned and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration concerned, the Board shall specify such features, if any, and such measures, if any, in the determination”.
- 5.13. Under section 146B(8) before the Board makes a determination under sections 146B(3)(b)(ii) or 146B(4), it is required to make, or require the requester to make, information relating to the request available for inspection to certain persons and/or the public. Submissions and observations are to be invited and the Board is required to have regard to any such submissions or observations received.
- 5.14. Section 146C relates to the preparation of environmental impact statement for purposes of section 146B and applies to a case where the determination of the Board under section 146B(4) is that the making of either kind of alteration referred to in section 146B(3)(b)(ii) is likely to have significant effects on the environment.

## **6.0 Assessment**

### **6.1. Consideration of Materiality**

- 6.1.1. The first consideration in relation to this request to alter the terms of the permitted windfarm is to determine if the making of the alteration would be material to the terms of the development as granted.
- 6.1.2. Under the permitted development, ABP-315365-22 refers, the White Hill Wind Farm comprises a 7-turbine windfarm with an output of 50.4MW, and all associated site development and ancillary works. The permission is subject to 22 conditions and Condition 1 requires that the development be carried out in accordance with the plans and particulars lodged with the application and further information received by the Board on the 18<sup>th</sup> of August 2023 and subject to the provisions of the further 21 conditions.
- 6.1.3. The alteration requested relates to the relocation of two turbines, T6 and T7 from their permitted locations. The reason for the amendments sought are due to the withdrawal of involvement by two landowners from the project.
- 6.1.4. The amendments are indicated as follows:
  - 1. T6 - c170m to the southwest of its permitted position
  - 2. T7 - c220m to the south of its permitted position
  - 3. Alter the location of ancillary wind turbine infrastructure including foundations and crane hardstanding
  - 4. Alter the alignment of access tracks and underground electricity and communications cabling associated with turbines T6 and T7
  - 5. Undertake all associated ancillary site development works related to the above alterations including excavations and groundworks, drainage infrastructure, felling of existing commercial forestry plantation, watercourse crossing, landscaping and site reinstatement.
- 6.1.5. The alterations do not change the overall number, type, height or scale of the permitted turbines and will not result in any increase in the size or output of the permitted windfarm. The alteration in the location of T6 will result in the felling of an additional 2.45ha of commercial forestry. The requester has submitted an



Environmental Report which assesses the impact of the proposed alterations in the context of the impacts identified in the original EIAR.

## **Environmental Considerations**

### **6.1.6. Population & Human Health**

The ER indicates that all environmental controls and mitigation measures will be implemented in full such that significant effects will not arise. The proposed relocation of the two turbines is noted to slightly alter the impacts of shadow flicker and noise to a number of houses.

In terms of shadow flicker, I would note that the alterations will result in two houses potentially experiencing an increase in shadow flicker above the highest level assessed at H7 in the original EIAR. The predicted levels are 25 hours and 43 minutes at H14 and 24 hours and 42 minutes at H19 as a result of the alterations.

I note that in terms of noise and vibration, it is assessed that the relocation of the turbines will result in a maximum increase of 0.6dB <sub>LA90</sub> during the operational phase.

Notwithstanding the proposed alterations, I note that the turbines retain a separation distance of +800m from the nearest noise sensitive receptor and any potential effects come within the relevant thresholds for noise and shadow flicker. Conditions 8 and 9 of the permitted development set out strict parameters to control noise and shadow flicker, and the proposed alterations do not change these requirements. I therefore accept the conclusion that the proposed alterations will not alter the findings of the EIAR or the Boards previous EIA.

### **6.1.7. Biodiversity**

The proposed alterations will not involve any changes to the dimensions of the turbines permitted, construction phase activities or mitigation measures. The predicted impact on habitats will include a reduction as the length of access track is to be reduced by 300m. The relocation of turbine T6 from an agricultural grassland to within a commercial forest will retain the grassland and the alteration will result in an increased loss of commercial forestry.

An Addendum to the EIAR Biodiversity chapter, as well as an Addendum to AA Screening and NIS, were submitted with this request and present an updated desktop study and 2024 field survey to ground-truth the baseline environment, and to

determine changes, if any since the 2022 EIAR. The reports conclude that there were no Annex I habitats, or Annex II of IV species recorded within proximity of the proposed alteration. The alterations proposed will not affect any previously assessed pathways or connections for impact on European Sites and no amendments to the mitigation measures as provided for in the EIAR are required.

The development will continue to be subject to the relevant EIAR mitigation measures and planning conditions, and in particular Condition nos. 5, 6, 7, 14 & 15 of Board's decision on ABP-315365-22. The reports note that the proposed alteration will not give rise to impacts of a magnitude which on its own or cumulatively, could cause a likely significant effect on the environment and does not affect the conclusion of the 2022 EIAR or NIS. I am therefore satisfied that there would be no additional significant impacts on flora, fauna, ornithology or biodiversity other than those already considered by the Board and addressed by mitigation and condition.

#### **6.1.8. Land & soil**

The proposed alteration will result in a minor amendment to the permitted layout, which will result in a reduction in the length of access track required, and all within the same geological environment and location. The alteration will result in an area of agricultural grassland being retained with the relocation of a turbine to within an area of commercial forestry. The impacts on land and soil, including drainage provisions, construction activities and post construction mitigation measures remain substantially unchanged. The development continues to be subject to the implementation of all environmental controls and mitigation measures as set out in the EIAR, and conditions attached to the Boards decision on ABP-315365-22. I am therefore satisfied that there would be no additional significant impacts on land, soils or the geological environment.

#### **6.1.9. Water**

The proposed alterations will result in the relocation of two permitted watercourse crossings, but the infrastructure and construction methods involved will be the same as previously permitted. Following further surveys in 2024, no additional hydrological constraints were identified. All surface water control and drainage infrastructure committed to in the EIAR will be installed.

Significant effects are not assessed as likely to arise as a consequence of the alteration, with no residual effects on the hydrological or hydrogeological environment. Conditions 7 and 14 of the Boards decision to grant permission under ABP-315365-22 remain fully applicable. I am therefore satisfied that there would be no additional significant impacts on water.

#### **6.1.10. Air Quality & Climate**

There is no proposed alteration to the potential output of the permitted development and the operational phase assessment in the EIAR remains unchanged. The alteration will result in the reduction in the length of the access track being constructed by 300m with an associated reduction of material to excavated, and the avoidance of aggregate (205no HGV deliveries) being imported to the site. The increased felling of commercial forestry will result in c30 additional HGV movements but the overall net reduction of 175 HGV movements. I am satisfied that there would be no additional significant impacts on air quality and climate.

#### **6.1.11. Landscape**

The requester has provided updated photomontages from seven viewpoints to facilitate the assessment of any likely significant additional visual effects associated with the proposed alteration. The seven viewpoints correspond to the following original viewpoints:

- Viewpoint 10 – L7122 at Knocknabrangah
- Viewpoint 13 – L30373 at Ridge
- Viewpoint 14 – Local road at Kane's Bridge
- Viewpoint 17 – L30373 at Baunreagh
- Viewpoint 18 – Local road at Coolcullen
- Viewpoint 19 – L7117 at Baunreagh
- Viewpoint 20 – Local road at Reevanagh

In the context of the overall project, the changes to the views of the project arising from the proposed relocation of turbines T6 and T7 would be imperceptible from both distance and proximate views, with no significant differences in terms of the permitted development.

I do not consider that the visual impact would warrant revised conditions if the case incorporating the alterations came before the Board. I agree with the requester's submission that the proposed alteration will not give rise to significant landscape or visual effects either individually or in combination with the other existing, permitted or proposed developments. The alteration does not alter the conclusions set out in the EIS and I am satisfied that there is no material change in terms of visual impacts previously assessed.

#### 6.1.12. **Cultural Heritage**

The updated Archaeological, Architectural and Cultural Heritage Assessment report concludes that the proposed alteration will have no effects and that the mitigation measures proposed and provided for under Conditions 16 and 17 of the grant of planning permission remain fully enforceable and appropriate. I am satisfied that there are not additional significant impacts on archaeology, architecture and cultural heritage.

#### 6.1.13. **Material Assets**

**Transport & Access** - The proposed alteration will not result in significant effects on the local road network. The reduction in the length of internal tracks will reduce the volume of extracted material and the number of HGV trips required to deliver construction materials. The additional area of tree felling to accommodate the relocated T6 will result in a slight increase in traffic movements, but the overall effects of the alteration will result in a reduction in the number of traffic movements during the construction phase. Condition 13 of ABP-315365-22 requires the submission of a transport management plan prior to the commencement of development. The proposed alterations do not change this requirement.

**Aviation** - Condition 12 of ABP-315365-22 requires that details of aeronautical requirements be submitted and agreed prior to the commencement of development. The proposed alterations do not change this requirement.

**Telecommunications** - The impacts of the permitted development were considered as part of ABP-315365-22, due to the concerns raised by service providers. I refer the Board to Section 13.3 of the original EIAR which deals with Telecommunications and sets out the mitigation and monitoring measures to be

implemented, and as conditioned under Condition 11 of the grant of planning permission. The proposed alterations do not change this requirement.

**Resources and Utility Infrastructure** - The proposed alterations will have no significant effects on utilities infrastructure beyond those already determined and considered as part of the permitted development.

#### 6.1.14. **Interaction of Impacts**

Having regard to the above, I accept the conclusion that the interaction of impacts does not materially alter those identified in the EIAR and assessed in the Boards EIA. I am satisfied that there would be no significant additional interactions as a result of the alterations.

#### **Conclusion on Materiality:**

6.1.15. 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-315365-22. Any impact on the population and human health, biodiversity, land and soil, water, air quality and climate, landscape, cultural heritage, noise and vibration, shadow flicker and material assets including transport and access, aviation, telecommunications and resources and utility infrastructure would be marginal.

6.1.16. Having regard to the nature and scale of the proposed alterations and the development as granted under ABP-315365-22, I am satisfied that the Board would not have determined the proposal differently had the locations of turbines T6 and T7, the location of ancillary wind turbine infrastructure including foundations and crane hardstanding, the alignment of access tracks and underground electricity and communications cabling associated with turbines T6 and T7 or all ancillary site development works as detailed and now proposed in the alteration, 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-315365-22.

#### 6.2. **Public Consultation**

6.2.1. 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, the information on file and the nature, scale and extent of the windfarm development granted under ABP-315365-22, 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.

- 6.2.2. Should the Board not concur with my recommendation and determines that the making of the alteration is material, the Board will note that the requester has indicated that they consider that the documentation accompanying the request complies with the requirements of section 146B(3)(b)(i) of the Planning and Development Act, 2000, as amended.

### 6.3. **Appropriate Assessment**

The Board completed an Appropriate Assessment Screening exercise under ABP-315365-22 in relation to 3 Natura 2000 sites within a 15km radius of the application site which resulted in 1 of the sites being screened out. The Board then undertook an Appropriate Assessment in relation to the effects of the development proposed under ABP-315365-22 on the 2 sites that were not screened out:

- River Barrow and River Nore SAC (Site Code: 002162)
- River Nore SPA (Site Code: 004233)

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-315365-22. The requester has submitted an AA Screening Report in relation to the alterations that are the subject of this section 146B request. The 3 sites that were subject of the AA Screening in ABP-315365-22 are again considered in the context of the alterations subject of this section 146B request. The AA Screening report on file concludes that, in relation to the Natura 2000 sites that was subject of the Appropriate Assessment in ABP-315365-22, the proposed alteration will not change the connectivity of the permitted development to any European site, nor change any of the alone or in-combination effects identified. The effects of the alteration present no mechanism by which any likely significant effects could occur on any European Site beyond those described in the 2022 NIS, and does not give rise to any alterations to the mitigation measures detailed in the NIS.

Having considered the Board's determination on Appropriate Assessment on ABP-315365-22, section 7.0 of the Inspector's Report on ABP-315365-22, the nature, scale and extent of the alterations relative to the development subject of ABP-315365-22, 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 in view of the sites' conservation objectives.

## **7.0 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-315365-22.

## **DRAFT ORDER**

**REQUEST** received by An Bord Pleanála on the ABP-315365-22 from White Hill Wind Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a strategic infrastructure development described as the White Hill Wind Farm comprising 7 turbines and all associated works, the subject of a permission under An Bord Pleanála reference number ABP-315365-22.

**WHEREAS** the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 21<sup>st</sup> day of November 2023.

**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:

1. Alter the location of turbine T6 by c170 metres (m) to the southwest of its permitted position
2. Alter the location of turbine T7 by c220m to the south of its permitted position
3. Alter the location on ancillary wind turbine infrastructure including foundations and crane hardstanding
4. Alter the alignment of access tracks and underground electricity and communications cabling associated with turbines T6 and T7, and
5. Undertake all associated ancillary site development works related to the above alterations including excavations and groundworks, drainage infrastructure, felling of existing commercial forestry plantation, watercourse crossing, landscaping and site reinstatement.

**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 received by An Bord Pleanála on the 17<sup>th</sup> day of June, 2024 for the reasons and considerations set out below.

### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

### **REASONS AND CONSIDERATIONS**

Having regard to:

- (i) the nature and scale of the wind farm development permitted under An Bord Pleanála Reference Number ABP-315365-22 for this site, which includes 7 turbines and all associated infrastructure and works,
- (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 development
- (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.

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.

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A. Considine  
Inspectorate  
13<sup>th</sup> August 2024

