



An
Bord
Pleanála

Inspector's Report ABP-320072-24.

Development	Amendments to the onsite substation at the previously consented Farranrory Wind Farm
Location	Coonashinnagh, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460280
Applicant(s)	Gromane Ltd.
Type of Application	Appeal.
Planning Authority Decision	Granted with conditions.
Type of Appeal	Third Party
Appellant	Wild Ireland Defence CLG
Observer(s)	None
Date of Site Inspection	23 rd August 2024
Inspector	Philip Davis

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1.0 Introduction

This third-party appeal is against the decision of the planning authority to grant permission for amendments to previously granted substation to facilitate a permitted (not yet constructed) 9 turbine windfarm in County Tipperary.

A concurrent appeal - **ABP-317772-23** – is for the grid connection proposed between this substation to the grid – this proposal extends over into County Kilkenny. Permission has been granted (without appeal) for the Kilkenny element of underground grid connection.

The grounds of this appeal relate primarily to the adequacy and completeness of the appropriate assessment, specifically the mitigation measures set out in the application documentation, in addition to issues relating to the Water Framework Directive.

2.0 Site Location and Description

2.1. General area

The proposed substation is located on the east facing side of a broad valley overlooking the Munster River in County Tipperary, a tributary of the River Nore. The Munster River at this point forms the border with Kilkenny. The Sliveardagh Hills, with a high point of 340 metres is 2 km to the north. The local highpoint is Warhouse Hill, at 300 metres AOD, with a drop in levels over just over 2.5 km to the river to the east, at around 140 metres AOD. The area is rural in nature with a scattering of dwellings and farms along the minor road network. The nearest settlements are the village of Kilmanagh, 4 km east of the Munster River, and Commons Village, 2km north-west of Warhouse Hill. The landscape is characterised by grazing land bounded by ditches and high hedges, with occasional conifer plantations. It is served by a network of generally narrow third class roads. The site is accessed via the L2018 to the north. A number of small windfarms are visible along the ridges on the western side of the Munster River Valley. At the top of Warhouse Hill is the Famine Warhouse 1848, a former farmhouse museum dedicated to an event in the 1848 Young Irelander uprising.

2.2. Appeal site

The appeal site is within a grazing field of around 2 hectares in extent with a site area given as 0.840 hectares. It is part of a 67 hectare landholding that includes a dairy/beef farm and on which (along with other lands in the area) there is permission for a windfarm. It lies on an east facing slope between the 220 and 230 metre contours on the side of Warhouse Hill in the townland of Coolnashinnagh. A farm track runs downhill on the southern side of the site. This farm track terminates at a farmhouse and dairy operation next to a minor country road around 450 metres from the site. There is a ditch and hedgerow on the western (highest) side of the site, but it is otherwise open farmland.

The closest dwelling is a pair of farmhouses around 200 metres to the north, Between the site and these houses is a shallow valley with a minor stream. The historic Famine Warhouse is 750 metres to the west on higher ground.

3.0 Proposed Development

The proposed development is described (in summary) as follows:

An increase in the footprint of a permitted substation compound to 381 msq.

An increase in the footprint of the substation building of 51.5 sqm.

Amendments to the layout of the offices and welfare facilities within the substation building.

Addition of 2 no. container sized 6 x 2.43m by 2.59m in height for storage of parts and equipment during the operational phase of the windfarm.

Addition of 2. No. parking spaces and an extension of the access road.

Associated relocation of the permitted fence.

Amendments to the drainage design to accommodate changes to the layout.

Minor amendments to the red line of the permitted development to accommodate the above.

Addition of a new joint bay.

The original application was submitted with plans and specifications; a letter providing an explanation for the amendments; a letter of permission from the landowner, and a Planning and Environmental Report dated April 2024; (the latter of

which included a screening document for EIA). A number of unsolicited plans were submitted subsequent to the application with additional details.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 2 no. standard conditions, setting that the proposed developments shall be in accordance with the details submitted and with the terms of conditions of permission no. 20/972.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planning report on file can be summarised as follows:

- Notes that it is within a 'Class 2 scenic amenity area' in the Tipperary CDP 2022.
- Notes the planning history of the site including a permission for a 9 turbine windfarm, with subsequent amendments.
- Outlines national and regional policies and summarises key Tipperary County Development Plan 2022 policies of relevance (notes policy objectives 3-1, Chapter 10 on renewable energy, and objectives 11-1, 11-2 and 11-7a). Particularly notes policies TWIND-1 and TWIND-2 on renewable energy (Appendix 2 of the CDP).
- In its appraisal, it notes that permission has been granted previously for the 9 turbine wind farm and a 38kV underground connection. As the details submitted are considered to be minor, the proposed development is considered to be acceptable in principle.
- It is noted that the parent application (20/972, subsequently amended) was subject to EIA. This EIAR noted that the direct and indirect effects on the environment had been identified and described and were not likely to result in a significant impact on the environment. Full EIA has been screened out It is

concluded that they will not result in an increase in size or have a likelihood of significant effects, therefore an EIA is not required.

- A Screening for AA concluded that there is the no potential for effects on the River Nore SAC and SPA.
- The third-party submission is noted. It is considered that all impacts on the River Nore SAC and SPA have been clearly identified and considered as part of the NIS.
- Notes that the output of the proposed windfarm is not increasing, therefore the development contributions applied to the parent permission applies.
- A grant of permission was recommended subject to 2 conditions.

4.2.2. Other Technical Reports

None on file.

4.3. Prescribed Bodies

No responses on file.

4.4. Third Party Observations

One public submission – by Peter Sweetman on behalf of Wild Ireland Defence. This submission outlines issues the PA must address and argues that some details relating to Appropriate Assessment are incomplete.

5.0 Planning History

Reference	Development Description/Council
ABP-317772-23/ 23/60402 20/972	Permission for amendments to the underground grid connection for the previously consented Farranrory Wind Farm (20/972) – Tipperary County Council
	Permission granted with conditions by Tipperary CC for a 9-turbine wind farm at Farranrory (EIAR). This was later

amended in a subsequent permission amended **23/60803**.

Not yet constructed.

23/60803	Amendments to the above – main elements are an increase in blade tip height from 150 metres to 156.5 metres, with some reconfiguration of hardstanding layouts and internal access roads (accompanied by amended EIAR). Not yet constructed.
21/627	Permission granted by Kilkenny CC for 38kV grid connection (31.5km) to the above site.
21/1620	Permission granted by Tipperary CC for 38kV grid connection to the above site.
23/60248	Permission granted (10/12/23) for a grid connection upgrade to 110kV (revision to 21/627 above) to the above site (Kilkenny CC)

6.0 Policy Context

6.1. Development Plan

The site is in open countryside without a specific zoning designation in the Tipperary County Development Plan 2022-2028. Relevant policies include:

No.	Policy Objective
3.1	Promote and facilitate renewable energy development, in accordance with the policies and objectives of the Tipperary Renewable Energy Strategy 2016 (and any review thereof), and the Tipperary Climate Adaptation Strategy 2019.
3-A	Support and facilitate the implementation of European and National objectives for climate adaptation and mitigation, and to prepare a Climate Action Plan for Tipperary in compliance with the Climate

Action and Low Carbon Development (Amendment) Bill (DECC, 2020) and any review thereof.

- 10-1** Support and facilitate new development that will produce energy from local renewable sources such as hydro, bioenergy, wind, solar, geothermal and landfill gas, including renewable and non-renewable enabling plant, subject to compliance with normal planning and environmental criteria, in co-operation with statutory and other energy providers. The provisions of the Tipperary Renewable Energy Strategy (and any review thereof) as set out in Volume 3, will apply to new development.
- 10-5** Support and facilitate the co-location of renewable energy development and technologies to ensure the most efficient use of land identified as suitable for renewable energy generation. 10.10 Planning Objective
- 11-1** In assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health. In line with the provisions of Article 6(3) and Article 6 (4) of the Habitats Directive, no plans, programmes, etc. or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).
- 11-2** Ensure the protection, integrity and conservation of European Sites and Annex I and II species listed in EU Directives. Where it is determined that a development may individually, or cumulatively, impact on the integrity of European sites, the Council will require planning applications to be accompanied by a NIS in accordance with the Habitats Directive and transposing Regulations, 'Appropriate Assessment of Plans and Projects, Guidelines for Planning

Authorities', (DEHLG 2009) or any amendment thereof and relevant Environmental Protection Agency (EPA) and European Commission guidance documents.

- 11-4**
- (a) Conserve, protect and enhance areas of local biodiversity value, habitats, ecosystems and ecological corridors, in both urban and rural areas, including rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands in accordance with the objectives of the National Biodiversity Plan (DCHG 2017) and any review thereof.
 - (b) Safeguard, enhance and protect water bodies (rivers/canals/lakes) and river walks and to provide links, where possible, to wider green infrastructure networks as an essential part of the design process.
 - (c) Require an 'Ecosystems Services' approach for new development to incorporate nature-based solutions to SUDS, in so far as practical, as part of water management systems, public realm design and landscaping, in line with best practice.
 - (d) Where trees or hedgerows are of particular local value, the Council may seek their retention, or where retention is not feasible, their replacement and will seek a proactive focus on new tree-planting as part of new development.
- 11-7**
- a) Ensure the protection of water quality in accordance with the EU WFD, and support the objectives and facilitate the implementation of the associated Programme of Measures of the River Basin Management Plan 2018-2021 and any successor. This includes contributing towards the protection of Blue-Dot catchments and drinking water resources. Also, have cognisance of the EU's Common Implementation Strategy Guidance Document No. 20 and 36 which provide guidance on exemptions to the environmental objectives of the WFD.
 - b) Support an integrated and collaborative approach to catchment management in accordance with the River Basin Management Plan 2018-2021 and any successor.

c) Require an undisturbed edge or buffer zone to be maintained, where appropriate, between new developments and riparian zones of water bodies to maintain the natural function of existing ecosystems associated with water courses and their riparian zones, and to enable sustainable public access.

TWIND 1 It is the policy of the Council to support, in principle and in appropriate locations, the development of wind energy resources in county Tipperary. The Council recognises that there is a need to promote the development of 'green electricity' resources and to reduce fossil fuel dependency and greenhouse gas emissions in order to address the global issue of climate change, and to comply with European and International policies with regards to renewable and sustainable energy resources

TWIND 2 It is the policy of the Council to ensure that all wind energy development in the county complies with the provisions of all applicable government legislation and guidance on wind energy development and renewable energy resources (and any review thereof)

TWIND 3 It is the policy of the Council that when assessing planning applications for wind energy development, to require compliance with the Wind Energy Development Guidelines, Guidelines for Planning Authorities (DoEHLG) 2006 or any revision thereof, and the policy and objectives of the County Development Plan (as Varied

6.2. Natural Heritage Designations

The site drains east towards the Munster River, which is a designated SAC and SPA, part of the extensive River Barrow and River Nore SAC, site code 002162 and the Nore SPA, site code 004233.

7.0 The Appeal

7.1. Grounds of Appeal

The decision has been appealed by Peter Sweetman & Associates on behalf of Wild Ireland Defence CLG. The grounds of appeal are, in summary:

- With regard to CJEU Case 259/11 paragraph 47, it is noted that the courts have stated that there cannot be *lacunae* in any assessment under Article 6(3) of the Habitats Directive.
- It is further noted that a development must be assessed for compliance with the requirements of the Water Framework Directive.

7.2. Applicant Response

The applicant provides an overview to the application, including a description of the permitted Farranrory Wind Farm, and outlines the overall policy context.

With regard to the specifics of the appeal:

- With regard to the Appropriate Assessment, it is argued that the NIS submitted is in accordance with published guidelines and a comprehensive assessment was carried out by the planning authority and attaches a full AA screening in Appendix A. It is stated that given the absence of pathways there will be no potential for any interaction with mobile species or direct impacts on any EU designated sites.
- With regard to the Water Framework Directive, the applicant refers to page 10, paragraph 1 of the NIS which states that there are no watercourses on or immediately surrounding the site. All watercourses on the area have a 'good' classification under the WFD status and are considered 'not at risk'.

7.3. Planning Authority Response

The planning authority confirmed that having reviewed the details submitted, it is satisfied that the AA assessment was adequately covered in the original planning assessment, and that a Stage 2 AA is not required in this instance.

7.4. Observations

None on file.

7.5. Further Responses

None on file.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the proposed development can be addressed under the following headings:

- Background and description
- Policy context
- Water and drainage (WFD)
- Visual impacts and amenity
- Cultural heritage
- Biodiversity
- Construction and transport issues
- Other issues
- EIA Screening
- Appropriate Assessment

8.1. Background and description

The proposed development is for relatively minor amendments to a substation which is part of an existing permission (**TCC Reg ref. 20/972**, amended later as **23/60803**) for a nine-turbine windfarm (not yet built). The substation is to connect to an underground grid connection which was permitted under TCC planning reference 21/1620, now appealed under **ABP-317772-23** (concurrent to this appeal). The remaining 31 km of the underground route was granted permission, with a

subsequent grant for amendments, by Kilkenny County Council (**KCC Reg refs: 21/627 and 21/1620**) and was not appealed.

The proposed works involve a number of material alterations, including a minor extension of the red lined area. Most alterations increase the size of some of the permitted structures and alter the permitted layout but does not represent a significant increase in the scale or overall environmental impact of the proposed development having regard to the overall scale of the permitted windfarm works and the nature of the site.

All the above permissions were screened for EIA and AA. An EIAR was carried out for the windfarm, and an NIS was required for the other permissions, including **ABP-317772-23**, as the latter site crosses the Munster, which is an SAC and SPA.

The appellant focuses on legal arguments relating to screening for AA and raises unspecified concerns about compliance with the Water Framework Directive. I note that all permitted developments were fully screened in accordance with statutory requirements, and I am satisfied from the documentation available that the proposed amendments were screened in accordance with statutory requirements by the local authority. Notwithstanding this, as the appeal is to be addressed *de novo*, the Board is required to carry out a separate screening in addition to addressing the key planning issues raised by the proposed development.

8.2. Policy context

The overall policy context for renewable energy and associated infrastructure is set by EU targets for renewables (**Directive 2018/2001/EU**) and related plans and guidance including the **REPowerEU Plan** from 2022 and the **Energy Roadmap 2050**. Irish national policy is set within **the National Planning Framework**, the **Integrated National Energy and Climate Plan 2021-2030**, White Paper 'Ireland's Transition to a Low Carbon Energy Future 2015-2030', the **National Energy & Climate Plan 2021-2030**, the **National Renewable Energy Action Plan** (on foot of Directive 2009/28/EC) and the **Climate Action Plan 2024**. All generally favour the expansion of renewable energy within the context of infrastructure and environmental constraints. The windfarm associated with the substation was granted permission subject to conditions and this decision was not appealed. Neither was the application for the grid connection within County Kilkenny.

The site is on unzoned land (currently grazing land). Policy in the Tipperary County Development Plan 2022-2028 is generally favourable to facilitating renewable energy, as set out in policies 3-1; 10-1 and 10-5, subject to general planning and environmental considerations and the requirements set out in the Habitats Directive. The associated windfarm has been granted planning permission and a 38kV cable along this route has an active planning permission (**TCC Reg ref. 20/972**, amended later as **23/60803**).

As the windfarm has permission and the proposed amendments are relatively minor, I concur with the conclusion of the planning authority that the windfarm development has been established as acceptable in principle

8.3. **Water and drainage (Water Framework Directive)**

The proposed amendments to the substation do not significantly alter the permitted drainage arrangements for the site. The site overlies what appears to be well drained subsoil – there are no watercourses or drains on or adjoining the site. The nearest watercourse is an unnamed stream running in a wooded channel approximately 80km to the north. This stream is a tributary of the Munster River, which is in turn a tributary of the Nore.

The appellant has raised concerns that the proposed development is contrary to the Water Framework Directive. The proposed amendments include for some minor alterations to the internal drainage network, but in overall terms the impact on groundwater or surface water run-off from the site are minor in nature and not significant in either positive or negative terms with regard to the WFD status of the watercourses in the area, which are indicated as being generally of ‘good’ status and ‘not at risk’. I am satisfied that the details submitted with this appeal and the associated permitted developments address potential water pollution issues to a satisfactory extent and there is no reasonable basis for considering that the WFD status of local watercourses would be put at risk by the permitted and proposed works.

8.4. Visual impacts and amenity

The site is within an attractive landscape, with fine views over the valley of the Munster River and the eastern plain of Kilkenny. From the lowlands area to the east there are some views towards the area from the public road, but not from any designated scenic routes. The overall nature of the area, in particular the characteristic high hedges and treelines, generally results in a visually robust landscape. The site can be seen from a small number of dwellings along the road to the north, but is not clearly visible from the road due to high hedges. The site is not visible from any part of the Famine Warhouse, the main tourist attraction in the area. The overall visual impact of the alterations would only be visible from close to the transformer station, and as such I would not consider them significant in either landscape terms, or to the visual amenities of the area.

8.5. Cultural heritage

There are a number of recorded ancient monuments in the area, but not within or adjoining the appeal site.

A 19th century farmhouse, the Famine Warhouse 1948, is owned and operated by Heritage Ireland (part of the OPW) as a visitor attraction. It is located approximately 7-800 metres to the west of the site and is accessed via a road further west. This building is on a local high point (Warhouse Hill), and there are fine views from the house to the north, but due to vegetation and local topography it is not visible from any part of the proposed substation and as such I do not consider that there would be any impact on the building, its curtilage, or its overall setting.

8.6. Biodiversity

The site is currently used for cattle grazing and consists of unimproved grassland with a ditch and mature hedgerow along the western boundary. This hedgerow is not directly affected by the works. The proposed alterations slightly increase the overall land take, but this is of grazing land and as such has minimal impact on local biodiversity.

8.7. Construction and transport issues

The overall works wind farm works are subject to a permitted construction and management plan, part of the overall existing permission. I do not consider that the proposed alterations, due to their relatively small scale and nature, as significantly altering any aspect of the associated construction works, nor would they have any implications for operational traffic.

8.8. Other planning issues

I note that the overall development is subject to a development contribution, but the planning authority do not consider that the scale of the proposed alterations requires a recalculation of the required S.48 contribution.

I do not consider that there are any other planning issues raised in this appeal.

8.9. EIA

The parent permission (**20/972**, later amended in **23/60803** was accompanied by a full EIAR. The proposed development (along with the parallel application ABP-3127772-23) constitute minor amendments to this permitted development.

Part 2 of Schedule 5, paragraph 13, with regard to changes or extensions of a development includes developments that would:

‘result in an increase in size greater than 25%, or

An amount equal to 50 per cent of the appropriate threshold,

Whichever is greater’.

The proposed amendment amends slightly the transformer layout but does not significantly increase the capacity or physical characteristics of the transformer station to a degree which would fall under this paragraph. Nor does it facilitate a significant increase in the overall size and scale of the permitted windfarm development. The amendments are quite minor and do not bring the proposal within any other type of project as set out under Schedule 5 Part 2(3) of the Regulations as amended.

Under Section 7 of the Regulations criteria are set out for assessing whether or not the project will have a 'likely' and/or 'significant' effect on the environment.

The Planning and Environmental Report dated April 2024 submitted with the application outlines potential likely & significant effects on the environment under these criteria. It concluded that it would not result in any likely and significant effects on the environment, therefore an EIAR was not warranted.

I am satisfied that the documentation submitted provides the information deemed necessary for the purposes of screening sub-threshold development for an Environmental Impact Assessment. The Planning and Environmental Report submitted with the application addresses a variety of environmental issues and assesses the impact of the proposed development in addition to cumulative impacts with regard to other permitted developments in proximity to the site and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment.

The proposed development is within an agricultural field of improved grassland. It does not impact directly upon any habitats of significance – there is no removal of hedgerow required or tree felling.

I have assessed this Screening with regard to publicly available sources of information on the local environment and my observations during my site visit. I am satisfied that the screening has had full regard to the nature of the site and the surrounding area and represents an accurate assessment of the nature of the site. The site itself is intensively used agricultural land and the works will not significantly impinge upon any surrounding lands.

I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including the Environmental Report, associated documents and all plans and particulars and other related reports submitted with the application, in addition to my observations of the nature of the site and local area made during my site visit.

The EIA screening report prepared by the applicant under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that this report is comprehensive and satisfies regulatory requirements. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

I conclude that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility.

In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered.

This conclusion is consistent with the EIA Screening Statement submitted with the application.

8.10. Appropriate Assessment

The permitted windfarm and grid connection was subject to AA Screening by the applicant and planning authority, which concluded that adverse effects on the qualifying interests of the River Nore SAC and SPA could not be ruled out. An NIS of both elements (i.e. the windfarm and grid connection) concluded that the projects, individually and in combination, would not adversely affect the integrity of both European sites. The appellant has raised a number of issues.

I would summarise the points raised as follows:

- Insufficient information has been submitted on the nature and scale of the proposed development to provide an adequate AA screening.
- Refers to the legal decision in 259/11 Sweetman & Others v ABP, specifically that there is no need to establish an effect, it is merely necessary to determine that there may be such an effect.

8.10.1. Screening

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB Section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The applicant has submitted Screening Report (Appendix A of the response to the appeal) – the planning authority carried out a separate screening. This Screening report identified a number of European Sites within the general area, but with regard to the Source-Pathway-Receptor Model, two were identified as potentially subject to adverse effects – the River Barrow and Nore SAC, site code 002162 and the River Nore SPA, site code 004233. The Munster River, which is 2km from the site is part of these two designated habitats. The Screening also identified one other European sites within 12km of the site – the Loughrans SAC, located 11.4 km distant and includes Turloughs, but is not in hydraulic continuity with the appeal site. In addition, the Spahill and Clomantagh Hill SAC is designated for its semi-natural dry grassland and scrub. Due to the separation distance and the absence of a connection using the Source-Pathway-Receptor model, these were screened out.

Section 5.3 of the Screening document uses the Source-Pathway -Receptor model to identify any connections between the site and the EU designated sites.

European site	Distance	Possible effect alone	In-combination	Conclusion
River Barrow and Nore SAC. 002162	2 km	No effect	No effect	No effect.
River Nore SPA 004233	2 km	No effect	No effect	No effect
Spahill and Clomantagh Hill SAC	13km	No effect	No effect	Screened out
Loughans SAC 000407	11.5km north	No	No effect	Screened out

I concur with the overall conclusion that all Natura 2000 sites within 15km or more from the site can be screened out with the exception of those in hydraulic continuity. The Spahill SAC is an area of dry grassland with orchids is not in hydraulic continuity with the site, and the habitats identified as Qualifying Interests of those sites are not represented on the appeal site or in the vicinity. The Loughans SAC features Turloughs but are not in hydraulic continuity with the Munster River or the site. The proposed development is on a site without any drain or watercourse and there is significant natural attenuation between the site and the nearest watercourse.

With specific regard to the relatively minor amendments required for the proposed works, the separation distance, and the absence of hydraulic connectivity, I am satisfied that the Spahill and Loughans sites can be screened out. The other two designated sites – the **River Barrow and River Nore SPA site code 004233** and the **River Nore SAC site code 002162** are within the water catchment of the site. The site, however, does not have any drains or other watercourses connected directly with any drain flowing directly to the natural watercourse system. The construction works have the potential to cause run-off from the site, either from works on the red-lined site, or from vehicles accessing the lands along the existing farm track. The natural watercourses in the area run under the local road system in bridges or culverts. There are no exposed drains. All work would be subject to the CEMP for the overall windfarm works and the grid connection, and include standard best practice construction methods. The site is also separated from the natural watercourses and farm drains by around 80 metres of improved grassland, so there is sufficient natural attenuation to ensure that all but the worst spills would not enter the watercourse in the absence of standard control measures.

The application includes an internal stormwater drainage scheme. There is no proposed permanent occupation of the site – it is stated that foul water will be collected by tanker, and bottled water will be provided for any temporary operators. No significant modification is proposed to the permitted stormwater drainage system. I therefore concur with the planning authority that there would be no significant effects on any EU habitat from the operation of the transformer station, in view of the aforementioned sites conservation objectives.

I note that the works will be carried out in parallel to the permitted windfarm and the continuation of the grid connection to the border with Kilkenny and the grid link within

the Kilkenny County Council area. These works have been subject to full Appropriate Assessment, as is the permitted 38kV line that connects the site with the proposed Kilkenny underground connection (**ABP-317772-23**). I am satisfied that the proposed amendments to the latter will not result in any material alteration to the construction works such that there would potentially be additional in-combination effects.

No mitigation measures designed or intended to avoid or reduce any harmful effects of the project have been relied upon in this screening exercise.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the River Barrow and River Nore SPA site code 004233 and the River Nore SAC site code 002162 or any other European site, in view of these sites Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

This determination is based on the following:

- The distance of the proposed development from the European sites and the demonstrated lack of any ecological connections with the site.
- The minor nature of the amendments to the permitted windfarm and associated works.
- The overall nature of the proposed works,
- The nature of the existing lands, its use for grazing, and the absence of any qualifying interests associated with the aforementioned European sites on the farmland.

8.11. Other issues

I do not consider that there are any other substantive issues raised in this appeal.

I note that the planning authority did not consider that a development contribution applies, nor was it considered that a bond is necessary.

9.0 Recommendation

I recommend that the Board grant permission for the proposed amendments to the transformer subject to the conditions set out in section 11 below, for the following reasons and considerations.

10.0 Reasons and Considerations

- (a) EU legislation including in particular: the provisions of Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which sets out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union, and the EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy and associated infrastructure,
 - (b) the National Planning Framework published in February 2018,
 - (c) the Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure, July 2012,
 - (d) the provisions of the Tipperary County Development Plan 2022-2028,
- and also having regard to the following matters:
- (e) the nature, scale and design of the proposed development as set out in the planning application, existing permissions in the area, and the pattern of development in the vicinity,
 - (f) other relevant guidance documents,
 - (g) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development, and,
 - (h) the submissions and observations made to An Bord Pleanála in connection with the application,

It is considered that subject to the conditions set out below, the proposed amendments to the transformer station would accord with European, national,

regional and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

Proper Planning and Sustainable Development and the Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area, would not constitute a traffic hazard and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall comply with the terms and conditions of Tipperary CC Planning reg. no. 20/972, including the expiry date of same, which govern the overall development of the lands in which the site forms part.

Reason: In the interest of orderly development.

Philip Davis
Planning Inspector

7th October 2024