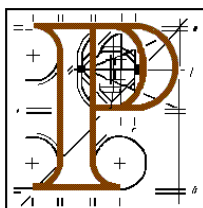


An Bord Pleanála



Inspector's Report

Development: Wind Farm at Garranure, Kilvinane and Carrigeen, Ballynacciga, Dunmanway, Co. Cork.

Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 108-OD

Applicant: Leonard Draper

Type of Application: Application for Substitute Consent

Date of Site Inspection: 26th January 2016

Inspector: Kenneth Moloney

1.0 SITE DESCRIPTION

The subject site is located in a rural area situated approximately half-way between Dunmanway and Enniskeane in West Cork. The site itself is elevated fertile agricultural land which undulates and is situated approximately 1.5km south of the River Bandon.

The local area is characterised by sporadic rural housing and farmland. There is an established wind farm on the subject site comprising of 3 wind turbines.

The overall size of the subject site is 6.92 ha (24 acres) and the shape of the overall site is irregular.

2.0 DESCRIPTION OF PROPOSAL

The proposed development includes the following;

Planning permission was granted for 4 no. turbines as follows;

- Hub height of 65 metres, blade length of 28.5 metres providing a total tip height of 93.5m

Three turbines were constructed as follows;

- Turbine no. 1 has a hub height of 55m and a rotor diameter of 58m giving maximum turbine blade tip height of 84 metres
- Turbines no. 3 and no. 4 has a hub height of 55 metres and a rotor diameter of 58 metres giving a maximum blade tip height of 100m.

As such the current planning appeal seeks retention for the three turbines constructed on the site.

3.0 PLANNING POLICY CONTEXT

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Section 9.2 of the Plan advises in relation to wind energy.

Figure 9.3 sets out the Wind Energy Strategy Map for the County and the appeal site is located in an area designated as 'Open for Consideration'.

4.0 NATIONAL GUIDELINES

The National Spatial Strategy, 2002 – 2020

This document states, "in economic development the environment provides a resource base that supports a wide range of activities that

include agriculture, forestry, fishing, aqua-culture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development, 2006

Planning policy guidance is outlined in “Wind Farm Development: Guidelines for Planning Authorities”, 2006. The guidelines offer advice on planning for wind energy through the development plan process and in determining applications for planning permission they are intended to ensure consistency of approach in the identification of suitable locations for wind energy developments and acknowledge that locational considerations are important. These considerations include ease of vehicular access and connection to the electricity grid. It is acknowledged that visual impact is amongst the more important issues to be taken into account when deciding a particular application.

Any wind farm proposal will require an assessment of the possible ecological effects. Consideration should also be given to sensitive habitats and species as well as possible risks to birds including migratory birds. Regard should be had to special areas of conservation and other designated sites. Rural land uses other than housing are generally unlikely to conflict with wind farm developments. Conditions will generally be required to provide for the decommissioning of wind farms and ancillary developments on site.

Chapter 5 of the guidelines refers to other environmental considerations, including the impact on habitats and bird species, noise and electromagnetic interference. Section 5.3 states that a planning application must be accompanied by information on such issues as slope stability and an assessment of whether the development could create a hazard of bogburst or landslide.

Chapter 6 of the guidelines refers to the assessment of siting and location of such development in terms of aesthetic considerations, landscape sensitivity, spatial extent and cumulative effect, with regard to landscape character types including hilly and flat farmland, mountain moorland and transitional landscapes. The factors to be assessed comprise landscape sensitivity, visual presence of the windfarm, its aesthetic impact on the landscape and the significance of that impact.

5.0 PERSCRIBED BODIES SUBMISSION

The following is a summary of submissions received;

Department of Arts, Heritage and the Gaeltacht

- The wind farm is not located within a nature conservation area nor is the site located upstream of a freshwater site designated for nature conservation.
- The site is located within a lowland agricultural landscape used by bats, including Leisler's bat. This bat is most at risk of direct and indirect mortality from turbine blades.
- All bat species are listed in Annex IV of the EU Habitats Directive.
- In the event that planning permission is granted a condition is recommended. The recommended condition expands on Section 6 of the Flora and Fauna Report and Impact Assessment for Kilvinare Wind Farm.

Inland Fisheries Ireland

- Following a site inspection there is no evidence that the subject development has had any negative impact on fisheries nor is the continued operation envisaged to have any negative impact.

6.0 REPORT FROM PLANNING AUTHORITY

The report of the planning authority follows the format set out under Section 177I (1) of the Planning and Development Act, as amended.

Senior Planner

- The developer completed part of the permitted development under appeal ref. 127137, including modifications made with written consent from Cork County Council.
- It is accepted that the developer deviated from turbine heights and locations in reasonable belief that the written consent received by Cork County Council was sufficient.
- It is considered that it is reasonable to regularise the planning status of the existing wind farm development and that the Substitute Consent should be granted.

Area Planner

Information relating to development

- The existing wind farm comprises of three turbines (hh 65m & rd 57m).
- Permission was granted for four turbines. However T2 was not constructed.
- The turbines were constructed as follows (T1 hh55 & rd 58m, and T3 & T4 hh60m & rd 80m).
- The erected development differs from the development permitted under appeal ref. 127137.

Cork County Development Plan, 2014

- ED 3-5: Open for Consideration. The subject site is located in an area open for consideration.
- Paragraph 9.3.14 outlines areas that are 'Open for Consideration'.

- Other relevant policies include ED 3-1, ED 3-2 and ED 3-3.
- The site is not located within a Natura 2000 site or within an Indicative Screening Zone.

Planning history

- Ref. 01/980 – Permission **granted** for 4 no. turbines (hh 65m & rd 57m) and subsequently granted on appeal (appeal ref. 127137). The hub height and rotor diameter was subsequently amended by written agreement with Cork County Council (T1 & T2 hh55m rd 58m, T3 & T4 hh60m & rd 80m).
- Ref. 07/1892 – Permission **granted** for extension of duration of permission of 01/980.
- Ref. 10/342 – Permission **granted** for further extension of duration of permission.
- Ref. 10/781 – Permission **refused** by An Bord Pleanala (appeal ref. 239280) for the replacement of T1 with a larger turbine and the erection of a larger Turbine in the location of T2 which was not constructed and the construction of another Turbine T5.
- Ref. 11/676 – Permission **refused** by An Bord Pleanala (appeal ref. 240143) for the replacement of T3 and T4 with two larger turbines with a maximum hub height of 67m and a rotor diameter of 90m.
- Section 5 Referral (Ref. 88.RL.2891) – The Board determined that the alteration to the permitted development is **not exempted development**.

Assessment

- Minor deviations from the permitted development appeal ref. 127137 were agreed between the developer and Cork County Council. Drawing no. 215041 indicates the basis of the deviations from the permitted to the constructed wind farm.
- The developer deviated from the permitted development on the basis that written consent from Cork County Council was sufficient.
- An Bord Pleanala determined that the deviations from the permitted development (88.RL.2891) is development and is not exempted development.
- The rEIS concludes that the impacts of the as 'constructed development' would not be significant and would be similar in nature to the as permitted impacts.
- The rEIS concludes that the shadow flicker from the permitted development would be greater than shadow flicker from the 'as constructed development'.
- The Heritage Officer concludes that the potential impacts on the River Bandon SAC can be ruled out and that the potential for the proposed development to impact on the any Natura 2000 site within 15 km can

be ruled out. The report does consider whether additional information is required to consider the impact on bats.

- The report from the Council's Archaeologist concludes that the constructed development will have no negative impacts on the archaeological heritage of the area.
- There is no report from the Road Engineer.
- It is concluded that the constructed wind farm conforms with the policies and objectives of the Cork County Development Plan, 2014, and that the proposal would have no greater impact than the development permitted.
- The development would not be contrary to the proper planning and sustainable development of the area.
- It is recommended that Substitute Consent shall be granted.

7.0 FIRST PARTY COMMENT

The applicant has provided a submission relating to the development. The submission outlines the planning history, planning policy context and an assessment.

The following is a summary of the relevant issues;

Compliance with Planning Policy

- The suitability of the area for wind farm was first established planning permission granted under L.A. Ref. 01/980 (appeal ref. 127137).
- The existing wind farm was assessed under 1996 Cork County Development Plan and 1996 Wind Energy Guidelines.
- The refusals under appeal ref. 239280 and appeal ref. 240143 do not highlight a planning policy issue with the existing or proposed alterations.
- It is assumed that the Board is comfortable that the development is in accordance with policy provisions.
- The subject wind farm is located in an area designated as 'open for consideration' and is therefore compliant with Policy ED 3-2 of the County Development Plan.
- The proposed development is therefore in accordance with the policies and objectives of the County Development Plan.

Impact on the Visual Amenities of the Area

- Section 1.7 of the rEIS recognises that the landscape characteristic of the subject site is not highly sensitive in terms of scenery.
- In appeal ref. 239280 which related to the replacements of T1 and T2 for larger turbines and the erection of a new Turbine, i.e. T5, the reporting inspector (Section 2.2.6 of the report) concluded that in visual terms of the proposal would not fundamentally alter this situation.
- In addition this was concluded by the Inspector (Section 6.6.3 of the report) in appeal ref. 240143 in visual terms the proposal would not be fundamentally different.

- The rEIS concluded that the visual assessment of the wind farm is acceptable and the most significant visual impact is the omission of T2 which is a reduced visual impact.
- It is concluded that the deviations of the wind farm 'as constructed' is not injurious to the visual amenities of the area.

Impact on the Amenities of Properties in the Area

- Section 5.12 of the Wind Energy Guidelines sets out guidance. It is stated in this section that the impact of shadow flicker is typically only significant issue up to a distance of around 10 rotor diameters from a turbine.
- Beyond this distance it is stated that the intensity of the shadow cast is too diffuse to have a significant impact.
- In these instances where Shadow Flicker presents a problem developers can carry out a calculation to ameliorate the potential effect such as turning off the turbine.
- In the Irish context, due to cloud cover and variations of wind direction, the probability of Shadow Flicker occurring compared to the computer software is approximately 10% – 20%.
- Theoretical shadow flicker durations, as calculated as per computer software, is reduced to take account of metrological conditions.
- Permission for the wind farm was granted in 2002 and this had regard to the 1999 Guidelines. These guidelines had no reference to Shadow Flicker.
- The planning inspector in appeal ref. 239280 concluded (Section 2.1.27 of the report) the development is acceptable having regard to SF. This was also the conclusion reached by the inspector in appeal ref. 240143.
- The rEIS concludes that the impact of Shadow Flicker will be less than that permitted as the impacts are on fewer houses.
- Where Shadow Flicker has not changed it is deemed to be immaterial due to the fact that the duration of the Shadow Flicker will not increase significantly.
- In relation to noise Section 5 of the Guidelines considers that noise will not be a significant issue where houses are located 500m or more from turbines.
- Condition 8 of appeal ref. 127137 requires that noise levels shall not exceed 40 dB at the nearest inhabited house.
- Detailed modelling has indicated that there is negligible increase in noise levels due to the as built turbine layout.
- Any changes in noise would have no audible impact to the human ear.
- In appeal ref. 239280 and appeal ref. 240143 the planning inspector concluded that there would be no additional noise impacts.

Wind take

- Wind take in the 2006 Guidelines is recommended in order that the development potential of adjoining sites is protected.
- The wind turbines had been permitted in appeal ref. 127137 and this order predated the 2006 Guidelines.

- In the subsequent appeals (appeal ref. 239280 and appeal ref. 240143) the Inspector outlined concerns that the proposal would have adverse implications for Wind Take. However the Board concluded that the position of the turbines had been permitted under appeal ref. 127137 and did not consider a refusal on the basis of Wind Take as appropriate.

Appropriate Assessment

- The planning application is accompanied by an AA Screening which concludes that the existing development will have no impact on any nearby designated sites.
- This was the same conclusion by the reporting inspector in appeals ref. 239280 and ref. 240143.

Third Party Responses

William H Bailey submitted an extensive submission that includes details of supreme court rulings, an analysis of the applicant's application for leave to apply, high court judgement, connected persons, planning history and the rEIS. The following is a summary of the relevant issues;

- This Substitute Consent application is different from the vast majority. Normally Substitute Consent files are cases where the Local Authority fail to require an EIS. In this case the developer has deliberately constructed an alternative and unauthorised development.
- Enclosure B is an assessment of the as-built development.
- It is submitted that the purpose of the altered development was to maximise the wind energy production of the development.
- The Wind Energy Guidelines recommend wind turbines have a minimum distance of 500m and a distance not less than 10 rotor diameters.
- Enclosure 01 tabulates houses that are in breach of these distances.
- There has been a falling population growth in the Electoral Division of the appeal site.
- The subject development has an adverse impact on property values.
- It is submitted that the existing development is contrary to the Guidelines in terms of distance from the boundaries.
- A result of inadequate turbine spacing there is increased noise.
- It is submitted that the rEIS Noise Impact Assessment is flawed as follows;
 - The noise survey lacks empirical data.
 - The noise monitoring survey has no regard to wind direction
 - The results of the noise survey represent average noise and not all noise.
 - The baseline noise comparable study is inaccurate as no baseline survey was recorded in 2015 with the turbines switched off.

- The noise measurement for the wind turbines did not reflect three turbines operating independently and is located at different altitudes.
- It is contended that the methodology and results of the noise survey were invalid and greatly understated the worst-case noise.
- There was errors in the noise sampling data and this includes;
 - The analysis was based on sample data
 - It is submitted that 40% of the samples are absent
 - No reconciliation is provided for missing data
 - There is no reference of non-filtering for non-functioning turbines
 - Noise at a specific location is dependent on speed and direction of wind. It is considered that the wind speed and direction data is inaccurate.
 - The survey does not filter data having regard to upwind.
- The noise survey concludes that the sample background noise in 2015 is higher than the original sample background noise in 2006.
- The difference in noise between upwind and downwind directions is 10 dB. The requirement is to measure noise in the downwind scenario, i.e. downwind of the turbine.
- It is considered that the error to compare like with like is almost certainly 3 dB or more.
- The existing development does not comply with condition no. 8 of the planning permission as the noise emanating from the turbines measured at house H4 exceeds 40 dB for significant periods.
- The noise at H4 would not comply with the guidelines.

The following is the summary of a response submitted by **Liam O'Brien** on behalf of local residents;

- All the residents live within 1 mile of the turbines.
- The unauthorised development has severe negative impacts on lives and property.
- It is unknown how the Board can consider granting permission when on two occasions they concluded that the wind farm is unauthorised.
- Permission was granted on the site by the Board (appeal ref. 01.271237) after rejecting the advice of the inspector.
- The inspector concluded that development would seriously injure residential amenities of the area and depreciate the value of property in the area. The inspector is correct.
- The noise from the turbines is audible from miles away.
- Some homes are seriously impacted by shadow flicker.
- Houses close to the wind farm have been abandoned.

The following is the summary of a response submitted by **Ellen Allen**;

- The respondent lives in H24 on the applicant's maps.
- The respondent's house is situated approximately 702m from T3 and 563m from T4.

- These turbines have an adverse impact on the enjoyment of the respondent's house.
- Noise is constant.
- Flickering at certain times of the day make it hard to herd cattle.
- The respondent cannot afford to relocate and must live locally to tend to livestock.
- The turbines are much larger than which permission was granted.
- The respondent outlines that she renovated a cottage on her land and the tenants have moved out due to the turbines.

The following is the summary of a response submitted by **Regina Greehy**;

- The turbines are very large and close to the respondent's house.
- The wind farm is within 100 yards of the respondent's house and noise is continually impacting on their house.
- The value of their property has decreased due to the proximity of their property to the turbines.
- The turbines have a huge adverse visual impact.
- Some neighbours have had to leave their homes due to the disturbance from wind turbines.
- The wind turbines are located in the middle of a cluster of 46 houses.

The following is the summary of a response submitted by the **Collins family**;

- The turbines are the following distance from our home, T1 = 600m, T3 = 450m and T4 = 440m.
- It is submitted that the An Bord Pleanála (appeal ref. 127137) has acknowledged that the impact of the proposed turbines on the local residents.
- The wind farm has devalued the value of their home.
- The enjoyment of the large garden that surrounds their home has been curtailed due to the wind farm.
- The swishing of the motors is most pronounced on days with mild gentle breezes.
- It is submitted that the conclusions of the noise impact assessment are fundamentally flawed for the following reasons;
 - Table 13 is inaccurate and arises from differences in the survey methods.
 - The noise survey does not measure noise in unfavourable weather conditions.
 - The reference to H07 is another error. The disparity in Table 13 is not at H07. It is in fact the respondent's house, i.e. H11.
 - The only disparity between the 2006 and 2015 survey was that cereals were at an early stage of growth. The extra harvesting noise was not mentioned in the survey.
 - It is submitted that all the turbines were not operating during the period of the survey.

- The noise nuisance is made worse due to wind direction and speed.
- It is submitted that there was a high percentage of rainfall during the month of August at the time of the survey.
- There has not been significant change in the vegetation between 2006 and 2015.
- There are no documents to support the claim that there was a Section 5 approval to allow to the deviation from the permitted wind turbines.

The following is the summary of a response submitted by **Mr. Tony Brown** on behalf of local residents;

- All the residents live within 1 mile of the turbines.
- The unauthorised development has severe negative impacts on lives and property.
- It is unknown how the Board can consider granting permission when on two occasions they concluded that the wind farm is unauthorised.
- Permission was granted on the site by the Board (appeal ref. 01.127137) after rejecting the advice of the inspector.
- The inspector concluded that development would seriously injure residential amenities of the area and depreciate the value of property in the area. It is considered that the inspector is correct.
- The noise from the turbines is audible from miles away.
- Some homes are seriously impacted by shadow flicker.
- Houses close to the wind farm have been abandoned.

Peter Sweetman on behalf of Peter Sweetman & Associates submitted a response which states that there is no exceptional reason to grant substitute consent for this unauthorised development.

The following is the summary of a response submitted by **Cllr. Declan Hurley**;

- The constructed turbines has exceeded the terms of their permission.
- In particular the scale of T3 & T4 exceeds the permission.
- The changes are fundamentally material to the planning issues that arise.
- The wind farm has impacted greatly on the lives of residents living close by. The impacts include visual, shadow flicker and noise.
- It is disappointing that the process of regularisation would allow for unauthorised development.

The following is the summary of a response submitted by Planning Partnership on behalf of **Pat & Claire O'Brien**;

Introduction

- An Bord Pleanala are requested to refuse permission on the basis of non-compliance with site planning history, unauthorised nature of the current development and wind energy guidelines.

- The proposed development is therefore contrary to the proper planning & sustainable development of the area.
- The Board previously refused permission i.e. appeal ref. 239280 and appeal ref. 240143.
- The overall size of the subject site as recorded in the Substitute Consent application form is 6.92 ha whereas in the rEIS the size of the site is given as 96.5 ha. The 96.5 ha is a significant increase in the size of the site (43.01) for which permission was granted for in 2002.
- It is submitted that most of the original ditches and hedges appear to be removed.
- The validity of the Substitute Consent application is questioned on the basis that it relates to a development that is significantly different to that which was the subject to the Leave to Apply for Substitute Consent procedure.
- It is contended that the unauthorised works carried out were not subject to an EIA.
- The proposed development requires EIA in accordance with EU Directive 85/337/EEC and as there is a significant element of retention the Board cannot consider this application.

Site Planning History

- In relation to appeal ref. 127137 it is submitted that this development is contrary to condition no. 1 and condition no. 8. The built development was not carried out in accordance with the permitted development and also a submitted noise report demonstrates that the noise levels are in excess of condition no. 8.
- In relation to appeal ref. 239280 planning permission was refused for replacement of existing turbines with larger turbines.
- In relation to appeal ref. 240143 planning permission was refused for the replacement of two existing wind turbines.
- In both instances the Board refused permission on the basis that the proposal would be modifications to an unauthorised development.
- In relation to the application for leave to apply for Substitute Consent it is difficult to determine how the public interest could be served by attempting to regularise the status of the wind farm.

Condition no. 1

- It is questioned whether the constructed development in non-compliance with the planning permission effects the overall validity of the permission.
- It is submitted that condition no. 1 is precise and that a developer cannot choose to implement or amend parts of the permission on a piecemeal basis.
- It is concluded that permission cannot be implemented in a piecemeal fashion.
- It is submitted that court judgement (O'Keefe v ABP) has determined that it is inappropriate if the principles of a question were re-opened in a compliance application.

- In *Kenny v An Bord Pleanala*, Mckechnie J. concluded that while the parameters of a condition are very wide it is necessary for any compliance submission to fall within the parameters of the planning application.
- It is contended that the applicant is not entitled to deviate from the permission.
- It is considered that the approach taken by the applicant and the Planning Authority by affecting material amendments unilaterally, without the benefit of planning permission, that the planning authority was ultra vires.
- It is submitted that in *Tracy v An Bord Pleanala* it was determined that a letter from the Council could not alter the scope of a planning permission.
- It is considered that written assurances from the planning authority cannot alter the permission.

Impacts on the Receiving Environment

- It is submitted that the rEIS has no assessment of the negative impact that the unauthorised wind farm is having on property values.
- A valuation is prepared by auctioneers of the respondent's property and enclosed in Appendix B.
- It is contended that the open market value of the property has fallen by €200,000 due to the proximity of the wind farm.
- In relation to health and safety it is contended that the health & safety assessment relates to safety and wellbeing of workers. There is no health & safety assessment for the receiving environment and the impact that the wind farm will have on local residents.
- In relation to shadow flicker it is contended that there is a significant cumulative negative impact comparatively between the 'as permitted layout scheme' and the 'as constructed scheme'.
- The proposed development, in terms of set-back distances from the site boundaries, is not in compliance with Section 5.13 of the Wind Energy Development Guidelines. The three turbines are all located within 50m of the site boundary.
- The applicant has dismissed the requirement to comply with Section 5.13 of the 2006 Guidelines on the basis that there was no guidance on Wind Take in the 1996 Guidelines at the time of the original application. However the applicant has selectively utilised the 2006 Guidelines for its noise assessment.
- The inappropriate distance from the boundary was acknowledged in the Inspector's report (appeal ref. 239280).
- It is submitted that the effects on local residential amenities has not been adequately assessed in the Human Beings section of the rEIS.
- A noise report, enclosed in Appendix A, outlines that 40 dB which is the limit set out in condition no. 8 is already a significant intrusion on their amenity.
- It is submitted that the baseline background noise levels were measured in 2006. These measurements were carried out prior to the current best practice.

- The 2006 guidance omits the knowledge of wind speeds which is essential.
- Section 4.11 of the noise report clearly demonstrates that the 40 dB will be breached.
- Section 4 of the noise report outlines the deficiencies in the calculation of noise complying with Condition no. 8.
- In relation to landscape the Board's attention is drawn to specific increase in significant cumulative negative impact comparatively between the 'as permitted layout' and the 'as constructed layout'.
- In relation to material assets the Board's attention is drawn to Figure 3.8.1 which details the location of 5 no. turbines on the subject land. It is contended that this is an error.
- It is concluded that the refusal reasons in the previous developments (i.e. appeal ref. 239280 and appeal ref. 240143) have not been addressed. The proposed development will seriously injure the residential amenities of the area.

The following is the summary of a response submitted by **Richard Healy and Patricia Kelleher**;

- There is no basis to allow substitute consent as nothing has materially changed since the previous decision by An Bord Pleanala.
- To allow the substitute consent merely by the passing of time would negate the efforts of the local community in ensuring that the proper planning is respected.
- There is a case before the high court concerning this Substitute Consent and it would be inappropriate to grant substitute consent until that issue is resolved.

The following is the summary of a response submitted from the **O'Connor family**;

- The respondent's house (H2 on the maps) is located approximately 923 m from T1, 1405m from T3 and 1575m from T4.

Noise

- The noise emitting from the turbines is 24/7.
- When wind drops the noise is very sensitive.
- The noise has an adverse impact on the respondent's son who is a student and needs to a quite environment to study.
- The noise has an adverse impact on sleeping patterns within the family home.
- The noise causes distress and adverse health impacts, such as headaches.

Flicker

- From November to January there is a flicker impact.
- The impact lasts for over 20 minutes and occurs in the mornings.
- It impacts on south-westerly facing windows in the house.

- A DVD is submitted which records the impact of flicker.
- The unauthorised wind farm has caused 10 years of flicker impacts.
- It is submitted that the developer's mitigation measures has not reduced the impact of flicker on the respondent's house.

House Valuation

- The respondents bought their house at full market value in 2005.
- An attached correspondence from an auctioneer confirms that the negative effects of the wind turbine would have an adverse impact on the resale value of the respondent's house.
- The negative impacts of house value are widespread as evident from attached submissions by neighbours.

Personal Impact

- The impact on disturbed sleeping, constant noise and property devaluation has an overall adverse emotional impact.

Community Impact

- It is submitted that the all supporting rEIS and other reports showing that our property would not be negatively impacted by the wind farm has proved to be baseless and very inaccurate.

The following is the summary of a response submitted from **Martin & Margaret Geran**;

- The respondent's house (H20 on the maps) is located approximately 673m from T1, 810m from T3 and 853m from T4.
- The respondent's house is directly in line of the prevailing south west winds.
- The noise levels are disturbing and it is not possible to let their house due to noise.
- The respondent's house is falling into disrepair and losing valuation.
- The Board are requested to refuse this application.

8.0 ASSESSMENT

The main issues to be considered in this case are: -

- Introduction
- Principle of Development
- Environmental Impact
- Environmental Assessment
- Appropriate Assessment Screening

Introduction

This development before the Board relates to retention of a wind farm which deviates from an original permission (i.e. appeal ref. 127137). Although permission was granted for four identical turbines only three

turbines were constructed (T1, T3 & T4). These turbines were permitted to have a hub height of 65 metres and a blade length of 28.5 metres providing a tip height of 93.5m. However T1 was constructed with a hub height of 55 metres and a rotor diameter of 58m giving a tip height of 84m. Turbines no. 3 and no. 4 were constructed larger than the permitted development. The dimensions for T3 and T4 are 60 metres for hub height and rotor diameter was 80 metres resulting in a tip height of 100 metres.

The following table summaries the modifications from the permitted wind turbines and the difference between the permitted and constructed development.

	As Permitted	As Constructed	
	Tip Height	Tip Height	Difference
Turbine 1	93.5	84	- 9.5m
Turbine 2	93.5	Not Constructed	N.A.
Turbine 3	93.5	100	+ 6.5m
Turbine 4	93.5	100	+ 6.5m

In addition to the above modifications the locations of the permitted turbines has been altered. These revised location alterations are outlined in the submitted drawing no. 115041-SK03.

The developer has claimed consistently that he obtained written approval from Cork County Council to the effect that the above modifications would remain within the remit of the planning permission obtained under appeal ref. 127137.

In a referral to the Board (reference RL2891) the question was asked whether the alterations to the permitted wind farm is or is not development and whether it is or is not exempted development. The Board's order concluded that the relocation of and alterations to turbines, including the modifications to the overall height of the turbines and the length of the rotor arms / blades does not come within the scope of permission granted and accordingly is not exempted development.

In accordance with Section 177C of the Planning and Development Act, 2010 (as amended) the applicant submitted an application for leave to apply for substitute consent. The details of this application are attached to the file and in summary the Board considered that there were exceptional circumstances.

In summary the current application before Board is a Substitute Consent application for a wind farm comprising of three turbines and the statutory notices have clearly stated the nature of the development. The application is accompanied by a Remedial Environmental Impact Statement (rEIS).

Principle of Development

The subject site is located in a rural area where the predominant land-use is agriculture. However the subject site, as referred to above, obtained planning permission under appeal ref. 127137 for the erection of four wind turbines and the current application is for the retention of three turbines. Having regard to the planning history, albeit granted in July 2002, (approximately 14 years old) there is an permitted use on the subject site which would in my view add weight to a positive consideration of the principle of the subject development.

In considering the principle of the development to be retained I would also note that there is a more recent planning history relating to the subject site. In appeal ref. 239280 the developer sought an intensification to the established permission. This involved replacing T1 with a larger Turbine comprising of a tip height of 125m and replacing T2 (not constructed) with the same scale turbine proposed for T1 (125m). The proposal also involved an additional turbine, i.e. T5, which would be same scale as T1 and T2 proposed. Although the Planning Authority granted permission the Board refused permission due to (a) modifications to an unauthorised development, (b) adverse impacts on residential and visual amenities of the area, by reason of noise, shadow flicker and the scale of the increased height, and (c) inadequate environmental report submitted with the application. In a subsequent application (appeal ref. 240143) the developer sought to replace T3 and T4 with larger turbines both comprising of a tip height of 112 metres. The Board refused permission again and the reasons included (a) modifications to an unauthorised development, (b) adverse impacts on residential and visual amenities, and (c) inadequate environmental report submitted with the application.

I would acknowledge that there is an established permission on the appeal site for wind turbines however it is evident that any intensifications to this permission is problematic having regard to the proximity of the established residential properties to the turbines and impacts likely on these residential amenities.

The Cork County Development Plan, 2014 – 2020, sets out policy and objectives in relation to On-Shore Wind Energy development. Figure 9.3 of the County Development Plan is the Wind Energy Strategy Map and the appeal site is located within an area that is designated 'open for consideration'. The relevant policy provision is therefore Policy Objective ED 3-5 of the County Development Plan. This policy states that commercial wind energy is open for consideration in these areas where proposals can avoid adverse impacts on;

- residential amenity
- urban areas
- Natura 2000 sites
- Architectural and Archaeological Heritage
- Visual Quality of the landscape

It is my view based on the policies of the County Development Plan, the national guidelines and the planning history of the subject site that the principle of the subject development would be acceptable provided that it does not adversely impact on the amenities of the area.

Environmental Impact Assessment

The application is accompanied by a remedial Environmental Impact Statement.

In relation to the adequacy of the rE.I.S, I submit that it contains the information specified in Schedule 6 of the Planning and Development Regulations 2001, as amended. In general the information provided is considered to be relatively clear and precise. I would suggest that the statement be seen as a contribution towards the process of making available to the relevant decision maker and the competent authority, in this case the Board, the information necessary to enable the decision to be made. The information flowing from this process also includes information submitted with the application.

In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning and Development Act, 2000 – 2010, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority, at this juncture the Board. In this assessment the direct and indirect effects of the development need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive.

Human Beings, fauna and flora

In relation to direct and indirect impacts to **human beings** the development would have provided for low scale employment opportunities and also indirect employment opportunities which may include service contractors and transportation companies. Indirect employment may have had spin-off implications for the local economy. During the operational stages the constructed development has implications for human beings and this includes noise, shadow flicker and visual impacts. I would note that drawing no. 115041-SK02 of the rEIS outlines the location of existing residences within the context of the constructed turbines. It is notable that some of these properties are located within a 500m radius of the constructed turbines. The DoEHLG guidelines recommend that properties within 500m of turbines are likely to be impacted by shadow flicker and noise.

In relation to **fauna and flora** the appeal site is not within nor adjoining any Natura 2000 designated sites. The established habitats on the subject site include arable crops, improved agricultural land, buildings and artificial surfaces, tree lines, hedgerow, wet willow-alder-ash woodland, riparian woodland, and eroding / upland river. The predominant habitat was arable

crops. The value of these habitats were characterised in Table 3.2.3 as either low value or moderate value. The bird breeding survey which accompanied the rEIS was carried out in Summer 2010. This survey recorded no Annex I species however two Peregrines (Annex I Specie) were recorded flying west outside the development site.

The development has resulted in the direct loss of habitat to allow for the construction of the proposed development. The proposed development will also result in secondary / indirect impacts to existing habitat and these could potentially include hydrological impacts, pollution of watercourses, habitat fragmentation, changes in habitat management and disturbance. These types of impacts are primarily associated with siltation / pollution run-off resulting from construction. There is also the possibility that the operation of the turbines has resulted in bird fatalities due to collision with blades.

Soil, water, air, climate and the landscape

In relation to **soil and geology**, and having regard to the nature of the development, there has been a direct impact on the overlying soil and subsoil. During the construction stage bedrock was encountered at 2m to 3m below the existing ground level and it was therefore not necessary to remove any significant rock to facilitate the construction of the turbine foundations. The compaction of soil was also possible due to the use of heavy goods vehicles during construction. During the operation stage impacts may include accidental emissions, in the form of chemical spills, oil, petrol, and diesel leaks, which could contaminate the soil or enter the bedrock.

There is no water body on the subject site and in relation to **water** the impacts generally relate to discharges to surface and ground waters. The existing drainage infrastructure including drains, culverts, silt traps and settlement ponds are identified on the submitted drawing no. 115041 – 103 to 109. The existing access tracks are generally drained by ditches and open drains either side of the carriageway with pre-cast concrete culvert pipes where necessary, which drain via silt traps / settlement ponds to tributaries of the River Bandon. The eastern portion of the site is drained by a stream that flows in a northern direction and the western portion of the site is drained to a separate stream. These two streams converge approximately 450 m east of the site boundary and it drains to the River Bandon approximately 1.6km east of Manch Bridge. The development could have potentially caused flood risk and pollution impacts on receiving waters during the construction stage and operational stage. It is also possible that sediment laden run-off associated with the ground disturbance due to excavations for turbine foundations. There is also potential alteration to natural drainage patterns across areas of turbine foundations. Operational impacts may include risk of pollution in the form of spills from vehicles.

In relation to **air** the construction of the proposed development had implications for air quality due to dust generation, including earth moving and excavations for turbine foundations and associated construction traffic. During the operation stage there are potential implications for air quality due to traffic emissions also the creation of dust from traffic entering and leaving the site. In relation to impact on **climate** the EIS anticipates no implications.

In relation to **landscape** the subject site and the immediate environs is characterised by undulating countryside. The land is generally used for agricultural purposes either for livestock or tillage. The site area is sizable and is farmland extending around 80 metres AOD to 150 metres AOD on the northern side of the valley overlooking the River Bandon. The site is generally comprised of large fields and is intersected by a public road. Another notable feature of the landscape is that there is a high concentration of rural houses in the local area. I would consider that having regard to the height and scale of the proposed turbines that the development would have implications for the established landscape in terms of visual impact.

Materials assets and cultural heritage

In relation to **material assets** the development has resulted in traffic generation in both the construction and operational stage. During the construction stage this involved the transportation of materials on local roads which can result in premature deterioration of these roads. There is also potential for interference of telecommunication infrastructure and implications for tourism given the visual impact.

In relation to **cultural heritage** there are three sites of archaeological interest or potential which are listed as Recorded Monuments located within the environs of the subject site. These sites are illustrated in Table 3.9.1 of the rEIS. There is therefore the potential that ground works may have impacts on these protected sites.

The interaction between the factors mentioned in the first, second and third indents

In my opinion the following interactions are relevant;

Human beings / landscape – the development is visible from adjoining areas.

Human beings / noise and traffic – the development generated additional traffic primarily during construction stage. There is also an operational noise associated with the development.

Human beings / air quality – the proposal had air implications during construction period,

Flora & fauna / landscape – the development in terms of the works resulted in a material alteration to the landscape.

Soil / water – the removal of soil for site excavation purposes may impact on increased run-off with implications for receiving waters.

Environmental Assessment

The following section of the report assesses the likely significant effects identified in the context of the likely impacts on the environment having regard to mitigation measures proposed.

Human Beings, fauna and flora

Having regard to the rE.I.S. and the information on the file I would consider that a direct impact of the development on **human beings**, would be low-scale employment opportunities. I would consider that this impact would be positive in terms of job creation. I would note that humans are also likely to be directly impacted by visual impact, noise and shadow flicker.

The DOEHLG 'Wind Energy Guidelines', 2006, recommend that '*shadow flicker at neighbouring dwellings within 500m should not exceed 30 hours per year*'. The applicant has used computer modelling to demonstrate that there are 12 receptors within 10 rotor diameters of the turbines that could be affected by shadow flicker. I would note from Table 3.1.8 of the rEIS that all of these receptors fall well short of the 30 hours per annum. However the Shadow Flicker is likely to impact on seven properties, referred to in paragraph 3.1.4 of the rEIS, as shadow flicker could exceed the recommended daily limit of 30 minutes on these properties. I would note that in the two previous planning applications on the subject site which related to more intensive scale of developments that the reporting planning inspector assessed the impact of shadow flicker. In both cases the planning inspector concluded that the proposed development would be acceptable in terms of shadow flicker. However the Board in refusing permission considered that shadow flicker would adversely impact on residential amenities.

In terms of the actual shadow flicker impact I would note that the estimated impacts are the worse-case scenario. These impacts do not have any regard for established vegetation and of the seven properties in question there would be established vegetation. Notwithstanding this the observations on the file argue that the development is having an adverse impact on established residential amenities in terms of shadow flicker. I would note that drawing no. 115041-SK02 indicates dwellings within the zone of influence for shadow flicker.

I would consider that an important mitigation measure is the shut-down mechanism that the developer has outlined will be used should the shadow flicker exceed a minimum threshold i.e. daily limit of 30 minutes. Overall I would consider that there is an established shadow flicker from

the permitted development and that the 'as constructed development' would not result in any additional significant impacts due to the shut-down mechanism. In conclusion the applicant has adequately demonstrated that the impacts of shadow flicker will not adequately impact on residential amenities greater than that which was permitted on the site.

In relation to noise implications there was noise generation at construction and operation stage. Firstly construction noise was temporary in nature and secondly operational noise which will include aerodynamic noise and mechanical noise from the gearbox and generator. The noisiest construction activities are those associated with excavation and boring of turbine bases. The excavation of turbine bases usually occurs over a short period, and can take approximately 1 – 2, days. However the rEIS stated that the removal of bedrock was not anticipated and eliminates the potential for rock blasting which can be noisy, although temporary in nature.

The mechanical noise emanating from wind turbines has generally reduced due to technological improvements however aerodynamic noise is generally referred to as the 'swish' of the turbine blades. The rEIS states that the existing turbines can be fitted with an automatic noise control system which permits the power output and associated noise output of the turbines to be restricted on the basis of time of day, wind speed and direction. This is significant, in my view, as it is a compliance mechanism to ensure that the noise generation from the turbines shall comply with any noise conditions. In the parent permission Condition no. 8 required that noise levels emanating from the proposed development shall not exceed 40 dB when measured at the nearest habitable house.

The Ministerial guidelines recommend that noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres. I would note that the developer conducted a noise survey prior to construction in 2006. This noise survey included recording from five sensitive locations and it established that daytime noise levels or background noise levels range between 27 – 35 dB at average wind speed of 4 m/s.

The EIS includes a noise model which estimates the noise implications of the proposed development. The outcome of the noise modelling concluded that current operational noise is no more than that recorded in the background noise recorded in the 2006 survey and is in compliance with condition no. 8 of the parent permission.

I have reviewed the Noise Impact Assessment (Attachment D of the rEIS). Table 12 of the NIA indicates that the 'as built' wind turbines would only have an additional impact of 1dB than the permitted wind turbines at noise sensitive locations. In terms of human perception a 1 dB change is barely noticeable.

I note that the rEIS noise modelling measures expected noise levels using sound power level generated having regard to different wind speeds. It is concluded that worse case estimated turbine specific noise level, allowing for incremental increase in turbine sound power output, is still within the permitted limit of 40 dB (A).

I would consider that condition no. 8 of the parent permission which requires that noise emanating from the proposed development shall not exceed 40 dB (A) is a reasonable mitigation measures having regard to the established environment. The requirement to ensure that noise does not exceed 40 dB is an improvement on best practice which normally would require a noise limit of 45 dB (a) during night time and 55 dB (A) during day time. Overall, having regard to the information on the file, I would be satisfied that noise emanating from the development would not unduly impact on established residential amenities.

In relation to **fauna and flora** the appeal site is not within nor adjoining any designated sites. The vegetation on the subject site is largely intact and is comprised of arable crops and agriculturally improved grasslands of low conservation value which was bounded by hedgerows. The removal of hedgerows would reduce habitats in the area. Although the subject site is of low conservation merit I would note that the rEIS outlines that there are signs of some mammals, of conservation interest, passing through the site such as otters and badgers. Although no evidence of habitats were identified in the surveys. There is also potential habitat for bats including old farm buildings, but again none were identified. The submission from the Department of Arts, Heritage and the Gaeltacht recommends a condition that monitors bat fatalities adjacent to the turbines. I have reviewed the mitigation measures outlined in the rEIS and I would consider having regard to these measures that the development would not have a significant impact on the aforementioned species and any residual impacts are not significant on the established flora and fauna.

Soil, water, air, climate and the landscape

In relation to **soil and geology** I would note that although soil and subsoil has been impacted upon in the affected areas I would consider that the subject development would have limited implications for geological aspects and soil of the adjoining lands. I would also note having regards to the absence of peaty soils on the subject site that the rEIS concludes that the site in question would not be prone to landslides. I would note that the contamination of soils could occur due to accidental spills during operation stage. Overall I would consider that the removal of the soil and subsoil is limited to the areas of the access tracks, substation building, crane hard standing areas and turbine foundations. Having regard to the size of the overall site I would consider that overall soil and subsoil disturbance would be limited in scale. In conclusion therefore I would consider, having regard to the mitigation measures, that the impacts on soils and geology would be acceptable.

In relation to **water** there are implications for both surface water and ground water. In relation to surface water the quantity maybe affected by discharge levels and this in turn can have implications for flood risk. There is also potential to impact on the quality of the groundwater from storage and refuelling at the site. During the construction phase I would note from Section 3.4.4 of the rEIS that a site drainage plan was implemented. I also acknowledge the operational mitigation measures in the rEIS. In conclusion the rEIS states that given that the 'as constructed development' has one less turbine the impacts of the 'as constructed development' on water would be no more than that permitted on the subject site. I would concur with this conclusion and consider overall, having regard to mitigation measures, that the development would not have significant impacts on water.

In relation to **air** quality I would consider that there was potential dust implications during construction. Given the temporary construction period and the limited scale of the development I would consider that the construction equipment and fugitive windblown dust is unlikely to give rise to adverse implications for air quality. The construction of the proposed wind farm and its generation of electricity in lieu of fossil fuels generated electricity would have an overall positive impact on climate.

In relation to **landscape** I noted, based on a visual observation of the area, that the immediate landscape is undulating agricultural land. I have reviewed the County Development Plan maps and these maps set out landscape designations and listed views for the County. In terms of landscape designation the appeal site nor its environs is not located within a designated 'High Value Landscape'. However there is a designated 'Scenic Route' on a local road immediately north of the appeal site between Ballynacarriga and Ballineen. Although the wind farm is located in close proximity to this scenic route the actual turbines are only partially or intermittently visible due to the topography and the dense vegetation along the Scenic Route. *Volume Two 'Heritage and Amenity' of the Cork County Development Plan, 2014 – 2020*, describes this specific Scenic Route, i.e. S16. This view is described in the Plan as '*local road at Taur views of rolling upland landscape*' and the overall landscape value is described as *medium*.

In considering the visual and landscape impact I would note the appropriate baseline in this case is the permitted development, i.e. appeal ref. 127137. This permission which allowed development for four turbines essentially sets the baseline for a landscape assessment. Therefore the already approved scheme establishes a wind farm presence within the landscape at this location. In terms of the wider landscape considerations I would acknowledge that the constructed wind farm would add an additional height of 6.5 metres to two turbines and reduce a third turbine by 9.5 metres. In addition the current scheme is for three turbines as opposed to the permitted four turbines. Overall in terms of the wider landscape considerations and having regard to the designations above I would consider that the 'as constructed development' would remain

essentially the same as the permitted development in terms of landscape considerations. A second visual impact or landscape impact to consider is the impact that the 'as constructed development' will have on local residential amenities. Although the turbines with a higher tip height of approximately 6.5m would have a additional visual impact locally the omission of an entire turbine and the reduction in height of a second turbine by 9.5m would, in my view, off-set any adverse visual impacts. Overall I would consider that there is adequate capacity to absorb the subject development without having an adverse impact on the visual amenities of the area.

In relation to **material assets** I would consider that the proposed development would not have any significant impacts on traffic or tourism. In relation to infrastructure I note that in some instances concerns are raised about interferences with communications. Condition no. 7 of the parent permission requires that facilities shall be put in place, at the developer's expense, to ensure that local communication infrastructure is not interfered with. Overall I would consider that it is likely that the proposed development will not cause any adverse impacts on material assets.

In relation to **cultural heritage** I would consider that having regards to the subject site and the documentation on the file it is likely that there would be no direct impacts on the existing archaeological environment. The rEIS notes that predevelopment works undertaken for the existing wind farm development were monitored by the Archaeological Services Unit in UCC and no archaeological artefacts or features were recorded. The proposed development is not likely to have any direct / indirect impacts on archeological sites given the layout of the existing development. However there is the potential during the construction stage of the proposed development impacting on unknown archeological environment.

The interaction between the factors mentioned in the first, second and third indents

I have outlined the interaction between environmental factors above and I would consider, and would be in concurrence with the rEIS, that the interaction of the impacts does not lead to significant environmental impacts beyond those identified for each of the individual environmental topics.

Appropriate Assessment Screening

I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

The planning application documentation includes an AA Screening and Table 1 of this Screening outlines the designated sites within 15km of the as constructed wind farm. The most significant Natura 2000 Site in terms

of proximity to the appeal site is the Bandon River SAC (site code 0021271). This Natura Site is situated approximately 4.8km west of the subject site.

The Bandon River SAC is important for a number of reasons and having regard to the 'as constructed development' and qualifying interests I would consider that an important consideration is freshwater pearl mussel. However the NPWS submission outlines that they are not aware of the exact location of freshwater pearl mussel within the Bandon River which has a total length of 61 km. Also, and most importantly, the Bandon River SAC is located upstream of the as 'constructed wind farm'.

The AA Screening concludes that the Wind Farm has not caused adverse direct impacts on the conservation objectives and qualifying interests of any SAC, based on the project design and the distance between the project and the designated sites. No further assessment was recommended.

I would conclude that the development would not have a significant effect on the River Bandon cSAC (site code 002171) having regard to the separation distance of the appeal site to the SAC and the upstream location of the SAC from the subject site.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the subject development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites, i.e. site code 002171, in view of the sites conservation objectives and a stage 2 AA is therefore not required.

9.0 CONCLUSION AND RECOMMENDATION

In conclusion the development which has occurred essentially comprises of a variation of a previously permitted development. It is concluded above that the modified wind turbines has not given rise to significant adverse effects on the environment and that ongoing impacts are limited in type and significance and can be remediated. Therefore, I recommend that the application for substitute consent be granted for the reasons and considerations and subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to nature and scale of the development and to the environmental impacts which have occurred, it is considered that subject to compliance with the conditions set out below, the development which has been undertaken has not had and is not giving rise to an unacceptable level of environmental impact, and is, therefore, in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The grant of substitute consent shall be in accordance with the plans and particulars submitted with the application on the 14th October 2015.

Reason: In the interest of clarity.

2. The environmental mitigation measures set out in the remedial Environmental Impact Statement received by An Bord Pleanala on the 14th day of October, 2015 shall be implemented in full.

Reason: In the interest of environmental protection and to protect the amenities of the area.

3. Details of 'as constructed' co-ordinates and elevations of the turbines shall be submitted to the Irish Aviation Authority. If required, warning lights shall be affixed to the turbines, at the developer's expense, in accordance with the requirements of the Irish Aviation Authority.

Reason: In the interest of aviation safety.

4. Wind turbine noise (measured as LAeq) at dwellings or other sensitive receptors shall not exceed 40 dB(A) LA90 externally. Prior to commencement of development, the developer shall agree a noise compliance monitoring programme for the operational wind farm with the planning authority. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the windfarm.

Reason: In the interest of residential amenity.

5. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority details of a monitoring programme over a 12-month period in relation to shadow flicker. The details shall include the nature and extent of the monitoring following the commissioning of the wind farm. The monitoring results shall be submitted to the planning authority within one month of the completion of the programme and the developer shall comply with any mitigation measures considered necessary by the planning authority including the switching off of any turbines as a result of the monitoring.

Reason: In the interest of residential amenity.

6. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate annual breeding and wintering bird surveys of this site. Details of the surveys to be undertaken and associated reporting requirements shall be developed in consultation with the Department of Arts, Heritage and the Gaeltacht,

and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for five years, save with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Arts, Heritage and the Gaeltacht.

Reason: To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

7. A bat corpse survey, carried out by a competent ecological surveyor, and according to up-to-date best practice concerning timing and using trained search dogs, shall be conducted under the operational turbines annually. Any bird corpses found will also be recorded. The results will be forwarded annually to the Planning Authority.

Reason; To assess incidental mortality of strictly species listed in Annex IV of the EU Habitats Directive and in the interest of environmental protection.

8. All oils and fuels shall be stored in bunded areas. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To avoid pollution of ground and surface waters.

9. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a protocol for assessing any impact on radio or television or other telecommunication reception in the area. In the event of interference occurring, it shall be the responsibility of the developer to mitigate such interference according to a methodology to be agreed with the planning authority.

Reason: In the interest of residential amenity.

10. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site upon cessation of the project, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the site. The form and amount of the security shall be agreed between the planning authority and the developer, and in default of such agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site.

Kenneth Moloney
Planning Inspector
2nd March 2016