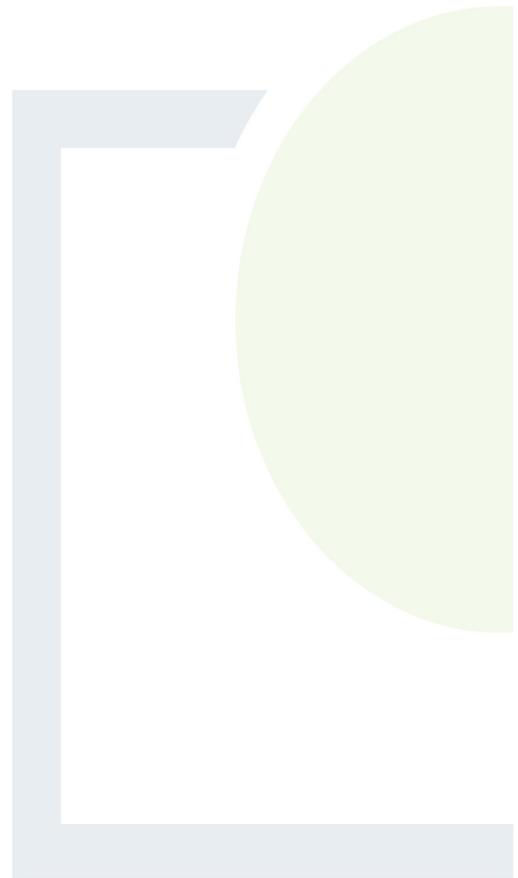




DESIGNING AND DELIVERING  
A SUSTAINABLE FUTURE

# ADDENDUM 3

Consultation Correspondence



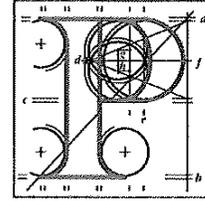


**FEHILY  
TIMONEY**

**DESIGNING AND DELIVERING  
A SUSTAINABLE FUTURE**

**Our Case Number:** ABP-314463-22

**Your Reference:** North Kildare Wind Farm Limited (Statkraft Group)



**An  
Bord  
Pleanála**

Fehily Timoney and Company  
Core House  
Pouladuff Road  
Cork  
Co. Cork  
T12 D773

**Date:** 1st November 2022

**Re:** Proposed development to consist of up to 12 wind turbines, 110kV on-site substation and associated connection to the national grid.  
Townland of Drehid, Co. Kildare

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer further to the above-mentioned pre-application consultation request.

Please find enclosed a copy of the written record of the first meeting of the 26<sup>th</sup> October, 2022.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Eimear Reilly  
Executive Officer  
Direct Line: 01-8737184

PC07

FEHILY TIMONEY & Co.

Distribution

JH / DC

021001000

Job No

Correspondence No. 3

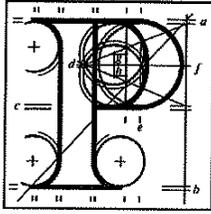
Comment:

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D01 V902





An  
Bord  
Pleanála

## Record of 1<sup>st</sup> Meeting ABP-314463-22

<b>Case Reference / Description</b>	ABP-314463-22 - Proposed development to consist of up to 12 wind turbines in the townland of Drehid, Co. Kildare		
<b>Case Type</b>	Pre-application consultation		
<b>1<sup>st</sup> / 2<sup>nd</sup> / 3<sup>rd</sup> / 4<sup>th</sup> Meeting</b>	1 <sup>st</sup>		
<b>Date</b>	26/10/22	<b>Start Time</b>	11:00 a.m.
<b>Location</b>	Virtually	<b>End Time</b>	11:25 p.m.

<b>Representing An Bord Pleanála</b>		
<b>Staff Members</b>		
Ciara Kellett, Assistant Director of Planning (Chair)		
Anthony Kelly, Planning Inspector		
Eimear Reilly, Executive Officer	e.reilly@pleanala.ie	01-8737184
<b>Representing the Prospective Applicant</b>		
Kevin MacMahon, Senior Project Manager, Statkraft Group		
Jim Hughes, Project Director, Fehily Timoney & Company		
Brian Cronin, Senior Project Environmental Scientist, Fehily Timoney & Company		

## **Introduction**

The Board's representative referred to the letter received from the prospective applicant on the 29<sup>th</sup> August 2022, requesting pre-application consultation under section 37B of the Planning and Development Act, 2000, as amended and advised the prospective applicant that the instant meeting essentially constituted an information-gathering exercise for the Board; it also invited the prospective applicant to outline the nature of the proposed development and to highlight any matters that it wished to receive advice on from the Board. The Board's representative mentioned the following general procedures in relation to the pre-application consultation process:

- The Board will keep a record of this meeting and any other meetings, if held. Such records will form part of the file which will be made available publicly at the conclusion of the process. The record of the meeting will not be amended by the Board once finalised, but the prospective applicant may submit comments on the record which will form part of the case file.
- The Board will serve notice at the conclusion of the process as to the strategic infrastructure status of the proposed development. It may form a preliminary view at an early stage in the process on the matter.
- A further meeting or meetings may be held in respect of the proposed development.
- Further information may be requested by the Board and public consultations may also be directed by the Board.
- The Board may hold consultations in respect of the proposed development with other bodies.
- The holding of consultations does not prejudice the Board in any way and cannot be relied upon in the formal planning process or in any legal proceedings.

### **Presentation made by the prospective applicant:**

The prospective applicant, North Kildare Wind Farm Limited, is a subsidiary of Statkraft Ireland and is a part of the wider Statkraft Group, and the agent is Fehily Timoney & Company. The prospective applicant gave an overview of the nature and extent of the proposed development which was stated to be a windfarm comprising of 12 no. turbines with a tip height of 169m. Located approximately 2.05km south of Johnstown Bridge and approximately 4.89km east of Carbury, the proposed development is within the townlands of Ballynamullagh, Kilmurry, Coolree, Mulgeeth and Drehid, County Kildare.

In relation to planning history, the prospective applicant noted that permission was previously granted by the Board following an appeal for a wind farm comprising of 12 turbines with a tip height of 169m, turbine foundations and hardstanding areas, new access tracks and upgrading of existing access tracks with an underground grid connection to Dunfierrth substation via the L1004 public road (ABP-306500-20), and that this decision is currently subject of a judicial review.

The prospective applicant explained the rationale for the proposed development, stating that having regard to changes in turbine technology and the increased MW output from turbines, it now seeks permission for a 12 turbine development with a maximum export capacity (MEC) of 60MW as opposed to the 49 MW which it could facilitate at the time of submitting the initial application to Kildare County Council.

It was noted that a related pre-application consultation (ABP-311394-21) under Section 182E of the Planning and Development Act, 2000, as amended, has been submitted for a 110kV substation and an on-site 110kV loop-in/loop-out connection to the Kinnegad-Rinawade 110kV overhead line which would supersede the permitted connection to Dunfierrth.

The prospective applicant noted that the proposed development would be subject to Environmental Impact Assessment and Appropriate Assessment and that a Natura

Impact Statement and Environmental Impact Assessment Report will be prepared with the application. The existing NIS and EIAR will be updated to reflect changes and basis for the project and will include all pertinent information including up-to-date surveys to cover the overall project area.

The surveys that have been completed are as follows: Breeding Birds and Winter Birds, Lizards, Aquatic Ecology, Terrestrial Habitats, and Bats.

The prospective applicant outlined its opinion that the proposed development is a strategic infrastructure development as its output is in excess of 50MW, contributes to the Climate Action Plan, and, as it would provide clean renewable energy to the region, will displace carbon dioxide and is, therefore, of strategic and national importance.

**Discussion:**

Following a query from the Board's representatives, the prospective applicant clarified that the instant meeting and pre-application consultation request relates only to the development of the 12 turbines and not to the 110kV substation.

The Board's representatives advised that the prospective applicant address in the application any issues that arose during the previous application and advised that the Department of Defence are consulted prior to application. The prospective applicant replied that it has addressed these issues and concerns.

Following a query from the Board's representatives the applicant confirmed that they intend to submit an application for a specific overall turbine tip height.

The Board's representatives advised that photomontages include views of the proposed development from the nearby villages.

Following a query from the Board's representatives, the prospective applicant stated that the grounds for the judicial review associated with the permitted wind farm were numerous and that a judgement may be made in the next couple of months.

The Board's representatives expressed the opinion that the proposed development would likely constitute strategic infrastructure development due to the reasons noted by the prospective applicant but stated that the determination is ultimately a matter for the Board.

Following a query from the prospective applicant, the Board's representatives advised that other applicants are submitting the entire project under s.37B or submitting both elements separately under s.37B and s.182, and that this is up to the prospective applicant to decide.

**Conclusion:**

The Board's representatives advised that the record of the instant meeting will issue shortly and that the onus is on the prospective applicant to request closure of the pre-application process or to request a further meeting.

 28/10/22

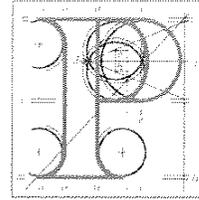
**Ciara Kellett**

**Assistant Director of Planning**



**Our Case Number:** ABP-314463-22

**Your Reference:** North Kildare Wind Farm Limited (Statkraft Group)



An  
Bord  
Pleanála

**FEHILY TIMONEY & Co.**

Fehily Timoney and Company  
Core House  
Pouladuff Road  
Cork  
Co. Cork  
T12 D773

Distribution *BC / JH*

**02 JAN 2024**

Job No: *P22-242*

Correspondence No:

Comment:

**Date:** 22 December 2023

**Re:** Proposed development to consist of up to 12 no. wind turbines, 110kV on-site substation and associated connection to the national grid.  
Townland of Drehid, Co. Kildare.

Dear Sir / Madam,

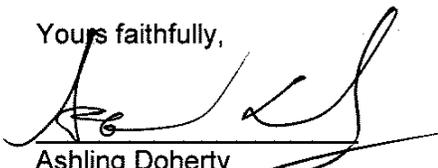
I have been asked by An Bord Pleanála to refer further to the above-mentioned pre-application consultation request.

Please find enclosed a copy of the written record of the meeting of the 23rd November 2023.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

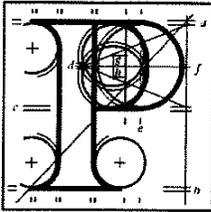
  
Ashling Doherty  
Executive Officer  
Direct Line: 01-8737160

PC07

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An  
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Pleanála

## Record of Meeting ABP-314463-22

<b>Case Reference / Description</b>	Proposed development of 11 no. wind turbines with a tip height of 169 metres in the townlands of Ballynamullagh, Kilmurry, Coolree, Mulgeeth, and Drehid, Co. Kildare.		
<b>Case Type</b>	Pre-application consultation		
<b>1st / 2nd / 3<sup>rd</sup> Meeting</b>	2 <sup>nd</sup> meeting		
<b>Date</b>	23/11/2023	<b>Start Time</b>	11:30 a.m.
<b>Location</b>	MS Teams	<b>End Time</b>	12:05 p.m.

<b>Representing An Bord Pleanála</b>
Stephen Kay, Assistant Director of Planning
Anthony Kelly, Planning Inspector
Donal Donnelly, Senior Planning Inspector
Ashling Doherty, Executive Officer
Lauren Griffin, Executive Officer
Breda Ingle, Executive Officer
<b>Representing the Prospective Applicant</b>
Brian Cronin, FTCO
Rita Mansfield, FTCO
Kevin MacMahon, Statkraft
Jane O'Connor, Statkraft
Alexander Brem, Statkraft

The meeting commenced at 11.30 a.m.

The Board welcomed the prospective applicant to the meeting and introduced those attending from the Board. The Board mentioned general procedures in relation to the pre-application consultation process as follows:

- The Board will keep a record of this meeting and any other meetings, if held. Such records will form part of the file which will be made available publicly at the conclusion of the process. The record of the meeting will not be amended by the Board once finalised, but the prospective applicant may submit comments on the record which will form part of the case file.
- A further meeting or meetings may be held in respect of the proposed development.
- Further information may be requested by the Board and public consultations may also be directed by the Board.
- The Board may hold consultations in respect of the proposed development with other bodies.
- The holding of consultations does not prejudice the Board in any way and cannot be relied upon in the formal planning process or any legal proceedings.

This pre-application consultation meeting was held in conjunction with pre-application ABP-311394-21 which relates to a substation and grid connection to serve the proposed Drehid Windfarm.

**Presentation by the prospective applicant:**

The prospective applicant set the context for the subject pre application consultation request. Permission was originally granted by the Board (Ref. ABP-306500-20) for a 12 no. turbine windfarm on foot of a first party appeal against refusal of permission issued by Kildare County Council. The prospective applicant noted that this permission was subsequently quashed on judicial review for reasons relating to the detail of drawings submitted and the implications of the Derryadd judgement. It should be noted that this original application included for a sub station and grid connection.

The applicant gave an update on the proposed development. The Drehid Wind Farm is proposed to be located approximately 2.05km south of Johnstown Bridge and approximately 4.89km east of Carbury in Co. Kildare. The development is proposed to comprise 11 no. Turbines, the design of which has been narrowed down to 2 potential turbine models. Depending on the final turbine model selected the proposed development will have a capacity between 49.5 – 52.8.MW with a tip height of 169 metres. A 110kV onsite substation including control buildings, underground electrical and communications cabling, 2 no. overhead line single circuit strain towers, drainage and sediment controls, temporary site compounds, tree felling, and associated works are also proposed. Alterations to the design and layout of the overall project from the previous pre-application consultation include a reduced number of turbines from 12 no. to 11 no., the relocation of turbine no. 5, the addition of new access track and the provision of an on site 110kv sub station with loop in connection to the Kinnegad-Rinawade 110kV overhead line .

The prospective applicants highlighted the fact that a separate pre-application consultation under section 182 of the Planning & Development Act, 2000 (as amended), is active for the proposed 110kv substation and loop in loop out connection to the Kinnegad-Rinawade 110kV overhead line, (ABP Ref. 311394-21).

The prospective applicant stated that a Natura Impact Statement (NIS) and Environmental Impact Assessment Report (EIAR) will be submitted with the application. Surveys completed to date include breeding birds and wintering birds, aquatic ecology, terrestrial habitats, and bats. Peat probing has commenced with further such investigations required due to changes to the access tracks which have yet to be finalised.

The rationale behind the proposed development was also presented which included The Climate Action Plan 2023, and how the proposed development has the potential to provide approximately 49.5 – 52.8 MW of renewable electricity which would represent 0.8% of the 6GW national onshore target of 2025.

The prospective applicant stated that they considered that the proposed development was such as to comprise strategic infrastructure on the basis that the development comprised a wind farm development with a total output of greater than 50MW and one that would be of strategic economic importance to the State or region as well as contributing substantially to the fulfilment of objectives contained in the National Planning Framework and regional Planning Guidelines relevant to the area. The fact that the electricity generated by the proposed development could be used outside of the confines of County Kildare was also noted.

#### **Discussion:**

The Board's representatives raised the previous application (ABP Ref. 306500-20) which was quashed in a judicial review. This was an application for 12 turbines with an output of below the 50MW threshold which was why it was submitted to the Planning Authority Kildare County Council in the first instance. The revised proposal put forward at the start of this pre application consultation was for 12 turbines with an output of 60MW. As the turbine dimensions in the proposed development are the same as those provided for in the original application clarity was sought on the increase in output. In response, the prospective applicant clarified that the increased output from the development was due to increased efficiency and increased power ratings of the turbines. The prospective applicant also stated that the 2 potential turbine models currently being assessed are 4.5MW and 4.8MW ratings, with technology improving over time.

The Board's representatives noted that the design flexibility legislation provided for under the Planning and Development Maritime and Valuation (Amendment) Act, 2022 has not been commenced for Section 37 projects and advised that if a number of turbine models were to be proposed as part of an application then each turbine model will need to be presented and individually assessed in the application.

The Boards representatives highlighted the fact that as the output of the turbines could range between 49.5 – 52.8MW, the lower level would fall short of the 50MW threshold requirement under the 7<sup>th</sup> Schedule of the Act, as amended. If a maximum export capacity range was proposed which would sit on both sides of the 50MW threshold it may be difficult to appropriately decide on whether the proposed development would or would not comprise SID.

Therefore, the Boards representatives stated that the proposed development may not be such as to meet the threshold for SID and if the prospective applicant proceeded with the 4.5MW turbines the planning application should be submitted to the planning authority.

The Boards representatives noted that the particular circumstances of this case as they relate to the threshold set out in the Seventh Schedule were unusual and committed to revert to the prospective applicant in the event that they had further comments to make on this issue, (see Note 1 attached to this record).

The Board's representatives noted that there had been a relatively recent application and subsequent permission for a windfarm development very similar to that the subject of this pre application request (Kildare Co. Co. Ref. 18/1534; ABP Ref. 306500). It was advised that all issues arising in the course of the assessment of this previous application be reviewed and assessed.

The prospective applicant stated that the reason for the proposed relocation of the substation from its original position was due to peat stability and peat depth issues. It was stated that the depth of peat at the revised site is approximately 0.5 metres. The Board's representatives specifically highlighted the importance of submitting a comprehensive peat stability report with the application.

The Board's representatives highlighted the recent additions to the Fifth Schedule of the Planning and Development Regulations relating to EIA and rural restructuring.

The prospective applicant was advised to ensure that this new class was considered in the screening assessment particularly with regard to hedgerow removal. The class in the Fifth Schedule to the Regulations relating to private roadways was also highlighted to the prospective applicant.

In response to a question from the Board's representatives, the prospective applicant confirmed that the reason for the reduction in the number of turbines from 12 no. To 11 no. and revisions to access tracks was due to the withdrawal of landowner consent.

In response to a question from the prospective applicant the prospective applicant confirmed the closet residential dwelling will be 589 metres from the nearest turbine.

The Boards representatives noted the adoption of the Kildare County Development Plan, 2023 since the decision on the previous application on the site. In response to a question from the Board's representatives, the prospective applicant stated that all turbines proposed would be located within the area where wind energy development is indicated as being open for consideration in the plan.

**Conclusion:**

The onus is on the prospective applicant to either request a further meeting or formal closure of the instant pre-application consultation process. The record of the instant meeting will issue in the meantime and the prospective applicant can submit any comments it may have in writing or alternatively bring any comments for discussion at the time of any further meeting.

The meeting concluded at 12:05 a.m.



**Stephen Kay**

**Assistant Director of Planning**

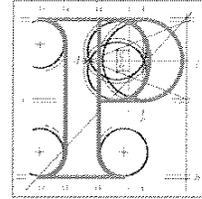
**Note to Record**

With regard to the issue relating to the range of maximum export capacity referenced in the above Record of Meeting and the concerns raised by the Board representatives regarding the SID status of these options, it is considered that the way the application is proposed to be submitted presents a problem for the Board in determining whether the proposal comes within a class of development specified in the Seventh Schedule of the Planning and Development Regulations, 2000 (as amended). Further clarification on this issue in the form of a proposal which clearly meets a class of development in the Seventh Schedule is required from the prospective applicant.



**Our Case Number:** ABP-314463-22

**Your Reference:** North Kildare Wind Farm Limited (Statkraft G



An  
Bord  
Pleanála

**FEHILY TIMONEY & Co.**

Fehily Timoney and Company  
Core House  
Pouladuff Road  
Cork  
Co. Cork  
T12 D773

Distribution JH

24 APR 2024

Job No:

Correspondence No: 2

Comment:

**Date:** 23 April 2024

**Re:** Proposed development to consist of up to 12 no. wind turbines, 110kV on-site substation and associated connection to the national grid.  
Townland of Drehid, Co. Kildare.

Dear Sir / Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act, 2000 as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a) and (b) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act 2000, as amended. Any application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37E of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

Attached is a list of prescribed bodies to be notified of the application for the proposed development.

- Minister for Housing, Local Government and Heritage
- Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Minister for Agriculture, Food and the Marine
- Minister for the Environment, Climate and Communications
- Minister for Rural and Community Development
- Kildare County Council

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Ríomhphost	Email	bord@pleanala.ie

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- Eastern & Midland Regional Assembly
- EirGrid
- Transport Infrastructure Ireland
- Inland Fisheries Ireland
- Uisce Eireann
- Irish Aviation Authority
- Commission for Regulation of Utilities
- An Taisce
- An Chomhairle Ealaíoin
- Fáilte Ireland
- The Heritage Council
- Office of Public Works

Further notifications should also be made where deemed appropriate.

In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The following information relates to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act 2000, as amended.

#### **Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).**

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not

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D01 V902	D01 V902

adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, [www.citizensinformation.ie](http://www.citizensinformation.ie).

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email [sids@pleanala.ie](mailto:sids@pleanala.ie) quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,



Niamh Hickey  
Executive Officer  
Direct Line: 01-8737145

PC09

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<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
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