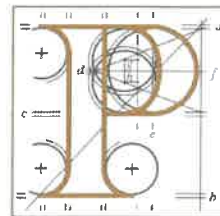


**Our Case Number:** ABP-318203-23

**Your Reference:** Ballinla Wind Farm Limited



An  
Bord  
Pleanála

MWP  
The Elm Suit  
Loughmore Centre  
Raheen Business Park  
Co. Limerick  
V94 R578

**Date:** 28 November 2024

**Re:** Proposed Windfarm development of 9 Turbines, 110kV substation and associated works.  
Located in the townlands of Ballinla, Ballybrittan and Leitrim in the municipal district of Edenderry,  
Co. Offaly.

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.

1. Minister for Housing, Local Government and Heritage (Development Applications Unit)
2. Minister for the Environment, Climate and Communications
3. Offaly County Council
4. Meath County Council
5. Kildare County Council
6. Eastern and Midland Regional Assembly
7. Transport Infrastructure Ireland
8. An Chomhairle Ealaíon
9. Fáilte Ireland
10. Inland Fisheries Ireland
11. Waterways Ireland
12. Irish Aviation Authority
13. Córas Iompair Éireann
14. The Heritage Council

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

15. An Taisce – the National Trust for Ireland
16. Health Service Executive
17. The Commission for Energy Regulation
18. Uisce Eireann

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 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.

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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,



Ellen Moss  
Executive Officer  
Direct Line: 01-8737285

PC09

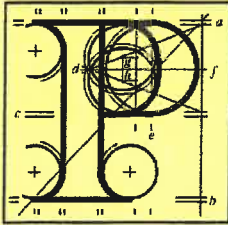
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An  
Bord  
Pleanála

**Board Direction**  
**BD-018310-24**  
**ABP-318203-23**

The submissions on file and the inspector's report were considered at a Board Meeting held on 26/11/2024.

The Board decided that having regard to the size, scale and location of the proposed wind farm and related development, and to the policy context, it is considered that the proposed development constitutes development that falls within the definition of energy infrastructure in the Seventh Schedule of the Planning and Development Act 2000, as amended, thereby satisfying the requirements set out in section 37A (1) of the Act.

The proposed development is also considered to be of strategic importance by reference to the requirements of Sections 37A (2) (a) and (b) of the Planning and Development Act 2000, as amended. An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37E of the Planning and Development Act 2000, as amended.


The applicant shall be informed that the application documentation should be forwarded to the following prescribed bodies:

- Minister for Housing, Local Government and Heritage (Development Applications Unit).
- Minister for the Environment, Climate and Communications.
- Offaly County Council
- Meath County Council
- Kildare County Council
- Eastern & Midland Regional Assembly
- Transport Infrastructure Ireland

- An Chomhairle Ealaíon
- Fáilte Ireland
- Inland Fisheries Ireland
- Waterways Ireland
- Irish Aviation Authority
- Córas Iompair Éireann
- The Heritage Council
- An Taisce – the National Trust for Ireland
- Health Service Executive
- The Commission for Energy Regulation
- Uisce Éireann

Further notifications should also be made, where deemed appropriate.

**Board Member**



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Peter Mullan

**Date:** 27/11/2024