

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

## Cork County

**Planning Register Reference Number: 10/00857**

An Bord Pleanála Reference Number: PL 88.239767

**APPEAL** by Jerry McGillicuddy of Leam, Gneeveguilla, Rathmore, County Kerry against the decision made on the 3<sup>rd</sup> day of October, 2011 by Cork County Council to grant subject to conditions a permission to George O'Mahony care of Jennings O'Donovan and Partners of Finisklin Business Park, Sligo in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** 10 year planning permission for development of a wind farm comprising seven (7) number electricity generating wind turbines with a hub height of 55 metres and a rotor diameter of 52 metres, an electrical compound, sub-station building, four number car parking spaces, associated site roads and site works. It is proposed to source stone from an on site borrow pit, all in the townland of Derreenacinnig West, Drimoleague, County Cork. **The proposed development was revised by further public notice received by An Bord Pleanála on the 20<sup>th</sup> day July, 2012**, including relocation of the substation compound and revised works to the local public roads.

## DECISION

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## REASONS AND CONSIDERATIONS

Having regard to:

- (a) national policy with regard to the development of sustainable energy sources,
- (b) the Wind Energy Development Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the provisions as set out in the current Cork County Development Plan, including those regarding renewable energy development, in particular Objective 7-4,
- (d) the location in an area not subject to designations for scenic amenity or natural heritage protection,
- (e) the pattern of development in the area (including the separation distance to dwellings) and the pattern of permitted development in the area, and
- (f) the limited scale of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposed development (including revisions to the proposed substation location submitted to An Bord Pleanála), would not seriously injure the amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape character of the area, would not be detrimental to the natural heritage or cultural heritage of the area, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience of road users.

The Board completed an environmental impact assessment of the proposed development which considered, inter alia,

- the environmental impact statement submitted with the application,
- the environmental aspects raised during the course of the appeal, including a detailed submission by the applicant to the Board on the 12<sup>th</sup> day of June, 2012 in response to a Section 132 notice dated the 24<sup>th</sup> day of April, 2012 and including revised newspaper and public notices received on the 20<sup>th</sup> day of July, 2012, and
- the report, assessment and conclusions of the Board's Planning Inspector in relation to the environmental impacts of the development, which were broadly accepted by the Board.

The Board considered that the environment impacts of the proposed development are acceptable and, subject to compliance with the mitigation measures set out in the environmental impact statement and as conditioned by the Board, the proposed development would not have unacceptable adverse effects on the environment.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the site had a number of attributes (as set out in the reasons and considerations above) that facilitated development of a wind farm development, and taking into account the scale of development proposed, it was considered the resultant impact on landscape and visual amenity would be acceptable at this location. While the development may impinge to some extent on views from scenic route S30, and might form the backdrop to certain views of the castle at Castledonovan, it was not felt that these impacts were so negative as to warrant a refusal of permission. It was also considered that the relocation of the substation would reduce the visual impacts of the facility to a certain extent. The Board also noted the applicant's response to An Bord Pleanála in relation to landscaping of the site, reinstatement of the local access road and enhancement of the heritage potential of the castle at Castledonovan, all of which were seen as beneficial mitigation measures in this case.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 12<sup>th</sup> day of August, 2011 and the 21<sup>st</sup> day of September, 2011 and by the information received by An Bord Pleanála on the 12<sup>th</sup> day of June, 2012, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This period during the development hereby permitted may be carried out shall be ten years from the date of this order.

**Reason:** Having regard to the nature of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

3. This permitted operational period shall be 25 years from the date of commissioning of the wind farm.

**Reason:** To enable the planning authority to review its operation in the light of the circumstances then prevailing.

4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

**Reason:** In the interest of clarity.

5. Prior to commencement of development, a detailed construction method statement and environmental management plan, including the following details, shall be submitted to and agreed in writing with the planning authority.
  - (a) Details of the proposed water monitoring protocol and drainage inspection regime.
  - (b) A detailed method statement for the construction of the borrow pit.
  - (c) A detailed method statement for geotechnical investigation, design and monitoring, including all aspects of the proposed borrow pit, and all aspects of management of excess spoil, such that slope stability measures and prevention of water pollution are fully implemented.

**Reason:** In the interest of environmental protection and orderly development.

6.
  - (a) Noise levels emanating from the proposed development following commissioning, when measured externally at a noise sensitive location, shall not exceed the greater of 43dB(A)  $L_{90}$ , or 5dB(A) above background levels.
  - (b) All noise measurements shall be made in accordance with I.S.O. Recommendations R1996/1 and 2 “Acoustics – Description and measurement of Environmental noise”.
  - (c) Prior to commencement of development, the developer shall agree a noise compliance monitoring programme for the operational wind farm with the planning authority, which shall include additional monitoring of baseline noise conditions.

**Reason:** In the interest of residential amenity.

7. The landscaping of the site and access road shall be carried out in accordance with the details submitted to An Bord Pleanála on the 12<sup>th</sup> day of June, 2012 within the first planting season following substantial completion of construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

8.
  - (a) Any damage caused to the nearby public road by construction traffic during development works shall be made good by the Council at the developers' expense.
  - (b) The developer shall carry out a survey of the condition of the public road network which will be used as a haulage route for deliveries to the site and any culverts which run under the public roads along that route. The extent of the route to be surveyed shall be agreed with the planning authority prior to the carrying out of the survey. Any damage caused to these culverts during the construction phase shall be repaired immediately by the developer to the satisfaction of the planning authority.
  - (c) Prior to commencement of development and post-construction of development, inspection of the local L-8767 and L-4711 roads shall be carried out by the developer and the planning authority to determine any damage or repair works necessary to restore the road to pre-development standards.

**Reason:** To protect the local infrastructure and enable proper reinstatement post-construction.

9. The local access road to the site shall be fully re-instated following construction operations, including the repair of any stone walls and replanting of any hedges removed, generally in accordance with the details received by An Bord Pleanála on the 12<sup>th</sup> day of June, 2012. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

11. Upon completion of the windfarm, 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 planning authority.

**Reason:** In the interest of aviation safety.

12. The colour of the turbines, including the turbine blades, shall be matt grey or similar in colour and texture. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

13. In the event of interference being caused by the permitted turbines on any communication signals, or radio or television reception in the area, appropriate measures shall be taken which may include the installation of facilities to minimise such interference. Details of such measures to be taken (which may include installation of facilities) which shall be at the developer's expense shall be submitted to and agreed in writing with the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.

**Reason:** In the interest of orderly development and residential amenity.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the provision and satisfactory completion of works required under condition number 8 above, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of the works. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of road safety and the proper planning and sustainable development of the area.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, 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 such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure satisfactory reinstatement of the site.

16. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of enhancement of amenities and facilities for tourism at nearby Castledonovan, including promotional infrastructure, as per the applicants submission to An Bord Pleanála on the 12<sup>th</sup> day of June, 2012. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this                      day of                      2012.**