

## **Derrybrien Wind Farm Project**

Gort Windfarms Ltd.

## Planning Report to Accompany Application to An Bord Pleanála for Substitute Consent

Document No.: QS-000280-01-R460-003-000

Date: 13/08/2020

Engineering and Major Projects, One Dublin Airport Central, Dublin Airport, Cloghran, Co. Dublin, K67 XF72, Ireland. **Phone** +353 (0)1 703 8000 **www.esb.ie** 

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File Reference:	Pre Dev 0010		
Client / Recipient:	Gort Windfarms Limited		
Project Title:	Derrybrien Wind Farm Project		
Report Title:	Planning Report to accompany application to An Bord Pleanála for substitute consent		
Report No.:	QS-000280-01-R460-003-000		
Revision No.:	Rev 0		
Prepared by:	Helen O'Keeffe	Date: 13.08.2020	
Title:	Senior Planner		
Verified by:	Brendan Allen Date: 13.08.2020		
Title:	Senior Planner / Team Leader		
Approved by:	John McLoughlin Date: 13.08.2020		
Title:	Manager – Planning and Environmental Group		

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Template Used: T-020-017-Engineering and Major Projects Report Template

## **Table of Contents**

1	Introduction 1			
	1.1 The Application			
	1.2 The Development1			
	1.3 The Applicant			
	1.4 Histo	ry of the Development	1	
	1.4.1	Development History	1	
	1.4.2	Planning History	2	
	1.4.3	Judgement of the Court of Justice of the European	Union5	
	1.4.4	'Substitute Consent' and Provisions under the Plan	ning and	
	Develo	pment Act, as amended	6	
	1.4.5	Section 177B Notice from Galway County Council	7	
	1.4.6 Project	Exceptional Circumstances & the Derrybrien Wi t 7	nd Farm	
2	The App	lication for Substitute Consent	11	
	2.1 Scop	e of The Application	11	
	2.2 Statu	itory Requirements of the Application	11	
	2.3 Parti	culars of the Application	13	
	2.3.1	Content of the Application Pack	13	
	2.4 Publi	c Consultation and Engagement	13	
	2.4.1	Pre-Planning Application Consultation	13	
	2.4.2	<b>Consultation during Project Construction</b>	14	
	2.4.3	Engagement during Operations	14	
	2.4.4	Consultation in advance of the Application for S	ubstitute	
	Consei	nt	14	
	2.4.5	Consultation during the Substitute Consent Applica	ation and	
	the El/	A Processes	16	
3	The Dev	elopment	17	
	3.1 Deve	Iopment Subject of the Application	17	
	3.1.1	Derrybrien Wind Farm	19	
	3.1.2	The Grid Connection	23	
	3.1.3	The Peat Slide and Associated Response Works	25	
4	The Plar	nning Assessment	28	
	4.1 Introduction 28			
	4.2 European Policy Context   28			

4.3	National Policy Context				
4.4	Regional Policy				
4.5	Local	Policy: Provisions of the Galway County	Development	Plan	
36					
4.6	Plann	ing Assessment		40	
Append	ix A	Notice issued by Galway County Council		42	
Append	ix B	Derrybrien Wind Farm Project - Public Info	ormation Shee	t44	

QS-000280-01-R460-003-000

## 1 Introduction

### 1.1 The Application

The enclosed documentation relates to an application for Substitute Consent in relation to the **'Derrybrien Wind Farm Project'**.

The application is made directly to An Bord Pleanála ('The Board', ABP) pursuant to a notice issued on the Applicant, Gort Windfarms Limited, by Galway County Council under Section 177B of the Planning and Development Act, as amended ('The Act').

The application pack has been compiled in compliance with the requirements under the Act and includes a remedial Environmental Impact Assessment Report (rEIAR) and remedial Natura Impact Statement (rNIS).

## 1.2 The Development

As set out in further details in **Para. 3.1** below, this application relates to the 'Derrybrien Wind Farm Project' – comprising an existing wind farm and associated on-site development including an on-site substation ('Derrybrien Substation'); a grid connection consisting of a c.7.8km overhead electricity transmission line connecting to the national grid via a 110kV substation (herein referred to as 'Agannygal substation'); and other off-site development works associated with peat slide events that occurred during construction.

### 1.3 The Applicant

The application for substitute consent is being made by **Gort Windfarms Limited** which is a wholly owned subsidiary of the Electricity Supply Board (ESB).

## 1.4 History of the Development

### 1.4.1 Development History

Derrybrien Wind Farm was acquired by Gort Windfarms Ltd. from a private developer (Saorgus Energy Ltd.) in 2003. At the time of acquisition, the majority of the project site was in use as commercial forestry with some turf cutting undertaken in non-forested areas located to the north and east of the Wind Farm site. Development consents were in place - in the form of a number of planning permissions obtained between 1998 and 2002, permitting the development of a 71 No. turbine wind farm which would be connected to the national grid by means of an overhead line.

Project mobilisation works for Derrybrien Wind Farm began in mid-2003, with an initial phase comprising forestry felling, site road construction, temporary compound construction, upgrading of the access road and the construction of c.50% of the turbine bases. All phases of the project (as defined by the separate planning consents – see **Para**. **1.4.2** below) were constructed in parallel.

In October 2003, during the construction of the wind farm, a large peat slide occurred. The slide originated within the wind farm site boundary to the south of the site. In the aftermath of the peat slide engineering measures were implemented. These comprised containment and stabilisation works to minimise effects on lands, receiving watercourses and the local road network. During this period – October 2003 to June 2004, construction works on the wind farm itself were suspended.

From June 2004 to March 2006, the construction of the wind farm and the grid connection (comprising both the overhead line and Agannygal substation) were completed.

Derrybrien Wind Farm was commissioned between September 2005 and March 2006 and commenced commercial operations in March 2006.

The wind farm has been in continuous operation since that time. It is envisaged that the wind farm will operate until c. 2040. At that time the wind farm and associated development will be decommissioned.

The phases of development are set out in detail in the EIAR [see EIAR, Para. 2.2.3].

### 1.4.2 Planning History

The planning history of the Derrybrien Wind Farm Project, is described with regard to four key consents, as follows:

- Derrybrien Wind Farm Phase 1
- Derrybrien Wind Farm Phase 2
- Derrybrien Wind Farm Phase 3
- The Grid Connection.

The consents are set out on Table 1-1 over.

	Planning Register Ref.	Decision Date	Summary of Application and Permitted Development
DB Wind Farm Phase 1	GCC - 97/3470 ABP - PL.07.106290	12 <sup>st</sup> October 1998	Standard 5-year permission for the development of 23 turbines and ancillary development. Application subject of EIA.
	GCC - 03/5642	24 <sup>st</sup> November 2003	Extension of duration to 31 <sup>st</sup> March 2005
	GCC - 05/317	31 <sup>st</sup> March 2005	Extension of duration to 31 <sup>st</sup> June 2006
DB Wind Farm Phase 2	GCC - 97/3652 ABP - PL.07.106292	12 <sup>th</sup> October 1998	Standard 5-year permission for the development of 23 turbines and ancillary development. Application subject of EIA.
	GCC - 03/5637	24 <sup>th</sup> November 2003	Extension of duration to 31 <sup>st</sup> March 2005
	GCC - 05/316	30 <sup>th</sup> March 2005	Extension of duration to 31 <sup>st</sup> June 2006
DB Wind Farm Phase 3	GCC - 00/4581 ABP – PL.07.122803	15 <sup>th</sup> November 2001	Application for the erection of 25 turbines (60m hub height, 30m blade length) and ancillary development; and modifications to 46 previously approved turbines to 60m hub height and 30m blades). Application subject of EIA. Standard 5-year permission granted excluding changes to permitted turbines and restricting the height of Phase 3 turbines
	GCC – 02/3560	6 <sup>th</sup> January 2003	Application for change of turbine type 25 Vestas V47 turbines to 25 Vestas V52 turbines – reducing hub height by 3m and increasing blade length by 3m. The grant of permission specified change affected Phase 3 turbines only and would increase height above ground by 1.5m and length of turbine below ground by 0.5m.
Grid Connection	GCC – 99/2377	10 <sup>th</sup> August 1999	Planning permission for the development of a 110kV transmission line with a tee-in to the pre-existing 110kV transmission line (the Shannonbridge -Ennis 110kV Overhead Line).
	GCC – 04/4085	5 <sup>th</sup> November 2004	Extension of duration to 31 <sup>st</sup> December 2005

### Table 1-1 Summary of Planning Register: Derrybrien Wind Farm

Note: GCC – Galway County Council ABP – An Bord Pleanála

#### 1.4.2.1 Derrybrien Wind Farm Phase 1 Consents

Permission for Phase 1 of Derrybrien Wind Farm was subject of a grant of permission issued under Galway County Council (GCC) Reg. Ref. 97/3470 and An Bord Pleanála (ABP) Reg. Ref. PL.07.106290. The relevant consent is that issued by ABP on 12<sup>th</sup> October 1998.

The permitted development comprised a wind farm including site development works (felling of trees, excavation of peat, etc.), the development of 23 no. turbines including all enabling works (excavation of turbine bases, foundation construction, turbine base construction), a control house, transformer compound, anemometer mast; and works including quarrying of rock, construction of service roadways, laying of underground cables, and decommissioning of the wind farm at an unidentified end date. Off-site works to the local road network (the Black Road) were also described.

The application documentation referred to a connection to the 110kV line to the south-east of the site which would be subject of a separate planning permission.

Two subsequent consents were issued (GCC Reg. Refs. 03/5642 and 05/317) which extended the duration of the Phase 1 Principle Permission to a final date of 31<sup>st</sup> June 2006.

#### 1.4.2.2 Derrybrien Wind Farm Phase 2 Consents

Permission for Phase 2 of Derrybrien Wind Farm – then called 'Caheranearl Wind Farm', was subject of a grant of permission issued under GCC Reg. Ref. 97/3652 and ABP Reg. Ref. PL.07.106292. The relevant consent is that issued by ABP on 12<sup>th</sup> October 1998.

The permitted development comprised a wind farm including site development works (felling of trees, excavation of peat, etc.), the development of 23 no. turbines including all enabling works (excavation of turbine bases, foundation construction, turbine base construction), transformer compound, anemometer mast; and works including quarrying of rock, construction of service roadways, laying of underground cables, and decommissioning of the wind farm at an unidentified end date. Off-site works to the local road network (the Black Road) were also described. Provision was made for the utilisation of the control building subject of the Phase 1 application.

As per the Phase 1 development, the Phase 2 application documentation referred to a connection to the 110kV line to the south-east of the site which would be subject of a separate planning permission.

Two subsequent consents were issued (GCC Reg. Refs. 03/5637 and 05/316) which extended the duration of the Phase 2 Principle Permission to a final date of 31<sup>st</sup> June 2006.

#### 1.4.2.3 Derrybrien Wind Farm Phase 3 Consents

Permission for Phase 3 of Derrybrien Wind Farm was subject of a grant of permission issued under GCC Reg. Ref. 00/4581 and ABP Reg. Ref. PL.07.122803 as subsequently modified by GCC Reg. Ref. 02/3560. The latter consent materially changed the original grant of permission by amending turbine design but was based on the site layout provided in GCC Reg. Ref. 00/4581 and ABP Reg. Ref. PL.07.122803.

The permitted development comprised a wind farm including site development works (felling of trees, excavation of peat, etc.), the development of 25 no. turbines including all

enabling works (excavation of turbine bases, foundation construction, turbine base construction), on-site 110kV substation, transformer compound, anemometer mast; and works including quarrying of rock, construction of service roadways, laying of underground cables, and decommissioning of the wind farm at an unidentified end date. Off-site works to the local road network (the Black Road) were also described.

It is noted that the Phase 3 Principle Permission, also sought to amend aspects (turbine design) of the Phase 1 and Phase 2 permission. It is noted that this aspect of the application was not permitted so the Phase 3 consents expressly relate to the 25 No. turbines subject of Phase 3 only.

#### 1.4.2.4 Cross-References to Historic Environmental Impact Assessment

As set out above, three separate environmental assessments were undertaken in support of the three separate planning applications for the development of Derrybrien Wind Farm.

For the purposes of cross-references within documents submitted in support of this application, reference may be made to individual reports by way of project phasing or collectively, as follows:

- EIS submitted with GCC Reg. Ref. 97/3470 / ABP Reg. Ref. PL.07.106290 'the Phase 1 EIS',
- EIS submitted with GCC Reg. Ref. 97/3652 / ABP Reg. Ref. PL.07.106292 'the Phase 2 EIS',
- EIS submitted with GCC Reg. Ref. 00/4581 / ABP Reg. Ref. PL.07.122803 'the Phase 3 EIS',
- collectively referred to as 'the Original Environmental Impact Statements' or the 'Original EISs'.

#### 1.4.2.5 The Grid Connection Consents

Derrybrien Wind Farm is connected to the national grid by way of an overhead line connecting the on-site substation to a substation at Agannygal. Permission for the grid connection was issued under GCC Reg. Ref. 99/2377 on 9<sup>th</sup> August 1999. A subsequent consent was issued (GCC Reg. Ref. 04/4085) which extended the duration of that permission to a final date of 31<sup>st</sup> June 2006.

Planning permission related to a 110kV electricity transmission line (comprising an overhead line) between a wind farm at Derrybrien North and the 110kV ESB transmission line at Loughatorick North. 110kV wooden transmission poles and steel lattice deviation towers would support the line along its route. The means of connection to the pre-existing 110kV transmission line (the Shannonbridge - Ennis 110kV line) was described as a 'Tee-in Configuration'.

### 1.4.3 Judgement of the Court of Justice of the European Union

In July 2008, the Court of Justice of the European Union (CJEU) delivered a judgment against the Irish State in Case C-215/06 referencing Derrybrien Wind Farm.

A further judgment of the Court of Justice of the European Union (CJEU) in Case C-261/18 on 12<sup>th</sup> November 2019, found that the Irish State had failed to take measures necessary to comply with Case C-215/06 and to fulfil a number of obligations arising from the

Environmental Impact Assessment (EIA) Directive (at the time Directive 85/337 as amended by Directive 97/11).

The CJEU judgements have determined that the permission(s) which enabled the development of this Project were in breach of law, invalid or otherwise defective because - though the EIA report (the EIS) complied with Irish legislation at that time, it was inadequate because the Irish State had failed to fulfil a number of obligations arising from the Environmental Impact Assessment (EIA) Directives.

The judgement issued under Case C-261/18 requires the State to take measures to comply with the earlier judgement i.e. to take steps to ensure that projects are subject of robust environmental impact assessment.

#### 1.4.4 'Substitute Consent' and Provisions under the Planning and Development Act, as amended

The concept of 'Substitute Consent' derives from a CJEU finding to the effect that permission for the retention of development affected by the EU Directive on Environmental Impact Assessment may be granted only in 'exceptional circumstances'.

The Planning and Development Act as amended ('The Act'), set out a number of means by which such consent can be sought and in what circumstances. Under Section 177B, The Act, provides a mechanism whereby a developer can be directed to apply to An Bord Pleanála for a 'Substitute Consent'.

Section 177B states:

177B.— (1) Where a planning authority becomes aware in relation to a development in its administrative area for which permission was granted by the planning authority or the Board, and for which—

(a) an environmental impact assessment,

(b) a determination in relation to whether an environmental impact assessment

is required, or

(c) an appropriate assessment,

was or is required, that a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union has been made that the permission was in breach of law, invalid or otherwise defective in a material respect because of—

(i) any matter contained in or omitted from the application for permission including omission of an environmental impact assessment report or a Natura impact statement or both that report and that statement, as the case may be, or inadequacy of an environmental impact assessment report or a Natura impact statement or both that report and that statement, as the case may be, or

(ii) any error of fact or law or procedural error,

it shall give a notice in writing to the person who carried out the development or the owner or occupier of the land as appropriate.

### 1.4.5 Section 177B Notice from Galway County Council

On foot of the CJEU judgement (see **Para. 1.4.3** above), and the legislative provisions set out under S.177B of the Planning and Development Acts (see **Para 1.4.4** above), Galway County Council has given notice to Gort Windfarms Ltd., the developer of the Derrybrien Wind Farm Project, directing it to seek Substitute Consent for development associated with that project.

That notice issued on 9<sup>th</sup> June 2020 and was confirmed on 23<sup>rd</sup> July 2020.

A copy of that notice is attached as **Appendix A**.

### 1.4.6 Exceptional Circumstances & the Derrybrien Wind Farm Project

As noted above, this application is being made following the service of a Notice under S.177B of the Planning and Development Act 2000, as amended ("the 2000 Act") and inlight of the two judgments of the CJEU referred to above.

The Applicant submits that it is appropriate that it be given this opportunity to apply for substitute consent because there exist exceptional circumstances within the meaning of Case C-215/06 and EU law. The Board, in its consideration of this application for substitute consent should satisfy itself that there are such exceptional circumstances.

Section 177D(2) of the 2000 Act sets out the factors that are to be considered by the Board in determining whether exceptional circumstances exist. These criteria apply to the determination reached by the Board in the context of an application for Leave to Apply for Substitute Consent under section 177C of the 2000 Act. It is submitted that the assessment of whether exceptional circumstances exist in this instance should also be carried out by reference to these criteria.

Having considered those criteria, it is submitted that this application meets the requirement of exceptional circumstances, as defined by section 177D(2) of the 2000 Act and the decisions of the CJEU, as follows:

- (a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;
  - The original applications for planning permission were accompanied by environmental impact statements (EISs) in respect of the entirety of the development in order to facilitate the completion of an environmental impact assessment and appropriate assessment by the appropriate national authorities. In assessing those applications, the decision-making authorities, Galway County Council and An Bord Pleanála, carried out their assessments having regard to the plans and particulars submitted including the EISs, and concluded that the development proposed would not have a significant adverse impact on the environment and should be granted permission.
  - Gort Wind Farms Limited did not intend to, nor did they attempt to, circumvent either the Environmental Impact Assessment Directive or the Habitats Directive.
  - In Case C-261/18 *Commission v. Ireland*, the State was criticised for failing to take steps to ensure that an environmental impact assessment was undertaken in relation to the Derrybrien Wind Farm and the judgment of the CJEU referenced and

relied on the provisions of section 177B and 177C of the 2000 Act. This application is accompanied by a comprehensive rEIAR and rNIS which will enable the Board to complete that environmental impact assessment and an appropriate assessment which will ensure that the requirements of the Environmental Impact Assessment Directive and the Habitats Directive are met.

- (b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;
  - Gort Windfarms Limited acted in good faith implementing planning permissions granted in respect of the Derrybrien Wind Farm.
  - The development consents granted in respect of the Derrybrien Wind Farm were not subject to any challenge in accordance with relevant national law.
  - The development was completed in early 2006 and has been operational since that date. No enforcement proceedings have been taken by the relevant planning authority, Galway County Council in that time that would have indicated that the County Council, as the enforcement authority, considered the development to be unauthorised.
  - An application for relief under section 160 of the 2000 Act in respect of the Derrybrien Wind Farm was dismissed by the High Court and the Supreme Court (see Derrybrien Development Society Limited v. Saorgus Energy Limited & Ors [2005] IEHC 060301 and [2015] IESC 77).
  - The State, when defending Case C-261/18, *Commission v Ireland* took the view that notwithstanding the decision of the CJEU in Case C-215/06, there was no necessity to require that there be an application to regularise the status of the Derrybrien Wind Farm.
  - In the circumstances, it is submitted that the applicant had good grounds for believing that the development was not unauthorised.
- (c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;
  - The documents submitted with this application provide a comprehensive and robust assessment of all stages of the wind farm development including of the works which took place in response to the peat slide.
  - While the rEIAR sets out minor difficulties encountered in terms of gathering information, it is clearly stated that these did not prevent an assessment of environmental impacts.
  - As set out in Para. 2.4 of this Report, there is an extensive history of planning consents and environmental assessment associated with this development which facilitated, through the planning application and planning appeals process, robust public participation in decision-making and the assessment process. This Substitute Consent process provides further opportunities for public participation, including on the question of exceptional circumstances.

- In these circumstances it is submitted that the ability to carry out environmental impact assessment and appropriate assessment and to provide for public participation in this process, has not been substantially impaired.
- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;
  - The rEIAR and rNIS accompanying this application provide a robust and comprehensive assessment of the environmental impacts arising due to the development. Those assessments consider the full life-cycle of the development – from construction to operation and ultimate decommissioning and include the works which took place in response to the peat slide.
  - The rEIAR concludes that, while there were significant effects on the environment these were short-lived, and that there are no actual or likely significant effects on the environment resulting from the carrying out or continuation of the development.
  - The rNIS similarly concludes that the project has not had and will not have with the implementation of mitigation measures for future operation and decommissioning adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development.

#### (e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;

- Again, the rEIAR and rNIS accompanying this application provide a full assessment of the significant effects on the environment and impacts on European sites resulting from the development.
- In terms of the significant effects on the environment it is clear that the most significant effect – the peat slide – has been substantially remediated, and that all other significant effects have been, or can be remediated by the measures set out in the rEIAR.
- In terms of the adverse effects on the integrity of any European site, as clearly set out in the rNIS, while mitigations measures are set out, there are no such adverse effects requiring remediation.
- (f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;
  - Gort Wind Farms has substantially complied with the terms and conditions attached to the grants of planning permission made in respect of the Derrybrien Wind Farm.
  - No enforcement proceedings have been taken by the relevant planning authority, Galway County Council
  - As referred to above, an application for relief under section 160 of the 2000 Act in respect of the Derrybrien Wind Farm was dismissed by the High Court and the Supreme Court (see *Derrybrien Development Society Limited v. Saorgus Energy Limited & Ors* [ 2005] IEHC 060301 and [2015] IESC 77).

#### (g) such other matters as the Board considers relevant.

- Gort Wind Farms Limited was not a party to the proceedings before the CJEU in either Case C-215/06 *Commission v. Ireland* or Case C-261/18 *Commission v. Ireland* and therefore did not have any opportunity to influence the outcome of those cases.
- This application is the first opportunity afforded to Gort Wind Farms Limited to address the status of the Derrybrien Wind Farm and its compliance with the Environmental Impact Assessment Directive and the Habitats Directive.
- The occurrence of the peat slide gave rise to a need to carry out emergency works to ensure the safety and stability of the development site and to mitigate against any impacts caused by the peat slide. In carrying out those works, Gort Wind Farms Limited engaged with relevant authorities including Galway County Council and Inland Fisheries Ireland on the questions of the nature of the works and the manner in which they would be carried out in order to minimise the impacts on the receiving environment. As appears from the rEIAR and rNIS, the peat slide was an exceptional event in itself, and the investigation of it and the measures to address it have dramatically increased the understanding regarding construction of wind farms on peat bogs and informed best practice guidelines and the assessments contained in the application documentation.

For these reasons, Gort Windfarms Ltd. submits that exceptional circumstances have been established and that it would be appropriate to grant substitute consent in respect of the Derrybrien Wind Farm Project.

## 2 The Application for Substitute Consent

## 2.1 Scope of The Application

In compliance with the notice served by Galway County Council (see **Para. 1.4.5** above), Gort Windfarms Ltd. is submitting this application for Substitute Consent to An Bord Pleanála for development comprising:

"a windfarm, including ancillary development which includes service roadways, control house, transformer compounds and anemometer mast and associated development of a Grid Connection at Derrybrien West. Derrybrien East, Derrybrien North, Toormacnevin, Bohaboy, Caheranearl and Boleyneendorrish, all in the County of Galway, more particular described in the grants of planning permission as set out in Schedule Two ..."

This application relates to development shown on **Drawings QS-000280-01-D460-018-001-000 and QS-000280-01-D460-018-002-000** in the accompanying drawing pack and comprising:

- Derrybrien Wind Farm an existing 70 turbine windfarm and associated ancillary works
- The grid connection which facilitates the export of electricity from the wind farm to the national grid – consisting of Derrybrien-Agannygal 110kV Overhead Line and Agannygal Substation where that Overhead Line connects into the Shannonbridge -Ennis 110kV Overhead Line, and associated ancillary works
- Development associated with peat slides which occurred during the construction of the wind farm and associated ancillary works.

Each of these elements is described in Section 3 of this report.

This application relates to all development subject of the S.177B notice i.e all development associated with the construction and operation of Derrybrien Wind Farm. It is noted that the accompanying assessment documents – namely the rEIAR and rNIS relate to the full life-cycle for the project – from construction to decommissioning.

This is in compliance with the provisions under the S.177E(2)(a) of the Act.

It is noted that the original planning consents (see **Para.1.4.2** above) both provided for the operational phase and the decommissioning of the wind farm – noting that there was no stated date for the end of operations and eventual decommissioning.

It is the intention of the Applicant to secure, in due course, all other consents to regularise the status of this development, including Waste Licences if and where applicable.

### 2.2 Statutory Requirements of the Application

Where a developer is so directed under S.177B of the Act to apply for Substitute Consent – as is the case here, that application is made under Section 177E of the Planning and Development Acts.

The key provisions set out in the Act in relation to that process are summarised as follows:

- the application is made directly to An Bord Pleanála;
- the Board may, at its discretion or at the request of any person served a notice under S.177B, enter into pre-application consultations with that person;
- the application shall:
  - be made pursuant to the serving of the notice or a decision under S.177D to grant leave to apply for substitute consent,
  - o state the name of the applicant,
  - be accompanied by a remedial Environmental Impact Assessment Report (rEIAR) or remedial Natural Impact Statement, or both as the case may be, prepared in accordance with the requirements under Para. 177F and 177G of the Act,
  - o be accompanied by the appropriate fee,
  - o comply with any requirements prescribed under S.177N,
  - o be received by the Board within the specified time;
- requirements in relation to the publication of public notices (newspaper and site notices) and the content of those;
- there are statutory provisions for the availability of documents to the public and the receipt of submissions or observations by the Board;
- there is a prescribed mechanism for the Planning Authority, in whose functional area the development is located, to provide the Board with a report concluding with a recommendation as to whether Substitute Consent should be granted and any conditions that should be attached to any grant of consent;
- the procedures that may apply where the Board determines that it is necessary or expedient to hold an oral hearing;
- the particulars that the Board shall consider in the making of a decision to grant or refuse consent;
- the nature of conditions that may be attached to a consent;
- the means by which parties will be notified of a decision and the content of that decision; and
- the payment of costs by the applicant where a grant of consent is issued.

Para. 177F sets out that the rEIAR shall be prepared by experts with the competence to ensure its completeness and quality and contain:

- a statement of the significant effects, if any on the environment, which have occurred, or which are occurring or which can reasonably be expected to occur, because the development was carried out;
- details of any appropriate remedial measures undertaken or proposed to be undertaken by the applicant to remedy any significant adverse effects on the environment;
- details of the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant.

Para. 177G sets out that the rNIS shall be prepared by experts with the competence to ensure its completeness and quality and contain:

- a statement of the significant effects, if any, on the relevant European site which have occurred or which are occurring or which can reasonably be expected to occur because the development was carried out;
- details of any appropriate remedial or mitigation measures undertaken or proposed to be undertaken by the applicant to remedy or mitigate any significant effects on the environment or on the European site;
- the period of time within which any such proposed remedial or mitigation measures shall be carried out by or on behalf of the applicant.

The scope of the application pack, the content of the notices and the number and format of the documents submitted has been pre-agreed with An Bord Pleanála in advance of this submission being made – see email confirmation attached to the Application Form.

## 2.3 Particulars of the Application

### 2.3.1 Content of the Application Pack

This application for Substitute Consent has been formulated in-accordance with the requirements set out under the Act and Regulations, as summarised in **Para. 2.2** above.

The submitted pack of documents comprises:

- competed statutory documents including:
  - application form and supporting documents,
  - o public notices (newspaper ads and site notice),
  - o receipt for submission to the EIAR Portal,
- this Planning Report,
- planning drawings showing the full extent of the development subject of this application,
- a remedial Environmental Impact Assessment Report (rEIAR)
- a remedial Natura Impact Statement (rNIS).

### 2.4 Public Consultation and Engagement

### 2.4.1 Pre-Planning Application Consultation

No records were found in relation to pre-planning consultation that may have preceded the submission of the original planning applications for the Derrybrien Wind Farm project. However, those applications, as prescribed by the prevailing Planning Acts and Regulations, included mandatory public consultation whereby third parties were entitled to make submissions to Galway County Council. It is noted from the public files that submissions were made during those periods and these were considered by the Planning Authority's in the making of their decisions. It is further noted that a number of planning applications on this site were the subject of third party appeals to An Bord Pleanála – indicating a high level of third party involvement in the decision making process.

### 2.4.2 Consultation during Project Construction

The wind farm was constructed in the period mid-2003 to early 2006. The construction phase was delayed by the peat slide and associated response works. In October 2003 there was a series of public consultation events in relation to that event, beginning with an initial public consultation at Egan's Pub, Derrybrien East, Co. Galway attended by members of the local community, Galway County Council, Coillte and elected representatives (local TDs and councillors). Following this event, the same group met on an ongoing monthly basis for more than 12 months after the slide event. During this time Gort Windfarms Limited shared the technical studies and response plans with Galway County Council.

### 2.4.3 Engagement during Operations

The windfarm was commissioned and began commercial operations in March 2006. Operational and maintenance protocols have been implemented and will remain in place for the operational life of the wind farm.

The operational phase of Derrybrien Wind Farm involves routine maintenance and repair works to turbines and cables and cutting back of tree regrowth – which is carried out in compliance with the relevant requirements for tree felling for wind farm projects. Site access tracks and drainage channels are inspected and repaired as necessary.

There is an Environmental Management System in place for the operational Derrybrien Wind Farm. This system captures any complaints or incidents involving the public. As of early 2020, there has been no noise or shadow flicker complaints in relation to the wind farm.

At various times, the site has been used to facilitate educational visits – including visits from Derrybrien National School, Ballinakill National School, Limerick Institute of Technology (LIT), the National University of Ireland (NUI), the Regional Technical College (RTC) Galway, Gort Community School, and local Scout units.

There has been on-going consultation with other local landowners, particularly Coillte.

In 2016, Gort Windfarms Limited introduced the Derrybrien Wind Farm community benefit fund. Since that time approximately €297,500 has been made available to the local community. The Derrybrien Wind Farm community benefit fund is administered by a Grant Management Organisation - SECAD Partnership CLG who are based on Middleton Co. Cork. SECAD engage the community groups on behalf of Gort Windfarms Ltd. and administer the annual fund of €59,500, based on a contribution of €1,000 per MW installed. Information on how to apply for the fund and the guidelines is made available to the general public via the dedicated website https://www.windfarmcommunityfunds.ie/.

Beneficiaries of the fund have included the 30th Galway Abbey Duniry Scout Group, Abbey Community Development Association, Ballinakill community development, Portumna Golf Club, St Columba's National School Parents Association Committee and Shannonside Community Group.

### 2.4.4 Consultation in advance of the Application for Substitute Consent

At various dates, the national and local media features articles in relation to the Derrybrien Wind Farm. There was therefore a high level of public awareness of the development and the requirement for the developer to seek Substitute Consent.

In advance of submitting the application for Substitute Consent, Gort Windfarms Limited sought to increase public awareness of the imminent application and to highlight the opportunities that this particular process gives for third parties to get involved.

The adopted approach was mindful of the realities of this unique situation – namely that the Substitute Consent application relates to a completed development.

In developing an appropriate approach to consultation, the prevailing guidance was considered, particularly:

- the 2006 Wind Energy Development Guidelines [specifically Para. 4.4 Public Consultation with the Local Community and Appendix 2 – Advice for Developers on Best Practice in the Pre-application Consultation Process];
- the **Good Practice for Wind Energy Development Guidelines**, Department of Communications, Climate Action and Environment (December 2016);
- The Code of Practice for Wind Energy Development in Ireland Guidelines for Community Engagement, Department of Communications, Climate Action and Environment (2016) and
- the **Draft Revised Wind Energy Development Guidelines** [WEDG], 2019 [specifically Para. 4.3 Community Engagement].

The developer set in place a consultation process that began once the notice was issued by Galway County directing Gort Windfarms Ltd. to apply to An Bord Pleanála for Substitute Consent. The process was mindful of the need to ensure consultation was meaningful while cognisant of the difficult development history of the project and the sensitivity of these issues with the local community.

A number of steps were taken, namely:

- a one page, 'plain English' information sheet / newsletter (see Appendix B) was circulated. It described the 'Derrybrien Wind Farm' and explained the Substitute Consent process, setting out the opportunities people would have to view the Substitute Consent documentation and also to comment on it. The information sheet was distributed within a consultation catchment of 10 km from the outer edge of the Wind Farm site. The leaflet was distributed to c.5,625 addresses on behalf of Gort Windfarms Ltd.;
- An independent Community Liaison Office (CLO) was appointed. Contact details (email and phone number) for the CLO were provided in the information sheet and members of the public were invited to contact the CLO as appropriate;
- A dedicated Project website (www.Derrybrienwindfarm.ie) was created, going live in July 2020. This website provided updates on the status of the application and also – once this application is submitted, hosts the Substitute Consent application documentation. The public notices were included to ensure that people had access to information directing them to how they could engage with the statutory decisionmaking process;
- Key stakeholders were advised of the application and submission of the assessments in compliance with the EIA and AA Directives and their opportunities to engage with that process Relevant details are set out in Chapter 2 of the rEIAR.

Separately – Gort Windfarms Ltd. liaised with officials in An Bord Pleanála in respect of content of notices, drawing schedules and document formats.

In advance of submission of this application, the Chief Executive of Galway County Council was advised of the timeframe for its submission.

# 2.4.5 Consultation during the Substitute Consent Application and the EIA Processes

As set out in **Para. 2.2** above, this Substitute Consent process includes statutory public consultation. Steps have been taken including:

- Registration of the project with the EIA Portal, operated by the Department of Housing, Planning and Local Government enabling the searching of public notices and applicant details;
- Erection of statutory notices on the subject site noting that some 17 notices have been erected in advance of this submission being made. It is noted that such notices were in excess of those required under the Act and Regulations, but reflective of the Applicant's intention that the application process would be notified to the general public;
- Publication of statutory notices in two approved newspapers for County Galway namely the Irish Independent and the Connacht Tribune, to ensure that the general public were aware of the Substitute Consent process and the opportunities for engagement. Again, it is noted that the publication of two newspaper ads was in excess of that required, but intended to alert the public to the Substitute Consent process;
- Availability of hard and soft copies of the application documents at the offices of An Bord Pleanála and also Galway City Council;
- Availability of project documents on a dedicated website www.Derrybrienwindfarm.ie
- The opportunity is afforded to third parties to participate in the decision-making process through the making of written submissions and the opportunity to seek an oral hearing; and;
- Any others means of participation that An Bord Pleanála may determine, during the course of the assessment period possibly including convening an oral hearing.

## 3 The Development

## 3.1 Development Subject of the Application

Chapter 2 of the rEIAR and Section 4.2 of the rNIS describe in detail the development subject of those discrete environmental assessments.

In full compliance with the CJEU Ruling and the Section 177B Notice issued by Galway County Council, 'The Development' is defined as comprising all the elements of the Derrybrien Wind Farm project, across its entire lifecycle – from pre-construction through to decommissioning.

The three main elements subject of this application are described below in terms of the characteristics most relevant to the planning assessment – namely a description of:

- the site,
- the development
- the site context
- the 'phases of activity' i.e. an indication of when activity took place.

Additional detail in relation to each aspect of the development is provided on the accompanying planning drawings and also in the rEIAR and rNIS (see rEIAR Chapter 2 and rNIS Section 4.2). Where any conflict arises between the development or construction details set out in this Report and the accompanying drawings, the rEIAR or the rNIS those statutory documents should be considered to take precedence.

For context, the location of the project sites is shown on **Drawing QS-000280-01-D460-018-001-000** over.



### 3.1.1 Derrybrien Wind Farm

#### 3.1.1.1 The Site

The Derrybrien Wind Farm site is located in south County Galway, some 4.6km from the border with County Clare and 21km from the border with County Tipperary.

The wind farm is located approximately 11km due south of Loughrea, 12.7km north-east of Gort and 24 km west of Portumna. The wind farm site is located within the townlands of Coppanagh, Boleyneendorrish, Kilbeg, Toormacnevin, Funshadaun, Bohaboy, Derrybrien North and Derrybrien West. The postal address is Derrybrien North, Kylebrack, Loughrea, County Galway, Eircode H62 PE08.

The site access road is from a pre-existing Coillte accessway that links with a minor public road – the Black Road, which connects with the R353 Regional Road.

The site is located on the upper slopes of Cashlaundrumlahan Mountain within the Slieve Aughty Mountains, at altitudes of 320m to 365mOD.

#### 3.1.1.2 The Development

**Turbines and associated development** - The wind farm comprises 70 No. Vestas V52-850 kW turbines on site with a rotor diameter of 52m, a hub height of up to 49m and an overall height of up to 75m, and associated ancillary development typical of a wind farm of this size and scale. It is noted that standard turbines were installed throughout the site but – at a number of locations, these were sited to reduce the overall hub height.

Each turbine is supported by a turbine foundation and comprises a vertical tower (consisting of two cylindrical sections), a nacelle – housing the machinery, connected at the hub to three rotating blades. Within the nacelle there is a generator and control unit. The wind turbines are painted light grey with a matt finish. The wind turbines are geared to ensure the blades rotate in the same direction. The turbines commence operation at a wind speed of 4 m per second (m/s) and shut down when the wind speed reaches about 25 m/s. Power is controlled automatically as wind speed varies. Adjacent to each turbine there is a dedicated area of hardstanding (c.47m x 18m) consisting of crushed and compacted granular fill overlaying glacial till. These were originally used to support the load of the large mobile cranes that were used to erect the turbines. During operation these facilitate maintenance activity. Similarly, during decommissioning these will facilitate access for a crane to remove the turbine. Transformers are located within the turbine tower. Aviation lights are provided on nine turbines - T1, T18, T26, T44, T46, T47, T52, T61 and T65.

It is noted that, following the peat slide, additional measures were put in place to minimise environmental risks. As a precautionary measure – and due to poor ground conditions, it was decided during construction to omit permitted Turbine 16 and the access tracks at T16 and from T15 and T17 towards T16. These modifications are reflected in the 'as built' layout subject of this application.

**Underground cables** - The electricity generated at each turbine is fed via underground cables, comprising both direct buried cables and ducted cables, buried at shallow depth in the peat, to electrical transformers in Derrybrien Substation. There, the electricity is transformed to a higher voltage for supply to the national electricity network via the Derrybrien – Agannygal Overhead Line (OHL). The cables and ducts are buried at shallow

depth in the peat. In September 2017, as part of an upgrade to the turbine control systems, approximately 7.6km of fibre-optic cable was installed on the site to improve the response of communication signals between the turbine controllers and the central control system.

**Anemometer masts** - There are two 49m anemometer lattice masts on the site, located adjacent to T68 and between T6 and T12 respectively. These monitor wind speeds and validate the performance of the wind turbines. Each mast accommodates anemometers, wind direction vanes, a barometric pressure sensor and a data logger. Anti-climb screening (3m high) is provided to masts. A mobile phone network operator has a cell on the wind farm anemometer mast beside turbine T68 to facilitate phone coverage on site.

**Access roads** – Access to the wind farm site was facilitated by the upgrading of an existing Coillte forestry road which connected to the Black Road to the east of the site. This c.3.1km road was widened (typically to 4m with 4.5m width at bends), strengthened and re-surfaced to facilitate the development. Lay-bys and drainage were provided and the bell mouth entrance at the junction with the Black Road was widened.

There is a network of wind farm access tracks across the site. These comprise sections of pre-existing forestry tracks, and roads specifically developed during the construction of the wind farm. These facilitate on-going access to the wind turbines and anemometer masts for operation and maintenance.

**Borrow pits / quarries -** Three borrow pits / quarries were excavated on the site – with the extracted material used for the construction of access tracks and hard standing areas.

Borrow Pit 1 (BP1) was a source of c. 40,000 cu.m of material, primarily rock. Borrow Pit 2 (BP2) was a source of c. 12,000 cu.m of material, primarily clay. These pits are estimated to be up to 10m deep. Borrow Pit 3 (BP3) adjacent to Turbine T65 is located at the entrance to the wind farm site. This was the main source of rock fill for the works, with c. 180,000cu.m. of material extracted. Some peat was stored in the vicinity of each of the borrow pits / quarries. The borrow pits have been closed since the end of the construction phase. BP3 is flooded to the natural water table level. Both BP2 and BP3 are fenced off as a safety measure.

**Peat excavation and storage -** To facilitate the development of the wind farm, peat was excavated from locations including the turbine foundations, hardstanding areas and the footprint of the substation. This material is stored in a number of peat repositories located across the site. Recent surveys (2019 / 2020) show the majority of these areas have naturally re-vegetated with blanket bog vegetation. In many locations these features are difficult to discern.

**On-site storage -** Spare turbine parts are stored in a number of modular storage containers located on the wind farm site.

**On-site drainage -** Across the site there are is a network of drainage channels. These comprise a mixture of pre-existing and constructed channels and they facilitate the discharge of surface waters to watercourses.

**Signage -** There are information and directional signs on the site – including panel signs at the wind farm entrance indicating the presence of the wind farm; signage on each turbine indicating the turbine number, potential hazards and an emergency contact telephone number; and operational signage as required e.g. buried HV cable, warning signs. etc.

**Derrybrien Substation -** Underground cables from across the site converge at Derrybrien Substation where the electricity is transformed from a 20kV to 110kV and exported to the national grid. The substation comprises a c.1585 sq.m. fenced stoned compound containing outdoor electrical equipment and a c.202 sq.m. single storey Control Building accommodating a control room, MV switchgear room, relay room (protection relays) battery room, welfare facilities, workshop and office area.

Features of the Derrybrien Substation include:

- monitoring and communications equipment to enable remote monitoring,
- electrical plant and equipment including:
  - o 1 No. 70 MVA bunded Transformer 110 kV/MV
  - o 1 No. cable chair
  - o 3 No. surge arresters
  - 1 No. NER (Neutral Earth Resistor)
  - 1 No. busbar disconnect
  - o 1 No. circuit breaker
  - o 3 No. current transformers
  - 3 No. voltage transformers
  - o 1 No. line/earth disconnector
  - o 2 No. capacitor banks
  - o 6 No. post insulators
  - $\circ$  1 No. end mast
  - o 1 No. house transformer
- underground external cables,
- standby generator and associated bunded diesel tank,
- external lighting poles,
- lightning mast,
- a wastewater treatment system, and
- palisade fencing.

The station is accessed via a 4m wide hardcore surfaced access track which links to the on-site road network. Non-potable water is sourced from a well on-site.

**Tree felling -** c.220 Ha of forestry were felled to facilitate the construction of the wind farm. Operational requirements necessitated the licensed felling of an additional c.47 Ha of forestry between 2016 and 2018.

**Construction compound -** The construction of the wind farm was facilitated by the development of a 0.29 Ha contractor compound. The compound provided parking for workers at the wind farm site and a location for temporary construction offices/facilities. Temporary portacabin accommodation was located within the construction compound and consisted of offices, welfare facilities, meeting room for use by construction contractors and owner's representatives. Container units were placed in the compound area for the storage of tools and materials during the construction works. Temporary electrical generators were used to supply power to the compound. All portacabins were removed upon completion of the works. This area remains in place just north of the access road to the wind farm.

**Improvements on the local road network -** c. 5km of the Black Road was upgraded to provide a minimum effective width of 4 m on straights and 4.5m on bends. This road was

resurfaced. Localised road widening was undertaken at Crooked Bridge on the R353 for a distance of approximately 30m on either side of the bridge. Works were undertaken to the three bridges on the Black Road. These involved strengthening the bridges, surfacing the deck and the replacement of the bridge parapets.

#### 3.1.1.3 Site Context

The development site accommodates the wind farm, associated development and extensive areas of commercial forestry. Within the wind farm site, there is a 70m high communications mast (located beside T25) operated by a third-party service provider. This has been present on the site since the 1980s and is not subject of this application.

The closest settlement to the wind farm is the village of Derrybrien some 2km to the south. The village of Peterswell is approximately 7.5km to the west. The nearest occupied houses are located approximately 2km from the boundary of the site. A derelict house is located some 1.3km from the boundary of the site. It is understood that this has not been occupied since before the peat slide.

The wind farm occupies a relatively small portion of a larger Coillte site. The site is covered by forestry plantation and blanket peat. Coillte manage commercial forestry operations over the broader site. Some turbary activity takes place in the area.

#### 3.1.1.4 Phases of Activity

The wind farm was constructed in the period mid-2003 to early-2006. It was commissioned and began commercial operations in March 2006.

The wind farm site currently accommodates an operational wind farm for the purposes of renewable electricity generation. It has been operating continuously since it was commissioned. The theoretical output of the wind farm is 59.5MW with a theoretical availability of 98%. The output of the wind turbines is determined by the wind regime. Since operation commenced the average annual capacity factor has been approximately 25% and capacity of that order is expected for the remainder of its operation life. This means that over the course of a year each turbine will produce c.25% of the amount it could theoretically produce if it was working at maximum output at all times throughout the year.

Associated with the operation of the wind farm, the site accommodates ancillary development including a 20kV/110kV substation ('Derrybrien Substation').

The site operates an Environmental Management System (EMS) which is certified in accordance with ISO 14001. The site also operates a Safety Management System (SMS) which is certified in accordance with OHSAS 18001.

Operational and maintenance protocols implemented between 2006 and 2020 will remain in place for the entire operational life of the wind farm. These will comprise routine maintenance and repair works to turbines and cables and cutting back of tree regrowth – which will be carried out in compliance with the relevant requirements for tree felling for wind farm projects contained within the Department of Agriculture Fisheries and Food DAFM 2017 Felling and Reforestation Policy and Regulations. Site access tracks and drainage channels are inspected and repaired as necessary. The wind farm will operate until c. 2040. At that point it will be decommissioned with the removal of the above ground elements of the wind farm, the substation and the substation foundation, and the reinstatement of the site in-line with the decommissioning strategy set out in the EIAR (see EIAR, Section 2.10).

It is envisaged that following decommissioning the following elements will remain on site

- reinforced concrete turbine bases (underground elements only);
- site access tracks, access road and entrance;
- crane hardstanding areas adjacent to the turbines;
- hardstanding area for the substation, contractor's compound and control building;
- site drainage network;
- on-site peat repository/storage areas from construction stage;
- borrow pits / quarries, and
- hardstanding area for contractor compounds.

Post decommissioning, it is not proposed to replant the wind farm site with trees although natural regrowth of previously felled areas will likely continue.

The decommissioning phase is expected to be approximately 24 months in duration.

### 3.1.2 The Grid Connection

#### 3.1.2.1 The Site

The OHL route is located approximately 10km south of Loughrea. The route of the line traverses the townlands of Loughatorick North, Derrybrien East, Derreennamucka and Derrybrien North.

Agannygal Substation is located within the townland of Loughatorick North.

#### 3.1.2.2 The Development

The grid connection enables electricity generated at the wind farm to be transmitted from the on-site Derrybrien Substation via a c.7.8km 110kV overhead line (OHL) - the 'Derrybrien–Agannygal OHL', which is connected to the pre-existing Ennis- Agannygal-Shannonbridge 110kV Line at Agannygal 110kV Substation

The Derrybrien–Agannygal OHL is supported on double pole sets and mast structures. Within Agannygal Substation the line is then connected into the Ennis-Shannonbridge Line by means of over overhead conductor supported on two masts. Overall, the entire windfarm grid connection consists of 45 structures, comprising: 34 No. double wood pole sets; 4 No. end masts (1 located at Derrybrien Substation, 3 at Agannygal Substation), 6 No. angle masts and 1 intermediate mast.

Associated with the construction of the OHL, there were development works to enable its safe construction and operation. In advance of construction, a c.45m wide corridor of forestry was felled along the OHL route, resulting in the felling of c. 34.7Ha of commercial forestry. Works were required to lower the ground level (by c.3.5m) to facilitate the required clearance between the pre-existing Moneypoint – Oldstreet 400kV OHL and the Derrybrien - Agannygal OHL.

Access to construct the OHL was facilitated by existing forestry roads and some newly constructed accessways – both permanent and temporary.

Agannygal Substation comprises a fenced stoned compound (approximately 63m x 47.5m) containing outdoor electrical equipment and a Control Building. The station is accessed via an external access track that connects to a dedicated 140m long access road that links with the local public road. Non-potable water is sourced from a well on-site.

Features of the site include:

- a single-storey c. 130 sq.m. **Control Building** containing a control room, battery room, storeroom and welfare facilities;
- outdoor electrical equipment including
  - 2 No. end masts
  - 4 No. line traps (Telecoms Equipment)
  - 1 No. busbar
  - 5 No. post insulators
  - 3 No. line/earth disconnects
  - 9 No. current transformers
  - 9 No. voltage transformers
  - 3 No. circuit breakers
  - 5 No. busbar disconnectors.
- On-site services including compound drainage, lighting, and a proprietary wastewater treatment system.

The development of Agannygal Substation was facilitated by works to access routes. 2.8km of a pre-existing Coillte track was upgraded and re-surfaced.

In advance of works, tree-felling and earth works were required to create a clear and levelled platform suitable to accommodate the station. During construction a small temporary compound (c. 20m x 50m) was established at the Substation site, accommodating all temporary facilities including construction worker parking, a temporary electrical generator, portable wastewater facilities and a double skinned diesel supply tank.

#### 3.1.2.3 Site Context

The route of the OHL traverses shallow to locally deep blanket peat which was extensively colonised by commercially grown conifer and deciduous forest.

Agannygal substation was constructed on a rural site, located some 5km from the settlement of Derrybrien.

#### 3.1.2.4 Phases of Activity

The OHL and Agannygal Substation were constructed from Autumn 2004.

The OHL is subject of routine inspection and maintenance as required. Cutting back of tree regrowth along the OHL has been carried out with access via existing forestry tracks.

Agannygal Substation has been routinely (monthly and annually) inspected by ESB Networks and maintenance works are undertaken as required.

When the Derrybrien Wind Farm is decommissioned after 2040, the overhead line will also be decommissioned. All OHL infrastructure between the Derrybrien and Agannygal substations will be removed and the substation and support structure sites reinstated. Activity associated with these works – including provision of construction access is described and assessed in the rEIAR.

#### 3.1.3 The Peat Slide and Associated Response Works

#### 3.1.3.1 The Site

In October 2003, during the excavation work for turbine base T68, a peat slide occurred immediately south of the turbine foundation location. The slide caused the disturbance and partial displacement of peat and forest debris mainly onto land between the wind farm site and Flaggy Bridge on the R353. Displaced peat remobilised following a period of heavy rain.

During the peat slide, debris passed down a stream valley and into an area of open flatter ground where it lost momentum and was deposited upstream of a minor road bridge (the Black Road Bridge). Some peat was transported further down the Owendalulleagh River with small amounts of peat deposited along the river banks.

The location of works associated with the peat slide are mainly located within the townland of Derrybrien North. The affected lands are principally owned by Coillte with some private landowners also affected.

#### 3.1.3.2 The Development

For the purposes of this description the 'development' comprises localised landforms created by the displacement of material during the slide, as well as engineered response works.

Following the peat slide, the wind farm construction site resources (plant and personnel) were re-directed to carry out the emergency measures in response to the peat slide. Immediately following the peat slide, stabilisation and containment works were installed both inside and outside the wind farm site to prevent further propagation of the peat slide and to prevent further release of debris into watercourses downstream.

The containment works comprised the replacement of two sections of floating access track inside the windfarm [at T68 and between T23 - T70] with the new roads also acting as barrages; and the construction of eight rock and earthen barrages which acted as dams to stem the movement of material. Of these four barrages - Barrages 1, 2, 3 and 4, are still in-situ, while the other four (Barrages A, B, C & D) were removed within a few months of the slide events.

Where required, debris that had accumulated behind the barrages was removed and stored in repository areas located adjacent to the containment barrages. In total three such repository areas were constructed as part of the stabilisation and containment works – at Barrages 2, 3 and at the Black Road Bridge. Fencing of repositories was provided as required.

In order to stabilise the displaced material, new drains were constructed at the sides and upstream of the material. In some locations this required minor tree felling. The diversion

of a watercourse downstream of the slide - just upstream of the Black Road Bridge, also necessitating minor tree felling. Other minor drain repairs were needed. Silt traps were installed for the duration of works.

Two bridges located on public roads – the Black Road Bridge and Flaggy Bridge, required repairs. An additional bridge – located on private lands, required repair works. Minor repairs to farm access roads were required.

The estimated volume of peat in the peat slide area, based on the extent of the peat slide area was 450,000m<sup>3</sup> dispersed over a wide area. This is manifested in variations in the ground level and increased peat depth across those lands. This material remains in-situ and has remained stable over a period of some 15 years. The area has largely naturalised. It is proposed that this material will remain in perpetuity.

Within the wind farm site, there were a number of activities carried out as a direct consequence of the peat slide. These activities were largely precautionary, and included:

- removal of stored excavated material ('side cast' material) and its relocation to geotechnically assessed areas for use as peat repositories;
- increased maintenance of drains;
- activities to ensure no water logging at open excavations on the site.

A timeline of works undertaken in response to the peat slide is set out in the EIAR (see EIAR, Section. 2.7.3).

In the interests of clarity, the permanent features associated with the engineering works required to stop and stabilise the peat slide that remain on-site today are:

- displaced material,
- Borrow Pit adjacent to Barrage 1,
- access track/embankment at T68,
- access track/embankment between T23 and T70,
- Barrage 1,
- Barrage 2, associated access track & associated repository area,
- Barrage 3 & associated repository area,
- Barrage 4,
- repository area at the Black Bridge,
- repairs to instream structures/bridges at Black Road Bridge, Flaggy Bridge, the Farmer's Track / Culvert, Crooked Bridge and Stepping Stones,
- minor borrow pits used to source material,
- drainage works.

For reasons set out in the rEIAR, it is envisaged that these features will remain in situ beyond the decommissioning phase, except for Barrages 3 and 4. Provision for the removal of these as part of site decommissioning is assessed in the rEIAR and rNIS.

#### 3.1.3.3 Site Context

The subject sites are set within the context of the wind farm, extensive areas of commercial forestry, and a rural area characterised by a low-density residential development and a network of watercourses and local roads.

#### 3.1.3.4 Phases of Activity

Works associated the peat slide took place between October 2003 and mid-2004.

Since that time, there has been periodic inspection of works sites and minor maintenance works – principally the clearance of debris from behind barrages, have been carried out. Records indicate that Barrages 1 and 2 were last cleared of debris in June 2007 and that the cleared debris principally comprised small quantities of silt. Since the commencement of wind farm operations Barrages 3 and 4 have not needed to be cleared.

Peat repositories have been inspected in the period 2006-2020. There has been no maintenance required in relation to these.

The material displaced by the slide and the associated peat repositories has been steadily re-vegetating over the intervening years. As a result, these areas are now often difficult to discern.

## 4 The Planning Assessment

### 4.1 Introduction

This application for Substitute Consent is being submitted in compliance with the CJEU rulings in respect of the EU EIA and Habitats Directives.

From a planning perspective the Substitute Consent application is the mechanism by which the appropriate environmental assessments will be carried out. The emerging decision as to the adequacy of those assessments and the nature of any significant effects arising from the development, will determine whether the Derrybrien Wind Farm should continue to operate. It is therefore appropriate to assess the development in terms of the compliance with planning policies – particularly those that relate to renewable energy projects - in particular wind farms, as well as planning policies for County Galway.

## 4.2 European Policy Context

As a renewable energy project, it is appropriate to consider the Derrybrien Wind Farm Project in the context of European Union (EU) energy and climate change policies, as well as binding EU and international obligations which are in place to ensure Ireland plays its part in tackling both the causes and effects of climate change.

The development of the renewable energy sector is central to EU policies and directives and the road map set out by the EU towards achieving targeted reductions in greenhouse gas (GHG) emissions. These EU policies in turn provide a context for National policy with clear targets set for the energy sector as to the level of penetration of renewable energy into the overall energy mix for the country to be achieved by key dates.

The importance of the energy sector within the Union is reflected in **Article 194(1) of the Treaty on the Functioning of the European Union (TFEU)**, which enshrines the promotion of renewable forms of energy as a key priority, stating:

'1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:

(a) ensure the functioning of the energy market;

(b) ensure security of energy supply in the Union;

(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and

(d) promote the interconnection of energy networks.'

The evolution of EU strategies and targets for the renewable sector has progressed since the Commission's **Energy for the Future: Renewable Sources of Energy - White Paper for a Community Strategy and Action Plan** in 1997. The purpose of the White Paper was to contribute, by the promotion of renewable energy, to the achievement of overall energy policy objectives, security of supply, environment and competitiveness, and to improve and reinforce environmental protection and sustainable development. The overall EU target of doubling the share of renewables by 2010 implied that Member States had to encourage the increase in renewable energy sources according to their own potential. The setting of targets was recognised as providing a stimulus to efforts towards increased exploitation of available potential and an important instrument for attaining reductions in carbon dioxide (CO2) emissions, decreasing energy dependence, developing National industry and creating jobs. This was followed by **The Green Paper on the Security of Energy Supply** (November 2000) - a key tool in the promotion of renewable energy sources. This was followed by the **Renewables Directive 2001/77/EC** –the first time a legislative text aimed at promoting the production of energy from renewable source obliging Member States to set indicative targets for meeting electricity demand from renewable energy sources by 2010. The **Renewable Energy Roadmap** called for a mandatory target of a 20% share of renewable energies in the EU's energy mix by 2020. The target was endorsed by EU leaders in March 2007.

The '2020 Climate and Energy Package is a set of binding legislation agreed in 2007 and enacted in 2009 to ensure the EU meets its climate and energy targets for 2020. The package set three key targets - 20% cut in greenhouse gas emissions (from 1990 levels), 20% of EU energy to be from renewables, and 20% improvement in energy efficiency, which was. These targets are central to Commission's Energy 2020: A strategy for competitive, sustainable and secure energy (November 2010) set out that by 2020, the Union aimed to reduce its greenhouse gas emissions by at least 20%, increase the share of renewable energy to at least 20% of consumption, and achieve energy savings of 20% or more. It also required all EU countries to achieve a 10% share of renewable energy in their transport sector. The Strategy aimed - through the attainment of these targets, to help combat climate change and air pollution, decrease its dependence on foreign fossil fuels, and keep energy affordable for consumers and businesses.

The **EU Renewables Directive 2009/28/EC**, which amended and subsequently repealed **Directives 2001/77/EC and 2003/30/E**, required each Member State to increase its share of renewable energies to 20% by 2020.

The European Commission adopted the **Energy Roadmap 2050** in December 2011. The Roadmap was drafted in the context of the EU goal to cut GHG emissions by 80 to 95% by 2050. That document set out four main routes to a more sustainable, competitive and secure energy system in 2050: energy efficiency, renewable energy, nuclear energy, and carbon capture and storage. To achieve these goals, the Roadmap noted that significant investments needed to be made in new low-carbon technologies, renewable energy, energy efficiency, and grid infrastructure.

The EU's **Effort Sharing Decision** addresses the emissions for various sectors through binding annual national targets to 2020. The **2030 Climate and Energy Policy Framework** (October 2014 with resided targets adopted in 2018) sets binding EU targets of at least 23% share of renewable energy for all energy consumed in the EU by in 2030, and significant targets in relation to the reduction of greenhouse gases and improvements in energy efficiency. The EU's **Effort Sharing Regulation (EU) 2018/842** lays down obligations on Member States with respect to their minimum contributions to fulfilling the Union's target of reducing its greenhouse gas emissions by 30% below 2005 levels in 2030 in the various sectors and contributes to achieving the objectives of the Paris Agreement. A GHG reduction target of at least 30% applies to Ireland.

The EU's commitments under the **2015 Paris Agreement on Climate Change** were reflected in the revised **Renewable Energy Directive**, **(2016/0382)** known as **RED II**, which amended Directive 2009/28/EC. The purpose of that Directive was to make the EU a global leader in renewable energy and ensure that the target of at least 27% renewables in the final energy consumption in the EU by 2030 is met. REDII specifies National renewable energy targets for each country. Ireland's target for the share of energy from renewable sources in gross final consumption of energy in 2020 was 16%. The **Revised Renewable Energy Directive (2018/2001/EU)** came into effects in January 2019, setting new targets for the share of energy from renewable sources in the EU of at least 32% for 2030. Member States were required to set national targets to meet, collectively, the binding Union target through integrated national energy and climate plans. Per this Directive, the final share of energy from renewable sources for Ireland's gross final consumption from 1st January 2021 shall not be lower than 16% and Ireland will be obliged to take the necessary measures to ensure compliance with this target.

In November 2019, the European Parliament declared a climate emergency. This declaration reflects the urgent requirement to take action to meet sectoral targets and achieve real change. While advances are made in developing additional renewable energy sources – including off-shore wind and new technologies, to meet these challenges, the importance of maintaining existing renewable energy capacity is key.

## 4.3 National Policy Context

This application for Substitute Consent facilitates the continued generation of renewable electricity generation at an existing and established grid connected generation facility. There are a range of national sectoral policies of relevance in the consideration of the proposed development, namely those that relate to: energy and climate change,

Article 4 of the EU's RED Directive (2009/28/EC) required each Member State to adopt a **National Renewable Energy Action Plan (NREAP**). The purpose of the NREAP would be to set out the Member State's National targets for the share of energy from renewable sources to be consumed in transport, electricity and heating and cooling in 2020, and to demonstrate how the Member State will meet their overall national targets established under the Directive. Ireland's first NREAP, was published in 2010. It sets out the Government's strategic approach and concrete measures to deliver on Ireland's target to achieve 16% of energy, and 40% of electricity consumption, from renewable sources by 2020.

**The Strategy for Renewable Energy: 2012 – 2020 (SRE)** was a high-level strategy underpinned by the NREAP. The Strategy set five key goals, notably Strategic Goal 1 – progressively more renewable electricity from onshore and offshore wind power for the domestic and export markets.

A series of technical reports have further informed the evolution of public energy policies. **Low Carbon Energy Roadmaps for Ireland (LCERL)**, was commissioned by the Department of Environment, Community and Local Government and published in 2013. The purpose of the report was to provide technical advice and guidance on the development of a low carbon roadmap for Ireland with the aim of achieving transition to a

low carbon, climate resilient and environmentally sustainable economy in the period up to and including 2050.

The report is predicated on an absolute requirement for the Ireland's energy system (comprising the energy suppliers and the energy end-users) to change and the requirement to balance that change against other aspects of the economy, stating (LCERL, Para. 1.1):

"The choice is not whether we move to a low carbon economy but how and when the transition to a low carbon economy should be achieved. The focus here is on achieving the transition at least cost to the economy and to society."

**The National Policy Position on Climate Action and Low Carbon Development** [2014] restated the key policies of climate adaptation set out in the NCCAF. The National Policy Position provided a high-level policy direction for the adoption and implementation of plans to enable the State to move to a low carbon economy by 2050. Statutory authority for the plans was enabled by the Climate Action and Low Carbon Development Act 2015.

The Green Paper on Energy Policy in Ireland [2014] was initiated to inform the shape of Ireland's future energy policy. The emerging policy was then reflected in the **White Paper** - **Ireland's Transition to a Low Carbon Energy Future, 2015-2030**. The focus of the 2015 White Paper was to set out a vision for transforming Ireland's fossil fuel-based energy sector into a clean, low carbon system by 2050.

With respect to implementation, the Paper notes (White Paper, Para. 48) that a low carbon future will involve:

"generating our electricity from renewable sources of which we have plentiful indigenous supplies;"

The commentary on the energy sector noted that non-renewable fuels accounted for over 90% of energy consumption and that this would fall to 84% in 2020 if EU targets for renewables were met. The reduction of greenhouse gas emissions from the energy system in-line with the 2050 targets, would require fossil fuels to be in the order of 19 - 30% of final energy demand – representing a significant but reducing, contribution to energy mix. It was envisaged that, in the short - to medium-term, carbon pricing would drive the mix of non-renewables away from carbon intensive fuels (such as peat and coal) to lower-carbon fuels, such as natural gas; and that by 2050 fossil fuels would be replaced by renewable energy sources.

Dealing with Renewable Energy (White Paper, Para. 5.3), the Paper establishes a sectoral target of 40% and states that *'the long-term development of Ireland's abundant, diverse and indigenous renewable energy resource is a defining element of this energy policy'*. This statement placed the diversification of the State's energy system at the centre of energy policy going forward.

The Sustainable Energy Authority of Ireland (SEAI) report, **Energy Security in Ireland: A Statistical Overview** (2016 Report) provides a commentary on the characteristics of the energy sector. The Overview states:

'Energy security comprises many diverse factors, including import dependency, fuel diversity, the capacity and integrity of the supply and distribution infrastructure, energy prices, physical risks, supply disruptions and emergencies.

Ireland had an import dependency of 85% in 2014, estimated to cost  $\in$ 5.7 billion, down from a peak of 91% in 2006. In absolute terms, net energy imports peaked in 2008, and decreased by 23% since then. This was primarily due to the fall in energy demand over that period.

In 2014, 97% of imports were fossil fuels (not including the fossil fuel content of imported electricity) namely oil (56%), natural gas (31%), and coal (10%). The remainder was electricity (2%), and biofuels (1%).

Indigenous energy production in 2014 comprised of peat (47%) renewable energy sources (44%), natural gas (6%) and non-renewable wastes (3%).'

The Overview further noted that trends indicate a reduction in overall energy security, stating:

'The Supply/Demand index is a measure of medium-to-long-term energy security of the whole energy system.

The Supply/Demand index for Ireland shows an overall decreasing trend over the period 2000–2014, indicating a reduction in overall energy security.'

The anticipated decrease in the proportion of indigenous energy supply – and the associated reduction in energy security is reflected in the **SEAI Report - Energy in Ireland 1990 – 2015** which indicated that Ireland's energy import dependency increased to 88% in 2015 at a cost to Ireland of approximately  $\in$ 4.6 billion for all energy imports (Energy in Ireland, 1990 – 2015, Page 4). The more recent **SEAI Report Energy in Ireland 1990 – 2016** indicated that this dependency reduced to 69% in 2016 (Energy in Ireland, 1990 – 2016, Page 4), helping to lower the State's annual energy import bill to  $\in$ 3.4 billion due mainly to the Corrib gas field coming on stream. However, that report highlights the issue of our dependence on indigenous gas and the importance of further diversifying the renewables sector, with the SEAI launching the report by stating:

"The significant reduction in our import dependence gives us a more dependable energy supply in the short term. However, this was heavily reliant on Corrib gas, a finite fossil fuel. This may give us a window of opportunity but it is not a long term solution. Encouragingly, one fifth of indigenous energy was from renewables in 2016. This represents positive growth but there is room for much more activity, and across a broader range of technologies. Generating our own renewable electricity is critical to achieving our overall energy and climate ambitions ".

Any future update of the energy position will take account of the announcement in 2019 that ESB will cease the operation of the two Midlands peat fuelled stations at the end of 2020. This will further decrease the indigenous contribution to the fuel mix, increasing the importance of renewable energy sources – such as wind.

The **Climate Action and Low Carbon Development Act, 2015** introduced a number of statutory requirements and objectives to be reflected in Government policy.

As a measure of the social significance attached to addressing climate change, the recommendations emerging from the **Citizen's Assembly** in November 2017 are noteworthy. The Assembly voted overwhelmingly in favour of Ireland taking measures to address climate change making 13 recommendations for State action. Critical recommendations include 97% of delegates voting in favour of climate change being at the

centre of government policy-making. In May 2019, **the Oireachtas** declared a "climate emergency" in an amendment to the report 'Climate Action: A cross-party consensus for action'6 which followed the recommendations of the Citizens Assembly on Climate Action.

The Cross-Departmental **Climate Action Plan 2019** was published on 17 June 2019. The key focus of the Plan is to identify how the Government will reduce Ireland's, still growing, greenhouse gas emissions. The Plan includes a new commitment to make Ireland 100% carbon neutral by 2050 and contains 183 action points designed to achieve our national climate change targets including increased renewable electricity targets. It will impact how we generate and consume electricity, how we travel and how food is produced. This includes increasing the reliance on renewables from 30% to 70% by 2030 adding up to 8.2GW of renewable onshore wind energy capacity. This is more than double the current level of renewable energy penetration.

In terms of spatial plans, **Project Ireland 2040** comprises the **National Planning Framework (NPF)** to 2040 and the **National Development Plan (NDP) 2018-2027**. Both capture strong sentiments in relation to renewable energy and climate change.

The NPF sets out the strategic plan for shaping the future growth and development of Ireland out to the year 2040. It is a framework to guide public and private investment, to create and promote opportunities for people, and to protect and enhance the environment. The implementation of the NPF focuses on policies, actions and investments which will ensure the delivery of ten National Strategic Outcomes. These Outcomes can be considered pillars of the Framework.

National Strategic Outcome No. 8 of the NPF relates to the transition to a low carbon and climate resilient society, described as:

"The National Climate Policy Position establishes the National objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. This objective will shape investment choices over the coming decades ... "

This National Strategic Outcome is described in detail (NPF, Section 10), states:

'New energy systems and transmission grids will be necessary for a more distributed, more renewables focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy.'

National Policy Objective 55 seeks to 'Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.'

The future direction of the energy generation sector as we move from reliance on fossil fuels is clearly focussed on the renewable sector (NPF, Page 147):

'The diversification of our energy production systems away from fossil fuels and towards green energy such as wind, wave, solar and biomass, together with smart energy systems and the conversion of the built environment into both generator/consumer of energy and the electrification of transport fleets

# will require the progressive and strategic development of a different form of energy grid.'

The key actions identified under this Strategic Outcome include the commitment to deliver 40% of electricity needs from renewable sources by 2020; with a strategic aim to increase renewable deployment in-line with EU targets and National policy objectives out to 2030 and beyond. While new technologies are referenced in the achievement of these objectives, a core part of this strategy will rest on maintaining the existing renewable share available – as supported by projects such as Derrybrien Wind Farm.

The Framework (NPF, Section 9) deals with the transition to a low-carbon economy; the safe-guarding of natural capital and the creation of a clean environment:

• National Policy Objective 52 notes 'the planning system will be responsive to our National environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital'.

In line with that Objective, and as supported by the robust environmental assessment provided, the subject development strongly aligns with this objective.

In relation to Climate Action and Planning, the NPF notes the need to address the longterm causes of climate change through the reduction in greenhouse gas emissions. With specific regard to future developments, the Framework notes the need to make balanced choices, stating (NPF, Para. 9.2):

> 'If Ireland is to make up for lost ground in relation to carbon reduction targets and move towards the objective of a low carbon and climate resilient Ireland by 2050, it is necessary to make choices about how we balance growth with more sustainable approaches to development and land use and to examine how planning policy can help shape National infrastructural decisions.'

Clearly specific projects – including the proposed development, represent an opportunity to support low carbon electricity generation infrastructure. The generation capacity delivered until the cessation of operations in 2040 will continue to support the move towards a decarbonised energy sector – a highly favourable outcome that contrasts with a scenario where this renewable generation capacity could be lost if this application is refused.

In relation to Energy Policy and Planning, the NPF provides significant policy guidance. The NPF states (NPF, Page 122):

> 'Ireland's National energy policy is focused on three pillars: (1) sustainability, (2) security of supply and (3) competitiveness. The Government recognise that Ireland must reduce greenhouse gas emissions from the energy sector by at least 80% by 2050, compared to 1990 levels, while at the same time ensuring security of supply of competitive energy sources to our citizens and businesses.'

The transition to a low carbon energy future is identified as requiring:

- 'A shift from predominantly fossil fuels to predominantly renewable energy sources;
- Increased efficiency and upgrades to appliances, buildings and systems;

- Decisions around development and deployment of new technologies relating to areas such as wind, smartgrids, electric vehicles, buildings, ocean energy and bio energy; and
- Legal and regulatory frameworks to meet demands and challenges in transitioning to a low carbon society.'

This is reflected in National Policy Objective 55 which notes it is an objective to 'promote renewable energy use and generation at appropriate locations within the built and natural environment to meet National objectives towards achieving a low carbon economy by 2050.'

Under the NPF, the **National Development Plan** (NDP) has been adopted for the period 2018 – 2027. That Plan establishes the investment priorities that will underpin the successful implementation of the NPF. This will guide national, regional and local planning and investment decisions in Ireland over the Plan period.

The NDP includes 'climate action' as one of its Strategic Investment Priorities (SIPs) and advises that new energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy to the major sources of demand.

Finally, it is noted that the Department of Communications, Climate Action and Environment (DCCAE) is currently preparing a revised **Renewable Electricity Policy Development Framework** (REPDF) – intended to guide the development of large-scale renewable electricity projects on land. The REPDF is due to go to public consultation in Quarter 1, 2020.

In late 2019, the Department of Housing, Planning and Local Government published draft **Wind Energy Development Guidelines** (WEDGs). These Guidelines were prepared following a focused review of the **2006 Wind Energy Development Guidelines**, and provide updated advice in relation to noise, shadow flicker, consultation and other considerations. At the time of drafting (July 2020) the 2019 Guidelines had been subject of public display and it was expected that amendments would be forthcoming.

This application, and the accompanying rEIAR has been prepared in the context of the prevailing Guidelines – the 2006 Guidelines, with accompanying commentary to facilitate the Board's assessment if a determination is made after the adoption of the amended WEDGs.

### 4.4 Regional Policy

In 2010 the Western Regional Authority and the Border Regional Authority adopted Regional Planning Guidelines (RPGs) for the period 2010-2022. These Regional Authorities were replaced by a new Northern and Western Regional Assembly (NWRA) established in 2015 following local government reform. The NWRA have published a **Regional Spatial and Economic Strategy (RSES)** adopted in early 2020. The RSES provide a positive framework for the implementation of spatial plans within constituent

County Development Plans. Of relevance to this Project the RSES contains the following objectives and policies:

**RPO 8.1:** The Assembly support the development of a safe, secure and reliable electricity network and the transition towards a low carbon economy centred on energy efficiency and the growth projects outlined and described in this strategy;

**RPO 8.3:** The Assembly support the necessary integration of the transmission network requirements to allow linkages with renewable energy proposals at all levels to the electricity transmission grid in a sustainable and timely manner.

### 4.5 Local Policy: Provisions of the Galway County Development Plan

The provisions of the Galway County Development Plan (CDP), 2015 – 2021 apply.

The Plan sets out Strategic Objectives for the County over the period, the most relevant of which are:

- Strategic Aim 2 Environmental Protection to afford suitable protection to the environment and natural resources of the County and ensure the fulfilment of environmental responsibilities;
- Strategic Aim 3 Living Landscapes to recognise the importance of living landscapes where people live, work, visit and enjoy while ensuring they are managed in a sustainable and appropriate manner;
- Strategic Aim 9 Infrastructural Projects to facilitate the development of infrastructural projects, which will underpin sustainable development throughout the County and region during the plan period; and
- Strategic Aim 11 Climate Change Adaptation to engage in efforts to limit the human induced causes of climate change and take account of climate change in planning and delivering work programmes, and to engage in efforts to mitigate and adapt to climate change and integrate climate change considerations in planning and delivering work programmes.

Para. 2.3 of the CDP sets out the Development Strategy Objectives, and the following are noted:

- **Objective DS 1 Development Strategy** It is the overarching objective of Galway County Council to support and facilitate the sustainable development of County Galway in line with the preferred development strategy option Option 4;
- Objective DS 8 Climate Change Galway County Council shall support the National Climate Change Strategy and follow on document National Climate Change Adaptation Framework Building Resilience to Climate Change 2012, on an ongoing basis through implementation of supporting objectives in this plan, particularly those supporting the use of alternative and renewable energy sources, sustainable transport, air quality, biodiversity, green infrastructure, coastal zone management, flooding and soil erosion;

In the context of the CDP Core Strategy and associated Settlement Strategy, the subject sites are located in an area identified as 'rural'. The nearest settlement hubs are the 'key towns' of Loughrea and Gort. In terms of rural housing policy, the area is a Landscape Category 1 / 2 rural area with associated policies for accommodating local housing need; and the economic engine / corridor designation (CDP Map EDT1) recognises the Slieve Aughty mountains as a key characteristic of the area.

Chapter 7 of the CDP sets out objectives and policies in relation to Energy and Renewable Energy. It states strategic objectives for the County:

- To reduce County Galway's dependency on imported fossil fuels and to provide alternative energy sources by harnessing the County's potential for renewable energy sources;
- To ensure security of energy supply throughout the County and to collaborate with relevant sectors in strengthening the grid transmission networks for the provision of the energy sector including renewable energy; and
- To reduce the County's CO<sub>2</sub> emissions by achieving national, regional and any potential County targets for achieving a low carbon economy by 2020; and increase energy efficiency in Local Authority activities through its development management functions.

The Plan acknowledges national and regional targets for the renewable energy sector in particular, linking that section (CDP Para. 7.4) with tackling climate change.

The CDP is supported by the **County Galway Wind Energy Strategy** which forms a statutory part of the plan. The Strategy supports a plan led approach to wind energy development in County Galway and sets out Strategic Areas, Acceptable in Principle Areas, and Areas Open for Consideration. The CDP states that it is the policy of the Council to maximise wind energy development in all three of these areas, on a case by case basis, subject to meeting specific requirements and guidance contained within the strategy. An aim of the strategy is to meet a minimum target of 500 MW of wind energy in County Galway and to generate the equivalent of over 70% of its electricity needs from wind energy.

Energy and Renewable Energy policies of note include:

- Policy ER 1 Sustainable Energy Policy and Targets to Promote the implementation of the Government's White Paper Delivering a Sustainable Energy Future for Ireland, Energy Policy Framework 2007-2020 (or any updated or superseding document) over the lifetime of the Galway County Development Plan 2015-2021 to assist in ensuring that the energy efficiency target is realised by 2020 from renewable sources.
- Policy ER 2 Development of Renewable Energy The Council shall support proposals for renewable energy developments at appropriate scales (including, ocean energy/wave and tidal technologies and ancillary facilities including associated grid connection) at appropriate locations within the County having regard to residential amenities, biodiversity and landscape sensitivities, where such proposals are in compliance with the County Development Plan 2015 2021 and the principles of proper planning and sustainable development.

- Policy ER 3 Security of Supply to facilitate the strategic goal of effective balanced regional development through the implementation of policies that will deliver reliable and effective energy networks and electricity grid for the West Region including County Galway, minimising environmental impact by (a) Promoting and supporting the provision of secure and efficient energy supply and storage including electricity, gas, and renewable energy including wind, wave/tidal, solar, bio-energy and heat energy distribution;
- Objective ER 1 Electricity and Renewable Energy Infrastructure to support the development and expansion of infrastructure for the generation, storage, transmission and distribution of electricity, renewable energy and other renewable energy proposals in suitable locations in County Galway.
- Objective ER 3 Low Carbon County to promote County Galway as a low carbon County by 2020 having regard to the Climate Action and Low Carbon Development Bill when adopted. Encourage and favourably consider proposals for renewable energy developments and ancillary facilities in order to meet national, regional, county energy targets and to facilitate a reduction in CO2 emissions.
- **Objective ER 4 Renewable Energy -** (a) to support and facilitate the sustainable development and use of appropriate renewable energy resources and associated infrastructure within the County, including wind energy.
- Objective ER 5 Wind Energy Developments to promote and facilitate wind farm developments in suitable locations, having regard to areas of the County designated for this purpose in the County Galway Wind Energy Strategy. The Planning Authority will assess any planning application proposals for wind energy production in accordance with the County Galway Wind Energy Strategy, the DoEHLG Guidelines for Planning Authorities on Wind Energy Development, 2006 (or any updated/superseded documents), having due regard to the Habitats Directive and to the detailed policies, objectives and Development Standards set out in the Wind Energy Strategy.
- Objective ER 6 Wind Energy Strategy that the policies, objectives and development management guidelines/standards set out in the County Galway Wind Energy Strategy shall be deemed to be the policies, objectives and development management guidelines/standards for the purposes of the Galway County Development Plan 2015-2021.

CDP Map ER1 identifies the Derrybrien Wind Farm map and the associated substation at Agannygal.

The **Wind Energy Strategy** (WES) is **Appendix IV to the CDP**. As noted above, this forms the principle policy document guiding wind energy developments in the County. The strategy establishes a target for the County of the target of 500 MW of electricity from wind - sufficient to power over 236,000 homes and reduce energy related CO2 emissions in Galway by over 750,000 tonnes. It acknowledges the location of existing wind farms – including Derrybrien and the contribution these make to the renewable energy sector.

Policies and objectives of note set out in the WES include:

• **Policy WE1 Development of Renewable Energy Generation** – to ensure the security of energy supply by supporting, in principle and in appropriate scales and locations, the development of wind energy resources in County Galway.

- **Policy WE2 Development of Low Carbon Economy** to promote County Galway as moving towards becoming a low carbon County by 2020 as a means of attracting inward investment to the County and the wider West Region.
- **Policy WE4 National and Local Targets** under the White Paper on Energy, a target of 40% of electricity is to be generated from renewable sources by 2020. In support of this national target, County Galway will aim to achieve a total minimum overall target of 500 MW from existing, installed and permitted wind energy by 2020.
- Policy WE6 Wind Energy Infrastructure Proposals for the development of infrastructure for the production, storage and distribution of electricity through the harnessing of wind energy will be considered in appropriate sites and locations, subject to relevant legislation and policy, environmental, landscape and amenity considerations, electricity infrastructure, settlement patterns and wind energy potential and the guidance in the WES. This will include, inter alia, requirements and considerations in relation to Natura 2000 sites and the Habitats Directive (in particular Article 6 (3) and (4)), biodiversity and the SEA Directive and the objectives of the WRBD River Basin Management Plan.
- Policy WE7 Implementation of Wind Energy Strategy proposals for Wind Energy development can be considered in all areas subject to meeting the specific requirements outlined in this Wind Energy Strategy. However, it is anticipated that most development proposals will be located in the Strategic Areas, Acceptable in Principle Areas and areas Open to Consideration and it is the policy of the Council to maximise Wind Energy development in all three of these areas on a case by case basis subject to meeting the specific requirements of this Wind Energy Strategy and taking account of any guidance contained in the Strategy.

The Strategy identifies the development as being within a High Landscape Classification – Area 6 for the Slieve Aughty Mountains (CDP Map WE4A). The landscape is classified as being of moderate sensitivity (CDP Map WE4B). It is not an area associated with a concentration of views and prospects (CDP Map WE4C) and the presence of ecological designations is noted (CDP Map 5B).

With respect to wind energy developments in particular, the Slieve Aughty Mountains are described as having limited capacity for development due to large areas with statutory nature designation and elevated nature of hill slopes. The area is identified (CDP Map 5A) as being 'Not Normally Permissible' for wind energy developments with the Strategy states:

"Areas generally not suitable for wind farm development due to their overall sensitivity and constraints arising from landscape, ecological, recreational, settlement, infrastructural and/or cultural and built heritage resources, based on strategic level assessment. Wind farm developments in these areas will be discouraged, unless project level HDA and EIA can demonstrate to the satisfaction of the planning authority that environmental and other impacts can be successfully avoided, minimised and/or mitigated."

Objective WE4 applies to these areas, stating:

"These areas are not normally considered suitable for wind farm development due to their overall sensitivity and constraints arising from landscape, ecological, recreational, settlement, infrastructural and/or cultural and built heritage resources. The HDA and SEA process in particular helped to inform the identification of these areas. <u>Future wind farm developments will</u> accordingly only be considered in these areas where project level HDA and EIA can demonstrate to the satisfaction of the planning authority that environmental and other impacts can be successfully avoided, minimised and/or mitigated. The approach taken to the compilation of the Wind Energy Strategy is based on a consistent and robust methodology which was not varied to take account of individual planning permissions which have been fully assessed under Habitats Directive Assessment. <u>However, where any project has been granted planning permission following Habitats Directive</u> <u>Assessment which shows that the project complies with the Habitats Directive</u> and the Birds Directive, it is considered that this project is consistent with and in full compliance with this Wind Energy Strategy."

#### [emphasis added]

It is noted that provision is made for such developments being permissible where there is a demonstrable absence of environmental and other impacts – and it is submitted that this scenario applies here as supported by the accompanying environmental assessments. In support of this, we refer to the detailed assessment set out in Para. 9.3.3.4 of the rEIAR which assesses the development with respect to landscape and visual impact. That assessment clearly demonstrates – through a robust assessment of impact, that the development does not have a significant impact on the receiving landscape.

Chapter 5 of the WES sets out the Development Management Standards that apply. The details therein are noted and it is submitted that the rEIAR and rNIS indicate a strong level of compliance with these standards.

### 4.6 Planning Assessment

Having regard to the EU and National policies set out above, the granting of a Substitute Consent and the proposed continuation of renewable electricity generation at Derrybrien Wind Farm is strongly supported by prevailing policies.

The growth and expansion of the renewable electricity sector is identified as a key part to promoting the decarbonisation of the electricity sector and tackling the serious issues posed by climate change. Maintaining and growing the renewables capacity of the generation sector is fundamental to this.

It is noted that the original proposal was assessed, and deemed to comply with, a previous Development Plan for County Galway. In terms of contemporary policies, the development is strongly compliant with the objectives and policies set out in the current Galway County Development Plan – including the Wind Energy Strategy. In relation to characterisation of the landscape setting and associated commentary in the WES in relation to the suitability of the site to accommodate wind energy development, it is noted that the Strategy does make provision for wind energy developments in this location where there is demonstrable evidence to enable the Planning Authority to determine that there are no significant effects on the environment arising from it. It is submitted that this is strongly concluded in the rEIAR and rNIS, which are submitted for the Board's consideration.

The proposed operation of the windfarm to circa 2040 ensures that the full potential of this development is realised. Notwithstanding the difficulties encountered in the construction of the Project, the long-established operations on site have demonstrated its suitability for use as a windfarm site and compatibility with the receiving environment and community.

From a planning perspective, there is no proposed change to the long-established land use and activity on the site. It is submitted that in the years since the construction of the development, the site has naturalised and the operation of all aspects of the development has been highly compatible with the established nature and character of the surrounding area.

Having regard then to strategic and local considerations, it is submitted that the proposal set out in this application is strongly in-line with the principles of proper planning and sustainable development and should be consented as proposed.

Appendix A Notice issued by Galway County Council

Áras an Chontae, Cnoc na Radharc, Gaillimh. H91 H6KX.

Áras an Chontae, Prospect Hill, Galway. H91 H6KX.

Fón/Phone: (091) 509 000 Facs/Fax: (091) 509 010 Idirlion/Web: www.gaillimh.ie www.galway.je



Seirbhisí Corparáideacha Corporate Services (091) 509 225 Corpserv@galwaycoco.ie

Tithiocht Housing (091) 509 300 Shousing@galwaycoco.ie

Timpeallacht & Tréidliacht Environment & Veterinary (201) 509 510 Menvironment@galwaycoco.le

Bóithre, Iompar, Cúrsaí Mara & Seirbhísí Ginearálta Roads, Transportation, Marine & General Services (091) 509 309 Croads@galwaycoco.ie

Acmhainní Daonna Human Resources 11 (091) 509 303 Shr@galwaycoco.ie

Mótarcháin Motor Taxation 121 (091) 509 099 Isimotortax@galwaycoco.le

Clàr na dToghthóirí Register of Electors 1990 (091) 509 310 1991 electors@galwaycoco.le

Seirbhisi Uisce Water Services 19 (091) 509 505 Swater@galwaycoco.le

Pobal & Flontar Community & Enterprise (091) 509 521 Community@galwaycoco.ie

Pleanáil Planning 12 (091) 509 308 Implanning@galwaycoco.ie

Leabharlann Library 22 (091) 562 471 Scinfo@galwaylibrary.le



Comhairle Chontae na Gaillimhe Galway County Council

Gort Windfarms Limited, c/o Ms Victoria o Brien, Two Gateway, East Wall Road, Dublin 3. D03 A995

Dear Ms O Brien,

Please find enclosed notices and documentation with respect to Section 177B of the Planning and Development Act, 2000 (as amended).

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pp Valerie Kory have -for-

Eileen Ruane Director of Services Planning, Environment and Emergency Services Galway County Council

## In The Matter of the PLANNING AND DEVELOPMENT ACTS 2000 TO 2019

### And In The Matter of the PLANNING AND DEVELOPMENT REGULATIONS 2001 TO 2019

### NOTICE PURSUANT TO SECTION 177B of the PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

To: Gort Windfarms Limited, Two Gateway, East Wall Road, Dublin 3, D03 A995.

With reference to the above and the Notice issued to you by Galway County Council pursuant to Section 177B dated the 9<sup>th</sup> June 2020, Galway County Council hereby amends the said notice to include the following minor amendments:

Inclusion of the text *and associated development of a Grid Connection* under Schedule 1 and the inclusion of *An Bord Pleanala Reference numbers* under the relevant applications outlined in Schedule 2. These minor amendments are for the purpose of clarity.

Furthermore in accordance with the above said notice dated the 9<sup>th</sup> June 2020, you are directed to apply to the Board for substitute consent, within the meaning thereby assigned by the Planning and Development Act, 2000 as amended, in respect of the Development no later than 12 weeks from the date of that Notice.

Signed: <u>Zik</u>

Eileen Ruane Director of Services Dated this 23<sup>rd</sup> day of July 2020

> To: Gort Windfarms Limited, Address: Two Gateway, East Wall Road, Dublin 3, D03 A995.

And to:

An Bord Pleanála, 64 Marlborough Street, Dublin 1. D01 V902

## In The Matter of the PLANNING AND DEVELOPMENT ACTS 2000 TO 2019

### And In The Matter of the PLANNING AND DEVELOPMENT REGULATIONS 2001 TO 2019

### NOTICE PURSUANT TO SECTION 177B of the PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

To: Gort Windfarms Limited, Two Gateway, East Wall Road, Dublin 3, D03 A995.

#### WHEREAS:

- A. Galway County Council, being the Planning Authority for the County of Galway (hereinafter referred to as "the Council") has become aware in relation to the development described in Schedule 1 hereto ( the "Development" ) within the Council's administrative area for which the several Permissions set out in Schedule 2 were granted by the Council and/or An Bord Pleanála ("the Board") and for which an Environmental Impact Assessment ("EIA") was required and that a final judgment of the Court of Justice of the European Union in the case of Commission of the European Communities -v- Ireland (case C-215/06) has been made on the 3rd July 2008 that the permissions in Schedule 2, or certain of same, were in breach of law, invalid and/or otherwise defective for the reasons set out in the said Judgement and in particular were in breach of the provisions of European Directive 85/337/EEC (and as amended by European Directive 97/11) by reason of the omission from the application for permission of an Environmental Impact Statement in respect of those parts of the development for which permission was granted without an Environmental Impact Statement having been submitted as set forth in the Second Schedule hereto.
- B. You are the person who carried out the development and/or the owner and occupier of the land on which the development is situate.

#### TAKE NOTICE as follows:

- 1. You are hereby informed of the proceedings referred to in Paragraph A above and the findings of same and a copy of the judgment in the said proceedings referred to in that paragraph (Case C- 215/06) is appended hereto.
- 2. You are hereby directed to apply to the Board for substitute consent, within the meaning thereby assigned by the Planning and Development Act, 2000 as amended, in respect of the Development no later than 12 weeks from the date of this Notice.
- 3. You are directed to furnish with the application to the Board a Remedial Environmental Impact Assessment Report.
- 4. You should also ensure that the application complies with all relevant legislation (including the Planning and Development Acts, 2000 to 2019 and the Planning and

Development Regulations, 2001 to 2020 and may require a Remedial Natura Impact Statement to be furnished with the application.

#### TAKE FURTHER NOTICE as follows:

- 5. You may make submissions or observations in writing to the Council no later than 4 weeks from the date of this Notice
- 6. Not later than 8 weeks from the date of this Notice, the Council shall:
  - (a) Where no submissions or observations are made to the Council, confirm or amend this Notice, or
  - (b) Where submissions or observations are made to the Council under Section 177B(2)(d), confirm, amend or withdraw this Notice.

A copy of Section 177B of the Planning and Development Act, 2000 as amended, is also attached to this Notice.

#### SCHEDULE ONE

The Development of a windfarm, including ancillary development which includes service roadways, control house, transformer compounds and anemometer mast and associated development of a Grid Connection at Derrybrien West, Derrybrien East, Derrybrien North, Toormacnevin, Bohaboy, Caheranearl and Boleyneendorrish, all in the County of Galway, more particular described in the grants of planning permission as set out in Schedule Two below.

Council planning reference	Applicant	Location of development	Nature of development permitted by the permission and indication of whether an Environmental Impact Statement (EIS) was submitted as part of the planning application in question
<u>973470</u>	Saorgus Energy Ltd	Derrybrien West & Boleyneendorrish	for a) wind farm of 23 wind turbines; b) service roadways; c) control house; d) anemometer mast - EIS submitted. Permission issued by An Bord Pleanala PL 07.106290
<u>973652</u>	Saorgus Energy Ltd	Derrybrien North	for a. wind farm of 23 wind turbines, b. service roadways, c. a control house, d. anemometer mast at Caheranearl, Derrybrien - EIS submitted. Permission issued by An Bord Pleanála PL 07.106292

#### SCHEDULE TWO

<u>992377</u>	Saorgus Energy Ltd	Derrybrien North and East	for the installation of a 110kV electricity transmission line between wind farm at Derrybrien North and 110kV ESB transmission line at Loughatorick North. Permission issued by Galway County Council
004581	Saorgus Energy Ltd	Derrybrien	Development of Derrybrien wind farm consisting of 25 wind turbines, service roadways, transformer compounds and anemometry mast (see newspaper notice) at Toormacnevin, Bohaboy and Derrybrien North. Permission issued by An Bord Pleanála PL 07.122803
023560	Saorgus Energy Ltd	Toormacnevin/ Derrybrien	for change of turbine type from 25 Vestas V47 turbines to 25 Vestes V52 turbines. This involes a reduction in hub height of 3m and an increase in blade lenght of 3m, giving same max. height as the permitted turbines of 73m. Permission granted by Galway County Council
<u>035642</u>	Gort Windfarms Ltd	Boleyneendorrish Derrybrien West	Extension of appropriate period for development of (a) windfarm of 23 wind turbines (b) service roadways (c) control house (d) anemometer mast 97/3470 refers. Permission issued by Galway County Council
035637	Gort Windfarms Ltd	Derrybrien North	Extension of appropriate period for development of a wind farm of 23 wind turbines, b. service roadways, c. a control house, d. anemometer mast - 97/3652 refers. Permission issued by Galway County Council
05317	Gort Windfarm Ltd	Derrybrien North	Extension of appropriate period for development of wind farm of 23 wind turbines. Permission issued by Galway County Council
<u>05316</u>	Gort Windfarms Ltd	Derrybrien West	Extension of appropriate period for development of wind farm of 23 wind turbines. Permission issued by Galway County Council

Dated this  $Q^{rc}$  day of  $J_{une} 2020$ .

Signed: Lilee Ruce

#### Рт. XA S. 177A [No. 30.]

#### [2000.]

#### Annotations

#### Amendments:

F240 Inserted (21.09.2011) by Planning and Development (Amendment) Act 2010 (30/2010), s. 57, S.I. No. 475 of 2011.

F241[Application to apply for substitute consent where notice served by planning authority.

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177B.-(1) Where a planning authority becomes aware in relation to a development in its administrative area for which permission was granted by the planning authority or the Board, and for which-

(a) an environmental impact assessment,

- (b) a determination in relation to whether an environmental impact assessment is required, or
- (c) an appropriate assessment,

was or is required, that a final judgment of a court of competent jurisdiction in the State or the Court of Justice of the European Union has been made that the permission was in breach of law, invalid or otherwise defective in a material respect because of—

- (i) any matter contained in or omitted from the application for permission including omission of an environmental impact statement or a Natura impact statement or both of those statements, as the case may be, or inadequacy of an environmental impact statement or a Natura impact statement or both of those statements, as the case may be, or
- (ii) any error of fact or law or procedural error,

it shall give a notice in writing to the person who carried out the development or the owner or occupier of the land as appropriate.

- (2) The notice referred to in subsection (1) shall-
  - (a) inform the person to whom it is given of the proceedings and findings referred to in subsection (1),
  - (b) direct the person concerned to apply to the Board for substitute consent no later than 12 weeks from the date of the notice,
  - (c) direct the person concerned to furnish with his or her application a remedial environmental impact statement or remedial Natura impact statement or both of those statements, as the case may be,
  - (d) advise the person concerned that he or she may make submissions or observations in writing to the planning authority no later than 4 weeks from the date of the notice.

(3) Not later than 8 weeks after the giving of the notice under subsection (1) the planning authority shall—

- (a) where no submissions or observations are made to the authority under subsection (2)(d), F242[confirm or amend the notice], or
- (b) where submissions or observations are made to it F242[under subsection (2)(d), confirm, amend or withdraw the notice].
- (4) F243[...]

Galway County Council County Hall Prospect Hill Galway

To: Gort Windfarms Limited,

Address:

Two Gateway, East Wall Road, Dublin 3, D03 A995.

And to:

An Bord Pleanála, 64 Marlborough Street, Dublin 1. D01 V902

[No. 30.] PT. XA S. 177B

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Planning and Development Act 2000

[2000.]

(5) The planning authority shall notify in writing the person to whom the notice under subsection (1) was given of F242[the withdrawal, amendment or confirmation of] the notice and the reasons therefor.

- (6) F242[(a) Where the decision of the planning authority is to confirm or amend the notice under subsection (3)(a), the notification referred to in subsection (5) shall also contain-
  - (i) in a case where the notice is confirmed or amended under subsection (3)(a), a direction to apply for substitute consent not later than 12 weeks after the giving of the notification under subsection (2), or
  - (ii) at the discretion of the planning authority, and only in a case where the notice is amended under subsection (3)(a), a direction to apply for substitute consent not later than 12 weeks after the giving of the notification under subsection (5).]
  - (b) Where the decision of the planning authority is to confirm F244[or amend] the notice under subsection (3)(b), the notification referred to in subsection (5) shall also contain a direction to apply for substitute consent not later than 12 weeks after the giving of the notification under subsection (5).

(7) The planning authority shall send a copy of a notice given under subsection (2) or (5) to the Board.

(8) Details of the F242[confirmation, amendment] or withdrawal of the notice by the planning authority shall be entered by the authority in the register.

(9) For the purposes of this section and section 177C, a judgment shall be deemed to be a final judgment where-

- (a) the time within which an appeal against the judgment may be brought has expired and no such appeal has been brought,
- (b) there is no provision for appeal against such judgment, or
- (c) an appeal against the judgment has been withdrawn.]

#### Annotations

#### Amendments:

- F241 Inserted (21.09.2011) by Planning and Development (Amendment) Act 2010 (30/2010), s. 57, S.I. No. 475 of 2011.
- F242 Substituted (24.11.2011) by European Union (Substitute Consent) Regulations 2011 (S.I. No. 609 of 2011), reg. 3(1)(a), (c), (d)(i) and (e), with transitional provision in reg. 3(2).
- F243 Deleted (24.11.2011) by European Union (Substitute Consent) Regulations 2011 (S.I. No. 609 of 2011), reg. 3(1)(b), with transitional provision in reg. 3(2).
- F244 Inserted (24.11.2011) by European Union (Substitute Consent) Regulations 2011 (S.I. No. 609 of 2011), reg. 3(1)(d)(ii), with transitional provision in reg. 3(2).

F245[Application for substitute consent where by planning authority.

177C.-(1) A person who has carried out a development referred to in subsection for leave to apply (2), or the owner or occupier of the land as appropriate, to whom no notice has been given under section 177B, may apply to the Board for leave to apply for substitute notice not served consent in respect of the development.

> (2) A development in relation to which an applicant may make an application referred to in subsection (1) is a development which has been carried out where an environmental impact assessment, a determination as to whether an environmental impact

Appendix B Derrybrien Wind Farm Project – Public Information Sheet

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Energy for generations

**Gort Windfarms Limited** 

## **DERRYBRIEN WIND FARM NEWSLETTER 2020**

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#### What is the purpose of this newsletter?

This newsletter is being issued to update the local community on the Derrybrien Wind Farm Project and the reasons why Gort Windfarms Limited, which is a subsidiary of the Electricity Supply Board (ESB) and owner and operator of the wind farm, intends on making a Substitute Consent Application to An Bord Pleanála in August this year.

#### What has led to this?

In 2008, the Court of Justice of the European Union (CJEU) delivered a judgment against the State concluding that Ireland had failed in its obligations to assess environmental effects in accordance with European Directives prior to the grant of the planning permissions for the Derrybrien wind farm. In 2019, there was a further CJEU judgment against the State for failure to comply with the 2008 judgment.

In order to facilitate compliance by the State with the CJEU judgments, Galway County Council has served a Notice under the Planning and Development Acts directing Gort Windfarms Limited to submit an application for Substitute Consent to An Bord Pleanála. The Substitute Consent Application will include environmental assessments in compliance with the Environmental Impact Assessment and Habitats Directives which will be submitted to assist An Bord Pleanála carrying out a full environmental assessment of the Derrybrien Wind Farm Project throughout the construction, operational and decommissioning stages. These assessments will also address all the works that were undertaken in response to the peat slide in 2003.

#### What is the Derrybrien Wind Farm Project?

The Derrybrien Wind Farm Project includes the 70 operational turbines, all construction works, including the works that were undertaken in response to the peat slide, the overhead power line and Agannygal substation which connects the site to the national electricity transmission system.

#### What is the history of the Derrybrien Wind Farm Project?

The planning permissions for Derrybrien wind farm were obtained between 1998 and 2001, Gort Windfarms Limited was acquired in 2003 and construction of the wind farm began in June 2003. However, works were stopped in October 2003 due to a peat slide. In response to that event, emergency works were undertaken to protect water courses, roads and property. The following year (2004), construction of the wind farm resumed once engineering studies had concluded that it was safe to do so. Construction of the Derrybrien Wind Farm Project was completed in 2006 and the wind farm has been generating renewable wind energy to power homes, businesses and farms across Ireland ever since. As such, it is an important part of Ireland's generation portfolio contribution to creating a low-carbon future for all.

#### Location of Derrybrien Wind Farm



#### Where can I find out more?

The public can view all documents related to this Substitute Consent Application once the application is made in the offices of An Bord Pleanála, Galway County Council and on our dedicated project website www.derrybrienwindfarm.ie. Submissions can then be made in writing to An Bord Pleanála and will be considered by An Bord Pleanála as part of the assessment process before reaching its determination on the application.

#### Who can I contact?

If you would like further information on this newsletter or have any other queries on the Substitute Consent Application you can contact David Linnane, the Derrybrien wind farm community liaison officer. David can attend to and follow up on your queries and can be contacted at david.linnane@esb.ie or by phone at 086 2558111.

**CONTACT US :** Email: david.linnane@esb.ie Website: www.derrybrienwindfarm.ie

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