

File With \_\_\_\_\_

## SECTION 131 FORM

Appeal NO: 316805-23Defer Re O/H ☐

TO:SEO

Having considered the contents of the submission received 12/05/23 fromApplicant I recommend that section 131 of the Planning and Development Act, 2000be/not be invoked at this stage for the following reason(s): via agent Gaeltach energy services. No new planning grounds.E.O.: [Signature]Date: 31/05/23

To EO: \_\_\_\_\_

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: \_\_\_\_\_

Date: \_\_\_\_\_

S.A.O.: \_\_\_\_\_

Date: \_\_\_\_\_

M \_\_\_\_\_

Please prepare BP \_\_\_\_\_ - Section 131 notice enclosing a copy of the attached submission

to: \_\_\_\_\_ Task No: \_\_\_\_\_

Allow 2/3/4weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

File With \_\_\_\_\_

**CORRESPONDENCE FORM**Appeal No: ABP- 3/6 305-23MPlease treat correspondence received on 12/05/23 as follows:

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with BP <u>20</u> ✓	1. RETURN TO SENDER with BP _____
3. Keep copy of Board's Letter <input type="checkbox"/>	2. Keep Envelope: <input type="checkbox"/>
	3. Keep Copy of Board's letter <input type="checkbox"/>

Amendments/Comments
<u>Applicant Response to appeal</u>

<b>4. Attach to file</b> (a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/> (b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input type="checkbox"/> (c) Processing <input type="checkbox"/>	<b>RETURN TO EO</b> <input checked="" type="checkbox"/> <u>Deeds Hall</u>
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	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Deeds Hall</u>	AA: <u>Deeds Hall</u> ✓
Date: <u>18/05/23</u>	Date: <u>23/05/23</u>



An Bord Pleanála,  
64 Marlborough Street  
Dublin 1  
D01 V902

11 May 2023

Galetech Energy Services  
Cavan: Clondargan, Stradone, Co. Cavan, Ireland, H12 NV06  
Cork: Unit 2 Airport East Business Park, Farmers Cross,  
Kinsale Road, Cork, Ireland

t: +353 49 555 5050  
e: info@galetechenergy.com  
w: www.galetechenergy.com

AN BORD PLEANÁLA	
LDG-	
ABP-	
12 MAY 2023	
Fee: €	Type:
Time:	By: hand.

Your Ref: ABP-316305-23

Our Ref: PIN001RTDAPP

Planning Authority Reference: 22/507

Dear Sir/Madam,

**Re: Amendments to the wind farm development permitted under An Bord Pleanála Reference PL11.248518 (Laois County Council Planning Register Reference 16/260) to provide: (i) an increase in the rotor diameter of the wind turbines from 103 metres to 117 metres; (ii) a reduction in the hub height of the wind turbines from 85 metres to 78 metres, thus retaining the permitted overall tip height of the wind turbines of 136.5 metres; (iii) the re-siting of wind turbines T8, T9, and T10 and their associated foundations and crane hardstandings by 3 metres, 5.5 metres and 10 metres respectively; and (iv) all associated site development, drainage, access and reinstatement works.**

This planning application is accompanied by an Environmental Impact Assessment Report/Environmental Impact Statement which includes an assessment of the likely effects of the proposed development, as a whole and in combination with the relevant off-site or secondary developments which will occur as a direct result of the proposed development, including the infrastructure associated with the wind farm development permitted pursuant to Laois County Council Planning Register Reference 16/260 (An Bord Pleanála Reference PL11.248518) and Kilkenny County Council Planning Register Reference 17/62 (An Bord Pleanála Reference PL10.248392) and the electricity substation permitted pursuant to An Bord Pleanála Reference ABP-308448-20. This planning application is also accompanied by Natura Impact Statement.

**Location: Graiguenahown, Knockardagur, Boleybawn, and Ironmills (Kilrush), Co. Laois.**

### 1.0 Introduction

We refer to your notification dated 20 April 2023 pursuant to Section 129 of the Planning and Development Act 2000 (as amended). On behalf of Pinewood Wind Limited (the 'Applicant'), please find below a response to the third party appeal submitted by Mr. Peter Sweetman, Mr. Kieran Brophy, Mr. John Brophy, Mr. Niall Headen, Mr. Chris Palin and the Concerned Residents of Spink (collectively 'the Appellants') in respect of the notification of decision issued by Laois County Council



(the 'Planning Authority') to grant permission to the abovementioned proposed development.

As An Bord Pleanála ('the Board') will note, the first party appeal largely comprises submissions previously furnished by the Appellants to the Planning Authority. The issues raised in these submissions have been rehearsed at some very considerable length during the course of the planning application process and responded to in full in the Applicant's response, dated 16 November 2022, to a Request for Further Information (RFI) issued by the Planning Authority.

It should also be noted that many of the issues raised in the submissions are, for the most part, a rerun of assorted issues raised in respect of the permitted Pinewoods Wind Farm and, therefore, effectively amount to a *de novo* collateral objection on the development previously permitted by the Board (References PL11.248518 and PL10.248392). These issues have already been determined and are beyond the scope of the assessment of the current appeal and will not be addressed herein.

Therefore, and in the interests of brevity and avoiding repetition, this response focusses solely on matters raised in the third party appeal which have been identified as requiring further discussion or clarification or which have not previously been expressly addressed by the Applicant in the course of the subject planning application process. In the case of all other matters, we refer the Board to the Environmental Impact Assessment Report ('EIAR'), Natura Impact Statement ('NIS') and the Applicant's aforementioned response to the Planning Authority's RFI.

## **2.0 Response to Grounds of Appeal**

### **2.1 Mr. Peter Sweetman**

*Mr. Sweetman refers to ongoing judicial proceedings in respect of the permitted Pinewoods Wind Farm.*

As Mr. Sweetman has identified, judicial review proceedings<sup>1</sup> in relation to the permitted Pinewoods Wind Farm have not formally concluded and a final judgement has not yet been delivered. However, and as stated in the Applicant's RFI response, on 4 December 2020, Mr. Justice Brian O'Moore delivered a decision in respect of the proceedings wherein he refused all reliefs sought by the judicial review applicants (Mr. Kieran Brophy and Mr. Peter Sweetman). Whilst confirming that he will dismiss the judicial review application, the Judge indicated that he would deliver his full judgment on or before 15 January 2021. The full judgment has yet to be received.

Notwithstanding that the final judgement dismissing the judicial review proceedings remains outstanding, there is no legislative or judicial impediment which would preclude the Board from making a decision on the subject appeal and the Board is lawfully required to do so.

*Mr. Sweetman questions the assessment of forestry felling associated with the proposed development.*

The Applicant can confirm that the full extent of forestry to be felled to accommodate the proposed development has been assessed in the EIAR and NIS. This matter was addressed, at length, in the Applicant's RFI response and we refer the Board to the detailed response therein.

*Mr. Sweetman identifies remarks made by the Case Officer in her report which, in*

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<sup>1</sup> Brophy & Anor. -v- An Bord Pleanála & Ors. 2019/768 JR

*isolation, would appear to be at odds with the decision of the Planning Authority to grant planning permission.*

Mr. Sweetman refers to remarks made within the Planner's Report stating that "...the EIAR does not adequately assess the likely significant effect of the proposed development..." and suggests that, on this basis, planning permission ought to have been refused.

The remarks referred to by Mr. Sweetman are stated in the initial Planner's Report (pg. 19) dated 7 October 2022 and at pg. 28 of the final Planner's Report (dated 21 March 2023); however, the remarks are further clarified in the final Planner's Report and the Case Officer concludes, following the clarification of matters in the Applicant's RFI response, that "...the EIAR...does adequately assess the likely significant environmental effects of the proposed development..."[emphasis added].

Accordingly, the comments by Mr. Sweetman are unfounded.

## 2.2 Mr. Chris Palin

*Mr. Palin asserts that the proposed development is "...far too large for its proximity to residential properties and Knock National School".*

The principle of wind energy development at this location has been established through the granting of planning permission by the Board for the permitted Pinewoods Wind Farm. The permitted development provides for 11 no. wind turbines with an overall tip height of 136.5m and the subject proposal does not seek to increase the number or height of the wind turbines. While the proposed development also provides for the minor re-siting of 3 no. turbines; up to a maximum of 10m; this proposed re-siting will not result in any perceptible effect on residential dwellings or Knock National School.

The assessments undertaken within the EIAR clearly and unambiguously demonstrate that significant effects are not likely to be experienced at any dwelling or at Knock National School. Accordingly, the contentions of Mr. Palin are entirely unfounded.

*Mr. Palin contends that studies have demonstrated that wind farm developments are unsuitable for a residential area and refers to noise pollution, infra-sound and visual flicker.*

Contrary to the assertion of Mr. Palin, the proposed development site is located in rural County Laois in an area with a generally low population density. This is evidenced by the fact that there are only 37 no. dwellings located within 1,170m (i.e. 10-times rotor diameter) of a permitted/proposed wind turbine. All 37 no. dwellings have been fully assessed in terms of likely noise, vibration and shadow flicker effects; and it has been concluded that, with the implementation of recognised and effective mitigation measures, no significant effects are likely to arise as a result of the proposed development.

Full details of the assessments undertaken are provided in the EIAR and further discussed in the Applicant's RFI response.

## 2.3 Mr. Kieran Brophy, Mr. John Brophy and Mr. Niall Headen

*Messrs. Brophy and Headen refer to submissions made in respect of the subject planning application and previous planning applications for the Pinewoods Wind Farm.*

As discussed above, the matters raised in submissions have previously been addressed and we refer the Board to the Applicant's response to the Planning Authority's RFI.



### 3.0 Summary

The issues which have been raised in this third party appeal have, in large part, previously been addressed in full in the EIAR, NIS and the Applicant's RFI response. Notwithstanding this, and despite the consistent findings of multiple environmental assessments which have confirmed the absence of significant environmental effects arising from the Pinewoods Wind Farm; the Appellants have maintained a continued opposition to the principle of development at this location which appears to amount to a collateral objection to the decision of the Board to grant planning permission for the Pinewoods Wind Farm in 2019.

The proposed development seeks to maximise the renewable energy yield of an extant permitted wind farm through a technical increase in the rotor diameter of the permitted wind turbines, while maintaining the overall permitted turbine heights. As the Board will be aware, the *Climate Action Plan 2023* commits to a demanding 80% renewable energy target by 2030 with an acknowledgement that the delivery of onshore wind energy developments will be crucial in achieving this target.

The proposed development can therefore provide an additional contribution to these ambitious targets without resulting in any likely significant environmental effects; including in respect of visual impact, noise and shadow flicker; or a requirement to find additional locations to generate this energy elsewhere. It therefore maximises generation capacity at a location which has already been determined by the Board to be in accordance with the proper planning and sustainable development of the area and where significant electrical infrastructure has also been permitted to connect the development to the national electricity grid.

We, therefore, respectfully request the Board to uphold the decision of the Planning Authority and to grant planning permission for the proposed development.

Finally, we wish to highlight to the Board that the pre-construction development of the overall Pinewoods Wind Farm project is at an extremely advanced stage with planning permission having been secured for its connection to the national electricity network, a grid connection offer having been received from EirGrid under the Enduring Connection Policy 2.1 and the project having received support under the Renewable Electricity Support Scheme 2. It is therefore respectfully requested that the Board ensures the timely consideration and determination of this appeal to ensure that, if permitted, the increased electricity generation arising from this proposed development is capable of contributing to the achievement of the abovementioned renewable energy targets.

Galetech Energy Services

**Galetech Energy Services**



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