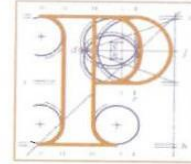


**Form No. 22 - Attachment 2: Copy of the Board's
Opinion under Section 287B of the Planning and
Development Act 2000 (as amended).**

Our Case Number: ABP-316331-23



An
Bord
Pleanála

Sure Partners Ltd
Red Oak South
South County Business Park
Leopardstown
Dublin 18

Date: 02 February 2024

Re: Proposed development of an offshore wind farm and associated infrastructure for Arklow Bank Wind Park (ABWP) (Design Option).
Located on and around the Arklow Bank, approximately 6 to 15 km from the shore at Arklow, Co. Wicklow.

Dear Sir / Madam,

I have been asked by An Bord Pleanála to refer to the above-mentioned proposed development.

Please be advised that following consultations under section 287A of the Planning and Development Act 2000, as amended, the Board has formed an opinion on design flexibility. A copy of the opinion is enclosed.

Please note that the Board's opinion on design flexibility will not be available for public inspection until an application is made to it under section 291 of the Act.

Information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act 2000, as amended, is also enclosed.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email marine@pleanala.ie quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,

PP *Ashling Doherty*

Ashling Doherty
Executive Officer
Direct Line: 01-8737160
OC18

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

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

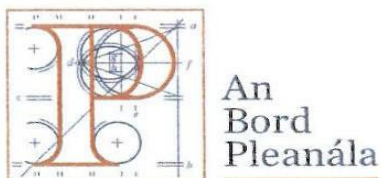
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

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

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

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

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



An Bord Pleanála Opinion on flexibility

2) Request for meeting	
Request under section 287A of the Act:	Request for Design Flexibility in relation to a proposed offshore windfarm.
Request reference Number:	ABP-316331-23
Name of the requestor/ prospective applicant:	Sure Partners Limited, a wholly owned subsidiary of SSE Renewables Limited.
Location, townland or postal address of the land or structure to which the application relates (as may be appropriate):	Off the coast of Wicklow & Wexford
Nature and extent of the proposed development:	Offshore Windfarm with either 56 or 47 turbines
Date of receipt of the request:	26 th April 2023
Opinion Reference Number:	ABP-316331-23
Date of Opinion:	26 th January, 2024

3) Was the following Information included where relevant, with the Flexibility Meeting Request under section 287A of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended.

Information	Enclosed with Request		
(a) A site location map sufficient to identify the land on which the proposed development would be situated.	Yes: [✓]	No: []	
(b) A brief description of the nature and purpose of the proposed development and of its possible effects on the environment.	Yes: [✓]	No: []	
(c) A draft layout plan of the proposed development.	Yes: [✓]	No: []	
(d) A description of the details, or groups of details, of the proposed development that, owing to the circumstances set out in (e) below, are unlikely to be confirmed at the time of the proposed application.	Yes: [✓]	No: []	
(e) A description of the circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided, before the prospective applicant has confirmed the details referred to in (d) above.	Yes: [✓]	No: []	
(f) An undertaking to provide with the proposed application, either - i. two or more options, in respect of each detail or group of details referred to in (d) above containing information on the basis of which the proposed application may be made and decided, ii. parameters within which each detail referred to in paragraph (d) above will fall and on the basis of which the proposed application may be made and decided, or	Yes: [✓]	No: []	

iii. a combination of (i) and (ii).			
(g) Such other information, drawings or representations as the prospective applicant may wish to provide or make available.	Yes: []	No: []	N/A: [✓]
(h) The appropriate fee.	Yes: []	No: []	N/A: [✓]

At a meeting held on 24th January, 2024, the Board considered the report of the Inspector, the documents submitted as part of the pre-application consultation under section 287A of the Planning and Development Act 2000 as amended on design flexibility.

In accordance with Section 287B(2) of the Act, the Board determined that due to the specific circumstances of the development, it is satisfied that the proposed application can be made and decided before certain details of the application are confirmed.

In this regard an opinion on design flexibility shall issue to the prospective applicant as set out below:

4) Opinion of the Board under section 287B of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended.	
Information	Details/ Circumstances
a) The details, or groups of details, of the proposed development that may be confirmed after the proposed application has been made and decided.	<ol style="list-style-type: none"> 1. Model and Number of Turbines 2. Layout of turbines and associated cabling Limit of Deviation 3. Layout of offshore platforms and associated cabling Limit of Deviation 4. Turbine hub height (m) 5. Rotor diameter (m) 6. Upper blade tip height (above Lowest Astronomical Tide)(m)

	7. Lower blade tip height (above Lowest Astronomical Tide)(m) 8. Chord width (m) 9. Average annual Revolutions Per Minute
b) The circumstances relating to the proposed development that indicate that it is appropriate that the proposed application be made and decided before the prospective applicant has confirmed the details referred to in paragraph (a) above.	i. To avail of technology developments and advancements ii. Supply chain iii. Procurement for projects with short term targets and ability to supply iv. Vessel availability

For each detail, or groups of details, referred to in paragraph 4(a) above, the proposed application shall, in addition to any other requirement imposed by or under the Planning and Development Act 2000, be accompanied by the information referred to in the undertaking submitted with the flexibility meeting request under section, 287A(2)(f) of the Planning and Development Act 2000.

The proposed application must be consistent with the opinion provided in accordance with section 87B of the Act.



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

Dated this 3th day of January 2024