

Brookfield

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

By email and registered post

AN BORD PLEANÁLA	
LDG-	024325-20
ABP-	
12 FEB 2020	
Fee: €	Type: Cash
Time: 16:30	By: Coimise.

Date: 12th February 2020

An Bord Pleanála case number: ABP-306388-20

Planning Authority Reference Number: S5/19/116

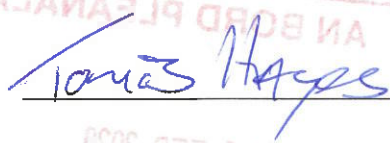
Re: Whether the erection of wind turbines and access road at Curraghmarky, Birchgrove, Maonvaun, Tooreen, Garracummer, Cummer More, Cummer Beg, Turraheen Upper and Rossmore, Hollyford, Co. Tipperary is or is not development and is or is not exempted development.

To whom it may concern,

Please find enclosed Brookfield Renewable Ireland Limited's (BRIL) submission on the above case.

Should the Board require additional information or clarification on any matter please do get in touch.

Yours sincerely,



Tomás Hayes
Head of Operations Management

Brookfield

SUBMISSION ON BEHALF OF BROOKFIELD RENEWABLE IRELAND LIMITED

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1 INTRODUCTION

Brookfield Renewable Ireland Limited ("BRIL") is the owner and operator of Garracummer Wind Farm. SWS Energy Limited, the original named applicant in respect of the wind farm, was bought by Bord Gais Eireann in 2009 and later bought by Brookfield Renewable. At that stage, SWS Energy Limited had its name changed to Brookfield Renewable Ireland Limited. Garracummer Wind Farm is comprised of three developments located in close proximity to one another: Garracummer, a thirteen-turbine development; Tooreen, a two-turbine development; and Falleennafinoga, a two turbine development. All 17 turbines were constructed together as one wind farm ("the Wind Farm").

Wind Farm construction began in 2011, and it has been operating since December 2012, in accordance with the relevant planning permissions and conditions attached thereto.

BRIL respectfully submits that the jurisdiction of the Board on this referral pursuant to section 5 of the Planning and Development Act, 2000 ("the 2000 Act") is limited to declaring what is or is not development and, where relevant, what is or is not exempted development within the meaning of the 2000 Act. In particular, certain assertions included in the third-party referral to the Board (including assertions of alleged non-compliance with conditions, which assertions are firmly disputed by BRIL) are outside the scope of a section 5 referral.

We note the referring party has raised a series of questions which, in our view, fall outside the scope of the section 5 referral. In the course of this submission, we do not respond to those questions. As such, not responding to those questions should not be taken as accepting of same.

BRIL submits that the Wind Farm development is within the scope of the relevant planning permissions.

2 RELEVANT PLANNING PERMISSIONS

Garracummer

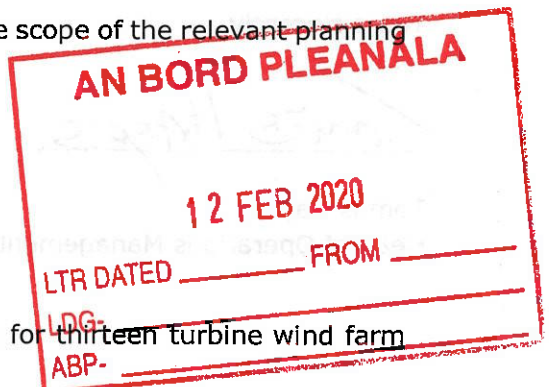
The relevant planning permissions for Garracummer are:

- (i) 04/1259 (ABP Ref. 23.215597) (permission for thirteen turbine wind farm and associated structures);
- (ii) 08/1236 (permission for five borrow pits);
- (iii) 09/213 (temporary met mast);
- (iv) 10/183 (temporary met mast);
- (v) 11/70 (retention of met mast);

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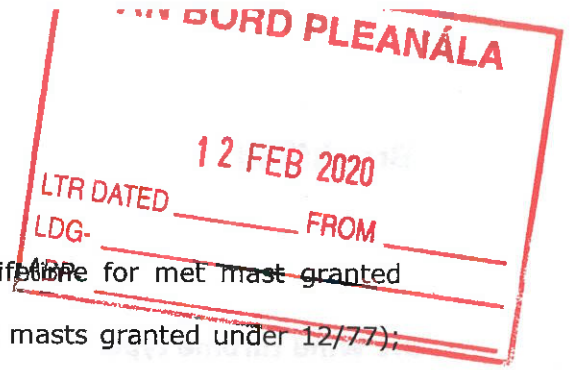
Registered Office: Floor Five, City Quarter,
Lepp's Quay, Cork
Directors: Tom O'Brien, Ruth Kent, Kieran White,
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Secretary: Kevin McCarthy

Registered in Ireland No. 137889
VAT No. 4658412F



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- (vi) 12/77 (two temporary met masts);
- (vii) 13/220 (extension of permitted planning life for met mast granted under 10/183);
- (viii) 15/600530 (extension of duration of 2 met masts granted under 12/77); and
- (ix) 18/600988 (permission for further continued use of two erected permanent 65m lattice granted under 12/77).



On 24 November 2005, South Tipperary County Council ("STCC") granted planning permission for the construction of a thirteen turbine wind farm (planning ref number 04/1259) in the townlands of Curraghmarky, Garracummer. The decision was subsequently appealed to An Bord Pleanála ("ABP") and on 5 May 2006, ABP granted permission for the development, subject to compliance with 22 conditions (ABP reference PL. 23.215597). The permitted development comprised of the installation of thirteen wind turbines, new access roads and associated structures.

On 31 October 2008, a planning application was submitted for permission to construct five borrow pits and internal site access roads. On 31 December 2008, STCC issued a Request for Further Information ("RFI"), which SWS Energy submitted to STCC in June 2009. On 26 August 2009, STCC granted planning permission for five borrow pits and internal site access roads (planning ref. 08/1236), subject to compliance with 7 planning conditions.

Tooreen

On 9 March 2005, planning permission was obtained from STCC for the construction of two wind turbines and associated structures, subject to 25 planning conditions (planning ref number 04/1034). An extension of duration of planning permission was granted by STCC on 4 October 2010 to 30 June 2013. On the 22 April 2010, planning permission was obtained from STCC (ref number 10/79) for amendments to the permitted internal road site layout for Tooreen wind farm via the construction of two spur roads to connect the adjacent Garracummer wind farm (planning ref. 04/1259 and PL. 23.215597) with Tooreen wind farm. This planning permission was granted subject to 6 planning conditions.

Falleennafinoga

On 10 December 2004, planning permission was obtained from STCC for the construction of two wind turbines, an electrical substation and other associated structures subject to compliance with 25 planning conditions (04/1178). An extension of duration of planning permission was granted by STCC on 12 December 2009 to 30 June 2011. On 23 March 2011, planning permission was obtained from STCC (ref 11/26) to relocate and widen a new site entrance in order to gain access into Falleennafinoga wind farm (04/1178), subject to compliance with 5 planning conditions.

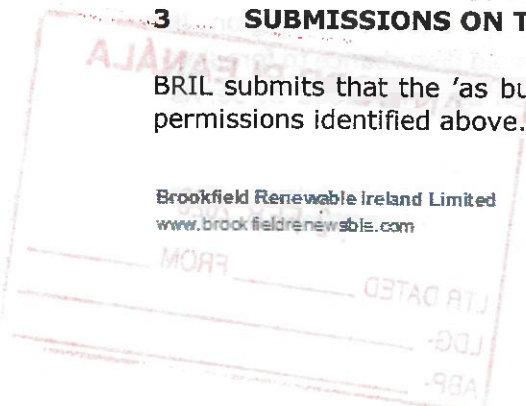
3 SUBMISSIONS ON THE SECTION 5 REFERRAL

BRIL submits that the 'as built' Wind Farm is within the scope of the relevant planning permissions identified above.

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3.1 Wind turbine type

Condition 3 of permission under Ref. No. 04/1259 & PL23.215597 required that details of the proposed wind turbines be submitted to the planning authority and agreed in writing prior to commencement of development. The compliance submission dated to 26 April 2011 (submitted under Ref. No. 04/1259, PL23.215597 & 08/1236) proposed the use of the Nordex N90 2.5 MW HS Turbine with hub height of 65m, rotor diameter of 90m and tip height of 110m, for all 17 turbines at Garracummer, Tooreen and Falleennafinoga, which were going to be built together as one wind farm.

The planning authority responded to this compliance submission by letter dated 30 May 2011 as follows:

"Regarding the condition compliance submitted on the 13/04/11, the Planning Authority has fully reviewed same and is satisfied with your proposal with regard to the turbine type as per condition 3 and the predicted noise levels and ongoing monitoring as per condition 9. Therefore the Planning Authority considers that these conditions 3 and 9 have been complied with."

(Please note that the letter dated 30 May 2011 incorrectly refers to the date of the compliance submission as 13 April 2011.)

In addition, compliance submissions submitted under Ref No. 04/1034 and Ref. No. 04/1178 dated 28 June 2011 also included details of the Nordex N90 2.5 MW HS Turbine with hub height of 65m, rotor diameter of 90m and tip height of 110m.

Compliance with condition 9 was confirmed in 2014 when an operational noise compliance assessment was conducted by AWN Noise Consultants as part of post construction planning compliance requirements under condition 9.

The 17 'as built' turbines are in accordance with the turbine type proposed in the compliance submissions dated 26 April 2011 and 28 June 2011. In the circumstances, it is submitted that any deviation from the relevant planning permissions is immaterial and, further, was agreed in advance and prior to construction with the planning authority.

3.2 Wind turbine location

All turbines are built in their permitted locations. During the planning process under Ref. No. 04/1259 & PL23.215597, 3 turbines (T11, T12, T13) were relocated following a request for further information on 25th November 2004. These three turbines were relocated in further plans and particulars submitted in response to this request for further information.

As appears from page 8 of the Board's Inspector's report under reference 23.21559, a letter from the nature conservation section of the DOEHLG submitted on 5th November 2004 noted the proposed siting of 3 turbines within the recommended extension to the indicative boundary for the nationally important hen harrier in the Slieve Felim region. It was requested that be relocated 100m further to the south to avoid disturbance to foraging hen harrier. In a second letter from the DOEHLG submitted on 29th May 2005 by Jervis

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Good was satisfied with the response to further information which showed the turbines relocated as requested.

The Board ultimately granted permission under Ref. No. 04/1259 & PL23.215597 in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by the planning authority on the 30th day of December, 2004, the 13th day of May, 2005, the 19th day of May, 2005, the 23rd day of May, 2005 and the 30th day of September, 2005.

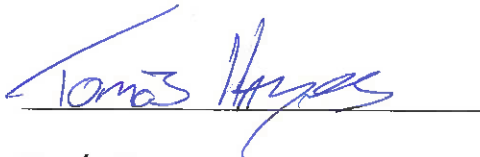
Accordingly, the locations of turbines T11, T12, T13 are in accordance with the permission granted under Ref. No. 04/1259 & PL23.21559.

3.4 SPA

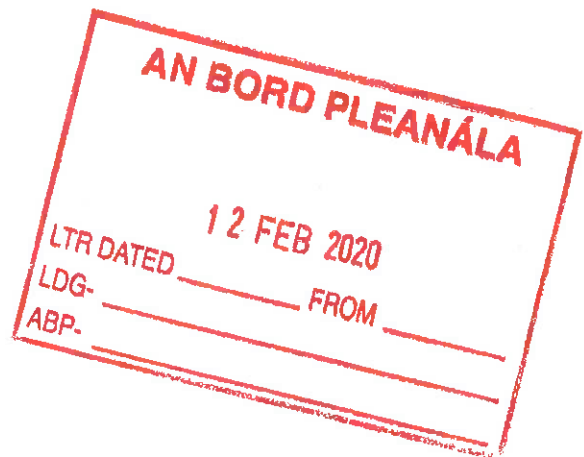
The Slieve Felim SPA was designated in 2007, after the permission under Ref. No. 04/1259 & PL23.215597 was granted in May 2006.

3.3 Access Road to T6

In relation to the access road to T6, during construction of the wind farm it was not possible to use the proposed route to T6 as the gradient was up to 15% climbing to the hardstand. There was an internal existing forest road north of T6 and it was decided to utilise pre-existing infrastructure to access T6.



Tomás Hayes
Head of Operations Management
Brookfield Renewable Ireland Limited



Aisling Reilly

From: Maxwell, Fiona <Fiona.Maxwell@brookfieldrenewable.com>
Sent: Wednesday 12 February 2020 12:56
To: Aisling Reilly
Subject: Section 5 referral submission
Attachments: 2020-02-12 BRIL submission to ABP FINAL_scanned.pdf

Hi Aisling,

Please find my submission attached for the section 5 referral ABP-306388-20. As discussed it will be arriving via courier this afternoon with the €50 fee in the envelope. I would be grateful if you confirm via email when you receive it later.

Many thanks,
Fiona

Fiona Maxwell
Project Developer

Brookfield Renewable
Floor 5, City Quarter, Lapps Quay, Cork, Ireland
T: 021 422 7222 M: 086 463 9443
fiona.maxwell@brookfieldrenewable.com
www.brookfieldrenewable.com

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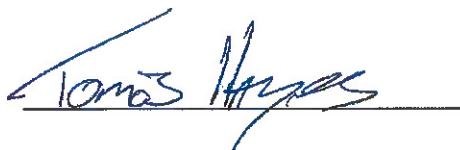
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Brookfield Renewable Ireland Limited



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