

Board Direction

Ref: PA0029_2

The submissions on this file including the Inspector's report and Addendum report were considered at a further Board meeting held on 24th May 2016.

The Board confirmed the draft Reasons and Considerations and Conditions and also determined costs as set out below.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) national policy with regard to the development of sustainable energy sources,
- (b) the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the policies of the planning authority as set out in the Mayo County Development Plan 2014-2020 and the County Mayo Renewable Energy Strategy 2011-2020 wherein Map 1 of the section relating to Wind Energy identifies the subject lands as being a "priority area for wind farms",
- (d) the character of the extensive bogland basin landscape in the area,
- (e) the distance to dwellings and other sensitive receptors from the proposed development,
- (f) the original and revised Natura impact statement submitted omitting Phase 3 of the original proposed development,
- (g) the original and revised or supplemental environmental impact statement submitted omitting Phase 3 of the original proposed development,
- (h) the history of the site including its use over an extended period for peat harvesting for energy production and latterly for wind farm development,

- (i) the permission granted by Mayo County Council for a major wind farm on the subject lands in Planning Register Reference No. 01/2542 as confirmed by An Bord Pleanála register reference number PL16.131260,
- (j) the extensive submissions made in connection with the planning application, the evidence given at the oral hearing, the detailed information submitted by the applicant as additional information in response to the request made by the Board under s.37F(1) and the responses received thereto;
- (k) the detailed preparation and design of the proposed development as revised to incorporate Phases 1 and 2 only, its compatibility with ongoing objectives to rehabilitate the lands following prolonged extensive peat harvesting, its significant capacity for making a major contribution to realising national renewable energy targets and its potential for delivering significant community gain; and
- (l) the reports of the Inspector.

Appropriate Assessment

Screening

The Board carried out a screening exercise in relation to the potential for impacts on nearby Natura 2000 sites.

Having regard to the nature and scale of the revised proposed development (i.e. Phases 1 and 2 only), the nature of the receiving environment, the submissions on file in relation to ecological matters and the Inspector's report and Addendum report it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the European sites (incl. site codes) identified below in view of the sites' conservation objectives and appropriate assessment in relation to these sites is not therefore required:

Broadhaven Bay SAC (0472)
Slieve Fynagh SAC (0542)
Glenamoy Bog Complex SAC (0500)
Lough Dahybaun SAC (02177)

Owenduff/Neiphin SPA (004098)
Lough Conn and Lough Cullin SPA (004228)
Carrowmore Lake SPA (004052)
Blacksod Bay/Broadhaven Bay SPA (004037)
Killala Bay/Moy Estuary SPA (004036)
Mullet Peninsula SPA (004227)

Duvillaun Islands SPA (004111)
Inishglora and Inishkeeragh SPA (004084)
Inishkea Islands SPA (004004)
Termoncarragh Lake and Annagh Machair SPA (004093)
Ilanmaster SPA (004074)

Appropriate assessment issues were considered to arise in respect of a number of other Natura sites in the area (see below). The Board considered that the information before it, including the Natura impact statement, as revised, was adequate to allow for the carrying out of an appropriate assessment in respect of these sites.

Assessment

The Board carried out an appropriate assessment and in doing so considered the nature of the proposal, the mitigation measures proposed as part of the development, the conservation objectives for which the following Natura sites are designated:

Bellacorick Iron Flush SAC (0466)
Bellacorick Bog Complex SAC (0922)
Owenduff/Neiphin SAC (0534)
River Moy SAC (02298)
Carrowmore Lake SAC (0476).

The Board concurred with the Inspector's report and Addendum report and overall conclusions and adopted the reports.

The Board concluded that it was beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the above European sites, in view of the conservation objectives of those sites, or of any other European site.

Environmental Impact Assessment

The Board considered the nature, scale and location of the development, the environmental impact statement, as revised, submitted by the applicant, the documentation submitted with the application generally, the submissions on file including responses received to the further information, the planning history of the subject site, and the Inspector's reports. The Board completed an environmental impact assessment in relation to the development in question and concluded that the environmental impact statement, as revised, identified and described adequately the direct, indirect, secondary and cumulative effects

on the environment of the revised proposed development and that the revised proposed development would not have significant effects on the environment. The Board considered that the Inspector's reports were satisfactory in addressing the environmental effects of the development, as revised, and adopted these reports and concurred in general with the Inspector's conclusions.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the revised proposed development (i.e. Phases 1 and 2 only) would not have an unacceptable impact on the landscape or on the visual or residential amenities of the area, or upon its archaeological, ecological or cultural heritage and would be acceptable in terms of traffic safety and the convenience of road users. The revised proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

General

1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information submitted to the Board on 19th October 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity

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

Reason: Having regard to the nature of the PD the Board considers it appropriate to specify a period in excess of five years.

3 This permission shall be for a period of 30 years from the date of commissioning of the wind farm.

Reason: To enable a review of the operation of the development in the light of the circumstances then prevailing.

Environmental

4 The developer shall ensure that all construction methods and environmental mitigation measures set out in the environmental impact statement, as revised, the Natura impact statement, as revised, and associated documentation, together with mitigation and other proposals submitted to the oral hearing, are implemented in full, except as may otherwise be required by the attached conditions.

Reason: In the interest of protection of the environment

5 (i) Prior to commencement of development, a detailed environmental management plan for the construction stage shall be submitted, generally in accordance with the proposals set out in the environmental impact statement, as revised, the Natura impact statement, as revised, and the submissions made in accordance with the planning application and the appeal, for the written agreement of the planning authority.

(ii) The environmental management plan shall incorporate the following:

- (a) a detailed construction programme;
- (b) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise management measures, construction hours and the management of construction waste,
- (c) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period; and
- (d) an emergency response plan, and
- (e) proposals in relation to public information and communication.

(iii) The environmental management plan shall be subject to on-going independent audit (all costs of which shall be borne by the developer) in accordance with the requirements of the planning authority.

Reason: In the interest of protection of the environment and the amenities of the area.

6. Prior to the commencement of development, an exclusion zone, suitably fenced to the satisfaction of the PA, enclosing at least an area extending 50m beyond the existing fenced boundary of the Bellacorick Iron Flush and including the elevated ground to the east of the flush referred to in the revised Natura impact statement as a source of shallow groundwater recharge to the flush, shall be created.

Reason: To protect the ecology of the area.

Noise

- 7
- i) The developer shall implement in full the proposals made in relation to mitigation measures for low noise environments as outlined in the environmental impact statement, as revised (section7).
 - ii) In all other areas noise levels emanating from the proposed development following commissioning, by itself or in combination with other existing or permitted wind energy development in the vicinity, when measured externally at third party noise-sensitive locations, shall not exceed the greater of 43dB(A) $L_{90,10 \text{ min}}$ or 5 dB(A) above background levels.
 - iii) All noise measurements shall be made in accordance with I.S.O. Recommendations R1996/1, 2 and 3 "Acoustics – Description and Measurement of Environmental Noise".
 - iv) Prior to commencement of development the developer shall arrange for a noise compliance monitoring programme for the operational wind farm. Details on the nature and extent of the monitoring programme, including additional monitoring of baseline conditions or any mitigation measures such as the de-rating of particular turbines, shall be submitted to, and agreed in writing with, the planning authority

Reason: In the interest of residential amenity.

Shadow Flicker

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- i) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

- ii) Turbine Nos. 45, 51, 66, 67 and 68, shall be fitted with appropriate equipment and software to suitably control shadow flicker at nearby dwellings, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

iii) Shadow flicker from the motion of overlapping blades shall not occur, at any time, at any existing house within ten rotor diameters of a turbine, as a result of the proposed development and appropriate equipment and software shall be fitted to the relevant turbines, to ensure compliance with this requirement.

iv) A report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority, indicating compliance with the above shadow flicker requirements. Within 12 months of commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority.

v) Prior to the commencement of development the developer shall submit for the written agreement of the planning authority a shadow flicker compliance monitoring programme for the operational wind farm.

Reason: In the interest of residential amenity.

Site Development Works

9 i) The wind turbines, including masts and blades shall be finished externally in a colour to be agreed in writing with the planning authority prior to the commencement of development.

ii) The wind turbines shall be geared to ensure that the blades rotate in the same direction.

iii) On-site cables shall be laid underground.

iv) Soil, rock and other materials excavated during construction shall not be left stockpiled on site following completion of works. Excavated areas including the borrow pit or areas of peat placement shall be appropriately restored within three months of the date of commissioning of the wind farm.

(v) Following completion of construction, all turbine hardstanding areas shall be reduced in scale to facilitate works necessary during the operational period.

vi) The surrounding hardstanding areas shall be reinstated to a condition similar to that prior to the commencement of works associated with the development.

vii) With the exception of the road serving the proposed visitors

centre, the access tracks within the site shall be surfaced in gravel or hardcore and shall not be hard topped with tarmacadam or concrete.

Reason: In the interests of the visual amenities of the area.

Mitigation of Impact on Communications Services and Aviation

10 Prior to the commencement of development the developer shall agree a protocol for assessing any impact on radio or television or other telecommunications reception in the area. In the event of interference occurring, the developer shall remedy such interference according to a methodology to be agreed in writing with the PA, following consultation with other relevant authorities and prior to commissioning of the turbines.

Reason: In the interests of residential amenity.

11 Aeronautical requirements shall be agreed in writing with the planning authority prior to commencement of development. Subsequently, the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions of the turbines and the highest point of the turbines to the top of the blade spin.

Reason: In the interest of air traffic safety.

Archaeology and Related Matters

12 The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,
- (c) submit to and agree in writing with the planning authority revised proposals for the design of the works, which shall ensure that the development will not cause avoidable disturbance to archaeological material and will limit any unavoidable disturbance, and

- (d) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

Reason: In order to conserve archaeological heritage.

13 Prior to the commencement of construction works, a temporary buffer area of 50m shall be established and fenced around archaeological features Ch-4 and Ch-3. No development works of any kind shall take place within the buffer areas.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

Roads and Traffic

14 i) All construction traffic shall access the site via the 3 No. existing site access points located on the N59 (Crossmolina – Bangor) National Road. No access to the site for construction purposes is permitted from any of the local roads adjoining the site.

ii) Details of the proposed closure of an existing site entrance and its subsequent use for emergency access purposes only, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

15 Prior to the commencement of the development:

- i) Full details of the upgrading works to the existing site access arrangements and the associated road improvement works to be undertaken along the public road, including any road widening, the provision of deceleration lanes, signage and road markings designed to facilitate the proposed development shall be submitted to and agreed in writing with the planning authority.
- ii) The developer shall have completed, to the written satisfaction of the planning authority, the upgrading works to the existing site access arrangements and the associated road improvement works along the public road in accordance with point (i) above.

The provision of the required upgrading of the existing site access arrangements and the associated road improvement works on the public road shall be undertaken at the expense of the developer.

Reason: In the interest of traffic safety.

16 Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:

- a) a Transport Management Plan, including details of the road network/haulage routes, the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads,
- b) a condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a qualified engineer both before and after construction of the wind farm development. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority/authorities prior to commencement of development,
- c) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities,
- d) detailed arrangements for temporary traffic arrangements/controls on roads, and
- e) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.

All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

Reason: To protect the public road network and enable satisfactory reinstatement works to be completed in the interest of traffic safety and orderly development.

Decommissioning

17 On full or partial decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the masts and the turbines concerned shall be removed and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.

Development Contributions and Bond

18 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

19 Prior to the commencement of development, the developer shall lodge with Mayo County Council a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site, upon cessation of use of the windfarm coupled with an agreement empowering Mayo County Council to apply such security or part thereof to the satisfactory reinstatement of the site. The form and amount of the security shall be as agreed between Mayo County Council and the developer or, in default of such agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory reinstatement of the site.

20 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Notes:

1. The Board considered the arguments made on behalf of the applicant regarding the lack of significant activity by bird species vulnerable to collision risk either daily or seasonally on the subject lands persuasive and decided not to impose a condition requiring the undergrounding of proposed overhead power line connections to substations 1 and 2.
2. The Board noted the applicant's proposed mitigation measures in relation to surface waters and aquatic fauna and noted further the undertaking made that Inland Fisheries Ireland would be consulted regarding any works at rivers and river crossings and decided that a specific condition on these matters was not necessary.
3. The Board carefully considered the Inspector's recommended conditions and decided on a consolidated approach as employed in the foregoing was desirable taking into account the Development Management Guidelines while remaining consistent with the contents of the environmental impact assessment, as revised, and the appropriate assessment, as revised.
4. The Board noted and welcomed the applicant's significant proposals and commitments in relation to the establishment of a Community Benefit Fund and its proposed endowment with monies based on a contribution of €1,000 per MW installed per annum (index linked) for the operational life of the site. In view of the stated commitments of the applicant, and notwithstanding the powers under s.37G of the Planning and Development (Strategic Infrastructure) Act 2006 with respect to the provision or financing of community gain facilities, the Board considered the imposition of a condition in the present circumstances was not necessary.

DETERMINATION OF COSTS

The Board considered the memo on file of 11th May 2016 relating to costs claims arising and made the following determination.

Name	Amount awarded	Reasons and Considerations
An Bord Pleanala	€79,216	In accordance with schedule of costs incurred.
Mayo County Council	€2,739	The Board considered the sum sought by the planning authority was reasonable.
An Taisce	€5,406	The Board considered that An Taisce, both as a statutory consultee and as the freeholder of the Bellacorick Iron Flush SAC, had a particular role and function in the oral hearing process and that an award of 50% of the sum sought was reasonable.
Moygownagh and Kilfian Community and Landscape Protection Group	Nil	See below
Peter Sweetman and Associates (on behalf of Corvoderra Group)	Nil	See below
Dermot McDonnell and John Fergus	Nil	See below
Dermot McDonnell	Nil	See below

The Board's reasons for the nil award are as follows:

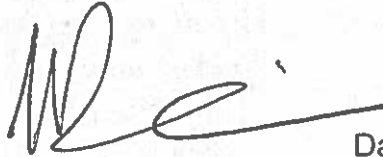
Having regard to:

- the submissions made on the case by the observers in writing;
- the further submissions made and participation by the observers at the oral hearing and the responses and participation from the applicant at the hearing;
- the further submissions received in relation to the revised scheme (following request for FI);
- the detailed and reasoned reports of the Board's inspector, and
- the Board's decision on the case;

it is considered that the Strategic Infrastructure Development application process has enabled full participation by the observers in the case and there are no particular circumstances arising that would justify the developer having to make a contribution towards the costs of the observers in this case.

Please issue a copy of the Direction with the order.

Board Member:



Date: 24th May 2016

G.J. Dennison