

OFFALY COUNTY COUNCIL
CHIEF EXECUTIVE'S ORDER

PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 20/7

NAME OF APPLICANT:

ADDRESS FOR CORRESPONDENCE:

MOANVANE WIND FARM LIMITED,
C/O FEHILY TIMONEY AND COMPANY
ATTENTION: CRYSTAL LEIKER,
CORE HOUSE, POULADUFF ROADS,
BALLYPHEHANE, CO. CORK, T12 D773

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the increase in MW output from 50MW to 60MW from a permitted windfarm is or is not development and is or is not exempted development under the Planning and Development Act 2000 as amended.

LOCATION OF DEVELOPMENT:

MOANVANE, BALLYKEAN, BOGTOWN, ENAGHAN,
KILCOONEY, BALLYCRYSTAL AND KILCAPPAGH, CO. OFFALY.

WHEREAS a question referred to Offaly County Council on 03/04/2020 has arisen as to whether the increase in MW output from 50MW to 60MW from a permitted windfarm is or is not development and is or is not exempted development under the Planning and Development Act 2000 as amended in the townlands of Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly.

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) The Proposal to provide turbines with a higher rated generating capacity from 50MW TO 60MW.
- (b) Sections 2, 3 and 4 of the Planning & Development Act 2000 as amended.
- (c) Article 6 and Article 9 of Planning and Development Regulations 2001, as amended.
- (d) All planning conditions pertaining to An Bord Pleanala Decision 301619-18.
- (e) Environmental Impact Assessment Screening Determination.
- (f) Appropriate Assessment Screening Determination.
- (g) The provisions of the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government, June 2006.

AND WHEREAS Offaly County Council has concluded that –

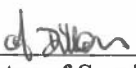
The proposed: **IS Exempted Development**

NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended hereby decides;

There would be no real likelihood of significant effects on the environment arising from the increase in the generating capacity of the turbines and the proposal would not give rise to significant direct, indirect or secondary impacts on the integrity of any nearby Natural 2000 sites having regard to their conservation

The increase in generating capacity within Moanvane Wind Farm by providing turbines with a higher rated generating capacity from 50MW to 60MW in the context of the issued permission at the consented Moanvane Wind Farm (An Bord Pleanala Reference no. 301619-18) in the townlands of Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly does not constitute works as defined under Section 2(1) of the Planning & Development Act 2000 as amended and is **exempted development**.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Director of Services



Date

**Planning Report
Section 5 Declaration**

File Reference:	<i>Dec 20/7</i>
Question:	<i>Whether the following is development and if so, exempted development: (a) Whether the Increase in MW output from 50MW to 70MW from a permitted windfarm is or is not development and is or is not exempted development.</i>
Applicant:	<i>Moanvane Wind Farm Limited, Building 4200, Cork Business Park, Co. Cork. T12 D23C</i>
Correspondence Address:	<i>Fehily Timoney and Compan Attention: Crystal Leiker, Core House, Pouladuff Roads, Ballyphehane, Co. Cork T12 D773</i>
Location:	<i>In the townlands of Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly</i>

1. INTRODUCTION:

The question has arisen as to whether an increase in Megawatt output from 50MW to 70MW from a permitted wind farm would be considered development, and if development would it be considered exempted development

The Applicants advise that there will be no physical change to the consented turbine envelope and no additional environmental effects to the described in the Environmental Impact Assessment Report (EIAR) submitted with the planning application pertaining to the consented windfarm and the Environmental Impact Assessment (EIA) carried out by the competent authority, therefore the increase in capacity complies in full with the planning consent governing the consented development.

2. FURTHER INFORMATION:

Further information was sought by the Planning Authority on 28th April 2020 and subsequently received by the Planning Authority on 17th July 2020. Clarification of Further information was requested on the 5th August 2020 and subsequently received on the 28th August 2020.

This report should be read in conjunction with the previous planner's report dated 27th April 2020 and the 4th August 2020. The following clarification of further information was sought and the response is as follows:

- (a) The Applicant is requested to clarify the proposed MW increase of permitted windfarm development. If the proposed MW increase is 40%, the applicant is requested to submit an Environmental Report from a competent expert to effectively screen the amended power output and in particular the MW increase can be achieved against the EIAR/EIS and AA documentation submitted with the original application (OCC Ref: PL2/17/335) and granted under ABP Reference 301619-18.

The developer has clarified they are seeking a MW increase from up to 50MW to approximately 60MW. The developer has also confirmed that the Environmental Report submitted at F.I stage screens out the amended power output (approximately 60MW) against the EIAR and AA documentation submitted with the original application.

Planners Appraisal: The Planning Authority has assessed the further information submitted and are satisfied with the response Furthermore the Environmental Section have already confirmed that the shadow flicker, collision risk, noise assessment as well as landscape an visual impact assessment shows that the impacts associated with the specified increase output lead to a negligable or lessened impact when compared with the permitted output and there are therefore no issues in relation to this application.

- (b) The Applicant is requested to submit manufacturing details of the proposed turbines to be installed

The developer has stated the turbine to be installed on site has not yet been selected. As stated in the Environment Report, worst case parameters which remain within the parameters of the EIAR submitted in 2017 and permitted for the development have been assessed and concludes that there will be no change to the original impact assessment.

Planners Appraisal: The Planning Authority has assessed the further information submitted and are satisfied with the response

3. EIA SCREENING

As the development is proposing to increase the output from 50MW to 60MW, it is considered the proposed development is sub-threshold when examined against the Planning and Development Regulations 2001 as amended, Schedule 5, PART 2, Section 13. Changes, extensions, development and testing

4. ASSESSMENT:

The original declaration request was

'Whether the Increase in MW output from 50MW to 70MW from a permitted windfarm is or is not development and is or is not exempted development'

In the original submission the combined generating capacity was from 50MW to 70MW. In the clarification of further information response, the developer states that the generating capacity has been reduced to 60MW. As the developer has clarified the proposed increase of output is from 50MW to 60MW, the proposed increase in output is sub-threshold when examined against the Planning and Development

Regulations 2001 as amended, Schedule 5, PART 2, Section 13. Changes, extensions, development and testing,

Furthermore, having fully considered the proposed amendments, it is considered that an increase of 20% or 10MW does not have a bearing on the assessment of shadow flicker, collision risk, noise assessment as well as landscape a visual impact assessment does not constitute works as defined under Section 291) of the Planning and Development Act 2000 (as amended) does not constitute works as defined under Section 2(1) of the Planning & Development Act 2000 as amended and is exempted development.

5. RECOMMENDATION:

WHEREAS a question has arisen as to whether the increase in MW output from 50MW to 60MW from a permitted windfarm is or is not development and is or is not exempted development in the townlands of Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to -

- (a) The Proposal to provide turbines with a higher rated generating capacity from 50MW TO 60MW
- (b) Sections 2, 3 and 4 of the Planning & Development Act 2000 as amended.
- (c) Article 6 and Article 9 of Planning and Development Regulations 2001, as amended
- (d) All planning conditions pertaining to An Bord Pleanála Decision 301619-18
- (e) Environmental Impact Assessment Screening Determination
- (f) Appropriate Assessment Screening Determination
- (g) The provisions of the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government, June 2006

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides;

There would be no real likelihood of significant effects on the environment arising from the increase in the generating capacity of the turbines and the proposal would not give rise to significant direct, indirect or secondary impacts on the integrity of any nearby Natural 2000 sites having regard to their conservation

The increase in generating capacity within Moanvane Wind Farm by providing turbines with a higher rated generating capacity from 50MW to 60MW in the context of the issued permission at the consented Moanvane Wind Farm (An Bord Pleanála Reference no. 301619-18) in the the townlands of Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly does not constitute works as defined under Section 2(1) of the Planning & Development Act 2000 as amended and is exempted development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision

Michael Duffy

Michael Duffy

Assistant Planner

14th September 2020

Carol Nolan

A/SEP

15/9/2020

ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS

Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Authority:

Offaly County Council

Planning Application Ref. No.:

DEC/20/07

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:

Proposed development:	Whether the Increase in MW output from 50MW to 70MW from a permitted windfarm is or is not development and is or is not exempted development.		
Site location:	Moanvane, Ballykean, Bogtown, Enaghan, Kilcooney, Ballycrystal and Kilcappagh Co. Offaly		
Site size:	120ha	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Barrow and river Nore cSAC		
Distance to European Site(s):	4.25km		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?	No		

(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):

The reasons for the designation of the *European* site:

The site is a candidate SAC selected for alluvial wet woodlands and petrifying springs, priority habitats on Annex I of the E.U. Habitats Directive. The site is also selected as a candidate SAC for old oak woodlands, floating river vegetation, estuary, tidal mudflats, *Salicornia* mudflats, Atlantic salt meadows, Mediterranean salt meadows, dry heath and eutrophic tall herbs, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive - Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Nore Freshwater Pearl Mussel, Crayfish, Twaite Shad, Atlantic Salmon, Otter, Desmoulin's Whorl Snail *Vertigo moulinsiana* and the Killarney Fern.

The conservation objectives / qualifying interests of the site and the factors that contribute to the conservation value of the site: (which are taken from the *European* site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) **(ATTACH INFO.)**

- 1016 Desmoulin's whorl snail *Vertigo moulinsiana*
 - 1029 Freshwater pearl mussel *Margaritifera margaritifera*
 - 1092 White-clawed crayfish *Austropotamobius pallipes*
 - 1095 Sea lamprey *Petromyzon marinus*
 - 1096 Brook lamprey *Lampetra planeri*
 - 1099 River lamprey *Lampetra fluviatilis*
 - 1103 Twaite shad *Alosa fallax*
 - 1106 Atlantic salmon (*Salmo salar*) (only in fresh water) 1130 Estuaries
 - 1140 Mudflats and sandflats not covered by seawater at low tide
 - 1310 Salicornia and other annuals colonizing mud and sand
 - 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
 - 1355 Otter *Lutra lutra* 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
 - 1421 Killarney fern *Trichomanes speciosum*
 - 1990 Nore freshwater pearl mussel *Margaritifera durrovensis*
 - 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
 - 4030 European dry heaths
 - 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
 - 7220 * Petrifying springs with tufa formation (*Cratoneurion*)
 - 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
 - 91E0 * Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None received.
Summary of advice received from NPWS in written form (ATTACH SAME):	None received.

(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

*(The purpose of this is to identify if the effect(s) identified could be significant – if **uncertain** assume the effect(s) are significant).*

Given the location the limited nature and size of the development applied for and the characteristics of *European* sites in the vicinity it is considered that 100 metres should be used as a potential zone of impact of the project in accordance with section 3.2.3 of the appropriate assessment guidelines. There are no *European* sites within 100 metres of the development applied for and therefore no significant effects on any *European* sites either alone or in combination with other plans and projects.

Would there be...	
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	Not Known
... a reduction in habitat area on a <i>European</i> site?	Not Known

<p>... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?</p>	<p>Not Known</p>
<p>... serious / ongoing disturbance to species / habitats for which the <i>European</i> site is selected (e.g. because of increased noise, illumination and human activity)?</p>	<p>Not Known</p>
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?</p>	<p>Not Known</p>
<p>Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to <i>European</i> sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.</p>	<p>Not Known</p>
<p>(E) SCREENING CONCLUSION:</p>	
<p>Screening can result in:</p>	
<p>1</p>	<p><i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i></p>
<p>2</p>	<p><i>No potential for significant effects / AA is not required.</i></p>
<p>3</p>	<p><i>Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.</i></p>
<p></p>	<p><i>Conclusion:3</i></p>
<p>Justify why it falls into relevant category above: <i>Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines, it is considered the applicant submits a environmental report to effectively screen the amended power output can be achieved against the AA documentation submitted with the original application</i></p>	
<p>Signed:</p>	<p><i>Michael Duffy</i></p>
<p>Date:</p>	<p><i>14-9-20</i></p>