

Title of Report:	Planning Committee Report – LA01/2019/0890/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	26th January 2022
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Cathy McKeary

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:

	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

App No: LA01/2019/0890/F

Ward: Drumsurn

App Type: Full Planning

Address: Existing Rigged Hill Windfarm site 6km East/South East of Limavady

Proposal: The Repower of the existing Rigged Hill Windfarm comprising the following main components; (i) Decommissioning of the existing 10 turbines (ii) Removal and restoration of the existing substation building and compound (iii) Removal and restoration of other redundant infrastructure (iv) 7 No. wind turbines with an output of around 29MW (v) Construction of approximately 4.82km of new access tracks; (vi) Upgrade of approximately 1.75km of existing access tracks; (vii) Construction of temporary and permanent hardstanding areas for each turbine to accommodate turbine component laydown areas, crane hardstanding areas and external transformers and/or switchgears; (viii) Temporary construction compound/laydown areas; (ix) Turning heads and passing places incorporated within the site access infrastructure; (x) New Road Junction with Terrydoo Road; (xi) Meteorological Mast; (xii) Substation with roof mounted solar panels, and associated compound (xiii) Removal of self-seeded trees in East of the Site and (xiv) all associated ancillary works.

Con Area: N/A

Valid Date: 08.02.2021

Listed Building Grade: N/A

Target Date: 15.11.2021

Agent: JUNO Planning & Environmental Ltd, 409 Lisburn Road, Belfast, BT9 7EW

Applicant: Scottish Power Renewables Ltd, 320 St Vincent Street, Glasgow, G2 5AD

Objections: 6 **Petitions of Objection:** 0

Support: 5 **Petitions of Support:** 0

Executive Summary

- The proposal is for 7no. wind turbines with a maximum tip height of 137m in lieu of 10 no. existing turbines sited at the existing Rigg Hill Windfarm.
- As a major application this proposal was subject to the Proposal of Application Notice (PAN) process and the public consultation laid out within that before the application was submitted.
- As EIA development it was accompanied by a voluntary Environmental Statement (ES)
- There have been 6 objections received regarding the proposed development. All concerns raised by the statutory consultees have been addressed and the required mitigation will be dealt with by the proposed conditions attached.
- There have been 5 letters of support received regarding the proposed development.
- The proposal has been assessed against the relevant policy, mainly Planning Policy Statement 18: Renewable Energy, and has been found acceptable in terms of the principle of development, impact on the public, safety, human health, residential amenity, visual amenity, landscape character, biodiversity, nature conservation, and local natural resources.
- This proposal is considered acceptable at this location having regard to the Northern Area Plan 2016 and all other material considerations.
- Approval is recommended subject to the proposed conditions.

Drawings and additional information are available to view on the Planning Portal- <http://epicpublic.planningni.gov.uk/publicaccess/>

1.0 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located approx. 6km east/southeast of Limavady on a Rigg Hill, which is a north-south running ridge which currently accommodates an operational windfarm comprising ten turbines at 57m in height. The land rises from the Terrydoo Road to the west of site to a summit of 377m above ordnance datum (AOD). The application site is characterised by moorland cover, steep upper slopes which lead to the elevated plateau where the operational windfarm is sited. Other than the operational windfarm the lands is primarily used for agricultural grazing. Part of the Ulster Way walking route passes through the site utilising the existing windfarm tracks.
- 2.2 Access to the wind farm is proposed from the construction of a new access and access tracks from Terrydoo Road. The site area is 145.31Ha. The application site is bounded to the north and east by commercial forestry. There are two smaller single wind turbines located a short distance to the north west of the site and three telecommunication masts approximately 1km south of the site.
- 2.3 The area is rural in nature and there are no dwellings in proximity to the site. The nearest dwelling is 37 Tremain Road and is 1260m from the closest turbine (T5).

3.0 RELEVANT HISTORY

LA01/2019/0411/PAN - The re-power of the existing Rigg Hill Windfarm comprising the following main components; decommission of the existing windfarm infrastructure; the erection of 7 turbines with a maximum height from base to blade tip of up to 137m with a combined output of around 28 megawatts (MW); construction of new internal access tracks; upgrade of existing

access tracks; construction of temporary and permanent hardstanding areas for each turbine to accommodate turbine component laydown areas, crane hardstanding areas & external transformers and/or switchgears; 2 temporary construction compound/laydown areas; turning head and passing places incorporated within the site access infrastructure; upgraded junction with Terrydoo Road; 80m meteorological mast; underground electrical and communication cables; substation/control building and associated compound, including windfarm and grid connection operating equipment; and ancillary energy storage units and all ancillary development - Existing Rigged Hill windfarm site, 6km East/South East of Limavady - PAN Acceptable 21.06.2019

LA01/2019/0052/F - Construction of new access track (approx. 3,037m in length and 4m width), new site entrance off the Terrydoo Rd, associated drainage and ancillary development (including temporary construction compound and internal signage) to link new site entrance to the existing Rigged Hill windfarm access tracks for operational use by Rigged Hill windfarm - Approximately 150 metres north of No.66 Terrydoo Road, Limavady (land stretching from Terrydoo Rd to existing operational Rigged Hill Windfarm) – Permission Granted 24.06.2020.

LA01/2018/1212/DETEIA - Construction of new access track , new site entrance off the Terrydoo Road associated drainage and ancillary development (including temporary construction compound and internal signage) to link new site entrance to the existing Rigged Hill Windfarm access tracks for operational use by Rigged Hill Windfarm – Environmental Statement Required 16.05.2019

LA01/2018/0948/PAN - Construction of new access track (approx. 3,037m in length and 4m in width), new site entrance off the Terrydoo Road associated drainage and ancillary development (including temporary construction compound and internal signage) to link new site entrance to the existing windfarm access tracks for operational use by the windfarm - Site located approximately 150m North of 66 Terrydoo Road, Limavady - PAN Acceptable 20.08.2018

LA01/2017/1107/DETEIA - Scoping opinion request for the proposed repowering of Rigged Hill Windfarm - Rigged Hill

Windfarm, Limavady – Environmental Statement Required
26.01.2018

LA01/2017/1094/PAD - Proposal to repower the existing Rigged Hill windfarm to comprise in the region of 8 new wind turbines up to a tip height of 135m (with up to a generating capacity of 3.6MW per turbine); crane hard-stands; new road access junction; upgrade of existing site access tracks and construction of new access track; temporary construction compound; sub-station; on site power collection system (turbine transformers and underground cables); permanent met mast; and battery storage - Rigged Hill Wind Farm, approx. 6.2km South-East of Limavady – PAD Concluded 26.01.2018

LA01/2016/1281/F - Erection of an 80m high, guyed monopole, meteorological wind monitoring mast for a temporary period of 5 years. It is proposed to allow for a 25m micro-siting tolerance to the mast location on health and safety grounds in order to allow the mast to be erected safely - Rigged Hill Windfarm, Rigged Hill, Limavady, Co. Londonderry – Permission Granted 03.03.2017

B/1997/0300 - Erection of 2 no 47.3 m high steel framed masts and associated wind monitoring equipment - Rigged Hill Wind Farm Aghnasillagh Limavady – Permission Granted 19.12.1997

B/1993/0377 - Construction of wind farm with associated anemometer electricity lines, access tracks and substation - Rigged Hill Terrydoo Clyde Limavady – Permission Granted 01.07.1994

B/1993/0109 - Erection of temporary 40m high wind monitoring mast - Rigged Hill Little Derry Limavady – Permission Granted 21.10.1993

4.0 THE APPLICATION

4.1 The proposal is for a wind farm comprising 7 turbines, each up to 137m to tip height. The development will include

- a new site entrance onto Terrydoo Road,
- decommissioning of existing 10 turbines
- decommissioning and restoration of existing substation, compound and other redundant infrastructure

- turbine foundations and erection of 7 turbines
- construction of new access tracks and upgrade of existing access tracks
- construction of hardstanding for each turbine
- temporary construction compound
- meteorological mast
- underground cabling,
- Substation and associated compound including grid connection operating system
- Removal of self seeded trees in east of site
- Associated ancillary works .

4.2 Each turbine will have a generational capacity of circa 4MW, giving a combined generation capacity of up to 29.9MW.

4.3 The application was accompanied by a voluntary Environmental Statement.

Design & Access Statement

4.4 A Design & Access Statement is required under Article 6 of the Planning (General Development Procedure) Order (NI) 2015 as the application is considered to be a major application. The application falls within the major category due to the 29.9MW generation capacity of the wind farm.

4.5 The Design and Access Statement is to provide details of the design principles and concepts that have been applied to the development and how issues relating to access to the development have been dealt with.

4.6 In this application the report states how the site was selected and how the layout of the wind farm was considered giving regard to the land form, topography, and environmental/locational constraints while meeting the technical siting requirements of wind turbines.

4.7 The report demonstrates that the applicant undertook significant consideration of siting of the wind turbines and ancillary development such as avoiding areas of blanket bog and maintaining suitable buffers to sensitive receptors. This involved detailed assessment of the site during the EIA process which identified a number of constraints and led to refinements to the

layout to provide an acceptable scheme prior to submission of an application.

- 4.8 Access to the site is proposed via a newly constructed access from Terrydoo Road. The report outlines how the access tracks have been designed to take account a range of environmental and technical constraints, and outlines that existing tracks within the operational windfarm will be utilised where possible. The Ulster Way walking route passes through the application site. a temporary diversion to the route for health and safety reasons during the decommissioning and construction phases, with the route reinstated to make use of the windfarm tracks once the proposal becomes operational.

5.0 PUBLICITY & CONSULTATIONS

External

- 5.1 Initial neighbour notification was carried out on 11.09.2019. The application was advertised on 21.08.2019 in the local papers, again for the Environmental Statement on 18.09.2019 and again on 10.06.2020 upon the receipt of Additional Environmental Information. Further advertisement was carried out 07.10.2020 following the submission of additional plans. The application was amended to remove battery storage from the proposal and therefore was advertised again on 10.03.2021, and again on 31.03.2021 upon the receipt of further Additional Environmental Information. Further neighbour notification was carried out with those initial notified and those who made representation 02.06.2020, 24.09.2020 26.02.2021.

There are six objections to this proposal from four members of the public (two people submitted two objections). The main issues raised in the letters included:

- Detrimental impact on character of Rigged Hill and Donald's Hill
- Oversaturation of wind turbines in Roe Valley/cumulative impact
- Visual impact outside of Roe Valley
- Lack of Public Consultation

- Little or no socio-economic benefit
- Negative environmental impact
- Wind power is inefficient and economically unsustainable
- The company that is carrying out the environment studies for this development is an agent, working on behalf of the windfarm company. Potential for bias towards Windfarm Company
- Visual impact of wind farm will destroy the appeal of the local landscape and put tourists off visiting the area

All of the issues raised in the letters of objection are discussed below within the “Considerations and Assessment” section of the report.

The four letters of Support made the following points in support of the application

- Create/maintain employment
- Renewable energy provides support to local economy, community farmers and landowners
- Will contribute to meeting UK Government plan for ‘net zero’ carbon emissions by 2050.
- Benefits local businesses, local government and local communities
- Windfarm has become a landmark

Internal

- 5.2 See appendix 1 for details of consultations carried out and the responses provided. All consultees that responded were content subject to conditions and informatives. The only consultee to not respond was cable and wireless which is a non-statutory consultee. It can be assumed that as they did not respond they had no comment to make.

Proposal of Application Notice

- 5.3 As this application is considered a major application it must comply with the Proposal of Application Notice and carry out community consultation at least 12 weeks prior to the submission of the application.
- 5.4 A Proposal of Application Notice was submitted on 9th April 2019 and received 15th April 2019 under LA01/2019/0411/PAN. The applicant advised that they intended to undertake the following forms of consultation:
- Staffed public consultation event with information boards and feedback questionnaires;
 - Press notice of the public event;
 - Circulation of leaflets to all houses within 5km of the development site;
 - Individual invitations issued to MPs, Garvagh & District Development Association and Moneydig Rural Network Group;
 - Dedicated project website.
- 5.5 Two public events were to take place in two different locations. Public Information Day 1 was to take place in Garvagh Community Buildings, Main Street Garvagh on 24th August 2017 and at Roe Valley Arts and Culture Centre, 24 Main Street, Limavady on 25th August 2017. Public Information Day 2 was to take place in Garvagh Community Buildings, Main Street Garvagh on 6th June 2019 and at Roe Valley Arts and Culture Centre, 24 Main Street, Limavady on 7th June 2019 The public exhibition was to be advertised by press notice.

Community Consultation Report

- 5.6 The community consultation report was submitted as part of the planning application, received on 2nd August 2019 which is more than 12 weeks after the Proposal of Application Notice was received, as required by the legislation.
- 5.7 Copies of the following have been provided in the report:
- Map identifying residential properties within 5km of development

- Copy of Public Consultation Newspaper Advertisements for Stages 1, 2 and 3;
- Copy of Poster and leaflet outlining Invitation to Public Consultation Event for stages 1 and 2
- Copy of Information Boards used at Public Consultation Stages 1, 2 and 3

- 5.8 The report states that formal notices advertising the public event were placed in the Coleraine Times, Ballymoney Times, Londonderry Sentinel and Roe Valley Sentinel on 9th August 2107 and 16th August 2017 in respect of Public Information Day 1, 22nd May 2019 and 29th May 2019 in respect of Public Information Day 2 and 19th June 2019 in respect of Public Information Day 3. A copy of these has been provided.
- 5.9 An event leaflet was delivered to every dwelling within a 5km radius which included 532 addresses. Stage 1 and 2 Public Information Days were advertised on posters displayed in shops and community facilities in Limavady, Drumsurn and Garvagh. Overall, sufficient evidence has been provided to demonstrate that appropriate consultation has been carried out to show compliance with section 27 of the Planning Act (Northern Ireland) 2011.
- 5.10 The Public Information Days were attended by 34 members of the public (Stage 1- 21 attendees and stage 2 – 13 attendees). Attendees were able to discuss the project and question SPR staff on a variety of issues. Comment cards, which included a range of questions about the development, were also provided. Eleven comment cards were completed. 100% of the people who responded to the consultation were supportive of the repowering of Rigg Hill Windfarm. Due to the support for the development no amendments to the proposal have been made.

6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 6.2 The development plan is the Northern Area Plan 2016 (NAP).
- 6.3 The site falls within Landscape Character Area (LCA) 36 Binevenagh which has been assessed to have a high – medium landscape sensitivity to impact from wind energy development.
- 6.4 The site is not within any European designations however it is hydrologically linked to the River Roe and Tributaries Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).
- 6.5 The Regional Development Strategy (RDS) is a material consideration.
- 6.6 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.7 Due weight should be given to the relevant policies in the development plan.
- 6.8 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7. RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 15: Planning and Flood Risk

Planning Policy Statement 16: Tourism

Planning Policy Statement 18: Renewable Energy

Planning Policy Statement 18: Renewable Energy – Best Practice Guidance

Planning Policy Statement 18: Renewable Energy –
Supplementary Planning Guidance – Wind Energy Developments
in Northern Ireland’s Landscapes

PPS 21: Sustainable Development in the Countryside
Supplementary Guidance

8.1 CONSIDERATIONS & ASSESSMENT

- 8.2 The main considerations in the determination of this application relate to: the principle of development, impact on the public, safety, human health, residential amenity, visual amenity, landscape character, biodiversity, nature conservation, and local natural resources.

Principle of development

- 8.3 The SPPS advises that the Council should take account of the proposal’s contribution to the wider environmental benefits along with consideration of impact on health, safety and amenity, visual impact, impact on biodiversity and habitat, and future decommissioning.
- 8.4 An assessment was carried out under Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended) as the site has potential hydrological links to the River Roe and Tributaries Special Area of Conservation (SAC). The site is approximately 10.3km from Lough Foyle Special Protection Area (SPA)/Ramsar site with the development having the potential to impact upon avian features of these sites. The test of likely significance concluded that there would be no likely significant effect on the features of either designation subject to mitigation. Shared Environmental Service have advised mitigation should be controlled through conditions in the event of an approval.
- 8.5 The application was accompanied by a voluntary Environmental Statement as the proposal falls within Schedule 2, Class 3(j), of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and exceeds the threshold of ‘more than 2 turbines’.
- 8.6 The Northern Area Plan 2016 is silent on the matter of wind farm development in this area.

SPPS Development in the Countryside and PPS 21 Sustainable Development in the Countryside

- 8.7 Planning Policy CTY 1 of PPS 21 allows for renewable energy projects in accordance with PPS 18 which is assessed below.
- 8.8 Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Also, CTY 14 of PPS 21 states that a planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.
- 8.9 The proposal includes one permanent building (substation) with a number of temporary buildings and associated infrastructure proposed. The substation building is 5m high with a footprint of 16.5m by 11.5m. Chapter 3 of the Environmental Statement outlines that the substation building will be similar in appearance to an agricultural building with the final appearance to be agreed with the Council at a later date. The substation has been sited between proposed turbines 1 and 2, and within the vicinity of the existing operational windfarm.
- 8.10 Due to the topography of the landscape and intervening forestry, views of the substation compound and building will be well enclosed and limited from the public road network, with no significant visual impact. The building will be viewed from within the site along the access tracks which form part of the Ulster Way. From these views the building will be read with the proposed turbines which will be much more prominent features in the landscape. The building will not be a prominent feature itself and will not cause a detrimental change to the rural character of the area.
- 8.11 Two temporary decommissioning and construction compounds are proposed as part of the proposal. The main compound is proposed adjacent to the proposed substation compound, and comprises two sections, one approximately 110m by 30m and the other 90m x 35m. A second, smaller compound is proposed at the site entrance and will be approximately 50m x 50m. The compounds will require the provision of areas of hardstanding and fencing to

accommodate parking, plant, equipment and delivered material, temporary buildings and fuel storage. The compounds are temporary and will be removed following completion of the relevant phases of development, with the lands restored. As with the substation compound the main construction compound will have a limited visual impact. The construction compound at the site entrance will be more visually prominent given its proximity to Terrydoo Rd, however these views will be localised to Terrydoo Rd, and given their temporary nature will not have any long term visual impacts.

- 8.12 The SPPS also states that all development in the countryside must integrate into its setting, respect rural character, and be appropriately designed. Given the nature of a windfarm, it is difficult for it to integrate into the countryside, however, the proposal, including the turbines and the associated infrastructure, has been sensitively designed so as to respect rural character as much as it can and is therefore acceptable.

SPPS Renewable Energy and PPS 18 Renewable Energy

- 8.13 Policy RE1 and paragraph 6.224 of the SPPS requires that all renewable energy development, associated buildings and infrastructure will not result in an unacceptable adverse impact on:

(a) public safety, human health, or residential amenity;

Public safety

- 8.14 Policy RE1 states that supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' (Best Practice Guidance) will be taken into account in assessing all wind turbine proposals.
- 8.15 With regard to safety, paragraph 1.3.54 of the guidance requires that the turbines should be set back at least fall over distance plus 10% from the "edge of any public road", right of way or railway line. The maximum base to tip height in this proposal is 137m which constitutes the fall over distance, therefore the fall over distance plus 10% is 150.7m. The nearest turbine to a public road is turbine T4 which is at least 699m from the edge of Temain Road. Even when taking the proposed micro-siting of a maximum 50m into consideration, T4 will still be at least 649m from the edge of the public road and therefore complies with policy.

- 8.16 The Ulster Way Long Distance Route passes through the application site having been diverted to make use of the access tracks to the operational windfarm. The proposal will see the retention of the right of way along the access tracks which will see the route being in proximity to the proposed turbines T1, T2 and T3. Turbines T2 and T3 would be beyond the fall over distance of 150.7, plus factoring in micro-siting.
- 8.17 However the Turbine at T1 is proposed within the fall over distance of the public right of way. The Planning Department recognises that the existing operational windfarm contains five turbines within the 'fall over' distance of this right of way. In the event that permission were to be refused, that risk would still exist for users of the right of way in the constructed windfarm. Therefore the Planning Department considers that the potential risk to users of the Ulster Way is no greater than the risk that currently exists and determining weight should not be given to the potential risk.
- 8.18 In relation to public safety, paragraph 1.3.52 of the Best Practice Guidance states that 'for wind farm development the best practice separation distance of 10 times rotor diameter to occupied property should comfortably satisfy requirements'. No minimum distance is specified. Whilst the guidance acknowledges that wind turbines are a safe technology, it still stipulates a separation distance as there is still the potential for failure and injury. In this instance the rotor diameter is 120m which equates to a separation distance of at least 1200m. The proposed 50m micro-siting must also be taken into consideration when determining the separation distances which means the distance required is 1250m i.e. 1200m +50m.
- 8.19 The nearest occupied dwelling is No. 37 Temain Rd approx. 1260m from the nearest turbine, therefore, there are no properties within the 1200m safety separation distance of a proposed turbine at both the indicated turbine location and the proposed micro-siting boundary.

Human Health

- 8.20 As part of the Environmental Statement a Human Health Impact Assessment was carried out. The assessment had regard to a number of assessments carried out as part of the Environmental Statement and concludes that the development will have no

significant effects on human health. Environmental Health were consulted, as the competent authority on human health and have not raised any objections on these grounds.

Residential Amenity

- 8.21 Policy RE 1 stipulates that a separation distance of 10 times rotor diameter, with a minimum distance not less than 500m, will generally apply to protect residential amenity from noise. This is reiterated in the Best Practice Guidance at para 1.3.43 specifically in relation to noise. In this instance a separation distance of 1200m will generally apply. As outlined above at Paragraph 8.16 there are no residential properties within the 10 times rotor diameter buffer.
- 8.22 With regard to noise, Environmental Health (EHO) have assessed the proposal and have no objection to the predicted noise levels at any of the receptor locations. EHO are content with the proposal, subject to conditions being applied in the event of an approval.
- 8.23 With regard to shadow flicker, the Best Practice Guidance states that at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low. As stated above, there are no dwellings within the 10 times rotor diameter therefore the potential for shadow flicker at any dwelling is likely to be low.

(b) visual amenity and landscape character;

- 8.24 Rigged Hill forms part of a prominent ridgeline of mountains and hills which run from Binevenagh to the north of the site to Benbradagh Mountain to the south. It forms part of a highly visible landscape with extensive views available from the wider landscape.
- 8.25 As part of the Environmental Statement a series of photomontages were submitted to show the indicative visual setting of the proposed development from a range of viewpoints (VP) in the near and wider landscape. Given the prominence of the site combined with the increase in the height of the turbines the proposed development will be clearly visible. The most critical views in respect of the visual impact of the development are from north to south on the western side of the development. Views from the wider landscape to the east of the site see the development as more low lying and protruding less on the skyline by virtue of the

intervening topography and areas of forestry, and the setting of some of the turbines on the western slope of Rigged Hill.

- 8.26 From a number of western viewpoints in relative close proximity such as Terrydoo Rd (VP1), Temain Rd (VP2), Edenmore Rd (VP3), Roe Park Resort (VP4), Beech Rd, Drumsurn (VP5), Polysbrae Rd (VP11), North of Limavady (VP12) and from the B66 Rd, west of Ringsend (VP19) the proposed development will appear as a prominent and skyline feature
- 8.27 As detailed above at para 6.3, the turbines are located within Landscape Character Area (LCA) 36 Binevenagh which Supplementary Planning Guidance (SPG) 'Wind Energy Development in Northern Ireland's Landscapes' describes as having a high to medium sensitivity to wind development.
- 8.28 The SPG goes on to state that lower and less prominent sections of the escarpment, and areas where there is extensive forestry, might be somewhat less sensitive to wind energy development. The proposal is sited between Keady Mountain and Donald's Hill, which are sited as key landscape features of the LCA, on a slightly lower section of the ridgeline. The site is adjacent to existing commercial forestry to the northern and eastern sides of the development which provide some screening and filtering of views, primarily from the east of the site
- 8.29 In considering the proposal the Planning Department consider that the proposed development would have a significant visual impact on, especially when viewed from in relative proximity to the site as outlined above. However it is considered that the increase in visual impact from the operational windfarm which currently occupies the site is not of a scale to merit refusal.
- 8.30 As well as the turbines, the proposal also includes a new site entrance onto Terrydoo Road, access tracks, crane hardstandings, substation compound, underground cabling, as well as a number of temporary works including a construction compounds with car parking. The temporary works will be removed once the turbines are operational. These works will not have any significant visual impact. The main substation compound is located in proximity to turbines 1 and 2. As outlined above the siting of the substation building and compound will not have any significant detrimental

visual impact and will be well screened from many of the public vantage points.

- 8.31 The application site is located outside of the two designated AONBs which are sited approximately 2.2km to the north (Binevenagh) and 5.8km to the south (Sperrins). The application site is not located within any other landscape designations. Given their setting in relation to the aforementioned AONBs the proposal will not have an adverse impact on any features of landscape character.

(c) biodiversity, nature conservation or built heritage interests;

- 8.32 The application site is occupied by a range of priority habitats and priority and protected species which may be impacted by the proposed development, with watercourses within the site providing pathways to the designated River Roe and Tributaries SAC/ASSI. The Environmental Statement has assessed the impact of the development on designated sites, habitats and species through conducting extensive survey works and has provided mitigation measures to avoid significant adverse impacts.
- 8.33 The site contains Northern Ireland priority habitats (NIPH) such as blanket bog, wet and dry modified bog, acid fen and flush, hedgerow and watercourse. The ES acknowledges that any development on previously undeveloped land will result in habitat loss. The layout was designed to avoid or minimise effects on habitats of ecological value. The Environmental Statement outlines there will be a permanent habitat loss of 4.9ha and 300m, of hedgerow, however the impact on each habitat is considered to be imperceptible.
- 8.34 A range of mitigation measures are proposed to minimise impacts on the habitats where possible such as Construction Environment Management Plans, while the draft Habitat Management Plan (HMP) sets out the objectives for the management of the site. The HMP includes measures for the restoration of approximately 43.4 Ha of blanket bog. The habitats management measures are expected to result in a slight positive impact on habitats. NED are content with the management measures which will be conditioned in the event of an approval.

- 8.35 A substantial level of badger sett complex was found on the site, however, DAERA NED notes that all main setts are located at least 40m away from proposed construction works and a 25m buffer from any development can be achieved for all setts. The Environmental Statement proposes a number of mitigation measures, which NED advise should form part of a final DCEMP or Protected Species Management Plan.
- 8.36 Extensive bird surveys were carried out over a five year period (2014-2019) over the breeding, wintering and migration seasons. A number of protected species were recorded within the survey area including Snipe, Hen Harrier, Red Grouse, Buzzard, Sparrowhawk, Peregrine, Kestrel. The surveys have concluded that the proposed development will not have any significant impact on bird populations or their habitats. Mitigation has been implemented from the design stage to remove impacts on hen harrier but adjusting the site layout, while measures to reduce impact on other species will be implemented through the Construction Mitigation Strategy.
- 8.37 The draft Habitat Management Plan proposes approximately 43.4Ha of peatland restoration and 24 Ha of improved grassland including hedgerow and tree planting specifically for birds. A programme of post construction monitoring is proposed. NIEA is satisfied that the development is unlikely to have a significant adverse impact on any of these species at a local or regional population level providing appropriate mitigation measures are implemented as outlined in the Environmental Statement.
- 8.38 The bat survey results within the ES identifies that the site is used abundantly by Leisler's bats. Leisler's are considered to be at high risk of collision with turbine blades, and the development is considered to pose a high risk to them during operation. In recognition of this a bat monitoring and mitigation strategy has been submitted as part of the ES with the primary means of mitigation being curtailment of turbine activity during peak activity periods. Monitoring will be in the form of static detectors and microphones at each turbine and carcass searches to determine fatality rates. NED are content with the proposed mitigation and monitoring arrangements proposed.

- 8.39 A number of other protected species were found in the surrounding area but none are expected to use the site on a regular basis. Smooth newt and common lizard were not detected during the site walkover, however as common lizard is a protected species generic mitigation has been proposed within the Environmental Statement. NED are content with the mitigation measures outlined.
- 8.40 The watercourses within the site were found to contain juvenile salmon, which is a priority species. The watercourses are hydrologically linked to the River Roe and Tributaries SAC of which Atlantic Salmon is a selection feature. The potential impact on these protected and priority habitats and species has been determined to be via sedimentation from construction activities and from potential hazardous substance spillage. Proposed mitigation is provided through the outlined DCEMP and WCEMP which will negate any significant adverse impact.
- 8.41 DAERA NED and Shared Environmental Services has considered the impacts of the proposal on the designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions being imposed on any planning approval.
- 8.42 With regard to built heritage, Historic Environment Division has advised that it is content that the proposal satisfies PPS 6 policy requirements, subject to conditions.

(d) local natural resources, such as air quality or water quality;

- 8.43 Chapters 7 and 8 of the Environmental Statement assess the impacts of the development on hydrology, hydrogeology, geology and peat. Supplementary to the Environmental Statement a number of appendices provide for mitigation measures to be implemented to ensure minimal impact on the water environment and peat including Decommissioning and Construction Environment Management Plan, Water Construction Environment Management Plan, draft Habitat Management Plan and Peat Management Plan
- 8.44 Water Management Unit (WMU) of NIEA has considered the impacts of the proposal on the surface water environment, and has advised that it has no objection to the proposal subject to

condition. Water Management Unit had queried the use of borrow pits within the project and their potential impact on surface and ground water. However, section 7.8.1.5 of the project ES confirm that borrow pits are not proposed to be used

- 8.45 The Environmental Statement identified Private Water Supplies within vicinity of the application site. the Drinking Water Inspectorate were consulted on the proposal and are content that there will be no significant adverse impacts.
- 8.46 Regulation Unit (Land and Groundwater Team) of NIEA considered the impacts of the proposal on the aquatic environment (especially groundwater) and is content with the proposal.
- 8.47 The site is hydrologically connected to the River Roe and Tributaries SAC and ASSI protected by Conservation (Natural Habitats, Etc) Regulations (NI) 1995 (as amended) and The Environment (NI) Order 2002 (as amended).
- 8.48 NED is content with the detailed mitigation measures described in the Decommissioning and Construction Environment Management Plan, Water Construction Environment Management Plan, amended draft Habitat Management Plan and Peat Management Plan. It requires the submission of a final CEMP and Habitat Management Plan to be conditioned as part of any approval to ensure implementation of the mitigation proposed to ensure no adverse impact on natural resources within the immediate and wider vicinity of the site.
- 8.49 Due to the nature of the development there will be limited impact on air quality except for the potential impact from dust primarily during the decommissioning and constructions phases. However, mitigation is proposed by way of dust suppression to ensure these impacts are minimised.

(e) public access to the countryside.

- 8.50 The lands within the application site boundary are owned by numerous landowners, and subsequently leased by the applicant, and used primarily for agricultural use. Part of the Ulster Way Walking Route passes through the application site, having previously been diverted to make use of the operational windfarm tracks. The proposed development will require the temporary

diversion of the route during the decommissioning and construction phases for health and safety issues, but will be diverted back onto the wind farm track once the windfarm is operational. Given the temporary nature of the diversion and the mitigation proposed to maintain passage along the Ulster Way the proposed development will not have any significant adverse impact on access to the countryside.

PPS 18 Requirements for Wind Development

8.51 In RE1 of PPS 18 applications for wind energy development will also be required to demonstrate all of the following:

(i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;

8.52 It has been assessed at paragraphs 8.21 to 8.28 that the proposed development will have an increased visual impact by virtue of the significant increase in size of the proposed turbines. The proposed development will appear as a prominent and skyline feature in the landscape when viewed from key vantage points in relatively close proximity to the site. Critical views of the development diminish with distance from the site, and while still visible they are less obtrusive when viewed in the wider setting.

8.53 The development is not located on the most prominent landscape features within the Local Character Area and is not set within any other landscape character designations or will not significantly affect their setting. It is considered that the visual impact of the development is acceptable.

(ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;

8.54 The proposed development represents the repowering of an existing windfarm. In assessing the proposed cumulative impact of the proposal weight need to be given to the existing number and visual impact of the current windfarm.

8.55 The proposed development sees a reduction in the number of individual turbines from ten to seven. As such there will be no cumulative impact through additional turbines. However given the

increase in scale of the proposed turbines the proposed wind farm would be significantly more visible in the landscape and therefore will increase the visual linkage between existing and approved windfarms at Dunmore, Dunbeg and Dunbeg South windfarms, Craiggore, Smulgedon, Upper Ballyrogan and Evishagaran and other smaller single turbines in the area,

- 8.56 As discussed in above the increase in visual impact is considered to be acceptable in terms of the scale and massing of the turbines. Given that the proposed windfarm occupies generally the same lands, as the operational windfarm, the increase in cumulative impact is also considered to be acceptable.

(iii) that the development will not create a significant risk of landslide or bog burst;

- 8.57 A Peat Slide Risk Assessment was included within the Environmental Statement which concluded that there was a low to legible risk to the application site Geological Survey NI are satisfied that appropriate precautions have been taken to ensure that the risk of peat slide will be reduced to an acceptable level during the construction and operational phases of the wind farm.

(iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;

- 8.58 None of the consultees have indicated that the development will give rise to unacceptable interference to communication installations, emergency services communications or other telecommunications systems.

- 8.59 City of Derry Airport (CODA) have advised that they have no objection to the proposal subject to condition requiring the agreement and implementation of a scheme to mitigate the impact the development on the airport's Instrument Flight Procedures.

(v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;

- 8.60 The proposal falls within the 30km consultation zone for City of Derry Airport (CODA). Belfast International Airport, Ministry of

Defence and National Air Traffic Services (NATS) have also advised that they have no objection to the proposal in terms of safeguarding.

8.61 The proposed development will not result in unacceptable risk to road safety. Transport and access issues are discussed below at paragraph 8.69, while the risk to road safety due to separation distance was clarified above at Paragraph 8.13.

(vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and

8.62 As discussed above (para 8.17), EHO have no objections to the noise levels predicted within the submission and would be content for noise to be managed by condition in the event of any approval. The potential for shadow flicker is deemed low.

8.63 Paragraph 1.3.79 of the Best Practice Guidance advises that ice throw is unlikely in Northern Ireland and as such limited consideration has been given to this.

8.64 The applicant has advised that the turbine blades will be finished with a light grey semi-matt finish which means that they do not reflect light as strongly as polished materials. Also, due to factors such as the convex surfaces of the blades, differing orientations of rotor directions and the specific weather conditions and solar position which are required before an observer would experience the phenomenon, the potential for reflected light is low and will not cause a material reduction to amenity.

(vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

8.65 The removal of the turbines and any of the associated infrastructure will be dealt with by condition requiring the submission of a final Decommissioning and Site Restoration Plan prior to removal.

Development on Active Peatland

- 8.66 The ES confirms that there are a number of habitats within the site including bog and heath. As part of the Environmental Statement an Active Peat Assessment was carried out to determine the areas of active peat within the site. The assessment has been used to assist with the design and layout of the proposed development through avoidance of those areas of deepest and active peat where possible. The development has been designed to make use of existing access tracks and areas of hardstanding where possible.
- 8.67 It was found that there were small localised pockets of active peat in the vicinity of turbines 1, 2 and 3, with only negligible loss of active peat proposed, resulting from upgrade works to existing infrastructure, with the majority of the habitat at these locations found not to be active peat. The lands in the vicinity of proposed turbines 4, 5, 6 and 7 and the new section of access track to service these was found not to support active peat.
- 8.68 DAERA Natural Environment Division were consulted on the issue and having considered the relevant content of the Environment Statement advise that NED is content with the assessment of habitats on the site including active peat. Impacts to active peatland have been demonstrated to be low overall and appropriate mitigation has been proposed to compensate for the small amount of residual, unavoidable loss.
- 8.69 The proposed micro-siting allowance of 50m would allow for turbines 1 and 2 to encroach onto active peat. NED advise that the appointed Ecological Clerk of Works shall review any micro-siting to ensure there are no additional effect on sensitive habitats.
- 8.70 The proposed Habitat Management Plan proposes the reinstatement of approximately 43.4Ha of degraded blanket bog with the aim of restoring these areas to intake blanket bog with the aim of re-establishing of active peat in areas that are currently inactive. As such the proposed development will result in a benefit to active peat.
- 8.71 In considering the proposal it has been demonstrated that the design and layout of the development has been driven by the need to avoid impact on areas of active peat. The re-use of existing infrastructure where possible will ensure only negligible impacts on active peat which will be offset by the overall benefits of the

development and re-establishment of additional active peat in the area.

Habitat Management Plan

8.72 Policy RE1 of PPS 18 also specifies that the Habitat Management Plan (HMP) should be submitted and agreed before any permission is granted. Policy NH5 of PPS 2 also states that appropriate mitigation and/or compensatory measure will be required. A draft Habitat Management Plan (dHMP) has been submitted as part of the Environmental Statement.

8.73 NIEA Natural Environment Division reviewed the initial dHMP and required amendments to the document to include details on the proposed grazing regime, cessation of all damaging management activities, an extended monitoring period and agreement from all relevant land owners to the measures within the HMP. A Revised dHMP was submitted 16th November 2020 as a FEI Addendum. NED were re-consulted on the document and advised that they are content with content. In the event of an approval, NED require the submission of a final Habitat Management Plan to be agreed prior to any development commencing.

Economic, Environmental and Social Consideration

8.74 The SPSS requires material consideration of environmental benefits. In this case, the provision of a sustainable supply of energy from a renewable resource must be given significant weight due to the considerable environmental benefits that provision of energy in this way provides. This proposal also positively contributes to regional and national targets for provision of energy from renewable sources.

8.75 Paragraph 4.1 of policy RE1 of PPS18 states that “the Department would support renewable energy proposals unless they would have unacceptable adverse effects which are not outweighed by the local and wider environmental, economic and social benefits.” In this case the development is considered acceptable with no unacceptable adverse effects therefore there is no need to scrutinise the wider environmental, economic and social benefits.

SPPS Natural Heritage and PPS 2 Natural Heritage

- 8.76 The SPPS and policies NH1, NH2, NH3, NH4, NH5 and NH6 of PPS 2 require consideration of the impact of the proposal on European and National sites, protected species, sites on nature conservation importance, habitats, species or features of natural heritage importance and AONBs.
- 8.77 These issues have all been addressed under the consideration of the SPPS Renewable Energy and PPS 18 Renewable Energy above. The proposal satisfies all policy requirements of the SPPS Natural Heritage and PPS 2.

SPPS Transportation and PPS 3 Access, Movement and Parking

- 8.78 The proposed access to the windfarm is to be located on Terrydoo Road which is not a Protected Route. Initial consultation with DfI Roads raised concerns in relation to the width of the carriageway on Terrydoo Rd from its junction with Ringsend Rd to the proposed site entrance. DFI Roads advised that the road width was 4.7m in stretches and would require the construction of a number of intervisible passing bays to increase the road width to 6m to permit vehicle passing.
- 8.79 Amended plans were received 26th June 2020, which provided details of the construction of the passing bays. DFI Roads were re-consulted on the plans and offer no further objection. By way of condition the details relating to the specific location of the passing bays are to be submitted and agreed prior to commencement of development
- 8.80 Three potential haul routes have been identified for the delivery of turbine components from Derry Port, Larne Port and Belfast Port. An Abnormal Load Route Assessment was carried out as part of the Environmental Statement which assesses the proposed route to site and identifies points of conflict along the routes which may require mitigation to ensure safe passage. DFI Roads have advised that as detailed programme of works and traffic management proposal be agreed prior to commencement of development.

SPPS Archaeology and Built Heritage and PPS 6 Planning, Archaeology and the Built Heritage

- 8.81 Chapter 11 of the Environmental Statement assesses the impact of the proposal on archaeological and cultural heritage assets. The chapter assess both the direct effects, mainly through construction and decommissioning works, and indirect effects, primarily visual, on both archaeological and cultural heritage sites. The assessment outlines that there is the potential for direct effect on one non-designated (cropmark site). Mitigation is proposed for this site by way of a watching brief to record and document the site. There are no other direct effects upon known archaeological features present within the site. Mitigation for encountering unknown archaeological features is proposed by way of archaeological programme of works. The assessment found that there would be no significant indirect effects on heritage assets in the surrounding landscape.
- 8.82 Historic Environment Division has advised that it is content that the proposal satisfies PPS 6 policy requirements, subject to conditions. HED require a programme of archaeological works, in the event of an approval, to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

SPPS Flood Risk and PPS 15 Planning and Flood Risk

- 8.83 DfI Rivers have indicated that parts of the application site are within identified 1 in 100 year fluvial floodplain, however the area of the site to be developed are outside of these areas. DfI Rivers is content that the proposal meets the requirements of Policy FLD 1 of PPS15 and the SPPS. DfI Rivers confirm that a number of undesignated watercourses exist within the application site. DfI Rivers are satisfied that the proposal complies with Policy FLD 2 of PPS15 in that satisfactory access can be provided for maintenance by the landowner.
- 8.84 Due to the size and nature of the development FLD3 of PPS15 applies. Chapter 7: Hydrology, Hydrogeology, Geology, Soils and Peat of the Environmental Statement provides outlines the surface water management measures to be installed at the development. DfI Rivers sought additional information relating to evidence/calculations showing consented discharge rates at various locations is not breached up to 1% AEP, details of any

exceedance design and Schedule 6 consent from DFI Rivers in relation to discharge points to the various watercourse.

- 8.85 Additional information was received 25th November 2019, and additionally on 27th May 2020 as a Further Environmental Information Addendum to Environmental Statement which addresses the outstanding information other than confirmation of Schedule 6 Consent, which to date has not been confirmed following an application in May 2020. DFI Rivers have confirmed that the only outstanding information is the Schedule 6 Consent, however this can be obtained outside of the planning process. Details relating to site drainage management including Sustainable Drainage Systems (SUDS) are required as part of a final CEMP to be submitted and approved prior to the commencement of development. The Planning Department consider the proposal to meet with Policy FLD 3 of PPS15.
- 8.86 The proposal includes a number of watercourse crossings (5). These crossings are necessary for access to the turbine sites during construction, operation and decommissioning. Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. DFI Rivers advised that this is a matter for the Council to assess.
- 8.87 DFI Rivers are not opposed to the use of culverting and have not raised any concerns. As the culverts are required for access, they are acceptable under policy. Details relating to the exact location and design of the culverts will be provided prior to commencement as part of the requirement of a final Construction Environment Management Plan.

Northern Area Plan, SPPS Tourism and PPS 16 Tourism

- 8.88 TSM 8 considers the safeguarding of tourism assets by not granting permission for development which would in itself or in combination with existing and approved development in the locality have an adverse impact on a tourism asset. There are a number of larger/ regional tourism and recreational attractions in the wider vicinity of the application site which due to their physical separation are unlikely to be impacted by the proposed development. A number of recreational attractions exist within close proximity to the site and include walking, cycling, mountain biking, horse

trekking. Due to the nature of these attractions the proposed development will not have any adverse impact on their functionality or access to them.

- 8.89 As outlined above part of the Ulster Way passes through the application site, having been redirected following the construction of the operational windfarm to make use of the access tracks. Policy OSR1 of the Northern Area Plan – Public Rights of Way and Permissive Paths outlines that permission will not be granted for development that would have an adverse impact on the route, character, function or recreational value of the Ulster Way.
- 8.90 The proposed development will require the temporary diversion of this section of the Ulster Way for health and safety reasons during the decommissioning and construction phases of the development but will be reinstated following the completion of these phases. The diversion will direct walkers onto the historical route of the Ulster Way in the adjacent forest to the east of the site. Given the temporary nature of the impact to the current route and the mitigation proposed, the development will not have any significant detrimental impact to the function or recreational value of the Ulster Way.
- 8.91 Chapter 13 of the Environmental Statement outlines the main potential for impact on the route is through the visual impact of the proposed windfarm and associated noise impacts. The Environmental Statement conclude that the effects when assessed against the baseline of the existing windfarm the impacts would be negligible. The Planning Department considers that the changes in visual amenity from the existing windfarm to the proposed windfarm will not be so significant to result in a detrimental impact to the tourist/recreation walking route (Ulster Way) and the continued access to and recreational value of the route outweigh any adverse impact.

Issues raised in letters of representation

Note – issues raised by objectors are in italics and are followed by Councils response.

- 8.92 *Detrimental impact on character of Rigged Hill and Donald's Hill* - This has been addressed in the report above. It is not considered

that there would be an unacceptable impact on the character of either Rigged Hill or Donald's Hill.

- 8.93 *Oversaturation of wind turbines in Roe Valley/cumulative impact* – as this application relates to the repowering of an existing operational windfarm, which also sees a reduction in the number of turbines the application will not add to the overall number of turbines in the area. The cumulative impact is considered in the report above.
- 8.94 *Visual impact outside of Roe Valley* - This has been addressed in the main report. It is not considered that there would be an unacceptable impact on residential amenity of the wider landscape.
- 8.95 *Lack of Public Consultation (specifically Drumsurn village)*– The applicant has demonstrated through the PAN and Community Consultation Report the level of public consultation which was carried out in respect of the proposed development. Consultation involved letter drops to residents within 5km, posters in public premises and three information days held at two separate locations. Posters for the consultation event were also displayed in shops and community facilities in Drumsurn. The Planning Department consider the level of public consultation to be adequate and in line with the legislative requirements for a major application
- 8.96 *Little or no socio-economic benefit* – Chapter 13 of the Environmental Statement assesses the socio economic impacts of the proposed development.. However, because the wind farm proposal was acceptable in principle, the socio economic benefits did not need to be considered to outweigh any detrimental impact.
- 8.97 *Negative environmental impact* – the application was accompanied by an Environmental Statement which has assessed the wider ranging impact of the development on the environment and has provided amendments and mitigation where necessary to avoid detrimental impacts. A range of environmental consultees were consulted during the processing of the application, with all consultees satisfied with the proposed development
- 8.98 *Wind power is inefficient and economically unsustainable* – the efficiency and economic sustainability of wind energy is not one of

the policy criteria within the relevant planning policies. The Council must consider the application proposed within the policy context provided which is supportive of appropriate wind energy. Development.

8.99 *The company that is carrying out the environment studies for this development is an agent, working on behalf of the windfarm company. Potential for bias towards Windfarm Company* – The Environmental Statement contains a number of reports prepared by various consultants, on behalf of the applicant. The reports are carried out by credible companies and their content was the subject of consultation with the relevant Departments and agencies on behalf of the council in the processing of the application. The Planning Department finds no evidence that the reports may be inaccurate or biased in favour of the applicant

8.100 *Visual impact of wind farm will destroy the appeal of the local landscape and put tourists off visiting the area* - No evidence has been presented as to how the proposal would impact tourism. There is no evidence to suggest that the existing windfarms have impacted on tourism in the area. As it is considered that the proposal will not have an unacceptable impact on visual amenity and the special character of the designated Binevenagh and Sperrin AONBs then it is not considered that the development would have an adverse impact such as to significantly compromise its tourist value.

9.0 CONCLUSION

9.1 The proposal is considered acceptable in this location having regard to the Area Plan and other material considerations. The principle of development, impact on the public, safety, human health, residential amenity, visual amenity, landscape character, biodiversity, nature conservation, and local natural resources are considered acceptable. Approval is recommended.

10 PROPOSED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The approved temporary 3no. compounds shall be removed and the reinstated within 24 months from the date of the commencement of the development hereby approved. The measures for ground reinstatement shall be submitted and agreed in writing with the Council prior to any reinstatement taking place.

Reason: In the interests of visual amenity

3. All above ground structures shall be dismantled and removed from the site 30 years from the date when the wind farm is commissioned to the electricity grid or shall be removed if electricity generation has ceased on site for a period of 12 months (unless further consent has been granted). The land shall be restored in accordance with an agreed scheme to be submitted to the Council at least one year prior to the commencement of any decommissioning works. This scheme shall include details of all works and measures to restore the site, the timeframe within which the works shall be carried out along with proposals for aftercare for a period of 3 years after completion of the restoration works.

Reason: To ensure the development is decommissioned in a manner that protects the ecology and hydrology of the site beyond the life span of the windfarm.

4. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.13 Rev 01, dated 16th August 2019, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

5. The gradient of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user.

6. Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle, excluding abnormal loads, to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

7. Effective wheel washing facilities shall be installed and operated for the duration of the construction period and any repair or remedial work period thereafter.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience of road users.

8. No part of the development hereby permitted shall be commenced until the works that may be necessary for the improvement of the public road i.e. the location and provision of passing bays (typically to allow minimum 6.0m road width, as detailed in Drawing No. 25 received 26th June 2020), have been submitted to DfI Roads, approved in writing and carried out to the satisfaction of the Department. Upon completion of the development works these passing bays shall be removed and the road and verge reinstated to the satisfaction of the Section Engineer.

Reason: In the interests of road safety and the convenience of road users.

9. A detailed programme of works and traffic management proposals shall be submitted to and agreed by DfI Roads, prior to the commencement of any element of the works hereby permitted.

Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.

10. Prior to the commencement of construction on site, the applicant/agent shall carry out a condition survey of all haul routes and shall at the applicant's expense carry out and provide a DVD detailing the condition of the existing public roads being considered as haul routes.

Reason: In the interests of road safety and the convenience of road users.

11. During construction works, the applicant/agent shall carry out and record daily inspections of all haul routes and submit this information to the DfI Roads, section engineer on a weekly basis, or as agreed in writing with the Council and DfI Roads.

Reason: In the interests of road safety and the convenience of road users.

12. Prior to the commencement of the development an Article 11 application for the haulage routes and any associated traffic management proposals shall be submitted to and agreed in writing with DfI Roads.

Reason: In the interests of road safety and the convenience of road users.

13. Unless otherwise agreed in writing by Causeway Coast and Glens Borough Council ("the Council") construction activities (which includes demolition of the existing turbines) shall take place only within the hours of 07:00 – 19:00 hours Monday to Friday and 07:00 – 13:00 hours on Saturdays with no activities to take place on Sundays or Public Holidays.

Reason: In the interests of residential amenity

14. No development shall take place until details of the model of the turbine to be installed, its noise specification, colour and finish, have been submitted to and approved in writing by the Council.

Reason: In the interests of residential amenity

15. The developer shall notify the Council in writing of the date of commencement of works on site and of the date when the turbines have become fully operational.

Reason: In the interests of residential amenity

16. The level of noise emissions from the combined effects of the permitted wind turbines (including the application of any Tonal Penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97 shall not exceed values set out in Table 1. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in Table 1 unless otherwise agreed by the Council.

Reason: In the interests of residential amenity

Table 1: Permitted Wind Farm Noise Limits dB LA_{90,10mins}

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
Daytime (0700-2300)										
37 Temain Road	39.8	40.6	41.3	41.8	42.4	43.0	43.6	44.3	45.3	46.2
36 Terrydoo Road	34.3	34.6	35.6	36.4	36.9	36.8	38.7	40.5	42.1	43.4

66 Terrydoo Road	34.7	35.3	36.5	37.7	38.7	39.7	40.8	42.1	43.3	44.4
90 Terrydoo Road	34.8	35.5	36.7	37.9	39.1	40.3	41.2	42.4	43.6	44.6
Night-time (2300-0700)										
37 Temain Road	43.0	42.9	42.9	42.9	42.8	42.8	42.8	42.8	43.7	45.0
36 Terrydoo Road	42.9	42.8	42.7	42.5	42.0	41.1	41.1	41.0	40.9	40.7
66 Terrydoo Road	43.0	42.9	42.9	42.8	42.7	42.4	42.4	42.4	42.4	42.4
90 Terrydoo Road	43.0	43.0	42.9	42.9	42.8	42.8	42.7	42.7	42.7	42.7

17. In the event that any turbine is required to be micro-sited closer to any noise-sensitive receptor identified than is currently proposed, the developer shall submit a revised noise impact assessment for prior approval by the Council. In the event that an exceedance of noise limits, as detailed in Table 1 above is identified, the operator shall submit a noise mitigation scheme for approval by the Council prior to operation.

Reason: In the interests of residential amenity

18. Within 6 months of the development first becoming fully operational (unless otherwise extended with the Council) the wind farm operator shall at his/her expense employ a suitably qualified and competent person to undertake a noise survey to assess the level of noise emissions from the wind farm. The duration of such monitoring shall be sufficient to provide comprehensive information

on noise levels with all turbines operating across the range of wind speeds referred to in Table 1 and covering a range of wind directions. The assessment shall be undertaken in accordance with the assessment protocol that shall, prior to the commencement of any measurements have been submitted to and approved in writing by the Council and which has been endorsed as good practice by the Institute of Acoustics at such time. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise survey.

Reason: In the interests of residential amenity

19. Within 4 weeks of a written request by Council, following a reasonable noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise emissions from the combined effects of the permitted wind turbines, at the complainant's property, following the procedures described in Pages 102-109 of ETSU-R-97 and if necessary, those described in condition 18. Details of the noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: In the interests of residential amenity

20. The wind farm operator shall provide to the Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 18 and 19, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the completion of the monitoring unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity

21. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind farm. This data shall be retained for a period of not less than 12 months. The recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be provided within 3 months of the date of a written request of the Council unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity

22. Within 4 weeks from receipt of a written request from the Council, following a reasonable amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall submit a scheme for the assessment and regulation of AM to Council for its written approval. The scheme shall then be implemented within 3 months of the written request of the Council unless otherwise extended in writing by the Council.

Reason: In the interests of residential amenity

23. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;

- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

24. No site works of any nature or development shall take place other than in
- a. accordance with the programme of archaeological work approved under condition 23.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

25. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 23. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

26. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved

details and all works on site shall conform to the approved CEMP, unless otherwise approved in writing by the Planning Authority.

The CEMP shall include the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including details of the establishment of buffer zones to watercourses and details of watercourse crossings;
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d) Peat/Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;
- e) Mitigation measures for construction in peatland habitats;
- f) Water Quality Monitoring Plan;
- g) Environmental Emergency Plan;
- h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on the River Roe and Tributaries SAC, ASSI.

27. No development activity, including ground preparation or vegetation clearance, shall take place until a final Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise approved in writing by the Planning Authority. The HMP shall include the following:
 - a) Clear aims and objectives of proposed habitat management/restoration;

- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas;
- d) Detailed methodology and prescriptions of habitat management and restoration measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities;
- f) Confirmation of landowner agreement with all proposed habitat management measures for the lifetime of the wind farm;
- g) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) as agreed in Further Environmental Information Addendum No. 2 to Environmental Statement.
- h) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of any necessary contingency or remedial measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats and to mitigate for impacts to priority species/breeding birds.

28. Not later than 6 months after the cessation of electricity generation for both the hereby proposed and existing operational windfarms, a Decommissioning and Site Restoration Plan shall be submitted for the approval in writing of the Planning Authority. Such plan shall include the removal of above-ground elements of the development to one metre below ground level, habitat restoration measures, including the reinstatement of access tracks, the management and timing of any works, environmental management provisions and a traffic management plan to address

any traffic impact issues during the decommissioning period. The plan shall be implemented as approved.

Reason: To restore the site and protect the local environment beyond the cessation of electricity generation at the site.

29. No development activity, including ground preparation or vegetation clearance, shall take place between 1st March and 31st August until an Ornithological Mitigation Strategy (OMS) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Council. The approved OMS shall be implemented in accordance with the approved details, unless otherwise approved in writing by the Planning Authority. The OMS shall include:

- a) Details of the appointment of a suitably experienced and competent ornithologist, with the power to halt works, to supervise works during the bird breeding season;
- b) Details of the timing of ground preparation and vegetation clearance to avoid disturbance to breeding birds;
- c) Details of pre-construction bird surveys and appropriately timed bird surveys to be conducted throughout the construction phase;
- d) Details of appropriate mitigation measures to be implemented before and during the construction phase, including identifying the location of any recorded active nests or breeding activity, the establishment of species specific buffer zones to active nests or breeding territories (to be agreed with NIEA), temporarily halting works to avoid disturbance to breeding birds;
- e) Provisions for the reporting of the implementation of the OMS to the Council at the end of each bird breeding season during which works take place.

Reason: To protect breeding birds during the construction phase.

30. No development activity, including ground preparation or vegetation clearance, shall take place until an Ornithological Monitoring Plan (OMP) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMP shall be

implemented in accordance with the approved details, unless otherwise approved in writing by the Council. The OMP shall include:

- a) Details of a programme of long term monitoring of breeding and wintering birds, covering breeding and non-breeding seasons, using appropriate survey methodology, in the first survey period after construction is completed (year 1) and in years 2, 3, 5, 10 and 15 thereafter. Surveys shall target hen harrier, and snipe but shall also record numbers and distribution of any other breeding wader species, meadow pipit and skylark;
- b) Provisions for the implementation of contingency mitigation measures should monitoring reveal significant impacts on birds;
- c) Details of the production of monitoring reports which shall be submitted to the Council within 6 months of the end of each monitoring year and which shall include details of any contingency mitigation measures implemented.

Reason: To monitor and mitigate for the impact of the proposal on wild birds.

31. Regular carcass searches using methods outlined in Section 9.6.4: Paragraph 315 and Technical Appendix A9.4 should be carried out in years 1, 2 and 3 of operation, after which results should be reviewed and the regularity of further searches determined, if considered necessary.

Reason: To monitor and mitigate for the impact of the proposal on wild birds.

32. No turbine shall become operational until a Bat Mitigation and Monitoring Plan (BMMP) has been submitted to and approved in writing by the Council. The approved BMMP shall be implemented in accordance with the approved details of the draft BMMP, unless otherwise agreed in writing by the Council. The BMMP shall include the following:
 - a) Details of the proposed monitoring of bat activity across the site using appropriate methodology for a period of 5 years following the commencement of operation of the turbines;

- b) Details of bat carcass searches at selected turbines using appropriate methodology for a period of 5 years following the commencement of operation of the turbines;
- c) Details of the production of yearly monitoring reports to be submitted to the planning authority within 6 months of the end of each monitoring year;
- d) Provision for additional mitigation or contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Planning Authority;
- e) Provision for review of the mitigation measures and the length of the monitoring plan;

Reason: To monitor the impact of the proposal on bats.

33. Any guy wires or cables should be clearly marked using bird flappers or markers to reduce the risk of bird collision.

Reason: To mitigate the impact of the proposal on wild birds.

34. No wind turbine forming part of the Development shall be erected until the Applicant has submitted a scheme, to be agreed by the Council, which shall set out the measures undertaken to mitigate the impact of the Development upon the CODA's Instrument Flight Procedures. Thereafter the agreed scheme shall be implemented in full, prior to the erection of any wind turbine, unless otherwise agreed in writing with the Council.

Reason: To safeguard the safety of the Instrument Flight Procedures (IFP) at the City of Derry Airport

35. Prior to the erection of any turbines, the developer shall submit and have agreed in writing with the Council a scheme for the installation of aviation lighting. Upon erection of any of the turbines, the agreed lighting scheme shall be installed and operational for the lifetime of the turbines.

Reason: In the interest of flight safety

36. Prior to the commencement of development the developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development

commencing:

- a. Precise location of development.
- b. Date of commencement of construction.
- c. Date of completion of construction.
- d. The height above ground level of the tallest structure.
- e. The maximum extension height of any construction equipment.
- f. Details of aviation warning lighting fitted to the structure(s)

Reason: In the interest of flight safety

37. A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to the Council, at least 8 weeks prior to the commencement of the works of phase of works and implemented in accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

38. All services within the development should be laid underground.

Reason: In the interests of visual amenity

39. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health

40. Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

Reason: To safeguard the site and adjacent land against flooding and standing water.

Informatives

1. 1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

5. You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the Planning Portal at <https://www.nidirect.gov.uk/articles/finding-planning-application>

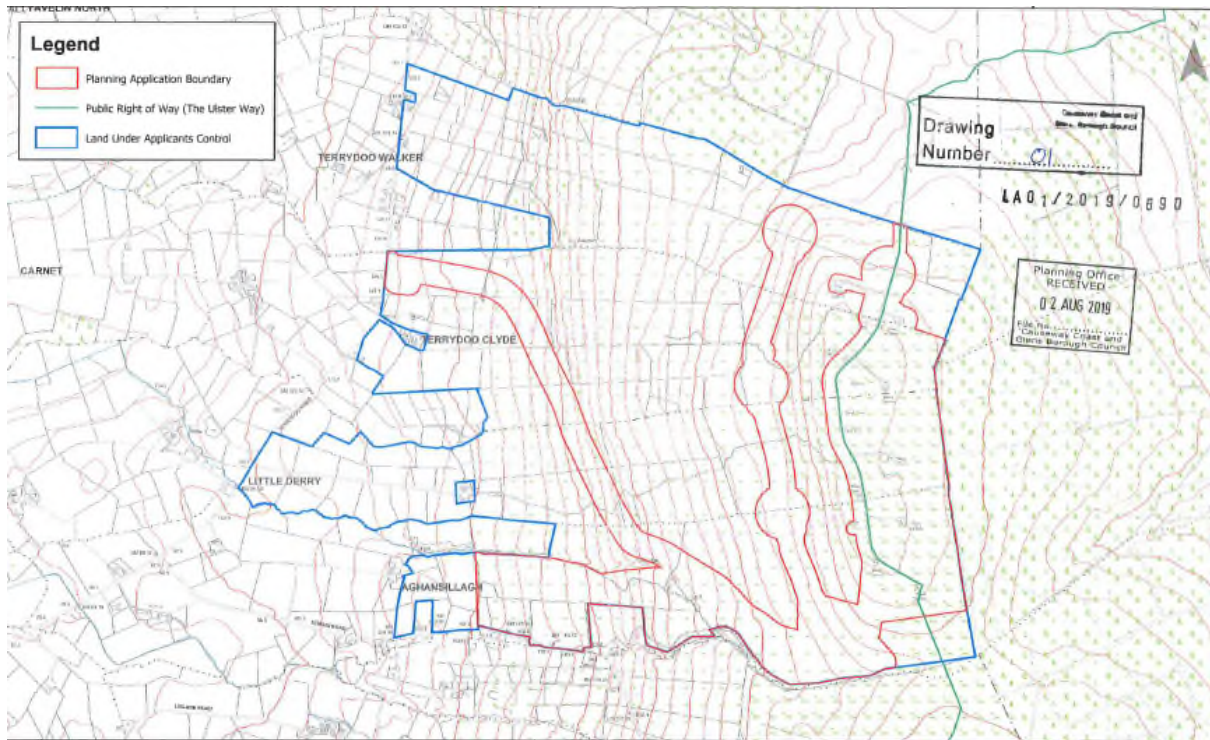
6. The applicant is advised that they should continue to liaise with NIE Networks and SONI regarding the decommissioning of existing communication links (as permitted by Planning Reference No.LA01/2019/0890/F) and will agree the details of the provision of communication links to the development hereby approved.

Appendix 1: Consultation Responses

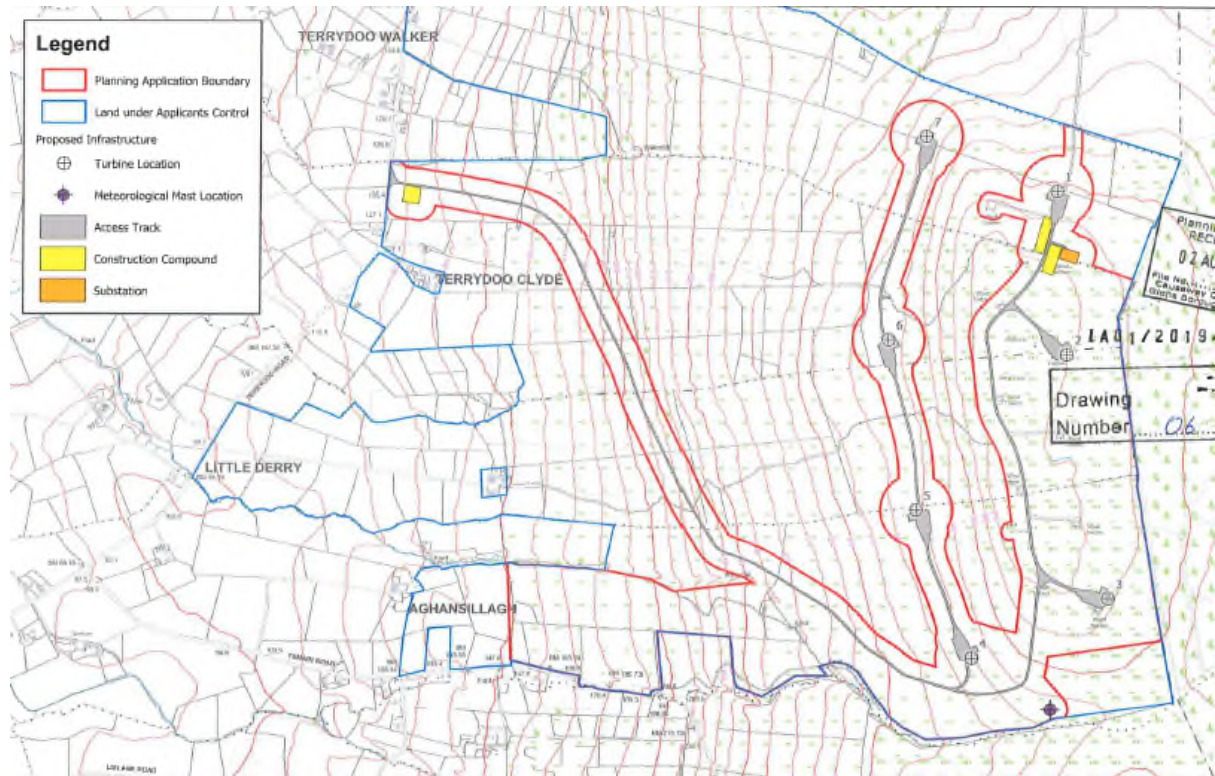
Consultee	Response Date	Responses
Arquiva	06 Jan 2020	No objection
CAA - Directorate of Airspace Policy	03 Jan 2020	No objection
Cable and Wireless Worldwide	Notifiable body no requirement for response	No response
City of Derry Airport	13 Sep 2021	No objection subject to condition
Belfast International Airport	27 Sept 2021	No objection
DAERA Forestry	04 Oct 2019	No objection
DAERA WMU	23 Sep 2020	No objection subject to condition
DAERA Drinking Water Inspectorate	23 Sep 2020	No objection
DAERA Land, Soil, & Air	23 Sep 2020	No objection
DAERA Natural Environmental Division	25 Jun 2021	No objection subject to conditions
DfE Energy Branch	24 Sep 2019	No objection
DfE Geological Survey	16 Sep 2019	No objection
Everything Everywhere (EE)	01 Oct 2019	No objection
Environmental Health	22 May 2020	No objection subject to conditions
Joint Radio Company	05 Oct 2021	No objection
Loughs Agency (Foyle Carlingford & Irish Lights Commission)	12 Nov 2019	Content subject to condition
MOD – Safeguarding	07 Aug 2020	No objection
NATS – Safeguarding		
NIE – Windfarm Developments	07 Oct 2019	No objection

DfC – Historic Buildings and Monuments	25 Sep 2019	No objection subject to conditions
NI Water Windfarms	12 May 2021	No objection
NI Water Strategic	08 Oct 2019	No objection subject to conditions
Ofcom	20 Jan 2021	No objection subject to consultation with other bodies
DfI Rivers	03 June 2020	No objection subject to granting of Schedule 6 Consent and conditions
RSPB	18 Dec 2019	No objection subject to conditions
Shared Environmental Services	01 Jul 2021	No objection subject to condition
DfI Roads	23 Jul 2020	No objection subject to condition
Vodafone	28 May 2020	No objection

Site Location



Site Layout



Erratum

LA01/2019/0890/F

1.0 Update

- 1.1 There are 5 letters of support for the application and not 4 as indicated in paragraph 5.1.
- 1.2 Condition 17 should be amended to read “In the event that any turbine is required to be micro-sited, **as depicted on Drawing No 06 date stamped 2nd August 2019**, closer to any noise-sensitive receptor identified in **Table 10.9 (of the Environmental Statement Volume 1 – text July 2019)** than is currently proposed, the developer shall submit a revised noise impact assessment for prior approval by the Council. In the event that an exceedance of noise limits, as detailed in Table 1 above is identified, the operator shall submit a noise mitigation scheme for approval by the Council prior to operation.

Reason: In the interests of residential amenity”

- 1.3 Condition 37 should be amended to read, “A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to the Council, at least 8 weeks prior to the commencement of the works **or the** phase of works and implemented in accordance with the approved details unless otherwise agreed in writing by the Council.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.”

- 1.4 Condition 38 should be amended to read, “All services within the development should be laid underground, **unless otherwise agreed in writing.**

Reason: In the interests of visual amenity”

- 1.5 Conditions 35, 39 and 40 should be withdrawn as they are not required

2.0 Recommendation

- 2.1 That the Committee note the contents of this Erratum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

Erratum 2

LA01/2019/0890/F

1.0 Update

- 1.1 Condition 36 should be amended to read, “ Prior to the commencement of development the developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information prior to development commencing:
- a. Precise location of development.
 - b. Date of commencement of construction.
 - c. Date of completion of construction.
 - d. The height above ground level of the tallest structure.
 - e. The maximum extension height of any construction equipment
 - f. Details of aviation warning lighting fitted to the structure(s). **The lighting shall be infra-red light fitted at the highest practicable point of the structure.”**

Reason: In the interest of flight safety

2.0 Recommendation

- 2.1 That the Committee note the contents of this Erratum 2 and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

Addendum

LA01/2019/0890/F

1.0 Update

- 1.1 Two verbal addenda were provided at October's Planning Committee meeting based on 2 further submissions received containing the same objection. Both submissions were received on 27th October 2021 (after the deadline for a written addendum) with one received during the Committee meeting. This brings the total number of objections to 7. These submissions raised the additional substantial issues of: light pollution from red flashing (warning) lights with potential effect on bat, bird and insect species; viability of wind farm development and subsidies and; request for a site visit.
- 1.2 As part of the consultation process, it was identified by Belfast International Airport and the Ministry of Defence – Safeguarding that a lighting scheme using flashing red lights or infrared lights was required for flight safety.
- 1.3 As part of the development, infra-red lights, which are not visible to the naked eye, have been proposed. Accordingly, the visual impact assessment provided did not need to include any visible lighting as none was proposed. Therefore, the proposal will not cause light pollution. NIEA Natural Environment Division in considering the overall proposal, has not identified that infra-red lighting would result in an unacceptable adverse impact on biodiversity or nature conservation interests.
- 1.4 Condition 36 has been amended in Erratum 2 to ensure that infrared lighting is used when the lighting scheme is to be agreed to avoid any adverse impact.
- 1.5 The Planning Committee Report considers the issues of safety, noise and shadow flicker. The nearest dwelling is 37 Temain Road which is 1260m from the closest turbine. The development is not considered to have an unacceptable adverse impact on that

property or any other dwelling. None of the nearby dwellings are within the safety buffer zone of any of the turbines. Given the separation distances, the development would not have an unacceptable adverse impact on the outlook from dwellings.

- 1.6 While it is acknowledged that amenity considerations can affect property value, devaluation of property in itself is given limited weight. Paragraph 2.3 of the Strategic Planning Policy Statement under the heading “The Purpose of Planning” states that the planning system operates in the public interest of local communities and the region as a whole and encompasses the present as well as future needs of society. It adds that the system does not exist to protect the private interests of one person against the activities of another, although the latter may coincide with the public interest in some cases.
- 1.7 It states that the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. In this case, the planning report has considered the impact on nearby properties. A planning consideration, which is given substantial weight, is that the proposal would not result in an unacceptable adverse impact on public safety, human health or residential amenity or cause significant harm to the safety or amenity of sensitive receptors.
- 1.8 Policy RE1 of PPS 18 Renewable Energy Policy does not require an assessment of the viability of turbines nor does it direct that there should be a consideration of the provision of subsidies for turbines to generate or not generate electricity. Considering this, significant weight cannot be given to those matters.
- 1.9 At the meeting on 27 October 2021 the Planning Committee resolved not to defer the application for a site visit.

2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

Addendum 2

LA01/2019/0890/F

1.0 Update

- 1.1 A further objection was received on 18th November 2021 which brings the total number of objections to 8. This submission raises the additional substantial issues of the Habitat Regulation Assessment not containing complete, precise and definitive findings which is in contravention of the European Court of Justice case C-304/05.
- 1.2 The matters which the objector considers to be inadequate are regarding (not exhaustively) drainage plans, the water construction management plan, the construction management plan, the decommissioning management plan, the peat management plan, cumulative impacts on designated European Sites and wildlife.
- 1.3 The detail of this objection needs considered by Shared Environmental Services who provide Habitat Regulation Assessments on behalf of the Council. It also may need consultation with Geological Survey NI and DAERA.
- 1.4 Until these consultees respond, the Planning Department cannot confirm that all matters within the objection have been adequately addressed and a recommendation cannot be made.

2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree to defer the application pending the response from the consultees.

Addendum 3

LA01/2019/0890/F

1.0 Update

- 1.1 The application was presented to the Planning Committee on 24th November 2021.
- 1.2 Three further objections were received on 18th, 22nd and 23rd November 2021 which were the subject of a verbal addendum at the November 2021 meeting.
- 1.3 The objection of 22nd November 2021 provided a commentary on the current electricity supply in NI in relation to wind energy. The submission refers to 4 news items which the writer comments on. This document was also submitted by Councillor Schenning who requested that the documents were put forward to the Committee. These news items relate to a much wider conversation about windfarms that is not within the remit of the current planning policy. The content of these articles (that could be accessed by Planning) can only be given very limited weight in any consideration of the application.
- 1.4 The objections of 18th and 23rd November 2021 raise the substantial issues of the Habitat Regulation Assessment being deficient.
- 1.5 These submissions raised the additional substantial issues of the Habitat Regulation Assessment not containing complete, precise and definitive findings which is argued to be in contravention of the European Court of Justice case C-304/05.
- 1.6 The matters which the objectors considered to be inadequate were mainly regarding drainage plans, the water construction management plan, the construction management plan, the decommissioning management plan, the peat management plan, cumulative impacts on designated European Sites and wildlife.

- 1.11 At the November 2021 meeting the Committee resolved that the Planning Department would undertake further consultations to explore these issues and return the application to the Committee for determination in January 2022.
- 1.12 Since then, the Planning Department has consulted NIEA/DAERA and DETI – Geological Survey. However, no responses have been provided yet. Reminders were sent to DETI – Geological Survey and NIEA/DAERA on 10th January 2022 because their consultation period had expired. SES’s consultation period expires on 13th January 2022. Therefore, a reminder is not appropriate at this time.
- 1.13 Until these consultees respond, the Planning Department cannot confirm that all matters within the objection have been adequately addressed and a recommendation cannot be made to progress the application.
- 1.14 After the November Committee meeting further objections were received on 24th November 2021 and on 12th January 2022 which brings the total number of objections to 11. The earlier of these two objections was anonymous and forwarded from Loughs Agency. It provided information that was already submitted to the Council in the objection of 18th November and is therefore under consideration as described above.
- 1.15 The objection of 12th January 2022 raises the matter of viability of the windfarm and purports to provide evidence that demonstrates the grid is overloaded. Due to this the objector expresses concern about “constraint payments” which are government subsidies for when the wind turbines must be shut down, for example when the grid has reached capacity.
- 1.16 Neither the matter of viability of the windfarms nor receipt of government subsidies are referred to within policy RE1 of PPS18. Therefore, these matters are given limited weight. The Best Practice Guidance to PPS18 document, refers to the connection to the electricity grid. However, it only indicates that the developer is “generally expected” to provide indicative details of the likely routes and anticipated method of connection. There is no expectation in the guidance that these matters are resolved before any planning approval is granted and the policy does not require it.

- 1.17 It should also be noted that this application is for repowering therefore there is an existing connection to the grid. The application indicates that connection to the grid will be to the Agivey 'cluster' substation, which is approximately 9 km south-east of the site. The final route selection would be determined by NIE.
- 1.18 In planning terms, the connection to the grid is a matter that remains between the applicant and NIE/SONI. Therefore, this objection has been given limited weight and does not result in any change to the previous recommendation to approve.

2.0 Recommendation

- 2.1 The recommendation is that the Committee notes the contents of the report, the Erratum, the Addendum, Addendum 2, and this Addendum 3 and agree to defer the application pending the response from the consultees.