



Planning Committee Report LA01/2018/1151/F	17th April 2019
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Development Management & Enforcement Manager
Cost: (If applicable)	N/a

<u>No:</u> LA01/2018/1151/F	<u>Ward:</u> Dungiven
<u>App Type:</u> Full Planning	
<u>Address:</u> Lands 600m south of 175 Gelvin Road and east of American Road in townlands of Evishagaran and Cruckanim, approximately 5.5km east of Dungiven	
<u>Proposal:</u> Proposed amendment to the overall tip height of the consented Evishagaran Wind Farm (B/2013/0120/F / 2014/A0169) to a maximum tip height of 140m; this includes blade length of between 45m and 56m and hub heights of between 72.5m and 100m; with capacity up to 48.3MW. No other amendments are proposed.	
<u>Con Area:</u> n/a	
<u>Valid Date:</u> 25.09.2018	
<u>Listed Building Grade:</u> n/a	
<u>Agent:</u> ABO Wind NI Ltd, Balmoral Business Park, Unit 6 Boucher Crescent, Belfast, BT12 6HU	
<u>Applicant:</u> ERG UK Holding Ltd, 42-46 Fountain Street, Belfast, BT1 5EF	
<u>Objections:</u> 40	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

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 600m south of 175 Gelvin Road and east of American Road in the townlands of Evishagaran and Cruckanim, approximately 5.5km east of Dungiven. The site lies within the Sperrins Area of Outstanding Beauty (SAONB) as indicated in the Northern Area Plan 2016 and the southern section of the Binevenagh Landscape Character Area (LCA 36). This is an expansive moorland landscape, dominated by a large-scale mosaic of rough pasture, bog and conifer plantations.

2.2 The site itself is located on an area of rough grazing pastures. The site has extant approval for a wind farm consisting of 14 turbines.

3.0 RELEVANT HISTORY

3.1 Evishagaran Wind Farm B/2013/0120/F – 14 turbines – Allowed at appeal on 4th April 2016

4.0 THE APPLICATION

4.1 The proposal is for an amendment to the overall tip height of the consented Evishagaran Wind Farm from 125m to 140m. No other amendments are proposed and the footprint of the wind farm will remain the same.

- 4.2 Each turbine will have a hub height not exceeding 100m and blade diameter not exceeding 56m. The associated access tracks, temporary construction compound, hardstanding, control building, substation and associated ancillary works have all been approved under the previous application.
- 4.3 Each turbine will have a generational capacity of up to 3.45MW, giving a combined generation capacity of up to 48.3MW. In accordance with The Planning (Development Management) Regulations (Northern Ireland) 2015, applications which exceed 30MW are considered to be 'Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011.
- 4.4 Section 26 requires the applicant to consult with the 'Department' regarding the submission of the proposed application. The Department, in this case, considered that as the proposal was an extension to an approved development then only the extension needed to be considered in the categorisation under Reg 3(b) of the Planning (Development Management) Regulations (NI) 2015. In this instance, the proposed increase to the overall height of the turbines could yield an output of 13.3MW over that approved, which is below the relevant threshold of 30MW, therefore the application is not considered to be regionally significant. A notice to this effect served under section 6 accompanied the application.
- 4.5 Micrositing of 50m was approved under the extant application. However, the micrositing capability has been reduced. The proposed micrositing differs for each turbine and ranges from 14m to 37m.

Design & Access Statement

- 4.6 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.

- 4.7 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.
- 4.8 The report demonstrates that the applicant undertook significant consideration of the tip height amendment giving regard to the land form, environmental/locational constraints, proximity to dwellings and health and safety considerations. This involved detailed assessment of the site and public consultations to provide an acceptable scheme prior to submission of an application. All other aspects of the development remain as approved under the original B/2013/0120/F application.
- 4.9 It is accepted that due to the inherent design characteristics of wind farms and for health and safety that there will be no requirement for access for those with disabilities onto the site.

5.0 PUBLICITY & CONSULTATIONS

External

- 5.1 One neighbour was identified for notification within the terms of the legislation. The application was advertised on 10th October 2018 in the local papers. On receipt of Further Environmental Information (FEI) notification letters were sent to 37 objectors and the original identified neighbour. The FEI was also advertised in local papers on 27th February 2019. 40 letters of objection were received from members of the public.

Internal

- 5.2 See appendix 1 for details of consultations carried out and the responses provided. There are no outstanding issues.

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 10th May 2018 under LA01/2018/0615/PAN. The applicant advised that they intended to undertake the following forms of consultation:

- Press notice of the public event and where further information could be obtained.
- Staffed public exhibition with information boards, leaflets and a reference copy of the Environmental Statement and drawings.
- Leaflet drop to all properties within 2km of the development.
- Public notice displayed in Glenullin Resource Centre and Garvagh Community Centre

5.5 The public event was to be held on 24th July 2018 in Glenullin Resource Centre. Prior to this a press notice advertising the public exhibition was to be published in two local newspapers on the week commencing 2nd July 2018.

Community Consultation Report

5.6 The community consultation report (CCR) was submitted as part of the planning application, received on 27th September 2018 which is more than 12 weeks after the Proposal of Application Notice was received, as required by the legislation.

5.7 It contained the methods of consultation carried out and the comments and feedback from this exercise. The report demonstrates that the consultation was carried out as agreed in the Proposal of Application Notice.

5.8 The event was advertised in two local newspapers, leaflets were delivered to all properties within a 2km radius of the proposed site, a notice was displayed on public notice boards within the Glenullin Resource Centre, Public Library Dungiven and Garvagh Community Centre and 5 local councillors were invited to attend the event. 35 people, including 1 local councillor,

attended the event. Formal feedback forms were available at the event, fifteen were filled in.

- 5.9 8 of the 15 feedback forms provided positive feedback. The main area of concern raised by the attendees focused on the visual impact of the proposal and the siting of the Agivey Cluster Substation. Another issue raised was the impact on television reception. The applicant has provided consideration of the issues raised in the forms and outlined the discussion points during the exhibition event. The applicant has demonstrated that the issues raised in the forms had been addressed during the event.
- 5.10 The CCR demonstrates that adequate community consultation has taken place and the key issues of concern have been considered. There have been no changes made to the proposal in response to the community consultation.

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) and the site falls within Landscape Character Area (LCA) 36 – Binevenagh which has been assessed to have a high to medium landscape sensitivity to impact from wind turbine development.
- 6.3 Part of the site is within Carn/Glenshane Pass SAC which is a European designation.
- 6.4 The Regional Development Strategy (RDS) is a material consideration.

- 6.5 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.
- 6.6 Due weight should be given to the relevant policies in the development plan.
- 6.7 The extant planning approval B/2013/0120/F is also a material consideration.
- 6.8 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 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 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

Supplementary Guidance

8.0 CONSIDERATIONS & ASSESSMENT

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

Principle of development

- 8.2 The aim of the SPPS in relation to renewable energy is to facilitate the siting of renewable energy generating facilities in appropriate locations in order to achieve Northern Ireland's renewable energy targets. It 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 and landscape character, impact on biodiversity, habitat and built heritage, natural resources, public access to the countryside and future decommissioning. These considerations are discussed in detail below.
- 8.3 The principle for a windfarm on this site has been established through the granting of planning permission B/2013/00120/F. This application is seeking to increase the maximum tip height of the approved turbines from 125m to 140m.
- 8.4 The Northern Area Plan 2016 is silent on the matter of wind farm development in this area.

HRA

- 8.5 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Part of the proposal site falls within Carn/Glenshane Pass SAC and is hydrologically linked to the River Roe and Tributaries SAC and the Bann SAC.

- 8.6 Shared Environmental Services carried out a Habitats Regulations Assessment and are content that the proposal will not have an adverse effect on the site integrity of any European site provided mitigation, which they have included, is conditioned in any approval.
- 8.7 NIEA have assessed the proposal and are also content that the increase in tip height will not present any new likely significant effect on the features of either of the SAC sites.

EIA consideration

- 8.8 The proposal is a subsequent application in relation to a Schedule 2 development. The proposal has not been subject to EIA determination and is not accompanied by an Environmental Statement, however, the original application (B/2013/0120/F) was accompanied by an Environmental Statement.
- 8.9 The Council considers that the environmental information previously submitted in relation to the original application is adequate to assess the significant effects of the development on the environment and shall take that information into consideration in its decision for current consent. This is in accordance with Regulation 13 of The Planning (Environmental Impact Assessment) Regulation (NI) 2017.
- 8.10 Although the applicant did not submit a new Environmental Statement, they submitted new visuals and supporting information to show the impact of the proposed turbines on the landscape. They also submitted new bird and bat surveys. No issues were raised by the consultees regarding the information submitted in the original Environmental Statement.

Objections

- 8.11 40 letters of representation have been received objecting to the proposal. The points raised in the letters have been considered. A breakdown of the issues and their consideration is contained in appendix 2.

Consideration of Planning Policy Statement 18 – Renewable Energy and the Strategic Planning Policy Statement for Northern Ireland

8.12 Both the SPPS and policy RE1 of PPS 18 require 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

8.13 The policy 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.

8.14 Section 1.3.54 of the Best Practice Guidance to PPS18 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 140m which constitutes the fall over distance, therefore the fall over distance plus 10% is 154m. All turbines should be least 154m back from the public road. The closest turbine to Gelvin Road is approx. 1400m from the road edge which is acceptable.

8.15 In relation to 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. While 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 maximum rotor diameter is 112m which equates to a separation distance of at least 1120m.

8.16 There is 1 property within 1120m of a proposed turbine. 175 Gelvin Road is approximately 618m from the nearest turbine (T1) giving a shortfall of 502m. This property has a financial

interest in the wind farm development, however, this does not negate the safety consideration.

- 8.17 A material consideration is that the inclusion of this property within the 10 times rotor diameter was accepted by the Planning Appeals Commission in the original approval. The original approval offers a valid fall-back position. The increase in the rotor diameter has not brought any additional dwellings within the safety distance. Taking this information into consideration, the Council accepts the inclusion of the property within the safety distance.

Human Health

- 8.18 A number of objectors have raised the issue of impact on human health, however, they do not go into any detail on what they believe the impacts to be. There is no indication from any consultees that the proposed development will result in any detriment to human health. Environmental Health have assessed the proposal in terms of noise and have not raised any concerns.

Residential Amenity

- 8.19 Policy RE1 stipulates that a separation distance of 10 times rotor diameter, with a minimum distance not less than 500m, will generally apply.” In this case the turbines proposed have a maximum rotor diameter 112m therefore a separation distance of 1120m from any occupied property.
- 8.20 With regard to amenity, the policy uses the term ‘generally apply’ to allow an element of discretion for properties where noise or shadow flicker has been assessed as being acceptable.
- 8.21 As highlighted above, 1 property has been identified as being within 1120m of a proposed turbine. With regard to noise, Environmental Health (EHO) had no objections to the noise assessment submitted. They have indicated that they are content with the proposed noise levels predicted at sensitive receptors and as such have no objection subject to conditions

being applied in the event of an approval. It has therefore been sufficiently demonstrated through the noise assessment that noise will not have an unacceptable detrimental impact on residential amenity and is therefore acceptable.

- 8.22 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. The applicant has indicated that there is 1 dwelling within this distance and therefore have the potential to be affected by shadow flicker. The property is 175 Gelvin Road which is 618m from the nearest turbine.
- 8.23 The guidance also states that for dwellings within 500m, shadow flicker should not exceed 30 hours per year or 30 minutes per day. There are no dwellings within 500m. The guidance does not give figures for what is deemed an acceptable amount of time for shadow flicker for dwellings outside 500m.
- 8.24 The applicant indicates that, in a worst case scenario, the predicted levels at the property would be above the levels stated above, however, in the real case scenario, potential shadow flicker effects comply with the guideline criteria, i.e. below 30 hours per year. The applicant has also proposed design and operational mitigation measures to include: retention of a band of trees around the affected property that will create a screening buffer to the wind farm and therefore effectively dissipating any potential effects; the installation of blinds in windows where shadow flicker may occur and; the installation of a shut down module on turbines T1 and T2 that will turn the turbines off when the conditions exist for shadow flicker to occur. These mitigation measures were not conditioned as part of the previous approval. Given that substantial weight has been given to the fall back position of the previous approval, these mitigation measures are not conditioned in this case.
- 8.25 Even though the worst case scenario figures significantly exceed the guideline levels, the property is outside the guidance distance of 500m. Taking this into consideration, along with the

proposed mitigation measures, and the fact that real case shadow flicker instances will be lower than the worst case scenario figures presented, it is considered that shadow flicker will not present an unacceptable impact on residential amenity.

8.26 In terms of visual amenity on the residents in proximity to the site, it is not considered that the increase in tip height would have any greater an impact than what had originally been approved. This is demonstrated by the updated visuals which were provided as part of the FEI.

(b) visual amenity and landscape character;

8.27 The principal of a windfarm on this site has been established under B/2013/0120/F (PAC Ref 2014/A0169). The visual impact of the windfarm on the landscape was deemed acceptable by the Planning Appeals Commission. The previous approval offers a valid fall-back position. The consideration now falls to the impact of the increased tip height on visual amenity.

8.28 The tip height of the proposed turbine will result in a 15m increase from what was approved under B/2013/0120/F (PAC Ref 2014/A0169). It is not considered that the increase in tip height would have any more of an impact than what was originally approved in terms of this landscape and the particular context of the turbines. Again, this is demonstrated by the visuals provided in the FEI.

8.29 Consideration was taken of the views from the dwellings in proximity to the site, particularly 175 Gelvin Road, which is the closest dwelling to the windfarm. It is considered that the turbines will have overbearing effect on the dwelling, however, this property has a financial interest in the proposal and therefore accept the impact.

8.30 The wind farm will be prominent in the landscape and will be viewed over long distances. The increase in height over these long range views are not so detrimental as to warrant a refusal in this particular case. NIEA Protected Landscapes Team have

no concerns regarding the impact of the increased turbine height on the AONB.

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

8.31 No issues have been raised by any of the consultees. It is not considered that the proposal will have any detrimental impacts on biodiversity, nature conservation or built heritage. NIEA, SES and RSPB are all content with the proposal and have suggested conditions to mitigate and impacts should the proposal be approved.

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

8.32 Due to the nature of the development there will be limited impact on air quality except for dust suppression upon construction.

8.33 No issues regarding ground or surface water have been identified. NIEA Regulation Unit have considered the proposal and are content. They state that as the proposed amendments to the already approved windfarm do not include the repositioning of the turbines or amendments to the construction of the foundations there will be no additional impact on the groundwater environment.

8.34 The site is within Carn/Glenshane ASSI and SAC and is hydrologically linked to the River Roe and Tributaries ASSI and SAC. However, proposed mitigation measures contained within the ES will reduce the risk of pollution, caused by runoff from the development, having a detrimental impact to the aquatic environment or the features of the designated sites as advised by NIEA and Shared Environmental Services.

(e) public access to the countryside.

8.35 The site in question is not publicly owned land and as such public access to the site upon the construction of the proposed development will be no different than before, that is, access to the land will depend on the landowners consent.

- 8.36 Although the site is privately owned, The Honourable The Irish Society (The HTIS) have advised that they own sporting and access rights in the area under its Royal Charters of 1613 and 1662. They have objected to the proposal but have not given any detail as to their objection. The applicant has provided information to demonstrate that the interests of The HTIS will not be harmed by the proposal. This information includes the title deeds and accompanying plans.
- 8.37 The title deeds show that The HTIS have fishing rights on the lands. These rights relate specifically to rivers and water bodies. The Loughs Agency, which is the statutory body charged with the conservation, protection and development of inland fisheries within the Foyle systems, has assessed the impact of the proposal on the aquatic environment and have no objection. Therefore, it has not been demonstrated that there will be any harm caused to the interests of The HTIS.

PPS 18 Requirements for Wind Development

- 8.38 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;

- 8.39 As discussed above, it is considered that there will be no unacceptable impact on visual amenity or landscape character beyond what will be caused by the implementation of the extant approval.

(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;

- 8.40 The principle of a wind farm on this site was established under the extant approval. Notwithstanding this, the Planning Appeals

Commission, in its consideration of the original proposal, considered that the landscape is capable of absorbing the proposal without unacceptable cumulative impacts on its visual amenity and landscape character. In its assessment, the PAC considered the proposal in relation to approved and existing windfarms. The PAC was of the opinion that in the context of the landscape and given the positioning of the proposal within the landscape and the degree of separation between it and other wind farm developments, it was acceptable.

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

8.41 The Environmental Statement (submitted under B/2013/0120/F) proposes general guidance methods and practices which should help reduce peatslide risk. Geological Survey of Northern Ireland are satisfied that there are no issues of geological concern arising from the proposal.

(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;

8.42 The consultees have advised that the development will not give rise to unacceptable interference to communication installations, emergency services communications or other telecommunications systems. This was an issue which was raised by objectors.

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

8.43 City of Derry Airport (CDA) was consulted as the site lies within 30km of it. CDA have no concerns over aviation safety and have no objection to the proposal.

8.44 DfI Roads have no objection to the proposal and no issues have been raised regarding road safety.

8.45 The Civil Aviation Authority have no objection to the proposal. They request that the applicant report the structures to the Defence Geographic Centre (DGC) so that they can be charted on aviation maps for safety purposes.

(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

8.46 As discussed above, 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.

8.47 Shadow flicker has also been assessed above and was deemed to be within acceptable limits. Due to the design of turbines which includes a semi-matte finish, convex surfaces and differing orientations of rotor directions, it is highly unlikely that reflected light will arise.

8.48 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.

(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.

8.49 The removal of the turbines and any of the associated infrastructure will be dealt with by condition if approved. The previous approval was conditioned requiring the applicant to submit a 'decommissioning scheme' to the Council to be agreed prior to the commencement of any works. The scheme shall include a restoration plan for any land affected by the development.

PPS 15 – Planning and Flood Risk

8.50 Policy FLD 3, Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains, requires A Drainage Assessment for

all development proposals where the site exceeds 1 hectare. DfI Rivers advised that should Council consider it appropriate in the circumstances then they should request a drainage assessment.

- 8.51 It is not considered necessary to request a drainage assessment as the proposal is only for the increase in tip height of the already approved wind farm. It is not proposed to make any other changes to the original approval. A drainage assessment was submitted as part of the original application and it was deemed to be acceptable.

Development on Active Peatland

- 8.52 The site includes areas of active peatland, namely blanket bog, which is a priority habitat. NIEA Natural Heritage, in their consultation response, dated 6th November 2013, to the original application, acknowledged that the proposal had been carefully designed to avoid areas mapped as blanket bog habitat on site. In their response to this proposal, NIEA Natural Heritage note that as the amendment is to the height only (locations of turbines and associated infrastructure will remain as approved), there will be no additional impact on the habitat. NIEA has recommended conditions to protect priority habitats and active peatland should the proposal be approved.

Habitat Management Plan

- 8.53 Policy RE1 of PPS 18 also requires that the application includes mitigation measures to avoid damage during construction, operation and decommissioning. Policy NH5 of PPS 2 also states that appropriate mitigation and/or compensatory measure will be required. Details of mitigation measures were included in the ES submitted under B/201/0120/F which are considered to be acceptable and any approval will be conditioned with the requirement for the submission of a full Habitat Management Plan and its agreement prior to the commencement of the development.

Consideration of Objections

8.54 40 objections were received as of 2nd April 2019

- *Proximity to dwellings, residential amenity and safety* – this has been considered under PPS 18 in relation to noise, shadow flicker and safety distance.
- *Original HRA and environmental assessment* – NIEA and SES are the competent bodies charged with the protection of the environment and designated sites. They are both content with the information submitted in the original ES and a more recent HRA has been carried out by SES.
- *Impact of site on other European sites such as the adjacent Carn and Glenshane SAC ASSI* – The impact of the proposal on European sites was considered by NIEA and SES who are both content that there will be no significant impact. SES carried out a full Habitats Regulations Assessment.
- *Impact on Bann basin in terms of hydrological links to European site not considered previously* – SES have considered the hydrological link to the Bann basin in their HRA.
- *No risk collision impact assessment done previously* – impact on birds, bats and insects – A risk collision impact assessment is not a statutory requirement. Bat and bird surveys were submitted as part of the ES, NIEA are content that the surveys were appropriate to assess the impact on these species and have provided conditions to mitigate the impact on them. Updated bat and bird reports have been submitted as FEI under the current proposal.
- *Cumulative impact of turbines and windfarm on wider area* – The principal of the wind farm has been established under the extant approval. The previous approval offers a valid fall-back position. If this application were to be refused the extant approval can still be built. The cumulative impact was deemed by the PAC to be acceptable.
- *NIEA have underestimated the assessment on Impact of removal of peat/impact on blanket bog* – NIEA are the competent authority with regard to the impact of the proposal on

peat land. NIEA were asked to consider the objection in their response. In their recent response NED state that they had no concerns regarding habitats in their final response to B/2013/0120/F on 9th July 2014 provided conditions were included in any decision to minimise impacts to blanket bog.

- *NIEA required submission of final CEMP and Drainage Assessment prior to commencement of development which has not been received* – The original development has not commenced therefore the CEMP and Drainage Assessment did not have to be submitted.
- *Sperrins AONB not acknowledged* – The AONB was considered by the PAC during the appeal process in terms of policy NH 6 of PPS 2 and RE 1 of PPS 18. NIEA Landscapes Architects Branch objected to the original proposal. However, it was allowed at appeal and the issue which falls to be considered in this proposal is the larger turbines. NIEA Protected Landscapes Team has assessed the proposal and have no issues.
- *New ES and HRA required to address shortfalls of previous application* – *Previous ES and HRA had many faults* – *Previous ES and HRA are out of date* - As stated above at paragraph 8.8, legislation allows the applicant to rely on a previous ES. None of the consultees raised any concerns over the information provided in the ES. Further Environmental Information has also been submitted. A new HRA has been carried out by SES.
- Some of the issues raised express concerns over the processing of the original approval, this is not an issue for this application and should have been raised with the PAC during the appeal process. The principal of a wind farm development on this site is established and what falls to be considered is the impact of the larger turbines.
- *Visual impact* – Material weight has been given to the approved wind farm. Visuals of the proposed turbines have been provided by the applicant and they have been deemed to be acceptable. Visual impact has been dealt with under RE 1 of PPS 18.

- *Increased noise* – Environmental Health has considered the impact of noise and deem it to be acceptable. They have provided conditions in relation to noise levels.
- *Connection to proposed substation near Glenullin. Impact of substation on residents not considered. Piecemeal development which should be held and decided at same time as substation* – An application has been submitted for the proposed sub-station. The impact of which will be assessed during the processing of that application. Residents will have the opportunity to submit representations to that application to be considered. The substation is a separate proposal to the wind farm therefore there is no need to consider it at this time. If the sub-station does not get approval the wind farm will be connected to the grid via another connection elsewhere. The connection will require separate planning approval.
- *Contrary to PPS 18 RE 1* – Policy RE 1 of PPS 18 has been considered in the assessment of this proposal, see above. It is considered that that the proposal meets the requirements of the policy.
- *TV disturbance* – Arqiva is responsible for providing the BBC and ITVs transmission network and is responsible for ensuring the integrity of Re-Broadcast links. They have no objection to the proposal.
- *Impact on tourism and leisure* – this was addressed by the PAC under policy TSM 8 of PPS 16 and they considered that there would be no impact. The Ulster Hand-gliding and Paragliding Club has advised that they have concerns of the impact of the increased tip height on their flying activities. However, no information has been provided to demonstrate that there will be an increased risk from what is approved under the extant approval. UHPC had no objection to the original proposal.
- *Impact on Health and Well-being* – It has not been demonstrated that wind turbines have detrimental impact on health and well-being. Environmental Health are content with regard to noise and have not raised any concerns over impact on health.

- *Pylons (visual and health impact) and associated infrastructure* – The proposal does not contain any pylons. The associated infrastructure such as tracks, hardstandings and substation have all been approved and it is not proposed to amend any of these. Connection to the grid will require a separate planning approval. Any pylons will require separate planning approval.
- *Impact on wildlife such as Irish Hare, Roe deer and flora such as wildflowers and endemic vertigo geyeri* – NIEA have assessed the proposal and are content that it will not have a detrimental impact on wildlife or flora.
- *Historical and Archaeological impact/local heritage site* – Historic Environment Division are content with the proposal and have suggested conditions to minimise the impact of the development on any potential unknown archaeological sites.
- *Number, scale, size and siting* – The number and siting of the turbines was approved by the PAC. The size and scale are considered to be acceptable and is discussed under RE 1 of PPS 18.
- *Glenullin community not adequately engaged on original application or others* – The original application did not require community consultation but would have been subject to the requirement to advertise at the time. The requirement for community consultation did not come in until 2015. The original application was advertised as per the Department's policy at that time. Notwithstanding this, the application was approved and a community consultation exercise has been carried out for the current application which the Council considers to be adequate.
- *Surveys were carried out by consultancy firms hired by the applicant which may be biased* – submitted surveys are considered and scrutinised by the competent authorities (consultees) on behalf of the Council. The consultees were content with the information submitted. There is no evidential basis to dispute their content.
- *Increased risk of landslide and pollution of waterways due to increased surface runoff* – no issues were raised by any of the consultees.

9.0 CONCLUSION

- 9.1 This proposal is considered acceptable in this location having regard to the Area Plan and other material considerations. The application is for an increase in tip height, from 125m to 140m to an already approved windfarm which must be given significant weight as a fall-back position. It is considered that the proposal will not have a detrimental impact on the residential amenity of the dwellings in proximity to the site or on the visual amenity of the surrounding landscape significantly beyond that of the original approval. Therefore, the proposed nature and scale of the proposal is considered acceptable having regard to the policy guidance set out in policy RE1 of PPS18 and the SPPS. Approval is recommended.

10.0 CONDITIONS AND INFORMATIVES

Conditions

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time limit.

2. 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.

3. 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: To ensure compliance with appropriate conditions.

4. No part of the development hereby permitted shall be commenced until the works approved under planning Application Ref: B/2013/0120/F, approved by the PAC on 4th April 2016, necessary for the improvement of the public road and the provision of intervisible passing bays as shown on Drawing Nos. 16, 20, 21, 22, 24, 25, 26, 27, 28, 29 and 30, dated 30 May 2013 and Drawing Nos. 15(RevA), 17(RevA), 18(RevA), 19(RevA) and 23(RevA) dated 11 July 2013 have been carried out to the satisfaction of the Council.

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

5. The area within the visibility splays and any forward sight lines shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and 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.

6. The gradients of the access shall not exceed 4% (1 in 25) over the first 10 metres 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 users.

7. Effective wheel washing facilities shall be installed and operated for the duration of the construction period and any repair or remedial work periods 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. Prior to the commencement of construction on site, the applicant/agent shall in association with Dfl Roads Maintenance Sections carry out a condition survey of all haul routes and shall at the applicant's expense carry out and provide to Dfl Roads 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.

9. During construction works, the applicant/agent shall carry out and record daily inspections of all haul routes and submit this information to the Dfl Roads Section Engineer on a weekly basis.

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

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

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

11. 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 Council. The CEMP shall include the following:

- a) Pollution Prevention Plan; including details of the establishment of buffer zones to watercourses (50m to streams and 20m to minor drains) and details of watercourse crossings;
- b) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- c) Peat/Spoil Management Plan; including identification of peat/spoil storage areas and details of the reinstatement of excavated peat/spoil;
- d) Mitigation measures for construction in peatland habitats;
- e) Water Quality Monitoring Plan;
- f) Environmental Emergency Plan;
- g) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities;
- h) Draft Decommissioning Plan detailing the removal of infrastructure, protection of habitats, pollution prevention measures and the restoration of habitats and natural hydrological processes on the site.

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.

12. 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 Council.

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.

13. There shall be no storage of materials within the watercourse buffers as shown in the Surface Water Management (SuDS) Preliminary Site Drainage Layout Appendix 2.1 Further

Environmental Information submitted under B/2013/0120/F.

Reason: To protect the River Roe and Tributaries SAC/ASSI.

14. 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 Council. The HMP shall include the following:
- a) Aims and objectives of proposed habitat management;
 - b) Appropriate assessment and description of pre-construction, baseline habitat conditions;
 - c) Appropriate maps, clearly identifying habitat management areas;
 - d) Detailed methodology and prescriptions of habitat management measures and with defined criteria for the success of the measures;
 - e) Timescales for the implementation of habitat management measures;
 - f) Details of the monitoring of the effectiveness of habitat management measures using appropriate methodology in years 1, 2, 3, 5, 10, 15 and 25 after construction;
 - g) Details of contingency measures to be implemented should monitoring reveal unfavourable results;
 - h) Details of the production of monitoring reports to be submitted to the Council within 6 months of the end of each monitoring year.

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

15. 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 Council.

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

16. No work shall commence on site until the habitats M19, M25 and M6 (as shown in figure 7.3 NVC Map in Volume 2 of the Environmental Statement submitted under B/2013/0120/F) within or adjacent to the development are temporarily fenced. No works, storage of materials or construction activity shall take place within the fenced area unless agreed in writing by the Council. The fence shall be maintained and shall not be removed until all works are completed.

Reason: To protect priority habitats and active peatland.

17. No development activity, including ground preparation or vegetation clearance, shall take place on site between 1 March and 31 August in any year until an Ornithological Mitigation Strategy (OMS) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Council. 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 pre-construction bird surveys, including the location of any recorded active nests or breeding activity;
 - c) Details of appropriate mitigation measures to be implemented prior to any works commencing, including the establishment of species specific buffer zones to active nests or breeding territories (to be agreed with NIEA) and the phasing of works to avoid any development activity within these breeding bird buffer zones;
 - d) Details of the timing of ground preparation and vegetation clearance to avoid disturbance to breeding birds;
 - e) Details of appropriately timed bird surveys to be conducted during the construction phase;
 - f) Details of appropriate mitigation measures to be implemented during the construction phase, including, temporarily halting

works and the establishment of species specific buffer zones to active nests or breeding territories (to be agreed with NIEA);
g) Provisions for the reporting of the implementation of the OMS to the Council after construction has commenced and at the end of each bird breeding season during which works take place.
Reason: To protect breeding birds during the construction phase.

18. The approved OMS shall be implemented in accordance with the approved details and all works must conform to the approved OMS, unless otherwise approved in writing by the Council.

Reason: To protect breeding birds during the construction phase.

19. No development activity, including ground preparation or vegetation clearance, shall take place until an Ornithological Management & Monitoring Plan (OMMP) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Council. The OMMP shall include:
- a) Details of a programme of ornithological mitigation measures, including wader habitat management measures;
 - b) Details of a programme of long term bird monitoring of breeding and wintering birds, using appropriate survey methodology, in the year of construction (year 0), and in years 1, 2, 3, 5 and 10;
 - c) Details of a programme of regular turbine carcass searches to produce mortality data for peregrines, including estimation of the rate of carcass removal by scavengers, estimation of observer efficiency of carcass detection, and the reporting of mortality incidents to NIEA;
 - d) Details of the production of monitoring reports to be submitted to the Council within 6 months of the end of each monitoring year;
 - e) Provision for any contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Council.

Reason: To ensure implementation of the long term ornithological mitigation measures as described in the Environmental Statement and to monitor the impact of the proposal on sensitive bird species.

20. The approved OMMP shall be implemented in accordance with the approved details and all works must conform to the approved OMMP, unless otherwise approved in writing by the Council.

Reason: To ensure implementation of the long term ornithological mitigation measures as described in the Environmental Statement and to monitor the impact of the proposal on sensitive bird species.

21. No turbine shall become operational until a Bat Monitoring Programme (BMP) has been submitted to and approved in writing by the Council. The BMP shall include the following:

- a) Details of the proposed monitoring of bat activity across the site post construction using appropriate methodology for 3 years;
- b) Details of bat carcass searches at selected turbines using appropriate methodology for a period of time to be agreed with the Council;
- c) Details of the production of yearly monitoring reports to be submitted to the Council within 6 months of the end of each monitoring year;
- d) Provision for review of the monitoring programme, including timescales;
- e) Provision for contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Council.

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

22. The approved BMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Council.

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

23. The level of noise immissions from the combined effects of the 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 the tables below.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 the tables shall be represented by the physically closest location listed in the tables below unless otherwise agreed by the Council.

Table 1: Noise Limits dB LA90 for Night-time Periods
(23:00 - 07:00)

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
175 Gelvin Road Drumsum	32.6	36.0	40.3	43.6	44.4	44.4	44.4	44.4	44.4	
173 Gelvin Road Drumsum	25.2	28.4	32.3	35.6	36.4	36.4	36.4	36.4	36.4	
180m NW of 19 Boviell Road Dungiven	22.1	25.2	28.7	32.0	32.8	32.8	33.2	33.2	33.2	

Table 2: Noise Limits dB LA90 at all other times
(Day-time limits)

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
175 Gelvin Road Drumsum	32.6	36.0	40.3	43.6	44.4	44.4	44.4	44.4	44.4	
173 Gelvin Road Drumsum	25.2	28.4	32.3	35.6	36.4	36.4	36.4	36.4	36.4	
180m NW of 19 Boviell Road Dungiven	22.1	25.2	28.7	32.0	32.8	32.8	33.2	33.2	33.2	

Reason: To control the noise levels from the development at noise sensitive locations.

24. 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 suitable qualified and competent person to undertake a noise survey to assess the level of noise immissions 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 Condition 23 and covering a range of wind directions. Details of the noise monitoring survey shall be submitted to Council for their written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise survey.

Reason: To assess compliance with noise immission limits as required by Condition No. 23.

25. Within 4 weeks of a written request by the Council, following a 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 immissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. Details of the noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.

26. The wind farm operator shall provide to the Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 24 or 25, including all calculations, audio

recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 9 months of the wind farm becoming fully operational in respect of condition 24, or within 3 months of the date of the written request of the Council under condition 25 unless, in either case, otherwise extended in writing by the Council.

Reason: To control the noise levels from the development at noise sensitive locations.

27. 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. At the request of the Council, 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 made available to it.

Reason: To facilitate assessment of monitoring exercises and complaint investigation.

28. Within 4 weeks from receipt of a written request from the Council, following an 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 the Council for its written approval. The scheme shall be in general accordance with:

- Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,
- Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,
- The methodology published by Renewable UK on the 16th December 2013;

and implemented within 3 months of the written request of the Council unless otherwise extended in writing by the Council.

Reason: To control the levels of AM from the development at noise sensitive locations.

29. Construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of 07.00 - 19.00 hours on Monday to Friday, 07.00 - 13.00 hours on Saturday with no such working on Sunday. Outwith these hours, work at the site shall be limited to turbine erection, testing/commissioning works, emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To control noise levels from construction noise at noise sensitive locations.

30. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Council. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

31. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any

archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

32. The developer must notify 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 structures.

Contact (dvof@mod.uk), or by post to:
D-UKDVOF & Power Lines
Geospatial Air Information Team
Defence Geographic Centre
DGIA
Elmwood Avenue
Feltham
Middlesex
TW13 7AH

Reason: To allow for the appropriate inclusion on Aviation Charts, for safety purposes.

Informatives

1. The applicant's attention is drawn to the fact that the site is upstream of the River Roe and Tributaries SAC/ASSI and is close to the boundary of Carn-Glenshane Pass SAC/ASSI, and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and Environment (Northern Ireland) Order 2002 (as amended) and

require consent from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

2. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.

3. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*);
 - b) damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection;
 - c) damage or destroy anything which conceals or protects any such structure;
 - d) disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. If there is evidence of newts on the site, all

works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the common lizard (*Lacerta vivipara*);
 - b) damage or destroy, or obstruct access to, any structure or place which common lizards use for shelter or protection;
 - c) damage or destroy anything which conceals or protects any such structure;
 - d) disturb a common lizard while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. If there is evidence of common lizard on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

5. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
- a) kill, injure or take any wild bird; or
 - b) take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - c) at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - d) obstruct or prevent any wild bird from using its nest; or
 - e) take or destroy an egg of any wild bird; or
 - f) disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - g) disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1 March and 31 August.

6. For guidance on the preparation of the Written Scheme and Programme of Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact:

Historic Environment Division – Historic Monuments
Causeway Exchange
1–7 Bedford Street
Belfast,
BT2 7EG
Tel: 02890 823100

Quote reference: SM11/1 LDY025:012 and LA01/2018/1151/F

7. Application for the excavation licence, required under the *Historic Monuments and Archaeological Objects (NI) Order 1995*, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project, to:

Historic Environment Division – Historic Monuments Unit
Causeway Exchange
1–7 Bedford Street
Belfast,
BT2 7EG

8. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult DfI Rivers Agency accordingly on any related matters.
9. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the

written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

10. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
11. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
12. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
13. Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.
14. No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the

mandatory Sewer Adoption Agreement has been authorised by NIW.

15. A formal water / sewer connection application must be made for all developments, including those where it is proposed to re-use existing connections.
16. Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland). Applicants should contact NI Water's Water Fittings Regulations team via waterline@niwater.com if they have any queries.
17. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
18. The applicant is advised that under Article 11 of the Roads Order (Northern Ireland) Order 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.
19. The applicant should contact the Department for Infrastructure's Roads Maintenance Section at County Hall, Castlerock Road, Coleraine, BT51 3 HS in order that an agreement may be reached regarding maintenance costs and incurred expenses in consequence of any damage caused to the public road.
20. All construction plant and materials shall be stored within the curtilage of the site.

21. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
22. The applicant must apply to the DfI Roads Service for a license indemnifying the Department against any claims arising from the implementation of the proposal.
23. Notwithstanding the terms and conditions of the Department of the Environment's approval set out above, you are required under Article 60 of The Road Traffic (NI) Order 1995 to be in possession of the Department for Infrastructure consent before moving any equipment which would be defined as an abnormal load. The consent is available on personal application to the Roads Service Abnormal loads Section Roads Service Headquarters, Clarence Court, 10-18 Adelaide Street, Belfast, BT2 8GB.
24. Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to Network Services through the relevant Division.
25. The applicant should be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

Appendix 1: Consultation Responses

Consultee	Response Date	Responses
Arquiva	20/11/18	No objection
CAA - Directorate of Airspace Policy	04/01/19	No objection
Vodafone (Cable and Wireless Worldwide)	07/12/18	No objection
City of Derry Airport	16/10/18	No objection
DfE – Energy Branch	17/10/18	No objection
DETI Geological Survey	30/10/18	No objection
Environmental Health	10/01/19	Content - conditions
Everything Everywhere	30/11/18	No objection
Eircom	09/01/19	No objection
Lonmin (NI)	Notifiable only	No comment
Loughs Agency (Foyle Carlingford & Irish Lights Commission)	23/10/18	No objection
DIO – Safeguarding	12/12/18	No objection
NATS – Safeguarding	18/10/18	No objection
NIE – Windfarm Developments	05/11/18	No objection
NIEA	21/02/19	Content - conditions
DfC – HED	19/11/18	Content with conditions
NI Water	05/11/18	No objection
Ofcom	26/11/18	Eircom UK
Rivers Agency	05/11/18	Content – conditions
RSPB	05/03/19	No objection - conditions

Shared Environmental Services	10/12/18	Content - conditions
DfI Roads	26/10/18	No objection subject to conditions
The Honourable The Irish Society	16/10/18	Object to the proposal
The Ulster Hand Gliding and Paragliding	Notifiable only	No comment
Sperrins Gateway Group	Notifiable only	No comment

Site Location Map

