



<b>Planning Committee Report</b> LA01/2018/0363/F	<b>27<sup>th</sup> January 2021</b>
<b>PLANNING COMMITTEE</b>	

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

<b><u>No:</u></b> LA01/2018/0363/F	<b><u>Ward:</u></b> Dungiven
<b><u>App Type:</u></b> Full Planning	
<b><u>Address:</u></b> Approx 400m north of 60 Gelvin Road, Dungiven	
<b><u>Proposal:</u></b> Alternative 250kw wind turbine in replacement of existing installed 250kw wind turbine. Proposed tower height to be 36m and proposed blade diameter to be increased to 39m from original planning approval B/2010/0333/F.	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 23.03.2018
<b><u>Listed Building Grade:</u></b> n/a	
<b><u>Applicant:</u></b> Mr Denis McHenry, 60 Gelvin Rd, Dungiven, BT47 4QU	
<b><u>Agent:</u></b> McKernaghan Architectural Service Ltd, 82 Ecclesville Road, Fintona, BT78 2EF	
<b><u>Objections:</u></b> 49	<b><u>Petitions of Objection:</u></b> 0
<b><u>Support:</u></b> 0	<b><u>Petitions of Support:</u></b> 0

## **Executive Summary**

- The proposal is for an alternative 250kw wind turbine on the same site as an existing wind turbine.
- Access to the wind turbine is proposed via an existing agricultural track from Gelvin Road.
- There have been 49 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.
- The proposal has been assessed against the relevant policy, mainly the SPPS and Planning Policy Statement 18: Renewable Energy, and has been found acceptable in terms of the principle of development, public safety, human health, residential amenity, visual amenity and landscape character, biodiversity, nature conservation or built heritage, local natural resources, public access to countryside, cumulative impact, landslide/bog burst, electromagnetic interference, roads, rail and aviation safety, noise, shadow flicker and ice throw, redundant plant, economic, environmental and social considerations, access and tourism
- A Certificate of Lawful Use or Development certified that the turbine which presently exists on site was 36m tower height with 31m rotor diameter giving a total height of 53.2m. The current proposal equates to an increase in blade length of 4m (rotor diameter increased by 8m).
- 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 application site is located 400 metres North of 60 Gelvin Road, Dungiven. The application site currently contains an existing wind turbine which is operational. Access to the application site is via an existing agricultural track from the Gelvin Rd. The application site is located centrally within a field with a substation and control room building present to the south east of the turbine. The field boundaries are defined by relatively mature hedgerow with sparse trees throughout. The application site is relatively flat but the landform rises from Gelvin Rd in a northern direction to give the site a slightly elevated position within the wider landscape.
- 2.2 The application site is located within the rural area outside of any settlement limit as defined in the Northern Area Plan 2016. The site is located approximately 5km North East of Dungiven and approximately 2km South West of Drumsurn. The site is not located within any environmental designations, but lies adjacent to Oakhill Site of Local Nature Conservation Importance (LNC19) as designated in the Northern Area Plan. The area is predominately agricultural in character with a number of dwellings and farm complexes scattered in the wider vicinity of the site. There are a number of existing wind turbines within the landscape which form a visual trail stretching from Dungiven to Drumsurn and beyond, with approvals for windfarm development at Craiggore and Evishagarran within the wider area also.

### **3.0 RELEVANT HISTORY**

B/2010/0333/F - 400 metres North of 60 Gelvin Road, Dungiven - Erection of 1no. 250kw wind turbine with a hub height of 31m – Permission Granted 28.06.2012

LA01/2018/1540/LDE - Approx. 400m north of 60 Gelvin Road Dungiven - Existing M750 250kw wind turbine and associated control building and substation – Permitted Development 14.03.2019

#### Adjacent to Site

B/2010/0031/F - 165 metres North of 60 Gelvin Road, Ballyness, Dungiven - Erection of 37m high 130kw wind turbine – Application Withdrawn

### **4.0 THE APPLICATION**

- 4.1 The proposal is for the erection of a new 250kw wind turbine to replace the turbine which presently exists on site, and is to be sited in generally the same location as the existing turbine. The application was initially submitted for a larger turbine which sought permission for a turbine with a tower height of 44, and a rotor diameter of 44m. During the processing of the application the size of the turbine was reduced in scale to the current proposal which proposes a turbine with a tower height of 36m and a rotor diameter of 39m.

### **5.0 PUBLICITY & CONSULTATIONS**

#### **External**

- 5.1 No neighbours were identified for notification within the terms of the legislation. The application was advertised on 11<sup>th</sup> April 2018 in the local papers. The application was amended to reduce the size of the proposed turbine and therefore was advertised again on 5<sup>th</sup> June 2019.
- 5.2 There are forty nine (49) objections to this proposal and 2 non committal representations, in many instances there are multiple letters of objection from the same person or address. The objections are from twenty (20) separate addresses. The main issues raised in the letters included:

- Increased height and visual impact of turbine
- Noise Impact from turbine
- Shadow Flicker from turbine
- Electrical Interference in homes
- Cumulative impact with other turbines
- Threat to wildlife
- Incorrect information regarding site coordinates limiting ability of consultees to provide accurate response
- Proximity to ASSI.
- Proximity to AONB.

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

### **Internal**

5.3 DFI Roads – No objection

Environmental Health – No objection

NI Water Windfarms – No objections

Shared Environmental Services – No objections

DAERA NED – No objections

DAERA WMU – No objections

DAERA LSA – No objections

City of Derry Airport – No objections

Belfast International Airport – No objections

NATS – No objections

PSNI – No objections

Arquiva – No objections

Ofcom – No objections

UK Crown Bodies Defence Infrastructure Organisation-  
Safeguarding – No objections

UK Crown Bodies Defence Infrastructure Organisation Land-  
Management Services– No objections

Joint Radio Company – No objections

Atkins Ltd – No objections

Civil Aviation Authority – No objections

## **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:

- Northern Area Plan 2016 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 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.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 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 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

## 8.0 **CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to: the principle of development, public safety, human health, residential amenity, visual amenity and landscape character, biodiversity, nature conservation or built heritage, local natural resources, public access to countryside, landscape character, cumulative impact, landslide/bog burst, electromagnetic interference, roads, rail and aviation safety, noise, shadow flicker and ice throw, redundant plant, economic, environmental and social considerations, natural heritage, access, archaeology and built heritage, tourism and consideration of representations.

### **Principle of development**

8.2 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.

8.3 Policy CTY 1 of PPS 21 allows for renewable energy projects in accordance with PPS 18 which is assessed below.

8.4 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.

8.5 The proposal does not include the erection of any buildings. There is a substation and single storey control room located close to the existing turbine. These are small, modest structures which will not have any significant visual impacts from beyond the application site.

8.6 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 wind turbine development, it is difficult for it to integrate into the countryside, however, the proposal and the associated infrastructure, has been sensitively designed so as to respect rural character as much as it can and is therefore acceptable.

8.7 Policy RE1 of PPS18 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**

8.8 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.

8.9 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 57.2m which constitutes the fall over distance, therefore the fall over distance plus 10% is 62.92m. The nearest public road to the turbine is Gelvin Rd which is approximately 406m from the turbine. Even when taking the proposed micro-siting of a maximum 5m into consideration, it will still be approximately 400m from the edge of the public road and therefore complies with



policy. There are no railway lines in the vicinity of the application site.

- 8.10 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'. For a smaller individual turbine, for example on a farm enterprise, the fall over distance plus 10% is often used as a safe separation distance'. 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 39m which equates to a separation distance of at least 390m, while the height of the turbine plus the additional 10% equates to 62.92m.
- 8.11 The nearest occupied dwelling is that of the applicant's which is approx. 402m from the turbine, while an approved site under the applicant's control is approximately 392m from the proposed turbine. Given the nature and scale of the proposal, as an individual turbine, the lower threshold of fall over distance is acceptable and there are no buildings within the fall over distance with the added 10% and 5m micro siting option.

### **Human Health**

- 8.12 Paragraphs 1.3.47 to 1.3.49 of the Best Practice Guidance outline that there is no evidence that ground transmitted low frequency noise from turbines is at a sufficient level to be harmful to human health. None of the consultees have indicated that the proposal will result in any detriment to human health.

### **Residential Amenity**

- 8.13 Policy RE 1 of PPS18 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. There is no specific guidance in reference to smaller, single turbines as to the recommended separation distance from properties. There is no occupied dwellings located within the ten times rotor diameter distance from the site. One approved site (B/2011/0152/F), which the applicant

has outlined is within his control, would fall within this distance when the potential micro-siting distance is factored in.

- 8.14 A Noise Impact Assessment was submitted based on the initial proposal, with subsequent revisions submitted to reflect the reduced turbine and to account for additional properties and extant planning permissions which had initially not been accounted for. The report outlines that the closest non-financially related/invested property is located at No. 59 Gelvin Road which is 461m from the proposed turbine. The assessment considers the impact of the turbine and the cumulative impact of the turbine and other neighbouring turbines in the area. The figures presented outline that the noise levels at the identified properties in the vicinity will not exceed the day-time and night-time limit for noise as set out within the ETSU-R-97 Report, and as such there will be no significant adverse impact from the turbine either singularly or cumulatively.
- 8.15 Environmental Health, as the competent authority in respect of these issues have assessed the noise reports and have no objections to the turbine and have provided conditions to be attached to any forthcoming planning approval, which limit the noise levels to those as specified within the Noise Impact Assessment.
- 8.16 With regard to shadow flicker, the Best Practice Guidance advises that shadow flicker generally only occurs within relative proximity to the turbine. Only properties located within 130 degrees either side of north of the turbine can be affected by shadow flicker. Turbines do not cast long shadows on their southern side. Guidance contained within the 'Best Practice Guide to PPS18 – Renewable Energy' outlines that at distances greater than 10 times the rotor diameter from a turbine, the potential for shadow flicker is very low. There are no properties which fall within the critical area of 130 degrees either side of north and within 10 times the rotor diameter of the proposed turbine (390m).
- 8.17 As there were properties located within 500m of the proposed turbine a Shadow Flicker Assessment was requested to assess the potential impacts on these properties. A Shadow Flicker Assessment was submitted and concluded that no property would experience shadow flicker beyond the 30 hours per year or 30

minutes per day limits as outlined within Paragraph 1.3.77 the Best Practice Guidance.

**(b) visual amenity and landscape character;**

- 8.18 The turbine is located within Landscape Character Area (LCA) 37 – Roe Basin, which supplementary planning guidance (SPG) ‘Wind Energy Development in Northern Ireland’s Landscapes’ describes as having a high to medium sensitivity to wind development.
- 8.19 The SPG outlines that the LCA is strongly influenced by prominent west-facing skylines of basalt escarpment, notably at Binevenagh, Keady Mountain, Donald’s Hill and Benbradagh and by Sperrin Mountain tops south of Dungiven. Important internal skyline south of Limavady where land rises to over 100m. The setting of Limavady includes deep wooded section of River Roe while Dungiven is surrounded by attractive glens that also form the setting to the Sperrin AONB.
- 8.20 The SPG goes on to state that the fringe landscapes west of Dungiven and south-west of Limavady are the areas in which turbines are most likely to be suitable compared with other locations. Consideration could be given to siting turbines on lower slopes, preferably against a hillside backdrop. It is recommended that turbine development reflects the low-lying landforms of this LCA. Care should be taken to avoid adverse impacts on the extremely sensitive and prominent skylines or settings of Binevenagh and the Sperrins. Care should also be taken to avoid adverse impacts on the other skylines, settings or views
- 8.21 The proposed turbine is sited on a part of the LCA which is relatively low lying with localised heights, compared to the steep escarpments such as Benbradagh, Donald’s Hill and Binevenagh to the northern end of the LCA. The turbine is within an area of the LCA which sees a number of turbines stretching from Dungiven in a northern direction and a common feature of the landscape. The scale of the turbines are generally of a similar scale and smaller in scale than the turbines within the permitted windfarms within the LCA. Given the modest increase in rotor diameter proposed from that which currently exists, it will not have any significant detrimental impact on the visual amenity or landscape character beyond that which currently exists.

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

- 8.22 DAERA Natural Environment Division (NED) has considered the impacts of the proposal on natural heritage biodiversity interests. The application site is not located within any environmental designated site but is located adjacent to Oakhill Site of Local Nature Conservation Importance (LNC 19).
- 8.23 Initial consultation with Natural Environment Division outlined that a full Bat Survey would be required to determine the impact on Bats which are a Protected Species. A Bat survey was subsequently carried out and submitted for consideration. The Bat Survey concluded that there was low bat activity at the application site and that the proposal would have a negligible impact on Bats.
- 8.24 Comments within the objections received have noted the response from DAERA Natural Environment Division dated 02/09/2020 and have suggested that the results of the bat survey carried out in 2018 are no longer valid, and that a new bat survey should be carried out. The consultation response from DAERA clarified that as a general standard, the information within a Bat survey is valid for one year. It went on to state that bats are mobile species and on site activity may have changed since the report was completed in September 2018. Bats are a European Protected Species under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and are subject to a strict level of protection. However, given the results of the survey and the timeline of this application, NED are content that it is unlikely that there will be any significant impact upon Bats. NED advise that the applicant refer to the mitigation measures outlined within Section 8 of the Bat Activity Survey (Doc 04) received 20<sup>th</sup> September 2018.
- 8.25 Given the comments from DAERA Natural Environment Division regarding the bat survey and timeline of the application, the Planning Department are satisfied that there is no significant risk to bats as a result of the proposed turbine and do not consider that another bat survey is required given the comments of NED within their consultation response 02/09/2020 and as amended uploaded to planning portal 04/12/2020.

- 8.26 Comments within the representations received highlighted concerns on the potential impacts on wildlife. NED were asked to make comment on those concerns, but did not raise any concerns regarding other species which may be impacted by the proposal.
- 8.27 The application site is located in close proximity to Oakhill Site of Local Nature Conservation Importance (LNC 19), at approximately 30m to the boundary. Oakhill SLNCI was designated for its woodland and heath features, described as a large area of heathland and mire around Oakhill Farm with occasional pockets of woodland. The Heather dominated heath has been cut-over in the past but has re-established with a quality vegetation cover. There is good coverage of *Sphagnum* and a very diverse range of plants associated with the sites. The scrubby woodland has Ash, Hawthorn, Blackthorn, Willow and a few scattered Oak.
- 8.28 The proposed turbine will not result in any impact on designated SLNCI or its key features. The proposal does not propose any development within the designated site nor does it require the removal or loss of any existing vegetation within it, and consequentially no loss of habitat features for wildlife which may utilise it.
- 8.29 NED 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.
- 8.30 Shared Environmental Services were consulted to assess the potential impact of the development on designated sites. Having considered the nature, scale, and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on the selection features, conservation objectives or status of any European site.
- 8.31 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). The proposal would not be likely to have a significant effect on the features of any European site.

8.32 No built heritage are present within the application site.

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

8.33 Water Management Unit (WMU) of DAERA 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 best practice and mitigation.

8.34 Due to the nature of the development there will be limited impact on air quality.

8.35 Regulation Unit (Land and Groundwater Team) of NIEA considered the impacts of the proposal on the aquatic environment (especially groundwater). It has advised that the foundations for the wind turbine could potentially impact on groundwater flow paths, groundwater receptors (aquifers) or secondary receptors and recommended that the applicant considers the potential risks to potential receptors identified initially through a desktop study.

8.36 Given that the application relates to the replacement of an existing turbine, the applicant was asked to clarify the position of the turbine in respect of the existing foundation. The applicant advised that it is intended to amend the existing foundation to accommodate the proposed turbine, with no new excavation anticipated. Given that the foundation is in place, the proposed turbine should not result in any detrimental impact on the groundwater and receptors.

**(e) public access to the countryside.**

8.37 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.

8.38 Policy RE1 of PPS 18 requires applications for wind energy development 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 previously indicated at paragraphs 8.18 – 8.20, the site is situated within LCA 37 Roe Basin which outlines that care should be taken to avoid adverse impacts on the extremely sensitive and prominent skylines or settings of Binevenagh and the Sperrins.
- 8.40 By their nature wind turbines are visible features in the landscape. The wider characteristics of the landform sees the area from Dungiven to Limavady located in a lower lying parcel of land, bounded to the east by steep rising landforms of Benbradagh and to the north by Donald's Hill, while to the west of the River Roe the topography rises in a western direction. Within the generally lower lying land there are localised undulations which give rise to elevated parcels of land. The application site is sited on a localised hill which allows it to be viewed from the wider vicinity. However given the surrounding landform and the viewpoints from which the turbine will be seen there are contrasting views of the turbine which will significantly alter its setting and how it's viewed in the landscape.
- 8.41 When viewed from Gelvin Rd and Gortnagross Rd the turbine will sit at an elevated position in the landscape occupying a skyline position. The extent to which the turbine is visible varies along the road. Views in the immediate vicinity of the access laneway see the lower portion of the turbine concealed by the rising and levelling topography, whereas further along the road in both directions the turbine sits in open view.
- 8.42 When viewed from Legavallon Rd, the views and prominence of the turbine vary. When viewed from the south east the turbine occupies a more skyline position while views from the east and north east along Legavallon Rd and from Kilhoyle Rd, the turbine sits at a lower setting with a backdrop of rising land and windfarm in the distance. Views from the west towards the turbine site again see a variance in views with a mix of partly being skyline and having a backdrop.
- 8.43 Officials raised concern over the scale of the turbine originally submitted with this application which proposed a turbine with a hub height of 44m and a rotor diameter of 44m, resulting in an overall height of approximately 68m. The initial proposal was considered to be a significant increase in size from the turbine approved under planning application B/2010/0333/F which had an overall height of 48m. The proposed increase in height of 20m was considered to

be unacceptable as it would result in a detrimental impact to the visual amenity of the local area.

- 8.44 Subsequently the CLUD application LA01/2018/1540/LDE was submitted to certify that the turbine which presently exists on site was lawful, in that it was immune from enforcement action, and in fact related to a turbine which had a tower height of 36m and a rotor diameter of 31m, giving an overall height of 53.2m. The turbine was certified as being lawful 14.03.2019.
- 8.45 In re-assessing the proposal against the visual impact of the turbine certified under LA01/2018/1540/LDE, the Planning Department re-iterated their concerns regarding the scale of the proposed turbine when viewed from the surround road network. The proposal was subsequently reduced in scale to that which is presented. The proposed turbine equates to an increase in blade length and overall height of 4m. When assessing the proposal from the surrounding road network, particularly along Gelvin Rd, Gortnagross Rd, Legavallon Rd, Drumaduff Rd and Ballyquin Rd, the increase in visual impact of the proposed turbine is not considered to be significant, and would not result in a detrimental impact on the visual amenity of the area that would warrant refusal.

**(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;**

- 8.46 The turbine will mainly be visibly read with existing turbines to the north and north east of the site approved under respective applications B/2011/0159/F and LA01/2015/0670/F, and to a lesser degree the turbine approved at the Quarry on Kilhoyle Rd, approved under B/2012/0290/F, when travelling along Legavallon Rd and Ballyquin Rd. When viewed from the south of the site in the wider vicinity the proposal may also be read with the windfarm approved and currently under construction at Craiggore approved under B/2012/0268/F and subsequent applications LA01/2017/1124/F, LA01/2018/0790/F and LA01/2018/1168/F. Other roads from which all or some of the above mentioned turbines are read together include Kilhoyle Rd looking south and Ballyleagry Rd and East Rd. When travelling south along the Ballyquin Rd there are some views whereby the turbine can be



read with turbines to the south/south east. When approaching from the North East along Legavallon Rd the turbine will be visibly read with the large wind farm at Altahullion which is significantly removed to the west of the site. However as the proposal is for a replacement turbine, the erection of the turbine will not add to the number of turbines existing or with extant permissions within the area, and as such will not have any cumulative impact on the character or visual amenity of the area.

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

- 8.47 The application site is not located on an area of peatland and is on a relatively flat area of land. Therefore the risk of landslide or bog burst is considered to be low.

**(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;**

- 8.48 None of the consultees have concluded that the development will give rise to unacceptable interference to communication installations, emergency services communications or other telecommunications systems.
- 8.49 Initially the Joint Radio Company (JRC) had objected to the proposal on the grounds that it interfered with a telecommunications link operated by Northern Ireland Electricity. However following the submission of further information by the applicant and further analysis by JRC, clearance was given to the proposal.
- 8.50 It is noted that a number of objections have been received in respect of interference of television signal from the existing turbine and concerns regarding the impact the proposed turbine may have. The objections highlighted poor television reception and referred to one person having to obtain a new aerial to overcome the issue. Consultation was carried out on the proposal with Arqiva who are responsible for providing the BBC, ITV and the majority of the UK's radio transmission network and is responsible for ensuring the integrity of Re-Broadcast Links. Arqiva advise that they have considered whether this development is likely to have an

adverse effect on operations and have concluded that they have no objection to this application.

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

8.51 This section should be read in conjunction with paragraphs 8.8 – 8.9. Consultation was also carried out with a number of relevant consultees to assess the potential impact on aviation safety. These consultees included City of Derry Airport, Belfast International Airport, National Air Traffic Services (NATS), Civil Aviation Authority (CAA) and the Ministry of Defence. All of the consultees have responded to advise that they have no objection to the proposal in terms of safeguarding. Further consultation was carried out with these consultees to address concerns from objectors regarding the accuracy of the consultations issued in respect of the coordinates provided on the consultations. Following re-consultation no objections were received.

8.52 DfI Roads have not raised any concerns over the proposal in terms of safety as outlined below at paragraphs 8.62.

**(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**

8.53 As discussed above (para 8.14 – 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 was assessed and no properties were found to experience shadow flicker at a level above the recommended durations of 30 minutes per day or 30 hours per year.

8.54 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.

8.55 The applicant has advised that the turbine blades will be in a white metal finish. If considered necessary a condition could be imposed to ensure that the blades are finished with a 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.**

8.56 The removal of the turbines and any of the associated infrastructure will be dealt with by condition if approved.

### **Economic, Environmental and Social Consideration**

8.57 The SPPS 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.

8.58 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.

### **Natural Heritage**

8.59 The SPPS and policies within PPS 2 require consideration of the impact of the proposal on European and Ramsar sites, protected species, sites of nature conservation importance, habitats, species or features of natural heritage importance.

8.60 These issues have all been addressed under the consideration of the SPPS Renewable Energy and PPS 18 Renewable Energy above at paragraphs 8.22 – 8.32. The proposal satisfies all policy requirements of the SPPS Natural Heritage and PPS 2.

## **Transportation and Access, Movement and Parking**

- 8.61 The proposed access to the wind turbine will be via the existing laneway from the Gelvin Road which is not a Protected Route. DFI Roads were consulted on the proposal and have offered a response of no objection and did not request the provision of visibility splays to the access laneway where it joins Gelvin Rd.
- 8.62 It is noted that DFI Roads, then Roads Service, were consulted on the previous application for a wind turbine under B/2010/0333/F, and did not ask for upgrading of the existing access as part of their consultation. Clarification was sought from DFI Roads over the consideration of the proposal in respect of the requirements for upgrade works to be provided. It was clarified that the reason why no improvements were requested is that the proposal uses an existing access, and that the level of intensification of use of the laneway as a result of the proposal would not be so significant that it would require upgrade works. Apart from the initial delivery of the turbine, the level of traffic visiting the site is likely to be low and relatively infrequent, and it is considered that the level of traffic associated with the development will not pose any significant risk to road safety.

## **Archaeology and Built Heritage**

- 8.63 There are no features of built heritage or archaeological significance within the immediate vicinity of the application site which are likely to be impacted upon by the proposed turbine. The proposal will not therefore result in any adverse impact on features of archaeological or built heritage importance. The proposal complies with the requirements of the SPPS and PPS6.

## **Tourism**

- 8.64 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. Paragraph 7.41 of PPS16 outlines examples of tourism assets as including AONBs, Conservation Areas and historical and archaeological sites.
- 8.65 The application site is not within the immediate vicinity of any of the aforementioned tourism assets. While there are AONBs to the north and south east of the application site, the application site is

far enough removed that the proposal will not result in any significant adverse impact on the visual amenity and landscape quality of these areas. The proposal will not have a significant adverse impact on an existing tourism assets within the local landscape.

### **Consideration of representations**

8.66 The content of the letters of representation are summarised in paragraph 5.2. The increased height and visual impact of turbine is considered in detail in paragraphs 8.22 and paragraphs 8.40 to 8.46. Noise Impact from turbine is considered in detail at paragraphs 8.15 and 8.16. Shadow Flicker is considered in detail at paragraphs 8.17 and 8.18. Electrical Interference is considered in detail in paragraph 8.49 and 8.51. Cumulative impact with other turbines is considered in detail at 8.47. Threat to wildlife is considered in detail at 8.23 to 8.27 and 8.30 and matters such as the incorrect information regarding site coordinates limiting ability of consultees to provide accurate response is explained in detail at paragraph 8.52. Proximity to the ASSI is covered in paragraphs 8.30-8.31 and 8.59 and the site is not located within the AONB. In summary the proposal, the issues raised in the body of the report fully considers the matters raised in the letters of representation.

## **9.0 CONCLUSION**

9.1 The proposal is considered acceptable in this location having regard to the Area Plan and other material considerations including 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. Significant weight is attached to the planning history on the site and the small increase in overall height proposed within this application. The proposal is found to comply with the Area Plan, SPPS, PPS 2, 3, 6, 16, 18 and 21. 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 level of noise immissions from the wind turbine (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 Table 1 below. 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 table shall be represented by the physically closest location listed in the tables unless otherwise agreed by Causeway Coast and Glens Borough Council.

**DAY AND NIGHT-TIME NOISE LIMITS**  
**Noise levels dB LA90 10minute**

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
NSR 1 (FI)	34. 5	34. 6	34. 6	34. 5	36. 3	36. 3	36. 3	36. 3	36. 3
NSR 17 (FI)	34. 8	34. 9	34. 9	34. 8	36. 6	36. 6	36. 6	36. 6	36. 6
NSR 2	33. 2	33. 3	33. 3	33. 2	35. 0	35. 0	35. 0	35. 0	35. 0
NSR 3	32. 9	33. 0	33. 0	32. 9	34. 7	34. 7	34. 7	34. 7	34. 7
NSR 4	32. 6	32. 7	32. 7	32. 6	34. 4	34. 7	34. 7	34. 7	34. 7
NSR 5	32. 1	32. 2	32. 2	32. 1	33. 9	33. 9	33. 9	33. 9	33. 9
NSR 6	31. 7	31. 8	31. 8	31. 7	33. 5	33. 5	33. 5	33. 5	33. 5
NSR 7	31. 5	31. 6	31. 6	31. 5	33. 3	33. 3	33. 3	33. 3	33. 3
NSR 8	31. 1	31. 2	31. 2	31. 1	32. 9	32. 9	32. 9	32. 9	32. 9
NSR 9	29. 2	29. 3	29. 3	29. 2	31. 0	31. 0	31. 0	31. 0	31. 0

NSR 10	27. 7	27. 8	27. 8	27. 7	29. 5	29. 5	29. 5	29. 5	29. 5
NSR 11	27. 5	27. 6	27. 6	27. 5	29. 3	29. 3	29. 3	29. 3	29. 3
NSR 12	27. 2	27. 3	27. 3	27. 2	29. 0	29. 0	29. 0	29. 0	29. 0
NSR 13	21. 4	21. 5	21. 5	21. 4	23. 2	23. 2	23. 2	23. 2	23. 2
NSR 14	20. 0	20. 1	20. 1	20. 0	21. 8	21. 8	21. 8	21. 8	21. 8
NSR 15	19. 5	19. 6	19. 6	19. 5	21. 3	21. 3	21. 3	21. 3	21. 3
NSR 16	19. 0	19. 1	19. 1	19. 0	20. 8	20. 8	20. 8	20. 8	20. 8
NSR 18	30. 5	30. 6	30. 6	30. 5	32. 3	32. 3	32. 3	32. 3	32. 3
NSR 19	32. 9	33. 0	33. 0	32. 9	34. 7	34. 7	34. 7	34. 7	34. 7

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

3. Within 4 weeks of a written request by Causeway Coast and Glens Borough 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 turbine operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the wind turbine 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 Causeway Coast and Glens Borough Council for written approval, prior to any monitoring commencing Causeway Coast and Glens Borough Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To Protect the Amenity of Existing/Committed Receptors

4. Within 4 weeks from receipt of a written request from Causeway Coast and Glens Borough 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 turbine

operator shall submit a scheme for the assessment and regulation of AM to Causeway Coast and Glens Borough 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 Causeway Coast and Glens Borough Council unless otherwise extended in writing by Causeway Coast and Glens Borough Council.

Reason: To Protect the Amenity of Existing/Committed Receptors

5. The wind turbine operator shall provide to Causeway Coast and Glens Borough Council the results, assessment and conclusions regarding the noise monitoring required by Conditions 3 and 4, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 2 months of the date of the written request of Causeway Coast and Glens Borough Council unless otherwise extended in writing by Causeway Coast and Glens Borough Council.

Reason: To Protect the Amenity of Existing/Committed Receptors

6. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind turbine. This data shall be retained for a period of not less than 12 months. At the request of Causeway Coast and Glens Borough 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 Protect the Amenity of Existing/Committed Receptors

7. Unless otherwise agreed in writing by Causeway Coast and Glens Borough Council ("the Council") construction activities (which includes



demolition of the existing turbine) 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: To Protect the Amenity of Existing/Committed Receptors

8. Within 28 days of a written request by the Council of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of the grant of planning permission, alleging that shadow flicker experienced at the dwelling exceeds 30 hrs per year or 30 mins per day at the complainants property, the wind turbine operator shall, at his/her expense employ a suitably qualified person or consultant to assess the levels of shadow flicker from the approved turbine at the complainants dwelling. This assessment shall be provided within 3 months of the date of the written request from the Council unless otherwise agreed in writing with the Council. In the event the above stated limits are exceeded, the assessment shall present mitigation measures to ensure the effects of shadow flicker are brought to within the thresholds above and these measures shall be put in place and retained for the operational lifetime of the turbine.

Reason: To Protect the Amenity of Existing/Committed Receptors

9. Ten weeks prior to commencement of development the developer must notify the Defence Geographic Centre with the following information:

- 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: To allow for the accurate amendment of aeronautical charts and mapping records

10. Prior to construction of the proposed wind turbine the existing wind turbine as certified under planning application LA01/2018/1540/LDE shall be permanently removed.

Reason: To avoid an accumulation of wind turbines at this location

11. Prior to the turbine hereby permitted becoming operational the developer shall install a Low/Medium (Low if its less than 45m above ground level or Medium if it is more than 45m above ground level) Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location.

Reason: In the interest of aviation safety

12. Should the turbine hereby permitted require additional excavation and/or a new foundation to be constructed the applicant must consider the potential risks to potential receptors identified initially through a desktop study. If the desktop study identifies any potential impacts then a more detailed risk assessment will be required. The results of the desktop study shall be submitted in writing to Causeway Coast and Glens Borough Council for approval in consultation with DAERA prior to the commencement of development.

Reason: To ensure there are no adverse impact on groundwater flow paths, groundwater receptors (aquifers) or secondary receptors

13. The turbine structure including blades shall be finished in a matt/semi-matt finish.

Reason: To Protect the Amenity of Existing/Committed Receptors from reflected light.

14. This permission is for a limited period, expiring 25 years from the date on which electricity from the turbine is connected to the grid. Within 6 months of the permanent cessation of electricity generation at the site, or upon the expiration of this permission, whichever is sooner, all above ground structures shall be removed from the site and the land restored in accordance with a scheme to be submitted to and agreed in writing

with the Planning Authority at least one year prior to the commencement of any decommissioning works.

Reason: To restore and maintain the landscape quality in the area.

### **Informatives**

1. 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.
2. 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.
3. 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.
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 <http://epicpublic.planningni.gov.uk/publicaccess/>.

# Site Location

