

Appeal Decision

Appeal Reference:	2015/A0200
Appeal by:	Dooish Wind farm Limited against the refusal of full planning permission
Development :	Wind Farm at Curraghamulkin for 10 no. wind turbines each with a maximum overall base to blade tip height of 125m. Ancillary developments will comprise turbine transformers located internally or externally; turbine hardstands; widening and strengthening of an existing site entrance; electrical control building; communications antennae on control building; widening of existing tracks; construction of new access tracks and junctions; underground electrical cables and communication lines connecting wind turbines to control building; on site drainage works; a relocated temporary site compound; installation of a 85m high permanent met mast and all ancillary and associated works.
Location:	Curraghamulkin, Coolavannagh TD, Curraghamulkin TD, Dooish TD, Drumquin, Co Tyrone.
Planning Authority:	Fermanagh & Omagh District Council
Application Reference:	K/2008/0334/F
Procedure:	Informal Hearing on 14 December 2016.
Decision by:	Commissioner Mandy Jones, dated 7 November 2017.

Decision

1. The appeal is allowed subject to conditions set out below.
2. An Environmental Statement (ES) accompanied the application. The proposal was reduced to 10 no turbines and Further Environmental Information (FEI I) was submitted on August 2011; (FEI II) was submitted on March 2013; (FEI III) was submitted on December 2013 and (FEI IV) was submitted on October 2015. The appellant referred to these as Addendums to the Environmental Statement. In reaching this decision I have taken into consideration the environmental information presented in relation to the application and appeal, as required by Regulation 4 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.

Reasoning

3. The main issues in this appeal are:

- The environmental, economic and social benefits offered by the proposed wind farm ;
- The impact of the wind farm on visual amenity and landscape character ;
- The effect of the wind farm on a tourism asset ;
- The impact of the wind farm on residential amenity, in respect of visual dominance, noise and shadow flicker and
- The effect of the wind farm on communications due to electromagnetic interference.

4. In accordance with Section 45 of the Planning Act (Northern Ireland) 2011, the decision maker must, in dealing with an application for planning permission, have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6 of the 2011 Act indicates that 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. The appeal site falls within the Omagh Area Plan 1968-2001 and is located in the open countryside outside any policy area or environmental designation. There are no policies relating to renewable energy in the Omagh Area Plan and it is therefore of limited assistance in determining this appeal.

5. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) was published on 28th September 2015. Its provisions are material to planning appeal decisions. The SPPS sets out transitional arrangements that will operate until the new Councils have adopted new Plans for their areas. In the interim, the SPPS will apply, together with policies contained in existing regional Planning Policy Statements, as set out in paragraph 1.13 including Planning Policy Statement 16: Tourism (PPS 16); Planning Policy Statement 18: Renewable Energy (PPS 18) and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). The SPPS also states that the Best Practice Guidance to PPS 18 'Renewable Energy' (BPG) and supplementary planning guidance 'Wind Energy Development in Northern Ireland Landscapes – August 2010' (the SPG) will continue to apply. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

6. Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that contribute to the aims of sustainable development. One of these is renewable energy projects in accordance with PPS 18. PPS 18 is supported by the BPG and the SPG. The aim of PPS 18, as set out in paragraph 3.1 is consistent with the aims of the SPPS to site renewable energy generating facilities in appropriate locations in order to achieve Northern Ireland's renewable energy targets and to realise the potential benefits of renewable energy without compromising other environmental assets of acknowledged importance. The objectives, set out in paragraph 3.2 include ensuring that the environmental, landscape, visual and amenity impacts of renewable energy developments are adequately addressed

and ensuring that adequate protection is given to the Regions built, natural and cultural features.

7. The SPPS at paragraph 6.244 and Policy RE 1 of PPS 18 set out a qualified presumption in favour of renewable energy development unless they would have unacceptable adverse effects which are not outweighed by the local and wider environmental, economic and social benefits of the development.
8. Policy RE1 of PPS 18 and the SPPS differ in how they describe the weight that should be attached to the proposed developments wider environmental, economic and social benefits. The SPPS states that these are material considerations that will be given **appropriate** (my emphasis) weight in determining whether planning permission should be granted whereas Policy RE 1 states that they should be accorded **significant** (my emphasis) weight. The weighting direction in the SPPS, referring to 'appropriate weight' is clearly intended to take precedence over that contained in Policy RE 1.

Economic and other benefits of the proposal.

9. The appellant submitted the following likely economic, social and environmental benefits of the proposal:
 - A contribution towards Northern Ireland targets of 40% electricity consumption from renewable sources by 2020. It will contribute 0.064 TWh per year, approximately 0.03% towards the UK meeting its 2020 target and would account for between 4.4 % and 6.5 % of Northern Ireland's current level of output from onshore energy;
 - Overall capital spend of approximately £36.75 m of which 35% - 40% is estimated to be realised within Northern Ireland;
 - The construction phase is likely to create or sustain approximately 350 total job years of direct, indirect and induced employment across the region. Activity of this scale is estimated to produce wages of £6.7 m and GVA (gross value added) of £11.8m;
 - The estimated total (direct, indirect and induced) benefits from the on-going operation of the site include the creation or sustainment of 36 jobs and £1.0m of wages per annum. It will also add £2.5m to Northern Ireland's GVA per annum;
 - The treasury is likely to benefit from increased tax revenue and benefits savings to the tune of £3.7m to £4.7m over the period of construction and £0.5 - £0.6m per annum when the development becomes fully operational;
 - Rates are expected to generate around £120,000 per year, totalling £3.0m over the projects 25 year lifespan – with the rateable value expected to increase to £17,000 following a review of business rates in Northern Ireland, which could see rates actually being around £510,000 per year and £12,75m over the duration of the project;
 - Approximately £250,000 will be contributed to land rents associated with the proposal on an annual basis or £6.25 million over the lifetime of the project;
 - A commitment to contribute £5,000 per MW per annum or £150,000 per year or £3,750,000 over the 25 year lifetime of the project to a dedicated 'community fund' as set out in the 'Guidance Protocol on Community

Benefits Derived from Windfarms in West Tyrone' (April 2014). This would be established through a legally binding agreement;

- The potential reduction in CO₂ emissions by 28,000 tonnes each year, thereby helping to save 1,125,000 per annum in CO₂ costs and reducing the dependence on fossil fuels;
 - The amount of electricity that would be produced by this 30 MW windfarm is estimated at over 64 million units per year, the equivalent of more than 64,000 MWh per year. This is enough electricity each year to meet the needs of approximately 17,300 homes – which equates to 94% of Omagh District Council's total housing stock.
10. In response to the Oxford Economics (OE) report, DOE Economics branch concluded that whilst the development has the potential to create jobs and have other economic benefits, it does not consider the degree of displacement and leakage in terms of jobs created and the benefits reported may be the best case scenario.
 11. DOE Economics branch stated that the OE report suggests that, aside from the manufacture of the turbines, the remainder of the total construction costs will be realised in NI (£12.9M-14.7M) i.e. it suggests that all construction work will be undertaken by NI companies using employees who reside in NI and all companies providing professional services will be based in NI – meaning that all of the 145 direct job years will be realised in NI. It was acknowledged by DOE Economics branch that whilst the majority could be realised in NI, it is unlikely that all of this expenditure will benefit NI in the form of direct job years. Therefore, as it is likely that a portion of the remaining construction expenditure (after accounting for the cost of the turbines) would be realised outside NI perhaps Oxford Economics should have used a slightly reduced figure to calculate the indirect and direct benefits.
 12. The windfarm company have indicated that between 35-40% of total construction spend is expected to be realised within Northern Ireland. The OE report states that no displacement assumptions were factored into any of the estimates relating to the construction phase due to the spare capacity in the construction sector due to widespread job losses in recent years – however should any other displacement assumptions become available calculations can be adjusted.
 13. I acknowledge that there may be an element of leakage of construction expenditure from Northern Ireland and I consider that the figures presented should have factored in some realistic displacement. I note that Economics Branch state that a slightly reduced figure should have been used to calculate the indirect and induced benefits. Undisputed evidence from the appellant company was that they intended to make use of Northern Ireland based civil, electrical and turbine maintenance contractors however I accept there is no control over this once planning permission is granted. There is no policy basis to require that if any money goes outside Northern Ireland, it is not a material consideration.
 14. The Strategic Energy Framework (SEF) states that 40% of Northern Ireland, energy consumption should be from renewable sources by 2020. This equates approximately to 1600MW. The appeal proposal has the potential to contribute 30 MW of renewable energy and would therefore contribute 1.875% towards the target. The Council have stated that while all renewable energy contributions are

welcome this proposal would contribute a small proportion. In contrast, the appellant considers it to be a substantial contribution. It was submitted that considering there are 4 years remaining to connect approximately 675 MW of renewable capacity to the system and it took 21 years to connect 925 MW, it will be challenging for the industry to meet the 2020 targets. Based on NIE's classification of renewable energy this is large scale generation.

15. With reference the support scheme for renewable energy (NIRO) which is being removed in 2017, I was told at the hearing that the appeal proposal is not dependant on grants or subsidies unlike many of the consented renewable energy projects. This wind farm will be viable without subsidies and will contribute to the 2020 target.

Grid connection

16. It was submitted that a connection to the grid is possible via a new cluster substation at Curraghmulkin which is directly opposite the site entrance to the Curraghmulkin wind farm. This cluster substation is fully permitted and currently under construction and due to be completed and energised mid 2018. NIEN have stated that this 'proposed' cluster substation 'is already heavily subscribed and would not at present have sufficient capacity to facilitate the proposal at Dooish windfarm.' In response, I was told by the appellant that currently there are 4 windfarms committed to this cluster substation. These are all consented; with construction either ongoing or imminent and they have a combined capacity of 88.6 MW. The proposed capacity of the Curraghmulkin cluster substation is 180 MW. This 180 MW is split between 2 transformers – each rated at 90 MW. NIEN are currently completing works to install the 1st transformer to accommodate the 4 windfarms – which amounts to 88.6 MW. This is why NIEN state that the station would not have capacity 'at present'. The installation of the second transformer resolves this issue, by providing an additional 90 MW of capacity. It was submitted that the costs of this second transformer will be met by the appellant, with no risk to the NI consumer. The only additional works required at the substation involve the provision, installation and commissioning of the second transformer. Any 'more general' transmission network upgrades works will not stop the Curraghmulkin Windfarm connecting.
17. Correspondence received by the appellant from NIEN on 21st November 2016 suggests that a connection offer will issue in early 2019. On receipt of this connection offer from NIEN in early 2019, the appellant estimates that it would take approximately 12 -18 months to complete the project – it would be energised mid 2020. From the undisputed evidence presented I accept that connection to the grid would not be an obstruction to the proposal and that the windfarm could be linked to the electricity grid within the next few years. According to this timeline, the windfarm could contribute towards the NI renewable energy targets. I note that the SEF target of 40 % is a minimum target and not a cap. However, if for any reason connection cannot be made the proposed wind farm could still make a contribution in the longer term after the 2020 date.

18. The appellant stated that they fully support the development of a joint community benefit framework between the former Strabane and Omagh District Council. This framework has since been agreed and published in the 'Guidance Protocol on Community Benefits derived from Wind Farms in West Tyrone' (April 2014). Under this protocol, the appellant states that they are now committed to a contribution of £5,000 per MW per annum or £150,000 per year or £3,750,000 over the lifetime of the project.
19. The SPPS states at paragraph 5.71 that community benefits cannot be considered as material considerations in decision making. However, this is contradicted by paragraph 6.225 of the SPPS which states that the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted. The appellant advised that the community funds could be secured through a legal agreement. However, untargeted community funds not specifically related to the wind farm proposal cannot be considered as material planning considerations.
20. Nevertheless, given the extent and scope of the other potential net environmental, economic and social benefits presented in association with the proposed windfarm, I consider that it is appropriate to attach significant weight to these considerations within the context of determining this appeal.

Landscape Character and Visual Amenity.

21. The first reason for refusal relates to the impact of the proposed windfarm on the landscape character and visual amenity of the area including its cumulative effect with existing operational and approved wind energy developments. The planning application had been amended from the originally proposed 17 turbines to 10 turbines.
22. The SPPS and Policy RE 1 of PPS 18 both state that renewable energy developments should not result in an unacceptable adverse impact on visual amenity and landscape character. The SPPS at paragraph 6.222 advises that particular care should be taken when considering the potential impact of all renewable proposals on the landscape. For example, some landscapes may be able to accommodate windfarms more easily than others on account of their topography, landform and ability to limit visibility. In carrying out my visual assessment of the proposed windfarm I note that policy recognises the prominent nature of windfarms. Paragraph 6.230 of the SPPS adds that it will not necessarily be the case that the extent of visual impact or visibility of wind farm development will give rise to negative effects; windfarm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape. Paragraph 1.3.18 of the BPG states that 'there are no landscapes into which a wind farm will not introduce a new and distinctive feature'. However, within PPS 18, Policy RE 1 criterion (i) requires that the development will not have an unacceptable impact on visual amenity or landscape character through the number, scale, size and siting of turbines and criterion (ii) requires 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.

23. The Northern Ireland Environment Agency (NIEA) published 'Wind Energy Development in Northern Ireland's Landscapes' as supplementary planning guidance to accompany PPS 18. This guidance shares the aims of PPS 18 to facilitate the siting of renewable energy facilities in appropriate locations within the built and natural environment in order to achieve Northern Ireland's renewable energy targets and to realise the benefits of renewable energy. The guidance is based on the sensitivity of Northern Ireland's landscapes to wind energy development and contains an assessment of each of the 130 Landscape Character Areas (LCA's) in Northern Ireland by referencing the key landscape and visual characteristics and values associated with each LCA.
24. The appeal site is located in LCA 14 Lough Braden. In terms of overall sensitivity the SPG states that the broad, convex, rounded summits of the upland areas within this LCA are relatively well suited to wind energy development. Sensitivity is further reduced, over wide areas, by the presence of extensive commercial forestry and other man made influences. The undulating topography of the surrounding drumlins – while more sensitive in itself to wind energy development – tends to contain views to the upland areas where larger scale wind energy development is more likely to occur; although the northern edge of the plateau tends to be more open to long distance views. The overall sensitivity is rated as medium.
25. With reference to location, siting, layout and design considerations the SPG also states that 'the best locations for wind energy development are towards the tops of the broader, convex summits, where the rounded landform and – in the north and west – forestry provide partial screening. Consideration could be given to siting turbines in open, upland areas away from distinctive features such as crags that may highlight turbine size. In this LCA wind energy development must be carefully sited to avoid overwhelming the landscape.
26. In terms of cumulative impact it states that ideally the strategy should be to seek to create distinct areas of wind energy development clearly separated by areas of undeveloped landscape. Significant separation distances between clusters may be required to prevent the main ridgelines becoming dominated by turbines.
27. The proposed windfarm is located on a broad convex summit in the south west of LCA 14 well away from the more sensitive northern edge of the plateau. It is adjacent to an extensive forestry plantation which wraps around the appeal site to the north, west and south – east. I was told by the Council that this LCA has the most consented windfarms in Northern Ireland.
28. The FEI included a suite of photomontage visuals (referred to as VRP'S). The Council considered these and raised other locations they considered were critical (referred to as CVP's). In rebuttal the appellant prepared additional visuals in the form of wireframe diagrams from the Council's identified CVP's. These were presented and discussed at the hearing.
29. The Council are concerned with the both the individual impact and the cumulative impact of the proposal. They considered the most critical viewpoints as follows:

30. VRP 7: Travelling from Omagh along Drumish Road on approach to the Mini – Burns (crossroads between the B4 and B84). This viewpoint is taken approximately 2.5 km from T3. The Council argue that the proposed windfarm would be visually dominant and would negatively impact on the areas wild / rural character and visual amenity. From the appellant's visuals it is clear that the proposed windfarm would be seen as a single windfarm, clearly separated from other windfarms in the area. Pollnalaght is significantly further to the east and Tappaghan to the west is almost completely screened by intervening landform. The proposal would be seen within a wide panoramic landscape of undulating topography with patches of intervening vegetation. There is also intervening forestry planting. The BPG recognises that within this distance the general perception of a windfarm is likely to be relatively prominent (up to 2 km it is likely to be a prominent feature). Although I consider the proposal would appear relatively prominent, given the landscape context, I do not consider that its impact would be unacceptably visually dominant and significant within the wider landscape of this area.
31. CVP 1: Travelling the Drumish Road from Lack towards the Mini – Burns. At the hearing based on the appellant's new set of visuals (wireframe diagrams) it was acknowledged by the Council that from CV1 the windfarm cannot be seen.
32. CVP 2: Travelling from the Mini – Burns crossroads along Dooish Road, approx. 100m from the cross roads. This viewpoint is taken approximately 2.4 km from T3 and there are clear views into the site. The Council argue that travelling from here towards the turn off for Holme Road the windfarm will dominate the rural landscape and is detrimental to the character of the LCA.
33. When viewed from here, the pattern of windfarms in the distance along the ridge to the east is evident and includes Pollnalaght and Pigeon Top windfarms. The proposal is again clearly separated from these. I would consider that the proposal would be relatively prominent set within this open, wide and panoramic landscape. In terms of visual impact the BPG states that turbines in windfarms will be tall, frequently located in open land and therefore will often be highly visible. It will normally be unrealistic to seek to conceal them. Developers should seek to ensure that through good siting and design, landscape and visual impacts are limited and appropriate to the location. The proposal is set within undulating topography to the west and east and behind intervening forestry.
34. The BPG states that the visual impact will be dependent on the distance over which a windfarm may be viewed. It refers to the effect which distance has on the perception of windfarms within an open landscape and states that at distances between 2-5 kms it would appear relatively prominent. Given this, I do not consider the impact of the proposal to be unacceptably dominant within the landscape from this close range viewpoint.
35. Dooish Road. The Council raised a number of critical views where the proposed windfarm will appear prominent along the Dooish Road. It was accepted that these views are approximately all within 1-3 km from the windfarm where the BPG recognises that the proposal is likely to be a prominent feature. The views are between VPR 7 and VPR 2.

36. CVP (Dooish Road) – at the hearing the appellant stated that they had generated wireframe diagrams demonstrating the impact of the proposal from every house along the Dooish Road. This exercise concluded that CV (Dooish Road H68) is the most prominent viewpoint – this was not disputed. This viewpoint is taken approximately 2 km from T3.
37. The land rises steeply from sections of the Dooish Road towards the windfarm. The visuals from CV (Dooish Road H68) show that the hub and rotor blades of 3 turbines will be seen well behind the flank of the hill. I do not agree with the Council that that these views are overbearing and dominant. Given the distance where the BPG accepts that windfarms will appear relatively prominent, intervening topography and steeply rising ground which screens most of the proposal with the exception of the upper parts of 3 turbines, I consider that the nature of the views are not unacceptable.
38. The wireframe from H6, Holme Road which is to the west of VPR01, indicates that the hub of 3 turbines and the partial blades of some turbines would be visible behind intervening rising ground. On the ground there is also extensive forestry on this intervening rising ground. I do not consider that the proposal will dominate the landscape from this viewpoint.
39. CVP 3; Dooish Road. The Council state that travelling the Dooish Road, from the junction between Dooish Road and the Glen Road, for the first ¼ mile the proposed windfarm will dominate the landscape, dominating the character of the area and will be detrimental to its relatively unspoilt nature. However, a visual from CV 3 indicates from this viewpoint the windfarm is completely behind the hill and not visible at all. This was undisputed by the Council at the hearing.
40. CVP (Glen Road). The Council argue that the proposed windfarm will be prominent when viewed from Glen Road and will dominate the landscape. It was argued that the Glen Road is approximately 1 km to the north of the proposed windfarm and has a significant number of residential properties (outside the 10 x rotor diameter) which will suffer an overbearing impact from the prominence of the turbines.
41. The appellant maintains that from the Glen Road the proposal would be completely screened. CVP (Glen Road) demonstrates that the proposal would not be visible at all. The appellant stated that they generated visuals from every house along the Glen Road from H40 to H67 which indicated that there were no views of the proposal. The most the proposal would be seen from any property along the Glen Road would be from property – H61. The wireframe indicates that that there would be 1 hub visible and the partial blades of 2 turbines but on the ground there would be extensive forestry in between. At the hearing, this was undisputed by the Council. Accordingly, I would concur with the appellant that the views of the proposal from the Glen Road are negligible.
42. In terms of cumulative impact the Council referred to a number of longer range viewpoints;
43. CVP4 – north of Drumlegagh Crossroads and north of VRP3 (13 km from windfarm). The Council state that views from CVP4 are more prominent than those from VP3 – as all windfarms in the distance can be seen from CVP4. The

proposal will infill a gap. As such, from CVP4 the windfarm will have a significant impact on the LCA 14, eroding the sense of tranquillity and rurality / wilderness. The Council have concerns that the proposal is sited within a break between existing and approved windfarms and it is essential that this break is maintained to achieve visual separation. The proposal would remove this visual break and result in over dominance of a windfarm landscape overwhelming the character of the LCA 14. Capacity of the landscape has been reached.

44. The BPG states that for distances of 5 -15 km the general perception of a windfarm would be prominent in clear visibility – and seen as part of the wider landscape. When viewed from CVP 4 the pattern of windfarms across the ridgeline is very evident in the distance. The appellant's visuals from CVP 4 show the proposal within the context of the following windfarms (moving from east to west): Pollnalaght; Pigeon Top; the appeal proposal; Tappaghan Wind Farm; Clunahill Windfarm; Castlecraig; Lough Hill; Slieveglass and Bin Mountain (includes permitted and operational windfarms).
45. The visuals show the proposal in the distance as an extension to the Tappaghan Windfarms set well behind rising ground. Across the horizon profile the various windfarms are viewed in a series of layers. The proposal would read with the Tappaghan layer. Due to rising intervening topography only the upper hub and blades of the proposed turbines would be possible from this distance of around 13 km - as is the case with the Tappaghan Windfarms. Although the proposal extends to the west a definite gap will still be maintained between the proposal and Pollnalaght and Pigeon Top Wind Farm. The Pollnalaght and Pigeon Top Windfarm appear quite separate from the appeal proposal as they are in the foreground layer – and are very much read and merge with each other. The break offered will still achieve visual separation. Due to topography, distance and intervening vegetation I would agree with the appellant that this particular transient viewpoint of the wider landscape would be briefly glimpsed.
46. Given the fleeting nature of this viewpoint and my analysis I do not find that the appeal proposal would have an adverse impact on the visual amenity or landscape character of the area when added to the existing turbines already consented or constructed in the area.
47. VP 5 – Lendrums Bridge and VP 6 – North of Trillick. These viewpoints are taken approximately 16 km and 11.4 km respectively from T3. Again a number of windfarms are evident across the landscape within these very wide and panoramic views. From here the proposal will be discernible as a single windfarm between two clusters of windfarms (mainly Tappaghan & Extension and Pollnalaght & Pigeon Top). It will be clearly separated from these clusters by undeveloped landscape.
48. VP 9 – Gortin Glen. This viewpoint is taken approximately 16.9 km from T6. A significant number of windfarms are seen within this wide and panoramic view. From here the proposal will be seen within the cluster of layers of existing windfarms particularly, Tappaghan, Pigeon Top and Pollnalaght. Within this context, I consider that the addition of the proposal would be negligible.
49. In conclusion of my assessment of the landscape and visual impacts of the proposed windfarm on the landscape character of area, I consider that the visual

impact of the windfarm will be the greatest when viewed from the south and when up very close. I consider that this impact is not so significant that it would have an overall adverse impact on the landscape character of the area. The appeal proposal of itself, would not have a significant adverse impact on the landscape character of the area.

50. From the longer range viewpoints it is evident that this is very much a windfarm landscape. I consider that proposal would not remove the visual gap to the extent argued by the Council but rather maintains it. When added to the existing approved and constructed windfarms I have not been persuaded that the proposal would result in any significant increase to the already cumulative impact of the windfarms in this area. The appeal proposal therefore complies with criteria (b) and (i) & (ii) of Policy RE1 of PPS18 and the policies set out in the SPPS.
51. Planning Policy Statement 16; Tourism (PPS 16) Policy TSM 8, Safeguarding of Tourism Assets states that planning permission will not be granted for development that would in itself or in combination with existing and approved development in the locality have an adverse impact on a tourism asset such to significantly compromise its tourist value. The justification and amplification test states that for the purposes of this statement a tourism asset is defined as any feature associated with the built or natural environment which is of intrinsic interest to tourists.
52. The Council identify the general countryside as the main tourism asset they wish to safeguard. The latest consultation response from Northern Ireland Tourist Board (dated 13.12.2011), was generic and noted that they recognised the importance of achieving Northern Ireland's renewable energy obligations and that the visual impact of windfarm development on visitor perception, enjoyment and visitor numbers remains largely undetermined.
53. The Council are concerned that the proposed windfarm will add to the visual impact of turbines in the area changing the perception of the area and a probable reduction in tourist appeal of this area of Co. Tyrone. They argue that given the amount of existing commercial windfarms in the area it is important to retain the visual gap that exists between windfarms.
54. This is a windfarm landscape. The proposed windfarm is not within a special or designated site. In any case, I have already concluded that from the longer range viewpoints a visual gap will still be maintained between windfarms and that the proposal would not result in a significant increase to the already cumulative impact of windfarms in the area. With reference to tourism interests the BPG at paragraph 1.3.81 states that the judgement of acceptability based on landscape protection should provide adequate protection for tourism interests. The threshold of landscape protection is generally more sensitive to windfarm development than tourism, therefore if it is deemed acceptable within the landscape at the planning stage, there should be no unreasonable impacts on tourism interests.
55. In addition, I have not been persuaded that a significant number of visitors would be deterred from visiting the general area and countryside and that its tourist value would be significantly compromised by the proposal. The Council's objections to policy TSM 8 of PPS 16 have not been sustained.

56. Accordingly, I conclude that the Council's first reason for refusal relating to Policy RE 1 of PPS 18 criteria (b) and (i) and (ii), and Policy TSM of PPS 16 have not been sustained.

Residential Amenity

57. Planning Policy Statement 18 (PPS 18), Policy REI states that development that generates energy from renewable sources will be permitted provided the proposal will not result in an unacceptable adverse impact on (a) public health, human health or residential amenity. It states that applications for wind energy development will also be required to demonstrate: (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 (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'. A 'sensitive receptor' is defined as habitable residential accommodation (although not necessarily occupied).
58. The second reason for refusal refers to unacceptable impact on the residential amenity of sensitive receptors through visual dominance, noise and shadow flicker. The Council's evidence for this reason for refusal concentrated mainly on noise and shadow flicker.
59. In relation to visual dominance, the Council referred to properties generally on the Glen Road and Dooish Road. From my visual analysis I have already concluded that viewpoints from the Dooish Road and Glen Road are extremely limited and I do not consider the proposal to be overbearing or prominent. I conclude that the proposed wind farm would not be visually dominant from any of the dwellings along either of these roads.
60. The BPG specifically deals with the issues in relation to noise from wind turbines within paragraphs 1.3.43 – 1.3.49. Paragraph 1.3.46 refers to the report 'The Assessment and Rating of Noise from Wind Farms (ETSU-R-97)' which describes a framework for the measurement of windfarm noise and gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development. This formed the basis of the appellants' noise report.
61. Environmental Health considers there are 2 issues of concern:
- Consideration of additional sensitive receptor (the forestry cottage R02) and
 - Appropriate noise levels
62. The Council consider that property R02 is a sensitive receptor (within 10 times rotor diameter - 900m). From the evidence presented I can determine that R02 is an unoccupied, linear plan single storey, derelict dwelling in poor condition with no services to the property or amenities on site. There is no public access to the dwelling and there is a gate blocking the mountainous track which is the only entrance to R02.
63. The critical issue is whether or not the property is habitable which is not defined in planning policy. The Oxford English dictionary defines habitable as 'suitable or

good enough to live in'. The Council state that although unoccupied, it appears to be structurally sound, with glass in all windows, a fully closing front door, chimneys and a water tight roof. They consider that it is capable of being occupied with some minor works and therefore considered habitable and that its use has not been abandoned. They consider that it would meet the tests for replacement.

64. Letters submitted from local landowners and residents (Mr Breen and Mr Harper) concur that R02 has been derelict for around 30 years and that the previous family had to leave the property at that time because even then it was uninhabitable. I was told at the hearing by Mr Breen that it was used around 10 years ago to store feed for animals but this had to be moved due to dampness.
65. From the evidence presented it is obvious that the property is in poor condition and suffers from dampness – it was argued that it is not even watertight. Whilst the external walls appear intact the windows frames, doors and tin roof covering and roof structure are in very poor condition. I was told that internally vegetation is growing and it is evident that a tree is growing out of the chimney.
66. The appellant explained that the property is owned by the Forest Service of Northern Ireland and under the Forestry Act (Northern Ireland) 2010, the Forestry Service is not permitted to, nor does it have the statutory power to develop sites as residential dwellings. It was submitted that this particular site cannot be developed by Forestry Service as a residential dwelling and therefore could not be considered as a 'replacement opportunity' either.
67. However, irrespective of whether or not R02 may be considered as a replacement opportunity, policy defines a 'sensitive receptor' as habitable residential accommodation. Given the evidence presented regarding the general condition and disrepair I do not consider that R02 could be considered as habitable residential accommodation. I am satisfied that R02 is not a sensitive receptor and is not required to be factored into the noise level calculations.

Appropriate Noise Levels

68. The ETSU guidelines recommends limits for noise from windfarms at sensitive receptors. The Institute of Acoustics publication, 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' provides guidance on determining the limits in section 3.2. The guidance allows to assign a lower daytime limit within the range 35 – 40 dBL_{A90} and also allows for a fixed lower night time limit of up to 43 dBL_{A90}.
69. The Noise Impact Assessment (FEI IV) concluded the following based on the likely sound power levels for Enercon E82 E4 3MW turbines:
 - When considering only the proposal, predicted levels and measured background noise levels indicate that, for all un-associated dwellings neighbouring the proposed site, wind turbine noise will meet the Upper Amenity Hours and Night Time Hours Noise Criteria within ETSU-R-97;
 - Predicted noise levels of the proposal indicate that, for all associated dwellings neighbouring the proposed site, wind turbine noise will meet the Amenity Hours and Night – time Hours Noise Criteria proposed within ETSU-R-97;

- Predicted cumulative noise levels resulting from the surrounding development indicate that at all un-associated dwellings, cumulative wind farm noise levels will meet the Upper Amenity Hours and Night Time hours Noise criteria suggested by ETSU-R-97;
 - Predicted cumulative noise levels resulting from the surrounding developments indicate that at all associated dwellings, cumulative wind farm noise levels will meet the Amenity and Night – Time hours Noise Criteria suggested by ETSU-R-97 for associated dwellings.
70. Based on the NA, EHD were not content with reference to selected receptor properties meeting the daytime upper limit of 40 dBL_{A90}. EHD favoured a 37.5 dBL_{A90} limit. It was submitted that no information has been presented to justify the Upper Daytime Amenity target of 40 db and stated in their consultation response that it was not satisfactory to declare that receptors will meet the Upper Amenity Hours criterion in ETSU-R-97.
71. ETSU-R-97 describes three criteria to be considered when determining the fixed part of the daytime amenity noise limit within the range of 35 db to 40 db, which are:
- The number of noise – affected properties,
 - The potential impact on the lower output of the wind farm; and
 - The likely duration and level of exposure.
72. At the hearing the appellant tabled additional information (1829-note 03-2, 12/12/16), and EHD had an opportunity to respond in writing. This additional information addressed these 3 criteria and stated:
- The number of noise affected properties:
When assessing the potential noise impact associated with the appeal site, 68 properties were considered. It is noted that a number of these were predicted to not experience operational noise levels in excess of 35 dBL_{A90} and would not therefore normally be considered in a noise impact assessment as they do not exceed the lowest absolute limit specified ;
 - The effect of noise limits on the number of kWhr:
Table 1 considers the reduction in generation capacity which may be expected should the wind farm be constrained to meet various noise levels – this analysis was undertaken on the basis of complying with the cumulative noise level and not the wind farm in isolation;
 - 10.9 % reduction in generation output to meet a limit of 37.5 dBL_{A90}
 - 8.7 % reduction in generation output to meet a limit of 38 dBL_{A90}
 - 2.7 % reduction in generation output to meet a limit of 39 dBL_{A90}
 - 0 % reduction in generation output to meet a limit of 40 dBL_{A90}
 - Duration and level of exposure:
Table 2 details the properties which cumulatively exceed a level greater than 37.5 dBL_{A90}. Three additional residential receptors are now financially associated – H13, H14 and H18 (EHD consider that this is relevant and significant information as the limit for financially associated properties is 45 dBL_{A90}.) This leaves 18 properties that will exceed 37.5 dBL_{A90} and shows

that the exceedances range from 0.1 dB to 2.3 dB within the wind speed range of 7-9 m/s. From this information, 3 properties considered by EHD to exceed the 37.5 dBL_{A90} limit do not exceed this limit.

73. Table 3 presents a further analysis of the remaining 15 properties and indicates the % time a relevant limit is exceeded (and assumes that a receptor is downwind of all turbines) and indicates;

7 properties exceed 37.5 dBL_{A90} for 7.2 %
4 properties exceed 37.5 dBL_{A90} for 18.2 %
4 properties exceed 37.5 dBL_{A90} for 23 %

74. Table 4 details the allowance for wind direction effects to take account of the fact that properties cannot be downwind of all turbines simultaneously. It shows that 7 properties (H20, H21, H22, H23, H24, H25 and H26) exceed 37.5 dBL_{A90} and sets out the % of time exceeded for 37.5 dB, 38 dB, 39 dB and 40 db. The % of time the remaining 7 properties exceed a 37.5 threshold is less than 20 % (ranging between 1.6 % and 19 %), whilst the % of time properties exceed a 38 db threshold is less than 12 % and this is less than 3% for a 39 db threshold. No exceedances are predicted for the 40 db fixed limit.

75. In assessing this information, I attach particular weight to the following:

- There are 68 sensitive receptors identified with the noise assessment – although I acknowledge that a number of the properties were predicted not to experience noise levels in excess of 35 db. The sensitive receptors are mainly concentrated in linear bands along the Dooish Road and the Glen Road. I would consider these are fairly well populated rural roads.
- If the proposed windfarm had to be regulated to comply with a fixed noise limit of 37.5db, the figures show a considerable reduction in the generation output of 10.9 %, whereas there would be no reduction if the fixed noise limit was 40db. The 37.5 db noise limit is lower than limits consented for windfarms with smaller generating capacities. The windfarm would be running much less efficiently and their contribution to meeting renewable energy targets would be reduced.
- Table 4 indicates that around 12% of properties considered within the NA risk exceeding 37.5 db and the % time exceeding 37.5 db is between 1.6 % and 19 % across a limited wind speed range. Overall I consider that setting the limit at 40 db would impact on a fairly limited number of properties for limited periods of time. I also note that the change between 37.5 db and 39 db decreases rapidly on the impact on duration and the number of houses. This 1.5 db change would itself be barely perceptible.
- Although initially Environmental Health preferred a figure of 37.5 db, when the additional evidence was presented by the appellant detailing the 3 factors pertinent to establishing the fixed day – time noise level they had no objection to the acceptance of fixed lower limit of 40 db subject to the imposition of conditions – they did not say that 40db was unacceptable. They suggested a condition which sets out the noise predictions at neighbouring properties to ensure that this limit is met cumulatively.

76. In the final analysis, I consider that the evidence presented is persuasive that the fixed part of the day time noise level should be 40 db. A condition setting out the noise predictions at the neighbouring properties would be appropriate to ensure that this limit is met cumulatively.

Shadow Flicker

77. Shadow flicker is the flickering effect caused when rotating wind turbine blades periodically cast shadows through constrained openings such as the windows of neighbouring properties. Within the BPG, paragraph 1.3.73 states that shadow flicker generally only occurs in relative proximity to wind farm sites and only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK. Problems caused by shadow flicker are rare. It adds that for distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low. Paragraph 1.3.77 of the BPG recommends that shadow flicker at neighbouring dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. None of the proposed turbines would be within 500m of an occupied dwelling.
78. The Council raised concern regarding R02 as it is located 665m SW of T3 and falls within the shadow flicker zone for T3 as it is located within 130 degrees either side of north.
79. A shadow flicker assessment diagram was submitted at the hearing to quantify the impact on property RO2. Even though I have previously concluded I do not consider R02 to be a sensitive receptor this demonstrated that R02 is outside the 30 hrs per year affected area from any turbine. The Council's concerns regarding shadow flicker are not sustained.
80. Accordingly, I conclude that the Council's second reason for refusal relating to Policy RE 1 of PPS 18 criteria (a) and (vi) are not sustained.

Communications

81. PPS 18, Policy RE1 states that applications for wind energy development will also be required to demonstrate all of the following:
- that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communication; or other telecommunications systems.
82. The Council's reason for refusal was based on a consultation response from the Joint Radio Company (JRC) dated 20.3.2015. Their objection was due to the fact that part of the proposal was located within 0.5 km of a protected link path managed by JRC. The affected link was 460 MHz Telemetry and Telecontrol. In response to this the appellant commissioned a detailed co ordination report from JRC in respect of a link for NIE telemetry. The JRC report found that the proposed T3 should be re sited a distance of 8.5m S – SE and gave a precise co-ordinate location for this turbine which would satisfy the required set back distance.

83. In the updated consultation response dated 17.07.2015, it noted that as a result of further analysis their previous objections were withdrawn subject to the re-positioning of T3. Subject to conditions to secure the re siting of T3, JRC does not foresee any potential problems with interference. The Council accepted that this issue has been addressed.

Co – ordinates for T3

	Original Co – Ordinates for T3	Revised Co – ordinates for T3
Easting	232105	232108
Northing	368876	368868

84. Although the Council accepted that this issue could be addressed they had concerns with the micro - siting of T3 as this should be re advertised and re consulted e.g. NIEA. In the overall scale and context of the proposal I consider this as a minor re siting of T3 from its original location.
85. I have not been persuaded that the re siting of T3 by 8.5m would have a detrimental impact in respect to any of the aspects identified within the EIS for example such as ecology, visual impact, or noise. A condition can be imposed to facilitate the re siting of Turbine T3 and the proposal will not result in unacceptable electromagnetic interference to communications installations. Accordingly the Council's 3rd reason for refusal has not been sustained.

Conclusions

86. My conclusions on this appeal may be summarised as follows:
- The proposed development offers substantial environmental, economic and social benefits to which significant weight should be attached;
 - The development would not have an adverse impact of the landscape character of the area;
 - Concerns in relation to tourism are not determining;
 - Concerns expressed in relation to noise, shadow flicker and communications are not determining.

Consequently, as the reasons for refusal have not been sustained the appeal is allowed. The Council suggested 25 conditions. The appellant was content with the conditions with some minor changes suggested.

87. NIEA (Natural Heritage) referred to the appeal site as being upstream of the River Foyle and Tributaries Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI) and Owenkillew SAC and ASSI and is therefore subject to the Habitats Regulations. A Habitat Regulations Assessment (HRA) concluded that there would be no likely significant effect on the designated site, subject to a number of conditions including; conditions to prevent pollution of ground and surface water and the protection of natural habitats and species (birds) and the ongoing monitoring of bird populations.
88. Conditions are also necessary to control noise in the interests of amenity of noise sensitive receptors. In relation to the suggested condition relating to complaints

alleging amplitude modulations (AM), I note that planning policy does not currently address this. The technology for renewable energy is constantly changing and advancing and solutions are being sought to address any periodic fluctuations in the sounds that can arise from turbines. The IoA ' Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise' states in paragraph 7.2.1 that the evidence in relation to amplitude modulation is still developing and current practice is not to assign a planning condition to deal with AM.

89. NIEA (Historic Monuments Unit) require a condition to identify and record any archaeological remains in advance of construction. To facilitate the orderly progress of work on construction haulage routes and the free movement of all road users' conditions are required in the interests of road safety.
90. The completed P1 form stated that planning permission is requested for a 10 year period. The Council did not include a condition to limit the lifetime of the turbines. I consider that 10 years would be inadequate to realise the benefits and investment of the proposal and would be unduly restrictive. However, I consider it necessary to limit permission and 25 years is the normal timeframe for this type of development. A decommissioning scheme would be required which is consistent with guidance in PPS 18.

Conditions

- (1) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
- (2) Turbine 3 (T3) is to be micro – sited 8.5 m SE of the location shown on PAC 8 (Site Layout Master Plan; DoE stamped drawing 14 Rev C) to the precise co – ordinates NGR 232108 368868.
- (3) No development activity, including ground preparation or vegetation clearance, shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. 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. Water Quality Monitoring Plan;
 - e. Environmental Emergency Plan;
 - f. Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.

- (4) No development activity, including ground preparation or vegetation clearance, shall take place until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise agreed in writing by the Planning Authority. The HMP shall include the following :
- a. Pre – construction baseline habitat surveys to National Vegetation Class (NVC) level;
 - b. Appropriate maps, clearly identifying habitat management areas;
 - c. Detailed methodology and prescriptions of habitat management measures, including timescales and with defined criteria for the success of the measures;
 - d. Details of regular monitoring of habitat management measures using fixed quadrat locations;
 - e. Details of the production of regular monitoring reports to be submitted to the Planning Authority at intervals to be agreed and to include details of contingency measures should monitoring reveal unfavourable results.
- (5) No works shall be carried out on or within watercourses, including proposed watercourse crossings, between 31 October and 31 March unless otherwise agreed by the Planning Authority.
- (6) No development activity, including ground preparation or vegetation clearance, shall take place on site between 1 April 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 Planning Authority. The approved OMS shall be implemented in accordance with the approved details and all works must conform to the approved OMS, unless otherwise agreed in writing by the Planning Authority.

The OMS shall include;

- a. Details of the appointment of a suitably experienced and competent ornithologist, with the power to halt works, to supervise works during the bird breeding season;
- b. Details of 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 buffers 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 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 Planning Authority after construction has commenced and at the end of each bird breeding season during which works take place.
- (7) No development activity, including ground preparation or vegetation clearance, shall take place until an Ornithological Management and Monitoring Plan (OMMP) has been prepared by a suitably experienced and competent ornithologist and approved in writing by the Planning Authority. The approved OMMP shall be implemented in accordance with the approved details and all works must conform to the approved OMMP, unless otherwise agreed in writing by the Planning Authority. The OMMP shall include;
- a. Details of a programme of ornithological mitigation 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. Provisions for the reporting of the implementation of the OMMP to the Planning Authority at the end of each monitoring year and to include details of contingency measures should monitoring reveal unfavourable results.
- (8) The turbine model shall be an Enercon E82 E4 3MW model (which shall have a tip height of no more than 125m) unless the Planning Authority approves any variation to the turbine model – the details of which to be submitted and approved in writing prior to the commencement of development.
- (9) The level of noise emissions from the combined effects of the Curraghamulkin wind turbines (including the application of any tonal penalty when calculated in accordance with the procedures described on pages 104 – 109 of ETSU-R-97) shall not exceed values set out in Table 1 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 tables shall be represented by their physically closest location listed in the tables unless otherwise agreed by the Council.

Table 1: Noise Limits dB LA90 for Day and Night – Time Periods

	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods								
Property	4	5	6	7	8	9	10	11	12
H2	30.70	34.70	38.70	41.70	42.70	42.70	42.70	42.70	42.70
H3	25.00	29.00	33.00	36.00	37.00	37.00	37.00	37.00	37.00
H9	26.30	30.30	34.30	37.30	38.30	38.30	38.30	38.30	38.30
H16	27.00	31.00	35.00	38.00	39.00	39.00	39.00	39.00	39.00
H17	27.90	31.90	35.90	38.90	39.90	39.90	39.90	39.90	39.90
H20	27.00	31.00	35.00	38.00	39.00	39.00	39.00	39.00	39.00
H22	26.20	30.20	34.20	37.20	38.20	38.20	38.20	38.20	38.20
H26	25.20	29.20	33.20	36.20	37.20	37.20	37.20	37.20	37.20
H46	24.50	28.50	32.50	35.50	36.50	36.50	36.50	36.50	36.50
H47	24.90	28.90	32.90	35.90	36.90	36.90	36.90	36.90	36.90
H48	24.30	28.30	32.30	35.30	36.30	36.30	36.30	36.30	36.30

- (10) Within 6 months of the development first becoming fully operational (unless otherwise extended with the Planning Authority) a noise survey shall be undertaken, submitted to and agreed in writing with the Planning Authority. 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 and covering a range of wind directions. Monitoring shall be carried out at the wind farm's operator's expense. Details of the noise monitoring survey shall be submitted to the Planning Authority for approval prior to any monitoring commencing. The Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of a noise survey.
- (11) Within 4 weeks of a written request by the Planning Authority, following a complaint from the occupant of a dwelling, the wind farm operator shall, at his/her expense employ a consultant, approved by the Planning Authority, to assess the level of noise emissions 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 the Planning Authority for approval prior to any monitoring commencing. The Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.
- (12) The wind farm operator shall provide to the Planning Authority the consultant's assessment and conclusions regarding the noise monitoring required by conditions 11 and 12, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Authority unless otherwise extended in writing by the Planning Authority.
- (13) Wind speed, wind direction and power generation data shall be continually 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 reasonable request of the Planning Authority, the recorded wind data, measured or converted 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.
- (14) 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 a 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.
- (15) 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 Planning Authority. 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 the preparation of an archaeological report.

- (16) Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Planning Authority to observe the operations and to monitor the implementation of archaeological requirements.
- (17) No development shall take place until a scheme for the maintenance of the construction haulage routes and any associated traffic management measures has been submitted to and approved by the Council.
- (18) The vehicular access, including visibility splays, shall be provided in accordance with PAC 6 (Site Entrance Details; drawing no. 10 Rev C) prior to the commencement of any work or other development hereby permitted.
- (19) The permission shall be for a limited period expiring 25 years from the date on which electricity from the wind farm is first connected to the grid. Within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission, whichever is sooner, all structures and access tracks shall be removed and all land affected by the development restored in accordance with a decommissioning scheme submitted to and approved by the planning authority prior to the commencement of any works, or in accordance with any variation to the scheme to which the planning authority subsequently agrees in writing.
- (20) The developer shall notify the Planning Authority in writing of the date of commencement of works on the site and of the date when the windfarm has become operational (i.e. connected to the national grid).

This decision relates to the following drawings:

PAC 1	DoE 01 rev C	Site Plan	2645	
PAC 2	DoE 05 rev B	Turbine Elevation	2645-D04 125 M	
PAC 3	DoE 04 rev B	Turbine Plan	2645-D05 125M	
PAC 4	DoE 08 rev A	Electrical Control Building	2645-D06	
PAC 5	DoE 09 rev A	Road Construction Details	2645-D07	
PAC 6	DoE 19 rev C	Site Entrance Details	2645-D08	
PAC 7	DoE 12 rev A	Anemometer Mast Plan View	2645-D10	
PAC 8	DoE 14 rev C	Site Layout Masterplan	4204/PL/002	
PAC 9	DoE 16 rev C	Roads and Drainage Site Layout	4204/PL/004	
PAC 10	DoE 17 rev C	Roads and Drainage Site Layout	4204/PL/005	
PAC 11	DoE 18 rev C	Roads and Drainage Site Layout	4204/PL/006	
PAC 12	DoE 19 rev C	Roads and Drainage Site Layout	4204/PL/007	
PAC 13	DoE 20 rev C	Roads and Drainage Site Layout	4204/PL/009	
PAC 14	DoE 21 rev C	Drainage Master Plan	4204/PL/010	
PAC 15	DoE 22 rev C	Drainage Plan (sheet 1 of 2)	4204/PL/011	
PAC 16	DoE 23 rev C	Drainage Plan (sheet 2 of 2)	4204/PL/012	
PAC 17	DoE 24	Electrical Control Building	4204/PL/202	
PAC 18	DoE 25	Anemometer Mast	2645-D09	
PAC 19	DoE 25	Anemometer Mast	2645-D10	
PAC 20	DoE 27	Electrical Control Building	4204/PL/203	

COMMISSIONER MANDY JONES

2015/A0200

List of Appearances

Planning Authority: Martin McCarroll, Fermanagh & Omagh District Council (FODC)
Colin Harkness, Fermanagh & Omagh District Council
Brian Furey, Environmental Health, FODC
Jill Crawford, Environmental Health, FODC

Appellant: William Orbinson QC
Laura Roddy, Canavan Associates Ltd
Seamus Canavan, Canavan Associates Ltd
R Rafferty, Canavan Associates Ltd
Neil McCullough, Oxford Economics
Rory Mullan, Mullan Grid Consulting
Kay Hawkins, HBA Environment
Malcolm Hayes, Hayes McKenzie Partnership Ltd
Doreen Walker, DW Consultancy Ltd
Barry O'Kane, DW Consultancy Ltd
John Carlin, DW Consultancy Ltd
Stan McWilliams, DW Consultancy Ltd
Jenny Craven, DW Consultancy Ltd

Third Party Supporters

Wilson Boyd, Landowner
Charles Boyd, Landowner
Seamus Breen, Landowner
Chris Breen, Landowner
Brendan Harper, Landowner
Alan Boyd
Dominic McCanny, Landowner
Michelle Donnelly, SSE Renewables

List of Documents

Planning Authority:

A Statement of Case with appendices - FODC.

Post Hearing;

A1 EHO response to Noise Assessment appendix A (22 December 2016)

Appellant:

B Statement of Case with appendices – Canavan Associates

B1 Environmental Statement Volume 1, Volume 2 & Volume 3

B2 Further Environmental Information (FEI I)
Further Environmental Information (FEI II)
Further Environmental Information (FEI III)
Further Environmental Information (FEI IV)

Received at the hearing:

B3 Noise Assessment: appendix A (1829-note03_3, 12/12/2016) Hayes McKenzie

B4 Existing Houses within wind farm vicinity with Council Viewpoint Locations Figure C25 – Canavan Associates

B5 Nearby Replacement Opportunities & Potential Shadow Flicker Zones, Figure C25 – Canavan Associates

B6 Photographs of R02 – Canavan Associates

Post Hearing;

B7 Rebuttal to EHO response to Noise Assessment (5 Jan 2017) Canavan Associates