

A photograph of an offshore wind farm with several turbines in the ocean. The foreground is a rocky beach with some seaweed. The sky is overcast with some clouds. The entire image has a greenish tint.

Planning Timelines for Wind Energy Projects in Ireland - Implications of the EU Clean Energy Package

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PLANNING TIMELINES FOR WIND ENERGY PROJECTS IN IRELAND - IMPLICATIONS OF THE EU CLEAN ENERGY PACKAGE

This briefing note sets out an overview of the current timelines for obtaining planning permission for a typical on-shore wind energy project in Ireland and an assessment of the implications of the new obligations under the EU Clean Energy Package (CEP) on these timelines.

Current Timelines

The table below sets out the various stages in a typical planning application (non-SID).

Research conducted by the Irish Wind Energy Association (IWEA) in 2019 found that the average decision period by An Bord Pleanála (the Irish planning appeals board) for windfarm cases between 2017 and 2019 was 66 weeks with the longest case taking 107 weeks from start to finish.

It is only once a project has obtained planning permission that it can apply for a grid connection under the Enduring Connection Policy (ECP). Furthermore, it is only those projects that have obtained both planning permission and grid connection that are eligible for inclusion in the upcoming RESS Auctions.

Stage	Timeframe	Notes
Planning Authority	8 weeks	This is a minimum. If a request for further information (RFI) is issued, then 24 weeks is more likely.
Appeal 'window'	4 weeks	Either the applicant (first party appeal) or third parties can lodge an appeal within 4 weeks of the Planning Authority's Decision. If no Appeal, then Final Grant issues.
An Bord Pleanála	18 weeks	This is a 'statutory objective', rather than a binding timeframe. For wind farm decisions the average period taken by the Board to decide appeals is 66 weeks (source - IWEA).
Total time	Best Case: 12 weeks	Assumes no RFI or Appeal.
	Medium Case: 32 weeks	Assumes RFI, but no Appeal.
	Likely Case: 52 weeks +	Assumes RFI and Appeal. Also further 8 weeks for party to bring Judicial Review challenge.

Timelines under the CEP

On 21 December 2018 a substantial part of the long awaited CEP was published in the Official Journal, notably the re-cast Renewable Energy Directive (RED 2). RED 2 has to be implemented by member states by 30 June 2021.

Article 16 of RED 2 provides for mandatory permitting deadlines. The relevant provisions of Article 16 insofar as they relate to the duration of the permit granting process are as follows:

1. Article 16 provides that the applicant shall not be required to contact more than one "contact point" for the entire process
2. The permit granting process must not exceed two years for power plants. This time period can be extended by a maximum period of one year where it can be justified on the grounds of "extraordinary circumstances". Unfortunately, what constitutes "extraordinary circumstances" is not defined in RED 2
3. Where the power project has an electrical capacity of less than 150kW, the permit granting process must not exceed one year, which again may be extended for a further year in extraordinary circumstances
4. Article 16 also provides specific provisions for re-powering of existing renewable energy plants. Member states are obliged to facilitate re-powering by ensuring a simplified and swift permit granting process, the length of which should not exceed one year. Again there is scope to extend

that period by a further year in extraordinary circumstances. In this case, examples of extraordinary circumstances are provided – "*such as grounds of over-riding safety reasons where the repowering project impacts substantially on the grid or the original capacity size or performance of the installation.*"

5. Each of the above deadlines do not include judicial appeals or other court proceedings eg Judicial Review. Where a permit is challenged in the Courts then the period set out above will be extended for the duration of such judicial process

Issues for consideration under CEP

While unfortunately RED 2 does not define "extraordinary circumstances", it is clear that even where such circumstances apply, the permit granting process (excluding Judicial Review challenges) cannot exceed three years from start to finish.

The question then arises as to what the "permit granting process" means? For example, does it mean the granting of all necessary state permits for the construction and operation of the power plant? If so, then the combined time limit for obtaining not only the planning permission but also the grid connection and other required permits (eg the CRU licences and road opening licences) cannot exceed a period of two years in ordinary circumstances, or three years in extraordinary circumstances.

Commentary

The timeline for obtaining a final grant of planning permission for on-shore wind farms in Ireland often exceeds three years, particularly if separate planning applications are made for the wind farm and the grid connection works. An applicant also has to liaise with a number of different bodies (the local planning authority, An Bord Pleanála, the CRU, the local roads authority) for his permits, as opposed to the "single contact point" that will be required under RED 2. It remains to be seen therefore how the Department of Housing, Planning and Local Government will rise to these new challenges in its transposition of RED 2 by 30 June 2021?

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