

Facts, administrative proceedings and decision of the administrative authority

The authority has designated a renewables acceleration area (RAA). For turbines located within the RAA, a Strategic Environmental Assessment (SEA) was carried out as part of the planning and designation of the RAA, in line with the requirements of [national legislation implementing Directive 2001/42/EC]. As per [national legislation implementing Directive 2023/2413], projects within RAAs benefit from a presumption of minimal environmental impact. Effective mitigation measures are established.

Wind Whirl Innovations has asked for a permission for a new wind project situated in an area designates as part of the RAA under Directive EU/2023/2413 as well as for wind turbines outside an RAA. The application, including the Environmental Impact Assessment (EIA), was submitted. The application was publicly announced, and comments were received from the public and stakeholders. *Windsy Whirl Innovations* responded to these comments, and the Authority has taken the responses into account.

The authority has produced a positive decision for wind turbines situated in the RAA as well as for wind turbines outside the RAA, but the project faces opposition. Local residents (neighbours) and an environmental NGO have filed complaints challenging the decision with your court.

Arguments/interests in court proceedings:

Applicant: keep its permit (opposes the granting of the appeals)

Administrative authority: keep the permit (public interest in renewable energy)

Neighbours: noise

Environmental NGO: protection of bats (protected by directive 92/43/EEC, Bonn-Convention, Bern-Convention)

Decision

The Authority grants *Windsy Whirl Innovations* permission to establish and operate the proposed wind turbines on the properties Batholt 2:15, Batarp 1:2, Batcave 1:15, 1:19, and 1:49, among others, in Windminster Municipality. For wind turbines outside an acceleration area for renewable energy (RAA), the maximum permitted height is set at 150 metres. For wind turbines within the RAA, the maximum permitted height is set at 185 metres. The permit also includes associated infrastructure such as foundations, assembly areas, roads, cables, transformers, and substations.

The permit is valid for 35 years from the date the decision gains legal force. The Environmental Impact Assessment (EIA) has been approved, incorporating provisions related to the streamlined procedures within RAAs as outlined in Directive 2023/2413.

Conditions/Impositions

Unless otherwise specified in the conditions, the operations must adhere substantially to the commitments made by the applicant in the submitted documents or in any other undertakings during the handling of this case.

1. Location of Turbines

The wind turbines must be installed according to the coordinates provided in the application, with a permitted variation of 100 metres.

2. Noise Levels at Residences

Noise levels at the exterior of the nearest sensitive receptors (residences) must not exceed an equivalent noise level of 40 dB(A) at any time. Compliance shall be

verified through near-field measurements and calculations within one year of the wind farm's operational start date. Additional checks must be conducted whenever significant operational changes occur, or upon the supervisory authority's request, but at least every five years.

3. Construction and Restoration Noise Levels

During construction and restoration, noise levels must not exceed:

- 60 dB(A) during weekdays from 07:00 to 19:00
- 50 dB(A) during weekdays from 19:00 to 22:00
- 50 dB(A) on weekends and public holidays from 07:00 to 19:00, and
- 45 dB(A) during all other times.

These values shall be monitored through emissions or near-field measurements and calculations. Each measurement period must cover no less than one hour. Further details will be provided in the control programme.

4. Shadow Flicker

Wind turbines must not cause moving shadows at sensitive locations (such as residential areas) for more than 8 hours per year. Sensitive areas include outdoor spaces used for recreation, work, or rest, measuring up to 25 m² adjacent to homes. Compliance must be verified through calculations or measurements for residences that are predicted to experience more than 8 hours of shadow flicker annually.

5. Obstacle Lighting and Visibility

Windsy Whirl Innovations must implement a dimming system for obstacle lighting when visibility conditions allow, or a similar system with equivalent effectiveness. Flashing lights on turbines must be synchronised.

6. Operational Stoppage for Bat Protection

Wind turbines must be shut down with stationary blades when the average wind speed over 10 minutes is less than 6 m/s at rotor height, and the temperature exceeds 14°C, between sunset and sunrise from 15 July to 15 September. This requirement does not apply in cases of heavy rain or fog, as bats are unlikely to be active in such weather.

7. Uniform Design

All wind turbines must have a uniform and discreet design and colour scheme.

8. Completion Notification

Windsy Whirl Innovations must notify the supervisory authority within one month of completing construction.

9. Decommissioning and Restoration Plan

Upon cessation of operations, *Windsy Whirl Innovations* must submit a decommissioning plan to the supervisory authority within six months. The plan must include details for the removal of turbines and restoration of the site. Full decommissioning must be completed within the 35-year permit period.

10. Removal of Turbines

All turbines and associated equipment must be removed within two years after decommissioning, unless otherwise approved by the supervisory authority.

11. Control Programme

A monitoring programme must be submitted to the supervisory authority prior to the start of construction work.

12. Financial Security for Restoration

Windsy Whirl Innovations must provide financial security for post-operation restoration, amounting to € 700 000 per wind turbine, with the full amount approved before operations commence.

13. Updated Noise and Shadow Calculations

Once the exact turbine locations are finalised, *Windsy Whirl Innovations* must submit updated noise and shadow flicker assessments to the supervisory authority based on these finalised placements.

Considerations

Environmental Impact Assessment

The Authority acknowledges that *Windsy Whirl Innovations* has conducted an Environmental Impact Assessment (EIA) for turbines located outside the Renewable Energy Acceleration Area (RAA), fulfilling the standard requirements of the [national legislation implementing the Environmental Impact Assessment Directive (Directive 2011/92/EU)]. The Authority has reviewed the EIA and finds that the applicant has adequately addressed potential environmental impacts, particularly regarding noise, shadow flicker, and the protection of bats and other species. The mitigation measures proposed by the applicant, such as turbine shutdowns during key periods to protect bats, are deemed sufficient to reduce the environmental impact to acceptable levels.

Location and Species Protection

The location of the wind turbines, both inside and outside the RAA, has been assessed for compliance with species protection regulations, including the [national legislation implementing the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC)]. The Authority notes that the bat protection measures—including the shutdown of turbines during high-risk periods for bat mortality—are necessary and in line with scientific recommendations. These measures are expected to reduce bat mortality by up to 90%, ensuring compliance with species protection laws.

Noise and Cumulative Impact

Noise is a significant concern for residents near the wind turbines. The Authority confirms that the 40 dB(A) limit will protect residents from excessive noise, and the applicant has demonstrated that this threshold will not be exceeded, even when considering cumulative noise from multiple turbines. Regular monitoring, as required in the conditions, will ensure ongoing compliance with noise regulations.

Shadow Flicker

The applicant has proposed a shadow flicker management system that will automatically shut down turbines during periods when shadow flicker exceeds the 8-hour limit for residences. The Authority finds this system to be effective in mitigating the impact of shadow flicker on nearby residents.

Lighting and Obstacle Marking

To minimise light pollution, the Authority has required the use of a dimming system for obstacle lighting. This system will automatically reduce light intensity during clear weather, thereby minimising the disturbance to nearby residents while maintaining aviation safety.

Bats and Other Protected Species

Given the critical importance of bats and other species protected under EU law, the Authority has imposed conditions to protect these species from turbine-related mortality. The requirement to shut down turbines during periods of high bat activity is consistent with scientific studies that demonstrate a significant reduction in bat deaths when such measures are implemented.

Summary

The Authority concludes that, based on the commitments made by *Windsy Whirl Innovations* and the precautionary measures included in this permit, there are no remaining obstacles to the approval of the proposed wind turbines, both inside and outside the Renewable Energy Acceleration Area (RAA). The Authority is satisfied that the applicant's proposals comply with the relevant EU and national environmental laws, including [national legislation implementing Directive (EU) 2023/2413], and that the environmental impacts have been mitigated to acceptable levels.