



An
Bord
Pleanála

Board Direction
BD-011757-23
ABP-311044-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/02/2023.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. Having regard to the site characteristics including the upland and sloping nature of the terrain, that blanket bog is the dominant soil type at the site and to the significant volumes of peat and other unsuitable material requiring excavation, handling and long term storage on site in two large repositories excavated to depths of between 11m and 15m below ground level with the likely requirement for the construction of high retaining stone buttresses to contain the stored soils, the Board considered that there was insufficient information in relation to the ground conditions associated with the location of the proposed repositories or of the nature, extent and geotechnical properties of the soils that would be excavated in the first instance and those peats and other unsuitable soils that would be stored in the repositories. Notwithstanding the stability checks undertaken on the perimeter berms associated with the repositories, the Board is not satisfied that the details presented of the proposed repositories that are evidently based on general guidelines and assumptions and to be later confirmed by the designer prior to construction, provide sufficient confidence to ensure these repositories would be effective in the safe storage of the significant volume of peat and other unsuitable soils likely to be generated during the earthworks phase of the development and consequently would be adequate to

ensure the protection of the environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application and the appeal, including the requirement for the removal of 63 hectares of breeding/foraging area suitable as a habitat for the Hen Harrier, an Annex I bird species, it is considered that when taken in conjunction with other windfarms in the area and, notwithstanding the mitigation measures proposed including alternative habitat enhancement and management proposals with third parties, in the absence of definitive details including deliverable agreements with landowners for the implementation of these mitigation measures and having regard to the precautionary principle, unacceptable cumulative adverse ornithological impacts (for Hen Harrier in particular) which in turn would not be compatible with Objectives CDP 14.7 and CDP 14.11 of Clare County Development Plan cannot be excluded and the development would therefore be contrary to the proper planning and sustainable development of the area.
3. On the basis of the information provided with the application and appeal, including the updated Natura Impact Statement received by the Planning Authority on the 10th day of May, 2021 and the information contained on the wider file, the Board is not satisfied that it has been demonstrated that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the European Sites Carrowmore Point to Spanish Point and Islands Special Area of Conservation (Site Code: 001021), Carrowmore Dunes Special Area of Conservation (Site Code: 002250), and Mid-Clare Coast Special Protection Area (Site Code: 004182). In such circumstances, the Board is precluded from granting permission for the proposed development.

Note:

The Board also considered that the specific nature and extent of the development would require further clarity having regard to the Derryadd judgement (2021, IEHC 390) and that while it was open to the Board to request further information in this

regard, given the substantive decision to refuse permission, this matter was not pursued.

Board Member

Patricia Calleary

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Date: 08/02/2023

DECISION QUASHED

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