



An
Bord
Pleanála

Inspector's Report ABP-300998-18

Development	Permission for the technical amendments to the development permitted windfarm under Monaghan County Council Planning Register Reference 10/110 (An Bord Pleanála Reference PL18.240760).
Location	Greagh, Dernadarriff, Cornaheive, Aghamackalinn, Luppan, Derryrellan, Cavan (Moutray) & Drumbirn townlands, County Monaghan.
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	17/258
Applicant(s)	Coolberrin Wind Limited.
Type of Application	Permission.
Planning Authority Decision	To refuse.
Type of Appeal	First Party
Appellant(s)	Coolberrin Wind Limited.
Observer(s)	<ul style="list-style-type: none">An Taisce

- Bird Watch Ireland
- Northern Ireland Environment Agency

Date of Site Inspection

16th October 2018

Inspector

Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The appeal site is situated in County Monaghan, just inside the border with Northern Ireland. It lies c.15km to the north west of Monaghan Town and c.6km to the north west of Emyvale, in the rural townlands of Greagh, Dernadarriff, Cornaheive, Aghamackalinn, Luppan, Derryellan, Cavan (Moutray) and Drumbirn (see attachments).
- 1.2. The site is approximately 22 ha in area and extends across the drumlin landscape, to the north and north west of Coolberrin Hill. The site is divided into five parcels, with two larger landholdings on the upper slopes of the undulating topography (the site of the proposed wind turbines, anemometer and road upgrade 4) and three smaller landholdings, comprising the location of proposed road upgrades 1 to 3 and 5 (see Figure 7, Overall Site Location Drawing Key, drawing no. 170317/CMP/PD/007)).
- 1.3. Land uses are predominantly agricultural, with a mix of small pasture fields interspersed with blocks of woodland. Development is limited and comprises a mix of farms and one-off houses along minor county roads. Roadside boundaries (banks and mature vegetation), together with the rolling topography, generally confine views to the immediate vicinity of the viewing point. Wider views are available from some of the more elevated and open sections of the public road.

2.0 Proposed Development

- 2.1. The proposed development, as amended by the submission of significant further information in December 2017, comprises technical amendments to the Mountain Waters Wind Farm permitted under PA ref. 10/110 and PL18.204760, to facilitate construction of the wind farm. Specifically:
 - Realignment of internal access tracks and re-routing of underground cabling to correspond to the revised tracks. These revisions generally follow the route of the existing access track. The most significant changes are in respect of the access track to turbines T6 and T7 and the re-located sub-station (see Figures 9.2 and 9.3 Site Location and associated Site Layout drawings).

- The redesign of turbine hardstanding areas (with small increases in size for the hardstands associated with T1, T2, T3 and T6), the realignment of hardstanding areas associated with turbines T4 and T7 and the addition of a turning head area at turbine T7 (see Figures 9.1, 9.2 and 9.3 Site Location and associated Site Layouts).
- Relocation and resizing of the permitted substation (omission of external transformers, transformer foundations and palisade fencing), moving it south of T7 from its original position, east of T7, and subsequent realignment of associated access tracks (Figure 9.3 Site Location and Figure 11.13 Site Layout).
- Relocation and design changes to the meteorological mast from a freestanding mast to a guy-wired lattice structure. The permitted and proposed location of the meteorological mast is shown in Figures 9.0 Site Location and Figure 11.0 Site Layout. Mast is moved c.30m west.
- Approximately 820m of underground cable from the meteorological mast to turbine T2, with the proposed cable installed adjacent to the existing hedgerow (Figures 9.0 and 9.1, Site Location).
- Two no. temporary storage compounds, for the duration of the construction phase. One of these lies to the east of Turbines T1, T2 and T3 (Figure 9.1 Site Location and Figure 11.5 Site Layout) and one to the east of turbine T4 (Figure 9.2 Site Location and Figure 11.8 Site Layout).
- Minor road upgrade work along the L5151-0 and L11131-0 to facilitate delivery of the turbine components (removal of hedgerow and earthen banks adjoining the public road and widening of corner swept paths to facilitate abnormal loads). (Location of road upgrades are shown on Figure 9.2, 9.4 and 9.5, Site Location and associated Site Layout drawings).
- In order to facilitate the above works, approximately 1.2ha of additional commercial forestry will be required to be felled.

2.2. The applicant's Environmental Report provides an assessment of the likely effects of the development on different environmental topics and includes, in appendices, an Environmental Impact Assessment Screening Report and an Appropriate Assessment Screening Report. These conclude that no significant environmental

effects will arise as a consequence of the development and that there will be no adverse effects on the integrity of any European site.

2.3. Of note, in response to the request for further information, the applicant:

- Clarified that the proposed changes to finished floor level of turbines (see Site Layout Drawings, Figures 11.1 to 11.17) arose from the use of different topographical data i.e. that the original plans for the wind farm were based on OSI 10-metre interval topographic data and the technical amendments are made on plans which use LiDAR survey of the site which provide more precise topographical data. It is not the applicant's intention to change the FFL of any turbine and the differences in FFL in the permitted application and current application (ranging from -1m to +9m) arise from the updated topographical information. The location and elevation of potentially sensitive receptors surrounding the wind farm (noise shadow flicker, landscape and visual impact assessments in previous EIS) were also based on the official OSI 10m data. As a consequence the differences in FFL are entirely relative and there will be no additional impacts above and beyond those already assessed.
- Stated that the proposed grid connection will consist of a transmission line running c.22km south east to Lisdrum substation and will comprise c.21km of overhead line (OHL) and c.1km of underground line. The OHL will require a simple wooden pole supporting structure, from which the transmission line will be suspended. The underground line will involve digging a trench (1.2m deep and 1.6m wide), laying a cable ducts on private lands and reinstating the trench. An application for the grid connection is currently being prepared and it has been included in the applicant's cumulative impact assessment of environmental effects/impacts. As the lands between the subject site and Lisdrum substation are relatively unconstrained, the connection will have negligible environmental effects and will not result in any significant environmental impacts, either on its own or in combination with the proposed development.
- Submitted a Natura Impact Assessment which included an additional Hen Harrier survey carried out in August and September 2017. It concludes that, in the light of the best available scientific knowledge and evidence, the

relatively minor size and scale of the proposed amendments, distance from the SPAs, unsuitability of the local habitats and low frequency of occurrence of species of conservation interest of the SPA within the proposed site, there is reasonable scientific evidence as to the absence of impacts on the ecological integrity/qualifying interests of the Slieve Beagh SPA and Slieve Beagh – Mullaghfad – Lisnaskea SPA, having regard to their conservation objectives.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 26th January 2018 the planning authority decided to refuse permission for the development on the grounds that, having regard to polices DSP1 and BDO 3 of the Monaghan County Development Plan 2013 to 2019, the information submitted (in particular the lack of an updated dedicated survey of the site for Hen Harrier carried out during the breeding season) and lack of information on the grid connection, the planning authority were not able to establish beyond reasonable scientific doubt that adverse effects on European site integrity would not occur.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 24th July 2017 – This report refers to the site history, relevant planning policy, objections received, technical reports and reports by prescribed bodies. It considers that there is insufficient information to assess the application and recommends further information in respect of finished floor levels of turbines, further survey of the site for Hen Harriers carried out during the breeding season and effects of the proposed development on this species, assessment of grid connection in light of the O’Grianna v An Bord Pleanála judgement, confirmation that construction methodology for the proposed crossing of a watercourse is acceptable to OPW and matters raised by third parties.
- 25th January 2018 – This report refers to the further information submitted by the applicant and the technical reports and submissions on file made subsequent to

it. The report sets out concerns regarding the applicant's justification for significant changes to FFL of turbines, the adequacy of the NIS, the limited information submitted on the proposed grid connection and the generic response by OPW to the proposed use of bottomless culverts. The Planning Assessment considers that the applicant has failed to accurately describe the changes in proposed FFL within the development description, the NIS has not addressed the issues raised in the request for further information and in the absence of information on the proposed grid connection cumulative impacts cannot be assessed. The report recommends refusing permission for the development on the grounds that it cannot be established beyond reasonable scientific doubt that adverse effects on the integrity of a European site would not occur.

3.2.2. Other Technical Reports

- Roads (24th July 2017) – No objections but conditions recommended.
- Heritage Officer (10th and 19th January 2018) – States that:
 - The changes to turbine heights omitted from site notice. Survey technology has not changed between 2010 and 2017.
 - Development is located in a 'Curlew Task Force Project Area'. Species has declined significantly since the 1980s (96%) and is at risk of extinction (as a breeding species) in Ireland. The area of Dernadarriff and Glenmore are Curlew nesting areas. The presence of turbines has been found to be a deterrent to curlews for nesting (refers to studies).
 - Hen Harriers have been seen foraging in the area in the summer of 2017. Sliabh Beagh is one of the key upland sites for a 2017 INTERREG conservation project to improve the conservation status of the SPA. The improvement of habitat in the SPA will require a wider supporting wildlife landscape for foraging. The development will reduce the area of foraging habitat for Hen Harriers and availability of prey.
 - Considers that the development could jeopardise the conservation status of both the Curlew and the Hen Harrier and the positive conservation effects of the large conservation programmes

commenced in 2017 in relation to these species. The development is required to take into account other plans, policies and programmes (CANN, Curlew Conservation Task Force and Hen Harrier Schemes) and it does not. Recommends that permission is refused.

3.3. Prescribed Bodies

- An Taisce (4th July 2017):
 - The Board's decision to grant permission for the original wind farm under PL18.240760 pre-dated O Grianna v An Bord Pleanála [2014]. The then application, and the current application, do not provide information on/assessment of the proposed grid connection.
 - The previous application was refused by the planning authority on the grounds that they were not satisfied that the development would not have an adverse effect on Hen Harrier. NPWS also considered that the development would have a negative impact on the qualifying interest of Slieve Beagh SPA (Hen Harrier) and on flight lines of bird species listed in Annex I of the Birds Directive. The Northern Ireland Environment Agency raised concerns regarding the impact of the wind farm on Hen Harrier and Greenland White-fronted Geese. The Board, in overturning the Council's refusal did not carry out an Appropriate Assessment.
 - An Taisce refer to advice sought from Bird Watch Ireland on the application which states that (i) the site supports potential nesting habitat and unquestionably supports foraging habitat for Hen Harriers and other upland bird species, (ii) the value of the site for Hen Harriers and other upland bird species (e.g. Curlew, Skylark and Meadow Pipit) will vary based on the status of forestry at any time, but will exist at some time, (iii) the value of the site for Hen Harrier is supported by the recorded sightings of the Hen Harrier and the presence of prime prey species (Meadow Pit, Linnet and Skylark), (iv) the presence of a mosaic of suitable Hen Harrier foraging habitat between the site and Slieve Beagh SPA further supports the view that the site should be

considered as being of importance to breeding Hen Harriers within the Slieve Beagh SPA.

- The information submitted with the application is deficient and any wind energy proposal for the site requires de novo environmental impact assessment, including grid connection, and appropriate assessment, which requires a new application.
- An Taisce (8th January 2018) – Data used to compile the NIS is inadequate. It relies heavily on outdated data gathered in 2010 and 2011. The updated surveys undertaken in 2017, were not carried out at optimum times and cannot be entirely reflective of Hen Harriers in the area. Permission for the development cannot be granted in the absence of reliable information to support the appropriate assessment (Case C-43/10, Commission v Greece). In respect of the original application, DEHLG, DAHG and Monaghan Heritage Officer did not share the applicant's view that the it would not impact on Hen Harriers. The applicant's assessment of the development lacks adequate detail and assessment of the grid connection (e.g. no indication of proposed route, mitigation measures referred to for the route are set out in the original EIS, which did not include assessment of the grid connection). The impact of the proposed 21km overhead line on bird species has not been addressed.
- Department of Culture, Heritage and the Gaeltacht (8th November 2017):
 - Archaeology – Recommend archaeological monitoring of all ground disturbance associated with the development.
 - Nature conservation – Refer to the diverse habitats on the appeal site, of the significant ecological value of habitats in proximity to turbines T1 to T4, T6 and T7 and consequential effect on associated species, including Marsh Fritillary, Hen Harrier, Curlew and Snipe, ground nesting birds and carnivorous mammals, Long-eared Owl, Common Frog, Eurasian Badger and Irish Hare. Recommends further information regarding possible negative impacts on species and habitats of concern and conditions in the event that permission is granted.

- Department of Culture, Heritage and the Gaeltacht (15th January 2018) – Consider that the matters raised previously have not been adequately addressed. Also make the following comments:
 - Additional survey for Hen Harrier – Partial survey is insufficient to inform the decision of the planning authority. Ornithological surveys of 2010 and 2011 should be updated.
 - Suitable habitat for Hen Harrier – The applicant’s assertions that the site contains no suitable foraging habitat are incorrect. The NPWS has observed flocks of Hen Harrier prey using the habitats adjacent to turbine sites (Meadow Pipit and Skylarks) and Hen Harrier have been observed foraging in survey work carried out as part of the Curlew Conservation Project. Referring to research carried out by Pearce-Higgins et al (2009) at the effects of turbines, access tracks and OHLs on breeding birds around upland wind farms, the Department states that development is likely to displace Hen Harrier from the site and reduce food source available, putting the species under further pressure.
 - Curlew breeding areas in North Monaghan – The developer has failed to source up to date information on the status of locations of breeding Curlew in the area (Curlew Conservation Programme, Annual Report, 2017). In 2017 there were 4 active Curlew nests in North Monaghan (c.10% of the total number of nests monitored nationally). Breeding populations of Curlew are particularly vulnerable to displacement from wind farms. The proposed development, in conjunction with the approved wind farm 10/41 will result in a loss of breeding habitat for Curlew and complete desertion (with little chance of return – Curlews return exclusively to the natal site) of the last known breeding areas for Curlew in Monaghan.
 - Information on proposed route connection – Is inadequate to make any assessment, with any degree of certainty, on the effects of this on significant habitats and species. However, it is likely that the grid connection would run through/close to important nesting habitats for

ground nesting waders (including Curlew and Snipe), with possible impacts of predation from OHL. This issue has not been considered.

3.4. Third Party Observations

3.4.1. Three third party observations are made on the application by Birdwatch Ireland, Joe Shannon (Environment Consultant) and John Matthews. The following matters are raised:

- Project splitting (EIA Directive) - The previous application pre-dated the decision of O Grianna v An Bord Pleanála. Grid connection is not assessed and the proposed development amounts to project splitting.
- Inadequate assessment of grid connection - The application, EIA and NIS and cumulative assessment of impacts lack adequate detail in respect of the proposed grid connection e.g. the area to the south east of the development is one of the most important Curlew breeding areas in the county/region. A 22km line running in a south easterly direction to Lisdrum would most likely pass through this area and the line would form a linear predator vantage point for corvids and various avian predators to predate on Curlew, other waders and ground nesting birds.
- Habitats Directive – Impacts on Hen Harrier have been inadequately assessed. Survey work is inadequate or out of date. The Stage 2 Appropriate Assessment submitted by the applicant is inadequate. The site supports potential nesting habitat for Hen Harrier and unquestionably valuable foraging habitat. Development would have an adverse effect on this species (refers to research on the effects of wind turbines on Hen Harrier and other species) and the conservation interests of a European site supporting the species (Slieve Beagh SPA). The scope of cumulative assessments is too narrow (other pressures on the SPA). To grant permissions would also conflict with the Wind Energy Guidelines, Habitats Directive and case law (i.e. which require that no reasonable scientific doubt remains as to the absence of the identified potential effects).
- Curlew - The importance of the site and adjacent lands for breeding Curlew and local populations of the species has not been adequately assessed. The

species is undergoing catastrophic decline. Appeal site is included in one of six national Curlew Conservation Action Areas and contains habitat that is suitable for feeding/nesting Curlew. Impact of turbine 2 and underground cable on nesting site for one of the last three pairs of Curlew in Monaghan. Conflict with National Curlew Conservation Plan. Research has indicated that Curlews are sensitive to wind farm development (resulting in disturbance and site abandonment). The applicant has failed to address concerns in relation to potential impacts on a nationally important population of breeding Curlew.

- County Development Plan - Development would conflict with policies of the Monaghan County Development Plan (BDO 3, BDO 4, BDP 1, DSP 1, DSP 2 and precautionary approach). The planning authority previously refused permission for the development on the grounds of likely effects on Hen Harriers (Annex I species, Birds Directive).
- Loss of natural habitats/Impact on biodiversity – Loss of free draining scrub/native woodland habitat (between Turbine 1 and 2), wetland flush (access road between turbines and meteorological mast), wet heath and bog of nature conservation importance. Impact of the development as a whole on other Annex 1 species (Marsh Fritillary, Greenland white-fronted geese), Annex II protected species, upland species of birds and invertebrates and the natural environment (Kestrel, Skylark, Meadow Pipit, Snipe, Stonechat, Cuckoo, Common Lizard, Narrow-bordered Bee Hawkmoth).
- Impact on residential amenity - Peace and quiet, impact on TV reception, noise from turbines. Visual impact of turbines.
- Meteorological Mast - The proposed guy-wired lattice structure is a significant hazard for birds, especially in poor weather conditions. This threat has not been identified, addressed or assessed.
- Realignment of site access tracks – At every stage of the development access track and turbine bases will attract corvids and mammalian predators.
- Cumulative impact – Of proposed development with Coolberrin Wind farm (PA ref. 1041) on Coolberrin Hill on biodiversity (especially Marsh Fritillary and Hen Harrier).

4.0 Planning History

4.1. The following cases are relevant to the proposed development:

- PA ref. 10/110 (PL18.240760) - In 2013, the Board decided to grant permission for 7 no. wind turbines (hub height 78m, overall height with rotors 119m), switch room and control facility (enclosed by a 2.4m palisade fence), 78m anemometer, site entrance and access tracks on the appeal site, and upgrading of road junctions and public road. Permission was granted subject to 20 conditions. Condition no. 18 require the developer to retain the services of a suitably qualified and experienced bird specialist to undertake a programme of appropriate avian surveys at the site prior to and after the commencement of development and to submit these results to the planning authority and Department of Arts, Culture and Heritage, in order to monitor the impact of the development on the local population of Hen Harrier.
- PA ref. 10/41 (PL18.239585) – In 2012 the Board decided to grant permission for 5 wind turbines, (maximum tip height 119m), access track, control building, substation and anemometer on land to the south east of the appeal site and to the south and east of Coolberrin Hill (Coolberrin Wind Farm).

5.0 Policy Context

5.1. National Policy

- National Planning Framework, Government of Ireland, 2018 – This national policy document guides strategic planning and development in the country for the next 20 years. Section 9 of the Plan deals with Sustainability and includes, amongst other things, (a) objectives to transition to a low carbon energy future, including a shift from predominantly fossil fuels to renewable energy sources, and (b) to enhance the conservation status and improve the management of protected areas and sites.
- Border Regional Planning Guidelines, 2010 to 2022 – This regional policy document supports national targets for renewable energy and seeks to contribute

to achieving these targets through the development of sustainable energy policies and practices, including wind energy. Policies in respect of natural heritage afford protection to sites of nature conservation interest, including Natura 2000 sites.

- Wind Energy Development – Guidelines for Planning Authorities, June 2006¹ – These section 28 guidelines provide advice to planning authorities and the Board on wind energy development. In section 3.7 the guidelines refer to areas designated for protection of the natural environment and state that wind energy development in or near these areas must be subject to Ireland’s obligations under the Habitats and Birds Directive. Section 5.2.2 recognises that the extent to which birds will be impacted by wind energy developments will vary depending on species, season and location and that these impacts may be temporary or permanent. The main potential impacts are identified as arising from disturbance, collision, barrier to movement and direct loss or degradation of breeding, feeding or roosting sites.

5.2. Monaghan County Development Plan 2013 to 2019

5.2.1. Chapters 4 and 5 of the Plan deals with environment and heritage and economic activity respectively. They include the following policies in respect of wind energy:

- Section 4.6 – Deals with biodiversity and natural heritage. Policy objectives BDO 3 and BDO 4 afford protection to plant and animal species in the county which have been identified under EU Directives (Habitats and Birds), the Wildlife Act and the Flora Protection Order and promote the retention of wildlife features (e.g. hedgerows and riparian corridors). Similarly, BDP 1 seeks to resist development that would have a negative impact on biodiversity and natural heritage.
- Section 4.8.6 – This section deals with habitat designation and protection. Slieve Beagh is identified as a Special Protection Area, the only SPA in the county. It is afforded protection under policies of the Plan including DSP 1

¹ In 2013 the government published proposed revisions to the Guidelines dealing with noise and shadow flicker.

which strictly protect Natura 2000 sites from development within or adjacent to the site which would have an adverse effect on the conservation objective or integrity of the site. Policy DSP 2 affords protection to NHAs and proposed NHAs. Policy objectives AAP 1 and AAP 2 require appropriate assessment, in accordance with government guidelines, of all projects likely to have a significant effect on a European site.

- Section 5.7 – This section deals with climate change, energy and renewable resources. It states there is significant potential for the development of wind energy in the County and policies ERO 1 to ERO 4 support the development of renewable energy sources in the county, supported by a plan led approach and subject to compliance with environmental policies (set out in Chapter 4).
- Section 4.4.1 – Refers to the Landscape Character Assessment for the County and sets out policies in respect of landscape protection, notably to protect and conserve landscape character, quality and diversity. The appeal site falls within the Slieve Beagh Uplands LCA.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site lies c. 3km to the north east of Slieve Beagh SPA (site code 004167) which includes Eshbrack Bog NHA (site code 001603). Conservation objectives of the SPA are to maintain and restore the favourable conservation status of the bird species listed of special conservation interest to the SPA, Hen Harrier. Conservation interests of Eshbrack Bog NHA are peatlands (blanket bog) and birds.
- 5.3.2. To the immediate west of Slieve Beagh SPA is Slieve Beagh – Mullaghfad – Lisnaskea SPA (UK902302) and Slieve Beagh SAC (which lies within the SPA area, site code UK0016622). The site is selective for its Hen Harrier breeding population and conservation objectives are to maintain each feature of the site in favourable condition (e.g. population, fledging success, range of habitats etc.).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party's grounds of appeal are:

- Nature of the development/environmental impacts and effects - The proposed development comprises technical amendments to an extant permission. There is no intensification of, or changes to, the permitted wind turbines. The technical amendments, which do not trigger the need for EIA, will have a negligible effect on the environment. The principle of a wind farm has been established at the site and the Board has previously determined that it will not have any significant environmental impact or impact on the integrity of European sites. The planning authority's reasons for refusal are unreasonable and unwarranted.
- Dedicated Hen Harrier survey – The appeal site is c.2.6km from the Slieve Beagh SPAs. Survey work has demonstrated that the site does not comprise suitable breeding, foraging or nesting habitat for Hen Harrier. This has been accepted by the Board in their determination of the parent permission and for the adjacent windfarm. Given the timing of the request for further information and the statutory timeframe for a response to it, it was not possible to undertake a full summer Hen Harrier survey. However, the survey did confirm that there had been no material changes to habitat on site and the findings and conclusions of the previous survey remain valid. The planning authority has adequate scientific information before it reaches definitive conclusions in respect of the effects of the modest alterations to the proposed development.
- Grid connection – The parent permission pre-dates O’Grianna v An Bord Pleanála. This Judgement requires an integrated and cumulative environmental assessment of a wind farm and its grid connection, but it does not require a single application to be made. The proposed development comprises technical amendments to an existing permission and does not trigger the need for EIA (which has been accepted by the planning authority). The application is therefore not an EIA development and the O’Grianna Judgement does not apply to technical amendments. Notwithstanding this, the applicant has provided extensive details of the proposed grid connection and has assessed the likely environmental effects, and cumulative effects, of this connection with the proposed development. Similar environmental

information was presented in PL02.247401 (wind farm and grid connection) and was accepted by the Board.

6.2. Planning Authority Response

- None.

6.3. Observations

6.3.1. Three observations have been made on the appeal. Additional matters raised are summarised below:

- An Taisce – The EIA carried out under parent permission PA ref. 10/110 was not holistic as it did not carry out an assessment of grid connection. Accept that the technical amendments proposed do not require EIA, but argue that the logic applied in the O’Grianna Judgement (that the development serves no function if it cannot be connected to the grid), should apply here.
- Bird Watch Ireland – The proposed development for technical amendments to the parent permission are inseparable from the project as a whole. To date the applicant has failed to supply sufficient information to answer critical issues identified by Birdwatch Ireland and the planning authority (survey work and known sightings of species). The proposed grid connection requires screening for appropriate assessment as it has the potential to destroy habitat and cause disturbance to foraging Hen Harriers associated with the Slieve Beagh SPAs. There is insufficient scientific information to establish beyond reasonable scientific doubt that adverse effects on SPAs will not arise. Of note, the observer refers the Board to procedural issues and state that Birdwatch Ireland did not receive notification that the appeal was lodged and consequently had a short period in which to make a submission on it.
- Northern Ireland Environment Agency – Refer to the occurrence of Hen Harrier with the NI SPA and state that given the foraging range of the species, *‘any suitable habitat within at least 10km of the boundaries of the SPA can be considered to be functionally linked and therefore relevant to the provisions of the EU Birds Directive’*. States that the low frequency with which Hen Harriers were recorded in the surveys of the appeal site would support the applicant’s

statement that the habitat within and in the vicinity of the site is sub-optimal. However, also considers that the survey data is insufficiently recent for admission in support of the current application and that the 2017 survey was undertaken too late to be considered an appropriate survey of breeding activity. Retain their previous view that displacement of nesting Hen Harriers in the Slieve Beagh – Mullaghfad – Lisnaskea SPA is likely to be low, but in the absence of relevant recent data on activity around the windfarm site consider that the risk to the linked population in and around Slieve Beagh remains uncertain. They therefore consider the request for additional information on local Hen Harrier distribution and activity to be appropriately precautionary. Given the recording of Curlew in the Mountain Waters site, the decline of the species and peer-reviewed evidence of displacement by windfarms, consider that information on the distribution of Curlew within 800m of the revised infrastructure be provided and, if approved, that all mitigation measures for the species are fully implemented.

7.0 Planning Assessment

7.1. Having regard to the information on file and my inspection of the site, key issues for this appeal relate to, and can be confined to, the matters raised in submissions namely:

- Finished floor levels to turbines.
- Project splitting and EIA.
- The effect of the development on species of conservation interest and European sites.
- Impacts on amenity.

7.1.1. Birdwatch Ireland also refer to procedural issues which resulted in a short period in which to make a submission to the Board. I acknowledge this comment, but in view of the number of submissions on file made in the course of the application and appeal by this third party and, in particular, the absence of new issues raised in the most recent observation on the appeal, I consider that no serious disadvantage arises and that it is appropriate for the Board to determine the appeal before it on the basis of the submission made.

7.1.2. In addition to the above, of note, under PL18.240760, the Board granted permission for 7 no. wind turbines on the appeal site. The application was subject to environmental impact assessment and appropriate assessment and was considered to be acceptable and in accordance with the proper planning and development of the area. The principle of the windfarm development on the site has, therefore, been established.

7.1.3. The proposed development comprises technical amendments to this extant permission. The focus of any assessment of the application must therefore be on the merits of these amendments and not the principle of the development which as stated has already been established. My comments on the matters raised by the parties to the appeal are made within this context.

7.2. Finished Floor Levels of Turbines

7.2.1. In the course of the planning application, the applicant provides clarification on the finished floor levels (FFL) of the proposed wind turbines, compared to the FFL of the permitted development, under PL18.240760 (see Table 1, response to further information, 5th December 2017). These provide increases or decreases in ground levels of between -1m to +9m. The applicant states that the differences arise from the use of Ordnance Survey Ireland 10m interval baseline maps in the original application and the use of more detailed LiDAR (remote sensing) survey data in the current application.

7.2.2. I have reviewed the original plans submitted under the previous appeal to the Board (PL18. 240760) and I would accept the stated FFLs reflect the ground levels indicated in the OSi 10-metre dataset used in the planning application. I would also accept that actual ground conditions may vary from the levels estimated from OSi mapping. This is acknowledged by OSi who state that the topographical accuracy of 10m dataset is +/- 2.5m (<https://www.osi.ie/wp-content/uploads/2015/05/National-Height-Model.pdf>). I would also accept the applicant's argument that in some circumstances, higher variations are possible.

7.2.3. Notwithstanding the above, I am concerned that the differences in base levels of wind turbines are, in a number of cases are significantly outside of the expected range. Further, the assessment of the previous application (e.g. visual impact

assessment), was carried out on the basis of significantly lower FFLs for 6 of the 7 turbines. Whilst I acknowledge the applicant's point that similar relative differences in levels exists over the wider landscape, for some viewpoints, notably public roads, such discrepancies are less likely to arise. I am concerned, therefore, that the visual effect of the proposed technical alterations, has been not been adequately assessed and has potentially been underestimated. I would also consider, in the absence of analysis to demonstrate otherwise, that the changes to FFLs is a matter which should have been referred to in the public notices.

7.3. Project splitting and environmental impact assessment.

- 7.3.1. O'Grianna v An Bord Pleanála [2014, IEHC 632] clearly established the principle that a planning application for a wind farm development, which requires environmental impact assessment, cannot be considered in isolation from its grid connection
- 7.3.2. The parent permission, PL18.240760, for proposed development was decided by the Board in 2013. It therefore pre-dated the O'Grianna Judgement and the case was determined by the Board in the absence of details of grid connection. Whilst contrary to O'Grianna, the approach taken was consistent with common practice at the time and appropriate.
- 7.3.3. The proposed development comprises alterations to an existing permitted wind farm development. Class 13(a) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) requires environmental impact assessment of any change or extension of development already authorised if it would result in an increase in size (>25%) or an amount equal to 50% of the appropriate threshold (whichever is greater). The proposed development does not give rise to any increase in wind energy production or increase in the number of turbines and environmental impact assessment of it, is therefore not required as a consequence of this Class. However, as a sub-threshold development, the proposed alterations require screening for environmental impact assessment. This exercise is undertaken in Section 8.0 of this report, and for the reasons stated, I do not consider that environmental impact assessment is warranted.

7.3.4. In view of the above, detailed design of grid connection (or options for grid connection) is not required as part of the application for the proposed development². Notwithstanding this, the cumulative effects of the development do fall within the remit of the Board when considering the likely consequences for the proper planning and development of the area, its likely environmental impacts and the effects on sites of nature conservation interests.

7.3.5. The applicant provides information on the nature of the proposed grid connection in the response to further information i.e. a single wooden pole structure to carry the overhead line over 21km from the re-located sub-station in Luppan to Lisdrum, to the south east of the site, and an underground cable at a depth of c.1.0m over 1km (these details contradict information set out in the Environmental Impact Screening Report, section 4.2.2. which refers to a shorter OHL and underground connection to the townland of Derrykinnigh More). However, little information is provided on the route of the proposed grid connection, even though it is stated that details of this are known to the applicant. Whilst I would agree that the application for the grid connection will require planning permission and that any environmental effects will be considered at this time, as stated in my assessment below, I am concerned that insufficient information has been provided on the route of the proposed grid connection to support the applicant's conclusions that the proposed development will not give rise to significant cumulative effects.

7.4. The effect of the development on species of conservation interest and European sites

7.4.1. In this section of the assessment I examine the likely effects of the proposed development on species of conservation interest, in particular Hen Harrier and Curlew, and on European sites. I also consider the adequacy of survey data and cumulative effects.

² The applicant refers the Board to case PL02.247401, granted permission by the Board in 2017. It refers to an appeal in respect of 7 no. wind turbines, 8kV substation and meteorological mast to replace a wind farm development (9 no. turbines) granted under PL02.239141, previously determined in 2013. Grid connection did not form part of the application but two options for connection were proposed (underground and overground line) and the Board accepted this approach to the development. The approach taken by the applicant in this instance is therefore, in principle consistent with the approach adopted by the Board elsewhere.

Hen Harrier/Slieve Beagh SPA

- 7.4.2. The planning authority has refused permission for the proposed development on the grounds that, having regard to the information submitted in particular the lack of an updated dedicated survey for Hen Harrier (during the breeding season) and information regarding grid connection, it could not ascertain, beyond reasonable scientific doubt, that adverse effects on the integrity of a European site would not occur. The view is supported by observers' who argue that the site contains foraging habitat for Hen Harrier and potential nesting habitat, and that the applicant's assessment has not had regard to recent pressures on the Slieve Beagh SPA, which in effect increase the significance of the habitats on the appeal site for Hen Harrier, of recent survey work or of recent conservation plans for the SPA (Interreg project commencing in 2017).
- 7.4.3. The applicant's NIS does not assess the likely effects of the proposed technical alterations in isolation. Rather, it considers the effects of the development as a whole i.e. the entirety of the development with the revised layout and proposed associated grid connection. The report includes references to more recent scientific reports on Hen Harrier and additional survey work carried out in August and September 2017. It acknowledges (by virtue of the timing of the request for further information) that this additional survey work is outside of the optimum breeding season (April to July inclusive). However, the report also states that there have been no changes to the landscape of the proposed development site which would make suitable for use by Hen Harriers and argues that the previous 2010 and 2011 survey work are not, therefore, out of date. The report refers to the concerns raised by third parties, but maintains that the appeal site provides sub-optimum habitat for Hen Harrier and that for this reason and distance from the SPAs, the wind farm, adjacent Coolberrin Wind Farm and grid connection would not give rise to significant direct, indirect or cumulative effects on Hen Harrier or therefore on the conservation interests of the nearby SPAs.
- 7.4.4. Notwithstanding the perspective of the applicant's NIS (entirety of the development with revised layout), the key question for the board is whether or not the proposed technical amendments are likely to result in significant effects on Hen Harrier population and on the conservation objectives of the nearby Slieve Beagh Natura

2000 sites which identify this species as the conservation interest of the sites. In this regard I comment as follows:

- There is significant difference of opinion on the importance of the habitat on site for Hen Harrier. However, the Department of the Culture, Heritage and the Gaeltacht and NPWS (and others) clearly assert that the appeal site, which lies within the foraging range of Hen Harrier within the Slieve Beagh SPAs, currently contains suitable foraging habitat for Hen Harrier.
- The NPWS site synopsis for Slieve Beagh SPA states that Hen Harrier will forage up to 5km from nest site, using open bog and moorland, young coniferous plantations and hill farming (that is not too rank). The appeal site lies within 5km of the SPA and some of these habitats are in evidence on the site and will be affected by the proposed alterations.
- Condition no. 16 of the Board's grant of permission under PL18.240760 required the applicant to carry out a programme of appropriate avian surveys at the site '*prior to and after the commencement of development*'. However, the applicant's assessment of the likely effect of the development is based on survey work which was carried out in 2010 and 2011. A considerable period has therefore elapsed since this was carried out and it is reasonable to conclude that the use of the site by Hen Harrier may have since changed, in particular given the acknowledged pressures on the SPA and the comments made by the Department and NPWS.
- Whilst the proposed alterations to the permitted wind farm are generally quite modest, for example, land take, number and location of turbines, some are potentially more significant effects, e.g. re-routing of access tracks, temporary use of land for construction compounds, area of forest to be felled, changes of turbine heights as a consequence of alterations to FFLs and type of meteorological mast. However, the effects of the alterations are not specifically identified or assessed by the applicant (e.g. alternative habitat affected), or considered in the context of up to date survey information on the ecological value and role of the appeal site for Hen Harrier (e.g. potential foraging habitat).

7.4.5. With regard to cumulative impacts, the applicant has indicated that the proposed development is likely to be connected to a sub-station c.22km to the south east of

the appeal site, principally by overhead line. Whilst I would accept that the connection would appear to run increasingly away from Lough Beagh SPA, and may well not give rise to any adverse effects, there is no information on the route or the value of the habitat (if any) to Hen Harrier.

- 7.4.6. Having regard to the above, and the very particular requirements of the Habitats Directive for the assessment of the likely effects of a development individually and in combination with other projects, I do not consider that the applicant has demonstrated beyond reasonable scientific doubt that the proposed development would not have a significant effect on Hen Harrier or on the conservation interests of the nearby SPAs (see also Appropriate Assessment below).

Curlew

- 7.4.7. Third parties refer to the national decline of the Curlew, the use of the appeal site by breeding Curlew and the likely adverse effect of the development on the species and the efforts of the Curlew Conservation Programme in North Monaghan (one of six of the most important areas in the country for breeding Curlew (<https://www.npws.ie/farmers-and-landowners/schemes/curlew-conservation-programme>)).
- 7.4.8. Again, whilst I would accept that the proposed alterations are generally quite modest, the effect of the alterations has not been examined by the applicant or considered in the context of up to date information on the use of the appeal site by Curlew and current programmes. With regard to cumulative effects, again I do not consider that the applicant has adequately demonstrated how the proposed grid connection will not impact on the territory of Curlew, which the Department states occurs within/close to the proposed route alignment.
- 7.4.9. Consequently, I do not consider that the applicant has adequately demonstrated that the proposed alterations would not have a significant effect on this species which is experiencing serious decline.

Other Species of Conservation Interest

- 7.4.10. Parties to the appeal refer to the likelihood of impacts on other species of conservation concern. Little information is put forward by third parties regarding how the proposed alterations will affect these species, over and above the effects associated with the permitted windfarm. However, equally, in the absence of

detailed assessment of the likely effects of alterations in the context of up to data on the species within the site of the proposed alterations it is not possible to determine the absence of effects.

7.5. Impacts on Amenity

- 7.5.1. Submissions on file refer to the likely effects of the development on residential amenity e.g. peace and quiet, impact on TV reception and visual effects. The proposed development comprises no changes to the number or location of turbines. I do not consider therefore that any adverse noise or reception effects are likely to arise from the development. However, as stated, I do not consider that the absence of visual effects, arising from changes to FFLs, have been adequately demonstrated by the applicant.

8.0 Environmental Impact Assessment – Screening and Environmental Effects

- 8.1.1. As previously stated, the proposed development does not require mandatory environmental impact assessment. Further, the proposed technical amendments are generally modest, and whilst the development is situated in proximity to sensitive European sites and itself provides suitable habitat for species of conservation interest, it is unlikely to result in significant environmental effects to trigger a requirement for EIA e.g. by virtue of the production of significant waste or emissions or pollutants to require environmental impact assessment. Likely environmental effects are discussed below.

Population and Human Health

- 8.1.2. The proposed development is situated in a rural area, with scattered residential and agricultural development. The principal effect of the proposed technical alterations will be additional works in the public road in a small number of locations (otherwise works take place on agricultural lands and entail re-alignment/amendments to permitted development). Subject to compliance with proposed mitigation measures (under PL18.240760), which seek to manage impacts on the public road network, additional impacts will not be significant. Otherwise effects on population and human health will remain as assessed in the original application.

Biodiversity

- 8.1.3. The effects of the proposed development on biodiversity are discussed above (and 9.0 below) in this report and I conclude that by virtue the absence of detailed assessment of the likely effects of the proposed alterations on species of conservation interest and the absence of up to date survey data for these species, adverse effects on biodiversity cannot be ruled out.

Land, Soil, Water, Air and Climate

- 8.1.4. **Land, Soil, Air and Climate.** The proposed amendments to the permitted development will give rise to:
- Works on different land to that previously permitted, including for example, arising from realignment of access tracks, re-routing of cables, relocation of meteorological mast, sub-station and hard-standings.
 - The extension of previously proposed works e.g. 820m of additional underground cable to connect the meteorological mast to Turbine T2.
 - Additional works, over and above those already permitted i.e. the excavation of additional foundations for the meteorological foundations and 'dead man' anchors, the erection of temporary construction compounds and the upgrading of public roads at additional locations (with the removal of hedgerows and earthen banks).
 - Reduced works in the location of the sub-station, with the proposed smaller footprint and omission of ancillary sub-station infrastructure.
- 8.1.5. The proposed amendments therefore have the capacity to affect land take and soils that were not previously identified and to affect a larger area. This is not quantified by the application, however from the information available on file additional land take is not substantial. Further, the proposed works are similar in type to those already permitted, are generally very close proximity to the original site and will be carried out using the same construction methodology. Significant impacts on land and soil, as a result of the development, and in conjunction with the existing permitted development are unlikely.
- 8.1.6. Additional short-term impacts on local air quality may arise if additional construction equipment/plant is in use e.g. noise/dust, but again this is unlikely to be significant as the additional works proposed are not substantial. Impacts on climate are likely to

be as predicted under the permitted development, as there is no increase in turbine numbers or energy output.

- 8.1.7. **Water.** The alternative and additional construction works proposed have the potential to generate silt laden surface water runoff during construction with the potential for contamination of water bodies (no additional watercourses will be traversed as a consequence of the proposed development). Once completed, water will percolate to ground and no on-going issues are likely to arise.
- 8.1.8. The applicant proposes standard mitigation measures during construction to prevent silt/suspended solids from being transported into any water body (see section 4.4 of Environment Report). Given the relatively modest changes to the permitted development and subject to these controls (which from part of the parent permission), significant impacts on water quality as a result of the proposed development and in conjunction with the existing permitted development are unlikely.

Material Assets, Cultural Heritage and the Landscape

- 8.1.9. **Material Assets and Cultural Heritage.** Archaeological monuments in the vicinity of the site are identified in the original EIS accompanying the planning application for the permitted development, for example, the ringfort MO003-021, c.85m to the east of turbine T6 of the site. Mitigation measures are proposed to restrict activity to the immediate vicinity of the development footprint. In addition, the parent permission for the wind farm requires (in condition no. 11) archaeological monitoring of development works.
- 8.1.10. The proposed development alters the alignment of the proposed access track to turbine T6 and T7 and the location of the sub-station, all to the west of MO003-21. However, none of the proposed alterations bring development closer to the ringfort and no additional impacts are likely to arise. The proposed road upgrade works in the townland of Drumbirn (upgrades 1 and 2) also lie c.100 to the east of a protected monument MO003-003 (ringfort). At this distance, and as the works are confined to the public road, no significant impacts on this monument are likely.
- 8.1.11. The proposed development provides for a modest increase in the scale of ground works e.g. temporary construction compounds, increase in access road length in vicinity of T6 and T7, small increase in size of hard-standings, and additional works to public roads. This is likely to require (a) additional materials which will be

imported to the site via the public road network, and (b) temporary disruption to the public road network.

- 8.1.12. The applicant has not provided a quantitative assessment of the likely increase in road traffic, however, given the relatively small changes to the permitted development, additional vehicle movements arising as a consequence of the proposed development, and in conjunction with the existing permitted development, are unlikely to be substantial or significant. Further, impacts on the local road network are likely to be short term and will result in an improvement of the public road.
- 8.1.13. Having regard to the above, the proposed development is unlikely to have any significant impact on material assets/cultural heritage of itself, or in conjunction with the permitted development.
- 8.1.14. **Landscape and Visual Effects.** This matter has been discussed in section 7.2 above where it was concluded that as a consequence of significant changes to FFL, the landscape and visual impact of the development, in some instances, may have been underestimated. With regard to the proposed meteorological mast, the original meteorological mast comprised a tall narrow lattice structure (c.78m in height). The proposed mast has a similar height and structure to the original but it is no longer free standing but supported by guy wires. These are slim wires and at distance, I do not consider that they would give rise to a significant visual or landscape impact or significant cumulative impacts with the permitted development.

Interactions and Cumulative Impacts

- 8.1.15. Having regard to the generally limited effects of the proposed development on individual environmental factors, interactions are likely to be modest and not significant. For example, the noise, dust, traffic effects of the re-alignments/additional works will interact to provide a short term adverse effect on the local population.
- 8.1.16. Cumulative impacts are likely to arise from the proposed development in conjunction with the permitted development, connection of the wind farm to the grid and the wind farm permitted to the south of the site. As examined above, given the generally modest scale of the proposed alterations to the permitted development, cumulative impacts arising from the proposed alterations and permitted development are

unlikely. Similarly, cumulative effects with the adjoining wind farm development are not generally likely to exceed those already identified and assessed previously by the Board.

- 8.1.17. With regard to cumulative effects of the proposed development with the proposed grid connection, I refer the Board to the applicant's assessment of likely cumulative effects of the development with the grid connection in Table 1, page 7 of the response to FI. It considers that cumulative effects are unlikely to arise given its scale, traditional form, limited interaction with other environmental parameters (e.g. soil, water) and absence effects on others (e.g. noise). The conclusions drawn in the assessment seem generally reasonable, however, as stated I have concerns that there is insufficient information on the route of the proposed grid connection to rule out cumulative effects on biodiversity.

9.0 **Appropriate Assessment**

European Sites

- 9.1. The proposed development is not directly connected with or necessary to the management of any European site. However, three European sites lie within the 15km of it:
- Slieve Beagh SPA (site code 004167).
 - Slieve Beagh-Mullaghfad-Lisnaskea SPA (site code UK9020302).
 - Slieve Beagh SAC (site code UK0016622).
- 9.2. The three sites are c.2.6km from the appeal site and collectively straddle the border between Ireland and Northern Ireland. Slieve Beagh SAC lies in Northern Ireland and is situated within the Slieve Beagh-Mullaghfad-Lisnaskea SPA (also in NI). Slieve Beagh SPA lies in the Republic of Ireland and adjoins Slieve Beagh-Mullaghfad-Lisnaskea SPA.
- 9.3. The proposed development comprises technical amendments to a permitted development. Amendments are generally quite modest comprise alterations to access tracks, hard-standings, meteorological mast, sub-station and public road upgrades. There are no additional turbines or alterations to turbine heights (although

FFLs do change). Consequently, it is not considered that any Natura 2000 site >15km from the appeal site will be affected by the development.

Conservation Objectives

- 9.3.1. The conservation interest of the two SPAs is Hen Harrier. The NPWS Site Synopsis and Standard Data Form describes Slieve Beagh as *‘one of the strongholds for Hen Harrier in the country, representing over 1% of the all-Ireland total. However, when the Northern Ireland sector of Slieve Beagh is considered, there were a total of 10 breeding pairs in 2005. The mix of forestry and open areas provides optimum habitat conditions for this rare bird...Hen Harriers will forage up to c.5km from the nest site, utilising open bog and moorland, young conifer plantations and hill farming that is not to rank³. Birds will often forage in openings and gaps within forests’.*
- 9.3.2. **Conservation objectives for Slieve Breagh SPA (004167)** are generic and are to *‘maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest for this SPA: Hen Harrier’.* The favourable conservation status of a species is stated to be achieved when:
- Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats,
 - The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
 - There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.
- 9.3.3. **Conservation objectives** for Slieve Beagh-Mullaghfad-Lisnaskea SPA are to maintain each feature of the site in favourable conservation condition (breeding Hen Harrier population).
- 9.3.4. **Conservation objectives of the Slieve Beagh SAC** are to main (or restore where appropriate) the Annex I habitats which are present, active blanket bog, natural dystrophic lakes and ponds and European dry heaths, to favourable condition.

Screening and Potential Effects

³ I understand this to mean, not too thick or course.

- 9.4. The effect of the proposed development on European sites is considered by the applicant in a Screening Report (April 2017) and a subsequent Natura Impact Statement (December 2017). I refer to this material and to the additional information on file in respect of likely direct, indirect and cumulative effects on European sites in my assessment below.
- 9.5. The appeal site is c.2.6km from Slieve Beagh SAC. Having regard to this separation distance, the conservation interests of the SAC (which relate to habitats on the site), the lack of functional relationship between the proposed development and the appeal site and the relatively modest nature of the proposed development, it is reasonable to conclude that on the basis of the information on the file (which I consider adequate in order to issue a screening determination), the proposed development, individually or in combination with the other plans or projects would not be likely to have a significant effect on Slieve Beagh SAC in view of the site's conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for this sites.
- 9.6. It is evident from the applicant's appropriate assessment Screening Report and subsequent NIS and from the information on file submitted by third parties, that the appeal may suitable habitat for Hen Harrier. In view of the proximity of the site therefore to Slieve Beagh SPA and Slieve Beagh-Mullaghfad-Lisnaskea SPA and the conservation interest of these sites (Hen Harrier), there is a risk of risk of significant effects on these Natura 2000 sites.
- 9.7. Similarly, as the proposed development comes forward as technical amendments to a wind farm, which will be connected to the grid principally by overhead line, and operate in conjunction with an adjoining permitted windfarm (Coolberrin Wind Farm), there is the potential for in combination effects. In combination effects also arise as a consequence of the development with other plans being implemented in the vicinity of the site (Hen Harrier Interreg project, 2017).

Assessment of Potential Effects

- 9.7.1. **Direct.** The appeal site lies c.2.6km to the north east of the Lough Beagh and Slieve Beagh-Mullaghfad-Lisnaskea SPA. The proposed alterations to the permitted development comprise minor alterations to the location access routes, the meteorological mast, sub-station etc. There are no changes to the location, number or height of turbines. Consequently, at substantial distance from the SPAs no direct

effects are likely to arise during construction or implementation of the proposed technical amendments e.g. by way of noise, disturbance etc.

9.7.2. **Indirect.** Indirect effects on Hen Harrier associated with the SPAs could arise as a consequence of impacts on breeding and foraging territory. Parties to the appeal have presented conflicting arguments regarding the value of the appeal site to Hen Harriers, with the applicant arguing that it is sub-optimal and the third parties arguing that it without doubt provides suitable foraging habitat and potential nesting habitat. However, having regard to:

- The NPWS Site Synopsis which indicates the preferred foraging habitat for Hen Harrier,
- The evidence of these habitats on site, as observed by the DCHG and NPWS, and sightings of Hen Harrier in the vicinity of the site by parties to the appeal, and
- The location of the site within the foraging distance of the two Lough Beagh SPAs

The balance of evidence would suggest therefore that the site provides, at least, suitable foraging habitat for Hen Harrier.

9.7.3. The applicant's assessment of the likely effects of the proposed development on Hen Harrier considers the overall effects of the proposed development (with amended layout etc.) and not the detail of the proposed alterations e.g. alternative land take, felling of 1.2ha of forestry, alternative meteorological mast, alteration to FFLs. It is difficult to ascertain from the applicant's assessment, how the conclusions arrived at for the development as a whole (windfarm with revised layout etc.) have been arrived at. The conclusions drawn would appear to be based on the sub-optimal nature of the appeal site for Hen Harrier. However, this assessment relies principally on survey data gathered in 2010 and 2011, some 7 – 8 years ago and not on the current use of the appeal site, in the vicinity of the proposed alterations.

9.7.4. Having regard to these factors, I consider that the applicant's assessment of the likely effects of the alterations on the proposed development is inadequate and insufficient to dispel reasonable scientific doubt regarding the potential effects of the development on Hen Harrier, and therefore on the integrity of the nearby European site.

- 9.7.5. **In-combination.** The proposed development will operate in conjunction with Coolberrin Wind Farm to the south east of the appeal site. The cumulative effects of the permitted wind farm development on the appeal site were assessed in the determination of the original appeal and no adverse effects were identified. Concerns are raised by third parties that the proposed development, in-combination with Coolberrin Wind Farm will have an adverse effect on the territory of the Hen Harrier, having regard to the current observed patterns of behaviour/territories. This matter is not expressly assessed in the NIS i.e. the in-combination effects of the proposed alterations in the context of up to date information on use of the habitats on site by Hen Harrier. The risk of in-combination effects is therefore ruled out on the basis of contemporary scientific information.
- 9.7.6. With regard to the proposed grid connection, the applicant has stated that the connection to the national grid will be by a 22km line running to the south east of the appeal site to Lisdrum. As stated above, whilst I would accept that the connection would appear to run increasingly away from Lough Beagh SPA, and may well not give rise to any adverse effects, there is no information on the route of the proposed connection or on the use and value of this to Hen Harrier.

Mitigation Measures

- 9.7.7. The applicant proposes no specific mitigation measures on the grounds that significant effects on Hen Harrier are unlikely.

Conclusion

- 9.7.8. Having regard to the above, and on the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site No. 004167, Slieve Beagh SPA, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

10.0 Recommendation

10.1. Having regard to the conclusions drawn in the above, I recommend that permission for the proposed development be refused principally on the grounds that the applicant has not provided sufficient evidence that (a) the proposed development would not result in a significant effect on a European site or on species of conservation interest (Hen Harrier and Curlew), or (b) give rise to significant visual and landscape effects. The Board may, however, wish to seek further information in respect of these two matters.

11.0 Reasons and Considerations

1. Having regard to:

- (a) The location of the appeal site in proximity to Lough Bea SPA and within the foraging range of Hen Harrier,
- (b) Evidence of suitable foraging habitats on the site for Hen Harrier and use of the site by Curlew,
- (c) The absence of up to data survey data regarding the use of the appeal site by these species,
- (d) The limited information on the proposed route of the connection of the wind farm to the national grid,
- (e) The absence of assessment of the likely visual and landscape effects of the proposed changes to finished floor levels,
- (f) Policies and objectives of the Monaghan County Development Plan 2013 to 2019, in respect of European sites, biodiversity and landscape protection,

The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal that the proposed development will (a) not adversely affect the integrity of a European Site or other species of conservation interest, and (b) not detract from the visual and landscape amenity of the area. It is considered that the proposed development would, therefore, be contrary to the policies of the Monaghan County Development Plan 2013 to 2019, and to proper planning and sustainable development of the area.

Deirdre MacGabhann
Senior Planning Inspector

12th November 2018