



An
Bord
Pleanála

Inspector's Report ABP-303329-18

Development

Construction of electricity infrastructure comprising a STATCOM transformer, auxiliary transformer, 3 reactors, an outdoor cooling bank control and valve building, underground connection to existing ESB substation, a temporary compound, security fencing and gate and internal access road.

Location

Ballynahulla, Ballydesmond, Co. Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

18/964

Applicant(s)

EirGrid Plc

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Sliabh Luachria Wind Farm
Awareness Group

Observer(s)

None

Date of Site Inspection

26th February 2019

Inspector

Elaine Power

1.0 Site Location and Description

The site is located in a rural area characterised by agricultural lands. It is 15km southeast of Castleisland, Co. Kerry and 2km south west of Ballydesmond, Co Cork. The subject site is in the ownership of the ESB and has been cleared previously to accommodate a 220/110kV Gas Insulated Switchgear Ballynahulla substation (Reg. Ref. VA0012).

The Glanowen, Cordal Windfarm (Reg. Ref. 10/692) which comprises 28no turbines and associated control building is located on the opposite side of Church Road.

The development is located on an elevated site within an area of commercial conifer forestry plantation. The subject site is dominated by wet grassland.

Access is via a private road recently constructed (reg. ref. VA0012) from Church Road. Additional access is available to the north of the site from a local road via the R577.

There are a number of one-off rural dwellings located along Church Road and the R577.

2.0 Proposed Development

- 2.1. It is proposed to provide additional electricity infrastructure to the existing 220 /110 kV Ballynahulla Substation. The infrastructure comprises 1 no. STATCOM transformer, 1 no. auxiliary transformer, 3 no. reactors, 1 no. outdoor cooling bank, a control and valve building (268sqm) and an underground connection to the existing substation. A temporary contractor's compound , security fencing, security gate , security cameras, 4 no. 24.2m high lighten masts, permeable surfacing and internal access road. The proposed STATCOM transformer is approx. 3,141 sqm and is located in a compound with an overall stated area of 10,993sqm (1.1ha).

2.2. Static Synchronous Compensator (STATCOM) devices are new technology used to increase system stability and power quality, and to control reactive power flows in the network. They provide increased power transfer capacity without the need for significant traditional network reinforcement, such as the installation of new circuits or upgrading of existing lines and cables. This technology is of particular value to support new renewable energy generation. EirGrid intends to provide 3 no. new STATCOM devices at Ballynahulla, Co. Kerry (subject site), at Ballyvouskill, Co. Cork and at Thurles, Co. Tipperary.

2.3. A Natura Impact Statement has been submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

The decision to grant permission was subject to 11 no. conditions.

- Condition 1 clarified the extent of the permission.
- Condition 2 related to a development contribution.
- Condition 3 required all mitigation measures set out in the Natura Impact Statement be implemented.
- Condition 4 required an Environmental Manager be employed during the construction phase to ensure all environmental control measures are implemented and maintained.
- Condition 5 required that an acoustic specialist be retained to investigate any noise complaints received.
- Condition 6 ensured that no silt / sediment laden water be discharged to any watercourse in the vicinity of the site.
- Condition 7 required bunds to be installed around all temporary oil containment facilities.

- Condition 8 required a water management and disposal plan to be submitted to the Planning Authority.
- Condition 9 required any lighting to be directed away from public roads.
- Condition 10 required the development to be finished in a matt olive green colour.
- Condition 11 required the construction compounds to be removed entirely and the land reinstated prior to the expiry of the planning permission

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Planning Report dated the 28th November 2018 raised no objection in principle to the proposed development.

3.2.2. *Other Technical Reports*

Biodiversity Officer: The report noted that the site is not identified as having direct impacts on annexed habitats or species and all mitigation measures detailed in the NIS should be undertaken, maintained and monitored.

Environmental Section: No objection subject to conditions. These were reflected in the grant of permission.

County Archaeologist: There are no recorded monuments in proximity to the development site, which has previously been tested. No further mitigation is required.

3.3. Prescribed Bodies

ESB: As the landowner, a letter of consent was submitted with the application. However, the letter does not comment on the merits of the development.

Department of Agriculture, Food and the Marine: No comments.

Health Service Executive (HSE): Recommended conditions be attached to ensure all necessary control measures are undertaken during construction and operational stages of the development. It is also recommended that a complaints procedure be put in place by the applicant.

Kerry Airport: No comments.

Irish Aviation Authority: No comments

Irish Water: No objection.

3.4. Third Party Observations

The Planning Authority received a number of objections to the proposed development. The objections were received from the following: -

- Dan and Nora Dennehy.
- Shaun and Bernie O'Rourke.
- Mike and Fiona Fleming.
- Donal Vaughan and Family.
- Nicholas Coveney.
- Shaun O' Rourke on behalf of Sliabh Luachra Wind Farm Awareness Group.
- Donal Vaughan on behalf of Ballydesmond GAA.
- John and Shelia Brosnan.
- Donal and Mary Linehan.

The concerns raised in the objections included the following: -

- There was no public consultation regarding the proposed development or the EirGrid Draft Transmission Development Plan 2016-2026.
- The site is located within the catchment of the Munster Blackwater River, which is a designated site. The proposed development could have a significant adverse effect on the water quality of the river.

- The development will negatively affect the Hen Harrier and other protected species.
- There is an over proliferation of wind farms in the vicinity of this site.
- The development is part of Eirgrid DS3 system services which would result in discharge, characterised by very high current, short duration which will mean that the static inverter electronics, transformer and cooling will result in burst of noise at intermittent and unpredictable times.
- The health implications for residents living in close proximity to the site have not been addressed.
- As permission has been refused for residential developments in the area, it is unclear how the existing and proposed buildings are considered appropriate.
- The existing wind turbines are visually obtrusive.
- The proposed development will increase the capacity of the existing facility which will result in additional wind turbines.
- The proposed development in combination with the existing and proposed windfarms will reduce the value of properties in the area.
- People do not want to live beside windfarms. The proposed development will exacerbate this trend. This will have an impact on the community and local sporting clubs.
- The development will lead to increased amounts of dumping and littering.

4.0 Planning History

Subject Site

ABP 301174-18: Relates to a pre-planning application for 3 no. new STATCOM devices at 3 no. existing substation sites; at the 220/110kV Substation at Ballyvouskill, Co. Cork; the 220/110kV substation at Ballynahulla, Co. Kerry (subject site); and the 110kV substation at Thurles, Co. Tipperary. As the developments do not fall within the scope of section 182A of the Planning and Development Act, 2000

(as amended) it was recommended that separate planning applications be made to the relevant planning authorities.

PL08.VA0012: Approval under Section 182(1) of the Planning and Development Act, 2000 (as amended) for a new 220/110kV substation along the existing regional Clashavoon – Tarbert 220kV line, with associated development including two line / cable interface masts on the existing line, approximately 500m of underground cable (UGC), access road, landscaping and ancillary works in the townland of Ballynahulla, Co. Kerry; and connection of a permitted windfarm at Cordal in the townland of Glanowen, Co. Kerry to the new 220/110kV station by means of an UGC of approximately 9km in length, primarily laid within the existing local road network.

Reg. Ref. 10/692, PL 08.239473: Permission was granted on appeal in 2012 for the construction of a wind farm comprising 28 no. wind turbines all associated works on a site at Cordal in the town land of Glanowen, which is located on the opposite side of Church Road.

5.0 Policy and Context

5.1. National Planning Framework

The framework notes that a transition to low carbon energy requires the following:

- A shift from predominantly fossil fuels to predominantly renewable energy sources;
- Increasing efficiency and upgrades to appliances, buildings and systems;
- Decisions around development and deployment of new technologies relating to areas such as wind, smartgrids, electric vehicles, buildings, ocean energy and bio-energy;
- Legal and regulatory frameworks to meet demands and challenges in transitioning to a low carbon society.

National Policy Objective 55: *‘Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050’.*

5.2. Kerry County Development Plan, 2015-2021

The subject site is located in an area identified as structurally weaker. These areas generally have low population density averages and experience population decline. There is no zoning objective for the site.

The landscape is identified as ‘Rural General’ these landscapes generally have a higher capacity to absorb development than other designations. Proposed developments in these areas, should take account of the topography, vegetation, existing boundaries and features of the area.

It is an aim to support and provide for the sustainable development of indigenous energy resources, with an emphasis on renewable energy supplies. Relevant policies include the following: -

EP-1: *‘Support and facilitate the sustainable provision of a reliable energy supply in the County, with emphasis on increasing energy supplies derived from renewable resources whilst seeking to protect and maintain biodiversity, archaeological and built heritage, the landscape and residential amenity’.*

EP-7: *‘Facilitate the sustainable development of additional electricity generation capacity throughout the region/county and to support the sustainable expansion of the network. National grid expansion is important in terms of ensuring adequacy of regional connectivity as well as facilitating the development and connectivity of sustainable renewable energy resources’.*

EP-9: ‘Support the sustainable implementation of EirGrid’s Grid 25 Investment Programme, subject to landscape, residential, amenity and environmental considerations’.

5.3. Kerry County Council Renewable Energy Strategy, 2012 (as incorporated by Variation No. 8 of the Kerry County Development Plan, 2015-2021):-

The relevant Strategic Objectives are detailed below: -

NR 7-21: ‘To maximise the development of all renewable energies at appropriate locations in a manner consistent with the proper planning and sustainable development of the county. This will include requirements and considerations in relation to: landscape; cultural heritage; Natura 2000 sites and the Habitats & Birds Directive; the objectives of the Water Framework Directive; Flood Directive; Sustainable Forestry Management; and Best Practices in the production of energy crops’.

NR 7-22 ‘To promote the sustainable development of renewable energy types and technologies with the capacity to store energy which can be released at times of peak demand’.

NR 7-24: ‘To secure the maximum potential for the generation of electricity from wind energy resources that is consistent with proper planning and sustainable development of the county. This will include requirements and considerations in relation to: landscape; cultural heritage; Natura 2000 sites and the Habitats & Birds Directive; the objectives of the Water Framework Directive; Flood Directive; electricity infrastructure; settlement patterns; and wind energy potential’.

NR 7-25: ‘All renewable energy developments will be subject to Ireland’s obligations under the Habitats Directive (92/43/EEC), the EU (Birds) Directive (79/409/EEC), the Environmental Impact Assessment Directive (85/337/EEC), the Water Framework Directive (2000/60/EC), and the Flood Directive (2007/60/EC)’.

NR 7-26: *'Only renewable energy proposals where a Habitats Directive Article 6 Assessment concludes that there will be no adverse effects on the integrity of Natura 2000 sites shall be permitted'.*

5.4. Natural Heritage Designations

A section of the private access road which is located within the blue line boundary of the subject site is located adjacent to the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161). The SPA is located approx 40m south-west of the proposed development site.

The site is also located approx 180m west from the Blackwater River (Cork / Waterford) SAC (002170), 13km north of the Lower River Shannon SAC (002165) and 15km north of Killarney, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

A Natura Impact Statement was submitted with the application.

5.5. EIA Screening

An Environmental Impact Assessment Screening Report was submitted with the application to Kerry County Council.

The development does not come within the classes of development within Schedule 5 of the Planning and Development Regulations, 2001 (as amended) and does not comprise a change to or an extension to a project with those classes. Notwithstanding the requirement for an NIS, having regard to Schedule 7 the development is not likely to have a significant effect on the environment. Therefore, the proposed development does not require a EIA .

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal by Shaun O'Rourke on behalf of Sliabh Luachra Wind Farm Awareness Group against the Planning Authority's decision to grant permission subject to conditions. The concerns raised in the appeal are detailed below:

- There was no public consultation regarding the proposed development or the EirGrid Draft Transmission Development Plan 2016-2026.
- The site is located within the catchment of the Blackwater River and the development will impact on the freshwater pearl mussel. While consideration has been given to the ecology of the area no consideration has been given to human beings.
- There is an over proliferation of windfarms in the area without consideration of the impact on local residents and their health and safety.
- The development would result in discharge, characterised by very high current, short duration which will mean that the static inverter electronics, transformer and cooling will result in burst of noise at intermittent and unpredictable times.

6.2. Applicant Response

The applicant's response addressed the concerns raised in the appeal and are detailed below.

- There is no requirement for public consultation and in making the planning application to Kerry County Council all statutory obligations were carried out.
- A Natura Impact Statement has been submitted which concluded that subject to mitigation measures the proposed development would not impact on the freshwater pearl mussel in the Blackwater River (Cork / Waterford) SAC.

- The applicant has stated that it is not within their remit to determine the carrying capacity of a given geographical area to absorb renewable energy projects.
- An assessment of noise was carried out as part of the Planning and Environmental Report submitted with the application to Kerry County Council. It concluded that noise impacts associated with the development are predicted to be insignificant.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. The main issues in this appeal relate to noise, visual and residential amenities and Appropriate Assessment requirements. Concerns were also raised in the appeal regarding the lack of public consultation and an over proliferation of windfarms in the area. The main planning issues can be dealt with under the following headings:

- Noise.
- Visual and Residential Amenities.
- Appropriate Assessment.

7.2. **Noise**

7.2.1. Concerns have been raised that the development would result in bursts of noise at intermittent and unpredictable times. Chapter 5 of the Planning and Environmental Considerations Report submitted with the application to Kerry County Council details the noise implications of the development. The sources of noise are identified as the power transformer, air core reactor, dry air cooler and HVAC. The total sound power value of the combined sources of noise is calculated to be 100dB(A). The report also noted that noise from the STATCOM transformer is considered to have a relatively high potential for annoyance due to its particular characteristics.

7.2.2. Figure 5.1 – ‘Noise Sensitive Receptors’ submitted with the application to Kerry County Council indicates all noise sensitive receptors / residential dwellings within approx. 1.5km of the site. The nearest property is located on Church Road, approx. 500m south west of the site. The estimated sound pressure at this residential property will be 47dB(A) during the construction phase and 35dB(a) during operational phase. The applicant has stated that the estimated noise emitted from the development is in accordance with all appropriate standards and guidelines.

7.2.3. Having regard to the estimated level of noise emitted from the proposed development and the distance to the nearest residential property, approx. 500m, it is considered that the proposed development would not result in undue noise disturbance for local residents.

7.3. Visual and Residential Amenities

7.3.1. Concerns have been raised in the appeal that there has been an overdevelopment of wind turbines in the area. The proposed development will increase system stability and power quality within the existing network and will not result in any additional wind turbines.

7.3.2. The Planning and Environmental Considerations Report submitted with the application to Kerry County Council included a Landscape and Visual Assessment (Chapter 11). It noted that the landscape is visually well contained and due to the prevalence of mature, coniferous forestry opportunities for long distance views are very limited. The landscape is not designated as highly sensitive or scenic and is identified in the Development Plan as ‘Rural General’. These landscapes generally have a higher capacity to absorb development than other designations. The development is located approx. 500m west of Church Road and approx. 800m north of the R577. Due to the location of the structure and the level of screening provided it is considered that the proposed development does not injure the character of the rural area or the visual amenities of area.

- 7.3.3. The existing 220kV Gas Insulated Switchgear (GIS) substation has a gross floor area 2,000sqm and a maximum height of 14m. All external structures are finished in an olive-green colour. The proposed development is an extension to the existing substation and is contained within a compound, approx. 79m in length by 59m in width. The stacks of the STATCOM have a maximum height of approx. 10m. It is also proposed to provide 4no lightening masts which have a maximum height of approx. 24m. Having regard to the existing structures on site it is my opinion that the proposed development it would not result in any negative impacts on the existing residential amenities.
- 7.3.4. Lampposts are also provided within the compound which have a maximum height of 8m. It is noted that the Planning Authority attached a condition requiring the proposed new lighting be capped and directed away from public roads. It is recommended that similar condition be attached to any grant of permission.
- 7.3.5. Having regard to the existing structures on site, the distance from public roads and the relatively small nature and scale of the proposed development it is considered that upon completion of the proposed development it will read as a single substation facility and will not result in a development the adversely impacts on the existing residential or visual amenities of the area.

7.4. **Appropriate Assessment**

7.4.1. ***Compliance with Articles 6(3) of the EU Habitats Directive***

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's

conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.4.2. Stage 1 AA Screening Report

The applicants Stage 1 AA Screening report described the site, the location and the proposed development, it summarised the regulatory context, it carried out a desk top surveys and identified the European sites located within 15km radius of the works. It confirmed that the proposed development would not be located within any European sites. It screened out the sites that it considered would not be affected by the proposed development and retained 2 no. European sites that could be affected, the Mullaghareirk Mountains, West Limerick Hills and Eagle Mountains SPA and Blackwater River (Cork / Waterford) SAC. It described these sites and their respective qualifying habitats and species, it listed their conservation objectives and targets and attributes.

The Stage 1 AA screening report concluded that in the absence of more detailed information and the application of mitigation measures, it was likely that the proposed development would result in impacts to the hen harrier feature of Mullaghareirk Mountains, West Limerick Hills and Eagle Mountains SPA and aquatic qualifying feature species (fresh water pearl mussel, salmon, otter and brook lamprey of the Blackwater River (Cork / Waterford) SAC and that it was therefore necessary to proceed to a Stage 2 assessment.

7.4.3. Natura Impact Statement

The Stage 2 NIS report went on to identify the potential sources of direct and indirect impacts on the 2 no. European sites, the Mullaghareirk Mountains, West Limerick Hills and Eagle Mountains SPA and Blackwater River (Cork / Waterford) SAC, and it listed other plans and projects in the wider area for the purpose of identifying cumulative impacts. It assessed the potential impacts relative to the Conservation Objectives for this site during the construction and operational phases, in-combination impacts and the significance of impacts. It proposed mitigation

measures to control the release of sediment, through the treatment of all run off water prior to discharge.

The Stage 2 NIS concluded formally that there would be no adverse effects on the integrity of either designated site. After mitigation is applied, no significant impacts would remain that could undermine the structure or ecological function of the sites of the conservation objectives that define the favourable status of the qualifying interests' species / habitats for which the sites have been designated. No supporting habitats, such as those used for nesting, breeding or commuting, or prey species would be functionally reduced.

7.4.4. *Natura Impact Statement – Hen Harrier Survey*

The Scottish Natural Heritage Guidelines recommend that surveys of hen harriers should be carried out within a 2km radius of a site over a two-year period. It is also noted that the breeding period for the hen harrier is April to August and therefore this would be a more appropriate time to carry out a survey.

A vantage point hen harrier survey was contained in the applicants Stage 2 NIS report which was carried out within a 500m radius of the subject site over the period of March to June 2018. These survey results are augmented by surveys carried out for the SPA in connection with a wind farm (Silverbirch Windfarm) development in the area and by surveys undertaken by the NPWS. The findings of these surveys have been included in Appendix B of the NIS. Having regard to the findings of those surveys and the small-scale nature of the development I am satisfied that sufficient information has been submitted for the Board to carry out an AA Screening Assessment and Appropriate Assessment.

7.4.5. *Appropriate Assessment Screening Assessment*

The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The following European sites are located within a 15km radius of the site and their relevant Qualifying Interest and separation distances are listed below.

Conservation Objectives: to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.

| European Site | Site Code | Relevant QI's and CI's | Distance |
|---|------------------|--|---|
| Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA | 004161 | Hen Harrier | 40m from the subject site. Adjacent to the blue line boundary of the site. |
| Blackwater River (Cork / Waterford) Special Area of Conservation | 002170 | Salmon Freshwater Pearl Mussel Otter Lamprey Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation Old sessile oak woods Alluvial forests | c. 3km |
| Lower River Shannon SAC | 002165 | Mainly a mix of coastal, estuarine and fresh water habitats and species, including extensive freshwater pearl mussel catchment along the River Shannon. | c.13km |
| Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC | 000365 | Mix of mountain, river, lowlands and coastal habitats and species. | c. 15km |

I am satisfied that two of these sites (Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC and the Lower River Shannon SAC) can be

screened out of any further assessment due to the absence of relevant qualifying interests in the vicinity of the works and the absence of an aquatic connection between the European site and the proposed development.

Maps no 3, 4, 5, 6, 7 and 9 of the National Parks and Wildlife Services Conservation Objectives Series for the Blackwater River (Cork / Waterford) indicate that several of the habitats and species are not located within the zone of influence of the proposed development, (in this regard White-clawed Crayfish, Twaite Shad, Killarney Fern, Estuaries, Mudflats and sandflats, Perennial vegetation, Salicornia and other annuals, Atlantic salt meadows, Lesser Horsehoe Bat and the Kerry Slug) and can be screened out from further assessment.

7.4.6. Appropriate Assessment Screening Conclusion

In conclusion, having regard to the nature and scale of the proposed development, to the separation distance of the application site from the European sites, to the nature of the qualifying interests and conservation objectives of the European sites and to the available information as presented in the application it is my opinion that the proposed development has the potential to affect the Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA and the Blackwater River (Cork / Waterford) SAC having regard to the conservation objectives of the relevant sites and that progression to a Stage 2 Appropriate Assessment is required.

7.4.7. Appropriate Assessment

The qualifying interests not present within the zone of influence of the proposed development and where there is no likely prospect of direct or indirect impacts on any species or habitats, that have been screened out under the screening exercise are not considered any further. Qualifying Interests potentially exposed to risk are summarised below.

| European Site | QI's and CI's | Conservation Objectives | Attributes and Targets |
|--------------------------|----------------------|---------------------------------------|------------------------------------|
| Mullaghareirk Mountains, | Hen Harrier | To maintain or restore the favourable | Habitat area Physical structure |

| | | | |
|---|---|---|---|
| West Limerick Hills and Mount Eagle SPA | | conservation condition of the Hen Harrier | and functions |
| Blackwater River (Cork / Waterford) SAC | Freshwater Pearl Mussel | To maintain the favourable conservation condition | Population size, structure and distribution |
| | Salmon | | Habitat extent Water Quality |
| | Water courses with the Ranunculus fluitantis and Callitriche-Batrachion | To restore the favourable conservation condition. | Habitat Composition Vegetation composition Connectivity |
| | Lamprey | | Population distribution and structure Habitat extent |
| Otter | | Habitat extent | |

The potential indirect effects relate to:

- Disturbance from noise and light pollution and emissions on the Hen Harrier of the SPA during the construction phase.
- Transport of pollutants in ground or surface water flowing into the SAC via surface water run-off during the construction phase.

7.4.8. Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA

The SPA is a very large site centred on the borders between the counties of Cork, Kerry and Limerick. It consists of a variety of upland habitats, though almost half is afforested. This SPA is a stronghold for hen harrier and supports the largest concentration of the species in the country.

The development site is located approx. 40m north west of the SPA and a section of the private access road within the blue line boundary of the development, is located adjacent to the SPA.

The vantage point surveys carried out by the applicant as part of the NIS were within a 500m radius of the site. Over a 4 month period (March - June 2018) they recorded 15 no. hen harrier observations. No hen harriers were found to be nesting within 500m of the development site. A desktop study of surveys carried out in connection with windfarm developments in the area between 2013 – 2016 and NPWS records from 2010 found that hen harriers were not breeding within 1km of the subject site.

The NIS concluded that the proposed development does not pose a creditable risk to the integrity of the SPA and therefore no mitigation measures are proposed.

Having regard to the findings of the surveys, which showed that no hen harriers are breeding within close proximity of the subject site, and to the nature and scale of the proposed development, it is considered that the works would not have the potential to affect the SPA or its conservation objectives. However, in the interest of best practice, it is my view that if the Board are minded to grant permission, a condition should be attached which ensures no construction works are carried out during the Hen Harrier nesting season (which usually extends from April to August).

Conclusion: It can be reasonably concluded on the basis of best scientific knowledge that the proposed development will not adversely affect the integrity of the Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA

7.4.9. Blackwater River (Cork / Waterford) SAC

The SAC stretches through Kerry, Cork, Limerick, Tipperary and Waterford and overlaps with the Blackwater Estuary SPA (004028), Blackwater Callows SPA (004094) and Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (000365). It supports a wide range of Annex I habitats. It is particularly important due to the presence of freshwater pearl mussel and salmon.

The proposed development would not be located within the SAC and there would be no direct effects as a result.

The site is hydrologically linked to the SAC via the on site attenuation tank which drains to the Tooreengarriv Stream which is located approx 150m south of the subject site and flows to the Carhoone Stream which enters the Blackwater River(Cork / Waterford) SAC approx 3 km downstream of the subject site

The proposed works include, stripping topsoil, construction of access roads, the dewatering of excavations and the storage of excavated material. Oils, cement or pollutants accidental released during the construction works could enter hydrologically connected watercourse around the site and ultimately the SAC. Therefore there is potential for indirect effects on surface water quality during site preparation and earthworks.

The NIS recommended sediment control mitigation measures to protect the environment from pollutants. These include the use of silt fences, attenuation ponds, settlement tanks and soakaway areas to ensure all run off water is treated prior to discharge. Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.

- ***Freshwater Pearl Mussel:*** Freshwater Pearl Mussel are highly susceptible to changes in hydrology, and in particular, impacts from sedimentation and pollution. Any deterioration in water quality due to an increase in suspended sediments could undermine the viability of the Blackwater Freshwater Pearl Mussel population. They are also reliant on salmon as a host fish, so the potential for indirect impacts on salmon is also a concern.

The full implementation of mitigation measures and adherence to best practice will ensure that downstream water quality is protected, with no adverse effects on this Qualifying Interest species anticipated.

Fisheries:

- **Salmon:** The viability of salmon populations is strongly influenced by water quality any impact on the watercourses draining the proposed development, particularly on spawning and juvenile habitat, has the potential to adversely affect the salmon population of the SAC. Access to suitable spawning habitat is a fundamental requirement. Gravels need to be clear of sediment and the eggs submerged in well oxygenated water during incubation. In addition elevated levels of suspended solids can clog the respiratory structures of salmon.
- **Lamprey:** Changes to water quality from sediment releases could impact the species, either directly or indirectly through the deterioration of clean gravels at spawning grounds.

The full implementation of mitigation measures and adherence to best practice will ensure that downstream water quality is protected, with no adverse effects on these Qualifying Interest species anticipated.

- **Otter:** A deterioration of water quality and consequent reduction of fish stock and prey on which the otter depends, could present a threat to the population.

The full implementation of mitigation measures and adherence to best practice will ensure that downstream water quality is protected and commuting routes along watercourses will not be affected. Therefore, no adverse effects on this Qualifying Interest species are anticipated.

- **Water courses with the *Ranunculus fluitantis* and *Callitriche-Batrachion*:** Water quality should reach a minimum of Water Framework Directive 'good status' in terms of nutrient and oxygenation standard and EQR (ecological quality ratios) for macroinvertebrates and phytobenthos. Other aspects of water quality such as suspended sediment and minerals, can also impact the species.

The full implementation of mitigation measures and adherence to best practice will ensure that downstream water quality is protected, with no adverse effects on this Qualifying Interest species anticipated.

Conclusion: Having regard to the nature and scale of the proposed development, notwithstanding the presence of an aquatic connection to a European site via the nearby Tooreengariv Stream, and taking account of the substantial separation distance to the SAC (3km) and to the nature of the qualifying interests and the conservation objections, it is my opinion that the proposed development, subject the full implementation of the mitigation measures and compliance with best practice methodologies during the construction phase, would not have the potential to affect the SAC or its conservation objectives.

It can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Blackwater River (Cork / Waterford) SAC.

7.4.10. In-combination effects:

Permission was granted in 2018 of a windfarm including 14 no. wind turbines located approx. 300m to the north of the subject site and includes an underground connection to the existing GIS Ballynahulla substation.

Having regard to the nature and scale of the proposed development it is considered that it does not have the potential for in-combination effects, after mitigation measures are applied, to undermine the integrity of either European site.

7.4.11. Appropriate Assessment Conclusion:

I consider it reasonable to conclude on the basis of the information on file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Numbers 004161 and 002170 or any other European site, in view of the site's Conservation Objectives

8.0 Recommendation

It is recommended that permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site adjacent to an existing Gas Insulated Switchgear (GIS) substation, to the pattern of development in the area, which includes existing wind farms and a sparse population, to the mitigation measures set out in the Natura Impact Statement, and subject to compliance with the conditions set out below, it is considered that the proposed development will not injure the visual amenity of the area or give rise to water pollution and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:

(b) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.

- (c) Proposals for the suppression of dust on site.
- (d) Proposals for the bunding around all temporary oil containment facilities.
- (h) Monitoring of ground and surface water quality, levels and discharges.
- (i) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

Reason: In order to safeguard local amenities.

3. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Natura Impact Statement and associated documentation are implemented in full, save as may be required by conditions set out below.

Reason: In the interest of protection of the environment.

4. The developer shall retain the services of a suitably qualified and experienced Ecologist and construction works shall not take place during the Hen Harrier nesting season (which usually extends from April to August).

Reason: In the interest of protecting ecology and wildlife in the area.

5. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area.

6. During the construction phase of the development the noise level shall not exceed 47dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) and during the operational phase the noise level shall not exceed 35 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) when measured at the junction between the private access

road and Church Road. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including traffic and waste management.

Reason: In the interests of public safety.

8. Details of the proposed colour scheme for the facility and all ancillary structures shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development

Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Elaine Power
Planning Inspector

28th March 2019