



An  
Bord  
Pleanála

## Inspector's Report ABP-305536-19

### Development

Construction of a 38kv electricity substation, switchroom and equipment compound with palisade fence; and the installation of approximately 22km of 38kV electricity cables from proposed substation to existing substation in the townland of Lisdrumdoagh.

### Location

Luppan Co. Monaghan and across the townlands of Shanmullagh, Coraghbrack, Drumlester, Knockabeany, Drumbristan, Tonintlieve, Cloghfin, Derrykinnigh More, Killybreen, Killycarran, Derrygola, Tamlet, Derrilla, Tonyfinnigan, Knockcor, Drumdart, Aghaclogha, Drumcoo Woods, Drumlish, Aghagally, Doogary, Killygavna, Sheetrim, Drumshanny, Drumgeeny, Legacurry, Mullabrack (Scott), Enagh, Griggy, Straghan or Cornasore, Eden Island, Crumlin, Drumrutagh, Aghnasedagh, Coolmain, Feeban and Lisdrumdoagh

### Planning Authority

Monaghan County Council

**Planning Authority Reg. Ref.** 18/562  
**Applicant(s)** Coolberrin Windfarm Limited  
**Type of Application** Permission  
**Planning Authority Decision** Grant permission (17 no. conditions)

**Type of Appeal** Third Party  
**Appellant** An Taisce  
**Observer** Wild Ireland Defence CLG

**Date of Site Inspection** 20/12/2019  
**Inspector** Conor McGrath

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## 1.0 Site Location and Description

1.1. The development comprises the construction of a new 38kv substation and powerline to connect a permitted windfarm, located approx. 22km northeast of Monaghan Town, with an existing ESB substation at Lisdrum, approx. 4km east of the town. The windfarm, the Mountain Waters Wind Farm, has not yet been constructed. The landscape along the route of the proposed powerline is rural, agricultural in nature, characterised by drumlin hills, such that views are generally enclosed and local in nature. The area is not densely populated and overhead lines are a relatively common feature in the landscape. The route crosses a number of roads and watercourses, of which the Blackwater River, east of Monaghan Town, and the Mountain Water River are the most significant. The line crosses national routes N2 and N12 to the north and northeast of Monaghan Town respectively.

## 2.0 Proposed Development

2.1. The proposed development comprises:

- Construction of a new 38kv electricity substation, switchroom and equipment compound with palisade fence, adjoining the permitted windfarm;
- Construction of approx. 400m of 5m wide site access track and the upgrading of approx. 150m of existing agricultural track and an existing agricultural entrance to serve the substation;
- Approx. 200m of underground cabling to connect the permitted windfarm to the substation and all associated site development and reinstatement works
- Approx. 22km of 38kV electricity lines and cables, comprising approx. 17km of overhead line and approx. 5 km of underground cable.
  - Overhead lines will consist of 3 no. cables suspended from wooden poles. 188 no. pole sets are required to carry the overhead line. Five different structure types are to be used including single, double and triple pole structures of up to a maximum height of 16m.

- Underground cables will be located within private lands and within the three local public roads, installed in trenches approx. 1.2m deep and will include underground ducting, joint bays, communication chamber bays, sheath link boxes and inspection chambers every 650-750m. A 4m wide vehicle access track will be provided adjacent to underground cables within private lands. The use of directional drilling to cross beneath the N12 and Ulster Canal is proposed.

2.2. The planning application is accompanied by an Environmental Impact Assessment Report and a Natura Impact Statement.

### 3.0 Planning Authority Decision

#### 3.1. Decision.

In considering the application, the planning authority sought further information in relation to a range of matters, including the following:

- The potential for undergrounding of overhead lines.
- Visual impact assessment.
- Details of watercourse crossings.
- Response to the nature conservation issues raised by Dept. of Culture, Heritage and the Gaeltacht and by An Taisce.

It was subsequently decided to grant permission for the proposed development subject to 17 no. conditions, including the following:

- 5 (a) The specific location of the proposed poles shall be agreed prior to the commencement of development
  - (b) Prior to any directional drilling works at the Ulster Canal, the developer shall submit correspondence from Waterways Ireland confirming the acceptability of the proposed development particularly with regard to the depth of the cables beneath the canal floor.
- 9 (a)–(g) Details of watercourse crossings.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The site is located within 3 landscape Areas of Secondary Amenity. The application fails to adequately consider the visual, scenic and landscape impacts. The site is within the study area for the N2 Clontibret to Border Road Scheme. The National Roads Office has raised no objection. Development plan policy does support refusal of permission on the basis of location within this area.

The development does not exceed the mandatory threshold for submission of an EIAR, however, on foot of the O’Grianna case, an EIAR has been submitted which considers the effects with the Mountain Waters Wind Farm. The potential for environmental impacts will be confined to the immediate local area and will not be unacceptable.

Development plan provisions relating to undergrounding do not apply to a distribution line such as this.

Appropriate Assessment: The site lies within 2km of Slieve Beagh SPA at its closest point. Pathway connections have not been discussed in the NIS, however, the EIAR notes that no surface water features are hydrologically connected to designated sites and that there is no downstream connectivity with the nearest SAC’s. The NIS is inadequate and further information is required.

A response to the issues raised by the Dept. of Culture Heritage and the Gaeltacht and by An Taisce was submitted. There was no further comments received from the Department or from An Taizé on this response. The further information submission has addressed the original concerns of the planning authority. Recommend that permission be granted.

### 3.2.2. Other Technical Reports

**Monaghan Municipal District:** No objection subject to conditions including a traffic management plan for the construction phase.

**Environmental Report:** Further information requested, including details of all watercourses proposed for overhead, instream and underground works and preparation of a Surface Water Management Plan.

**EHO:** Refer to Environmental report

**Roads:** No objection subject to conditions and to there being no objection from area engineer or N2 Project Office.

**National Roads Office:** Although the site is within the provisional study area for the N2 scheme, there is no objection to granting permission.

### 3.3. Prescribed Bodies

**Transport Infrastructure Ireland:** The development is at variance with policy relating to the control of development on national roads. It is located within an area considered for a future national road scheme and is premature. There are other roads schemes in the National Development Plan which may be impacted. Routing should safeguard future road schemes. Cabling should avoid impact on all TII infrastructure such as traffic counters etc. Road licences may be required for works.

**Inland Fisheries Ireland:** The route crosses a number of watercourses which contain valuable fishery habitat and species protected under the Habitats Directive. The development should not impact negatively on the aquatic habitat. Instream works should take place July to September, in agreement with IFI. Trenchless crossings are preferred and requirements for trenchless and open cut watercourse crossings are identified. Best construction practise should be followed to avoid discharge of silt / suspended solids or other contaminants to waters.

**An Taisce:** The submission reflects the content of the third party appeal, referring to the planning history, need for an assessment of cumulative effects, impacts under the Habitats Directive in particular those on hen harrier and curlew.

**Dept. of Culture, Heritage and the Gaeltacht:** Archaeological monitoring conditions should be attached. The site is in close proximity to the Slieve Beagh SPA and comprises several diverse habitats. Significant ecological value and concerns have been identified which require further attention.



The route runs through or close to important habitats for curlew. Possible negative effects on declining breeding populations of curlew are not fully addressed. North Monaghan is one of six Curlew Conservation Action Areas in Ireland accommodating a nationally important percentage of nest sites. Curlew are particularly sensitive to windfarm development and loss of breeding or foraging areas could result in desertion of last known breeding sites in the county. Utility poles facilitate predation, a key factor in Curlew nest failure, which is not addressed in the assessments, while overhead lines present a collision risk. The relocation of the line following identification of nest sites does not address the wider use of the area by curlew.

It is noted that there was no consultation since the original 2010 application. Two years survey of activity would be required to select suitable development sites. Associated site works and roads may impact unintentionally on ground nesting birds.

Contrary to statements in the EIAR, survey data indicates that the site does contain suitable foraging habitat for hen harrier. Estimates of harrier foraging range need to be reconsidered. The duration of surveys are inadequate where 2 years continual monitoring would be required, such that the conclusions in the NIS are questioned. Statements on the extent of breeding areas are not up to date and no use was made of the most recent data available.

The development may result in habitat loss for Marsh Fritillary and potential species loss where areas were not surveyed. The Dept do not agreed with the conclusions of the EIAR regarding the importance of biodiversity in the area.

#### **3.4. Third Party Observations**

Two third party objections from landowners were received by the planning authority, raising issues of consent to proposed development works.

### **4.0 Planning History**

**PA ref. 10/110      ABP ref. PL18.240760**

Permission granted on appeal in May 2013 for the Mountain River Wind Farm, comprising 7 no. turbines of up to 119m in height, site entrance and site access

tracks and all associated site works including a 38kv substation at Luppan, Cornaheive, Greagh, Carrickroe, Mullanafinnog, Co. Monaghan. The application was accompanied by an EIA and was subject to Screening for Appropriate Assessment. Conditions included the following:

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.
4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.
16. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake a programme of appropriate avian surveys at this site prior to and after the commencement of development. Details of the surveys to be undertaken shall be agreed with the planning authority. The results shall be submitted to the planning authority and to Department of Arts, Culture and the Gaeltacht in appropriate format.

Reason: To monitor the impact of the development on the local population of the Hen Harrier.

**PA ref. 17/258      ABP ref. ABP-300998-18**

Permission refused on appeal in May 2019 for amendments to the development permitted under PA ref 10/110, ABP ref. PL18.240760, comprising:

- realignment of site access tracks and underground cabling;
- the redesign and realignment of turbine hardstand areas;
- relocation and resizing of the substation, omission of external transformers, transformer foundations and palisade fencing;
- relocation and redesign of meteorological mast to a guy-wired lattice structure;
- approx. 820m of underground cable from the meteorological mast to turbine T2;
- 2 no. temporary storage compounds and minor local road upgrade works.

The reasons for refusal were as follows:

1. Having regard to:

- (a) the location in proximity to Slieve Beagh SPA and the Slieve Beagh – Mullaghfad -Lisnaskea SPA and within the foraging range of Hen Harrier, which is the species of special conservation interest for the Special Protection Areas,
- (b) the potential for suitable foraging habitats on the site for Hen Harrier and use of the site by Curlew,
- (c) the absence of up to date survey data of use of the appeal site by these species,
- (d) the limited information on the proposed route of the grid connection and the potential for in-combination effects, and
- (e) on the basis of the information provided with the application and the appeal, including the Natura Impact Statement submitted to the planning authority

the Board cannot be satisfied that the proposed development will not impact adversely on the designated sites, individually or in combination with other plans or projects, in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.

## 2. Having regard to:

- (a) the absence of assessment of the likely visual and landscape effects of the proposed changes to finished floor levels, and
- (b) the policies and objectives of the Monaghan County Development Plan, in respect of European sites, biodiversity and landscape protection,

the Board cannot be satisfied that the proposed development will not detract from the visual and landscape amenity of the area.

### **PA ref. 10/41      ABP ref. PL18.239585**

Permission granted on appeal in 2012 for a windfarm comprising 5 no. turbines, substation compound and associated works at Coolberrin Hill, immediately south of the substation proposed as part of the subject appeal. This permission was granted with a life of 10 years.

It is noted that this application did not include any details of the proposed grid connection and this development has not been constructed to date.

## 5.0 Policy Context

### 5.1. Monaghan County Development Plan 2019 - 2025

Section 6.2 refers to Protection of Biodiversity including Natura 2000 Network

HLP 2: To adopt and implement in partnership with all relevant stakeholders the objectives and actions detailed in the Biodiversity Action Plan and any relevant action plan.

HLP 3: To contribute as appropriate towards the protection of designated sites in compliance with relevant EU Directives and applicable National Legislation.

HLP 4: No projects giving rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this plan (either individually or in combination with other plans or projects).

6.4 sets out Heritage, Conservation and Landscape Policies. Policies HLP 8, 9 and 11 refer to the protection and the preservation of the County's landscapes, having regard Monaghan Landscape Character Assessment (2008), including avoidance of impacts on designated landscapes. The 2008 Assessment identified nine landscape character areas.

Section 6.6 refers to Habitat Designation and Protection. Two important conservation initiatives are happening on Sliabh Beagh as part of the NPWS Curlew Conservation Programme, to protect Curlew nesting attempts and improve habitat quality. In addition, Monaghan County Council is a partner in an INTERREG V project working to conserve the blanket bog on Sliabh Beagh and the Hen Harrier.

Policy HLP 13: To resist development in or adjacent to any Natura 2000 site where it would result in the deterioration of that habitat or any species reliant on it. The onus will be on the developer to demonstrate that any such development will not adversely impact on the qualifying interest of such sites subject to the preparation of an appropriate assessment exercise under the provisions of the Habitats Directive.

## Areas of Secondary Amenity Area

<b>Table 6.6 Areas of Secondary Amenity Constraints</b>	<b>Areas of Secondary Amenity</b>
SA2	Blackwater River Valley
SA3	Mountain Water River Valley
SA5	Ulster Canal and Environs

6.11.2 These areas require protection from inappropriate and insensitive development. They are generally associated with river valleys, uplands, woodlands and lakes and provide an important community, recreational and tourism resource. It is an objective to manage development in these areas to ensure that the scenic value is maintained and ensure any development proposals are sensitively designed and compatible with the overall landscape character of the area.

SAP 1: To limit development in Areas of Secondary Amenity Value and to only permit compatible amenity developments where they do not unduly impact on visual amenity.

## 8. Environment, Energy & Climate Change

8.15 Wind Energy - Monaghan County Council will seek to achieve a balance between enabling the wind energy resource of the County to be harnessed while taking account of the visual, environmental and amenity impacts.

## 15. Development Management Standards - Renewable Energy Policies

ENP 1: To encourage and facilitate renewable energy proposals at suitable locations where it is demonstrated the development will not have a detrimental impact on the visual and residential amenities of the surrounding area and other matters of acknowledged importance where it is located and assessed in line with the criteria set out in Section 15.20 of the Development Plan.

## Policies for Electricity and Gas Infrastructure

EGP 1: Facilitate electricity and gas infrastructure improvements/installations which will not result in adverse impacts on the natural or built heritage of the county.

EGP 2: The undergrounding of electricity transmission lines shall be considered in the first instance, as part of a detailed consideration and evaluation of all options available in delivering and providing this type of infrastructure.

## 5.2. Climate Action Plan 2019

Section 7.2 sets targets for Electricity:

To meet the required level of emissions reduction, by 2030 we will:

- Reduce CO2 eq. emissions by 50–55% relative to 2030 Pre-NDP projections
- Deliver early and complete phase-out of coal and peat-fired electricity generation
- Increase electricity generated from renewable sources to 70%, comprised of
  - at least 3.5 GW of offshore renewable energy.
  - up to 1.5 GW of grid-scale solar energy
  - up to 8.2 GW total of increased onshore wind capacity
- Meet 15% of electricity demand by renewable sources.

## 5.3. Wind Energy Development Guidelines 2006

- 5.3.1. Section 4.3 notes that best practice would suggest that an integrated planning application that combines grid interconnection information together with details of the wind energy development should be submitted to the planning authority.

### 6.11.3 Connection to Electricity Providers

- Power line connections between turbines and control buildings should be underground.
- Power lines should be interred alongside turbine access roads in order to minimise spatial extent of soil/hydrological and vegetation damage/ disturbance.
- The cost of underground connection from the compound to the national grid is generally prohibitive. This connection can thus be above ground in all but the most sensitive landscapes.

- In certain landscapes, such as highly sensitive Mountain Moorland, consideration should be given to burying the cables until such a distance as the poles and cables would be visually acceptable, for example, where other power lines exist.
- In order to reduce visual impact, connections should preferably be carried on wooden poles, except where necessary for changes in direction / within compound.
- Power line connections to the grid should, where possible, avoid running perpendicular to contours. Where practicable, it should not cross the horizon at ridge level unless a line already exists. Where passing through a forest, power line connections should follow existing firebreaks or roads. In landscape types where human presence and rectilinear landscape patterns are typical, power line layout can be more flexible.

#### **5.4. Draft Revised Wind Energy Development Guidelines - December 2019**

These draft guidelines include updated guidance regarding the Environmental Impact Assessment-related requirements in respect of wind energy development projects and related grid connections, arising from a High Court Judicial Review (O Grianna and others v. An Bord Pleanála).

Section 4.7.1 notes that where required, an EIAR and planning application for the grid connection must address the direct effects and any short, medium and long-term, permanent and temporary, positive and negative, indirect, secondary, cumulative and transboundary effects of the whole project, i.e. the wind energy development and the grid connection.

This is to ensure that the totality of the project i.e. wind energy development and the grid connection, are assessed thoroughly and in an integrated manner as regards EIA in line with the requirements of the EIA Directive.

Section 4.7.4 notes that projects comprising both the wind energy development element and the subsequent grid connection element should be assessed as a single project for EIA purposes, and in particular their cumulative effects. Where planning permission is sought subsequently for the grid connection the planning application will include an EIAR which addresses the cumulative impacts of the final proposed grid connection, and the approved wind energy development.

#### **4.8 Appropriate Assessment**

Best practice is that an integrated planning application is made for the whole project (i.e. the wind energy development and the grid connection and any other ancillary works) and that the NIS submitted with the planning application addresses the cumulative impacts of the whole project, in order to avoid project splitting.

## **5.5. Natural Heritage Designations**

The proposed development is not located within and does not cross any sites designated for nature conservation purposes. The closest sites to the route of the power line are as follows:

- Slieve Beagh SPA 004167 / Slieve Beagh–Mullaghfad–Lisnaskea SPA UK902302. This cross-border SPA is designated in respect of the maintenance or restoration of the favourable conservation condition of the Hen Harrier. The site lies within approx. 2km of the proposed development at its closest point.
- Mullaghmore Lake Proposed Natural Heritage Area approx. 3km southwest of the proposed power line.
- Lough Emy Proposed Natural Heritage Area lies approx. 4km east of the proposed power line.
- Glaslough Lake Proposed Natural Heritage Areas: approx. 4.5km east of the route of the proposed power line.
- Magheraveely Marl Loughs SAC UK0016621, located approx. 12km south-west of the proposed development.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An Taisce make the following points in their appeal against the decision to refuse permission for the proposed development:

- The subject application and Mountain Rivers Windfarm (ref. 10/110, PL18.240760) are one development, whose impacts must be considered together.
- The O’Grianna case established the interdependence of a windfarm and its grid connection, which must be considered in assessing environmental effects.



- The development is not in accordance with the development plan for the area or the wind energy development guidelines in this regard.
- Significant negative cumulative effects on breeding curlew, hen harrier and adjoining Natura Sites were not assessed.
- Disagree with the conclusion that potential cumulative effects with the permitted windfarm and other projects are highly unlikely, which is contrary to submissions from Dept of Arts, Heritage and the Gaeltacht and Birdwatch Ireland.
- The 2013 windfarm permission (PL18.240760) is not a sufficient basis to determine that the development will not have significant negative impacts.
- The refusal under ref. 17/258 and PL18.300998-18 is more relevant than the original 2013 permission, as it was based on up to date information and case law.
- The conservation status of curlew and hen harrier has declined significantly since 2013 and strict protection of hen harrier within and without the SPA is required.
- A precautionary approach should be adopted.
- The assessment is inadequate and fails to take account of previously cited observations and other reference materials in this and related applications.
- Without up to date survey data, the Board cannot assess this project as a whole.
- The ecological assessment failed to fully assess the direct, indirect and cumulative effects of the project on hen harrier.
- NPWS and the Northern Ireland Environment Agency have previously expressed concerns with regard to this development and its impacts on birds.
- 2015 Hen Harrier Survey indicates that the population in this area is in serious decline, with breeding habitats under pressure from loss and degradation.
- A low number of sightings does not justify a grant of permission when a species is in decline and cumulative effect of degraded habitats within the SPA should have been assessed.
- The development may significantly adversely impact on the integrity of the SPA as it contains suitable foraging habitats for hen harrier and is within range of the site.
- Recorded sightings contradict statements in the EIS that suitable habitats are not present on the site. Prime harrier prey species have been recorded on the site.
- No evidence to the contrary has been provided.

- The surrounding area supports nationally important numbers of curlew and Golden Plover. There is a curlew breeding site adjacent to the development.
- A set of special conservation measures are being implemented for Curlew, a bird of Conservation Concern facing extinction in Ireland.
- The Curlew Task Force recommendations highlight the negative impact of wind turbines on breeding curlew, requiring specific guidance.
- No adequate assessment of impacts on Curlew has been undertaken.
- The appeal cites research regarding wind turbine impacts on hen harrier and curlew due to collision, displacement and disturbance, and displacement of prey
- Mapping by Birdwatch Ireland rates this site as sensitive for these species.

## 6.2. Applicant Response

The first party response to the third-party appeal comprises two parts. The first is a submission by Gaeltech Energy Services and the second by A&L Goodbody.

### **Gaeltech Energy Services:**

- The issues raised were addressed in this and previous planning applications.
- The EIAR and NIS contain a comprehensive cumulative assessment which includes the permitted windfarm, and other developments in this area.
- The EIAR is not reliant on the 2013 windfarm decision.
- The cited case *An Taisce v ABP (2015) IEHC 633* is not relevant.
- The site does not contain suitable foraging habitat for hen harrier. The windfarm and grid connection are located predominantly on improved grassland.
- This modest development is of a type which is common in the Irish countryside.
- The development is sub-threshold and taken in its own is not likely to have significant environmental impacts.
- The windfarm was previously found not likely to have significant effects on the environment, so that significant cumulative effects are not likely.
- There has been no material alteration in the baseline environment since 2013.
- Detailed multi-annual bird surveys have been undertaken since 2017 at the windfarm site and along the route of the line.

- It was previously accepted that while hen harrier may occasionally visit the windfarm site, foraging habitats with the site are sub-optimal and it will not be used for breeding.
- Location outside the SPA and the low levels of hen harrier activity reflect the sub-optimal nature of habitats.
- No scientific or survey evidence has been presented to refute these conclusions.
- Most of the overhead line runs southeast, away from the SPA / SAC and would have no impact on hen harrier.
- Referenced sightings were not within the site of the windfarm or overhead line.
- Core foraging areas for hen harrier are typically within 1-2km of the nest site and occasionally up to 5km.
- In 2018, the closest nest sites were 3.5km - 4km from the windfarm. There is no evidence of a nest at this location in 2019.
- There has been a general shift in the core harrier breeding area westwards from the Slieve Beagh SPA, increasing separation from the proposed development.
- Survey data and observations do not indicate that this shift has been reversed.
- The NIS concludes that there is reasonable scientific certainty that there will not be impacts on the integrity of the European site.
- Adequate information was available to assess potential adverse effects.
- Previous submissions by NIEA and RSPB on the windfarm application did not identify potential adverse impacts on European Sites.
- There has been extensive consultation and surveys with regard to curlew since 2017. The route of the line was revised in response to identified curlew nest sites.
- The appellants fail to recognise that failure in curlew breeding in recent years is attributable primarily to predation facilitated by habitats of sub-optimal nature.
- Assessments conclude that no significant or cumulative adverse effects on curlew are likely.
- The development will not add to existing pressures on the species, resulting in minimal loss of sub-optimal habitats and temporary construction activity.
- Much of the appeal is related to the permitted windfarm development rather than the proposed development.
- The development plan encourages renewable energy at such locations and government policy is supportive of renewable energy generation.

Additional points raised in the **A&L Goodbody** submission:

- In *O’Sullivan & Others v ABP* it was held that EIA of a windfarm could be carried out in the absence of an application for the grid connection. Conversely, it must be the case that lawful EIA can be carried out for the grid connection where permission has been granted for the windfarm.
- This is subject to assessment of the stand-alone and in-combination effects as has been provided in this case.
- Reliance on the O’Grianna judgement is inappropriate.
- The applicants have provided sufficient and best scientific evidence to support the AA, including updated bird surveys for the windfarm and grid connection.
- Exclusion from the designated SPA indicates that the area lies outside the natural boundaries of the ecosystem in question.
- There is no obligation under the Habitats Directive or otherwise, to provide further survey information or treat other reference sources as giving rise to doubt about the likelihood of effects on the SPA.
- The standard of proof under the habitats directive is high but does not demand absolute certainty or absence of doubt.
- The EIAR complies with requirements in considering potential impacts on curlew.
- The lands are not designated as a SPA for the protection of curlew, which indicates that the area is not among the most suitable habitats for the species and not essential to ensure the long-term maintenance of the species.
- Undesignated lands, which may contain curlew are of significantly less importance than designated areas.
- In terms of impacts on areas outside the SPA’s, the Ecological Impact Assessment concludes that impacts will be imperceptible negative.
- The site has the lowest ranking for sensitivity for curlew and hen harrier outside the Natura network.

### 6.3. Planning Authority Response

No response to the appeal from the planning authority has been received.

## 6.4. Observations

The observation from Wild Ireland Defenders CLG notes that the decision of CJEU in C-164-17 Edel Grace and Peter Sweetman v. An Bord Pleanala applies to this development.

## 7.0 Assessment

It is proposed to consider the appeal under the following broad headings:

- Principle of Development & Transboundary Implications
- Population and Human Health
- Landscape and Visual Impacts
- Water
- Biodiversity
- Potential Impacts on Birds
- Cultural Heritage

### 7.1. Principle of Development and Transboundary Implications

- 7.1.1. The application relates to substation and grid connection works associated with a windfarm development at Luppen / Coolberrin Co. Monaghan previously permitted under PA ref. 10/110 / ABP ref. PL18.240760. Having regard to the extant permission and national and local development plan policies generally supporting renewable energy developments, it is considered that the development of a grid connection would be acceptable in principle.
- 7.1.2. The proposed grid connection runs northeast for approx. 22km between Lisdrumdoagh, approx. 4km east of Monaghan town, and a proposed new substation located approx. 2km from the border with Northern Ireland. I note that the transboundary process was initiated for the adjoining windfarm developments at Mountain Waters (PL18.240760) and at Coolberrin Hill (PL18.239585). I note also that the Northern Ireland Environment Agency made a submission on the appeal under ref. ABP-300998-18.

7.1.3. Having regard to the planning history on the lands, the nature and extent of development proposed in the subject application and separation from the border with Northern Ireland, I do not consider that the development proposed herein would be likely to have significant effects on the environment in a transboundary State, in accordance with article 124(1) of the P&D regs.

## **7.2. Population and Human Health**

7.2.1. The landscape traversed by the proposed development is generally not densely populated and the line does not pass close to a significant number of dwellings. I note that there were no objections to the route of the line in terms of proximity to adjoining residential properties. Potential construction impacts are not considered likely to give rise to significant effects on population or human health having regard to the nature and duration of such works. Adherence to an agreed construction management plan would address potential issues in this regard.

7.2.2. Section 4.9 of the EIAR considers the issue of radiation and indicates that regard is to be had to the “Electromagnetic Fields International Commission on Non-Ionising Protection” to avoid effects on human health. Pole sets will be sited within a 50m wide corridor to ensure a minimum 23m separation from nearest dwellings and the EIAR concludes that the operational phase will have no likely significant effects on population or human health. The proposed development accords with best practise and negative impacts on human health are not therefore considered likely.

## **7.3. Landscape and Visual Impacts:**

7.3.1. The application proposes that the 22km route will include 17km of overhead line and approx. 5km of non-continuous underground cable. In relation to development plan policy to seek the undergrounding of electricity lines (EGP 2), the applicants correctly distinguish the proposed development as relating to a distribution line associated with a permitted windfarm development, rather than a transmission line as referenced in the development plan. It is indicated that in sensitive locations, however, the line has been placed underground to reduce potential impacts. The consideration of alternative approaches in the EIAR, identifies significant impacts

associated with the undergrounding of lines and I note the provisions of the Wind Energy Development Guidelines in this regard.

The route traverses areas of rural County Monaghan of varying character. This includes three areas identified in the county development plan as Areas of Secondary Amenity Value. I note that the spatial extent of these amenity areas are not defined in the plan. An assessment of visual and landscape impacts based on agreed viewpoints representing each of the affected Areas of Secondary Amenity was carried out at further information stage. Similarly, an assessment of impacts on two scenic routes in the vicinity of the proposed development was submitted for review by the planning authority.

For the purposes of this report I consider the route of the line in five sections, running north from Lisdrum to the windfarm substation site.

### 7.3.2. **Route Sections:**

Section 1: Lisdrum to N12:

The route of the line commences at Lisdrum sub-station site, approx. 4km east of Monaghan Town and travels approx. 4km northwest toward the N12 / Ulster Canal, between pole sets 01 and poleset 16. This section includes approx. 2.4km of underground cable running north from the L1400 and Bessmount House (protected structure), to the north of the N12 and the Ulster Canal, east of Monaghan town. In this regard, it is considered that significant impacts on the cultural heritage of the area, including protected structures and the Ulster canal (Area of Secondary Amenity - SA5), will be avoided. This area is characterised as Drumlin Farmland in the development plan.

Having regard to the character of the landscape in this section, it is not considered that the proposed development would give rise to unacceptable impacts on the landscape or visual amenities of the area.

Section 2: N12 to the N2

This landscape area is characterised as Drumlin farmland in the County development plan. The underground cable emerges north of the N12 and continues north as an overhead line for approx., 3.7km between polesets 16 – 53. The route runs alongside the River Blackwater for approximately a kilometre, within Secondary

Amenity Area SA2 – Blackwater River Valley, with one crossing of the river. Views to / along this valley are generally constrained by topography. Views north from the N12 to the overhead line are largely obscured by mature trees and potential impacts reduce with distance. This view is considered in the RFI response as Viewpoint 1.

Submitted Viewpoint 2 is located east of poleset 30, where the line leaves the river valley and continues over a hillside to the north. There is an accumulation of overhead lines in this view and it is not considered that significant additional landscape impacts would arise at this location.

At Poleset 33 the line passes close to two houses and over a disused railway, traveling northwest across farmland toward the N2. Views in this area are constrained by the landscape and existing vegetation. Given the nature of the pole structures, significant impacts on the landscape character or amenities of the area are not expected.

Section 3: N2 to Carrickroe:

This section covers approx. 11km between poleset 53 and 152, including approx. 1.3km of UGC between polesets 81 and 82 and 200m of UGC between polesets 93 and 94. The crossing of the N2 north of Monaghan Town is by overhead line, however, given the topography in this area and the backdrop of mature trees, it is not considered that significant visual impacts will arise.

This section of the route crosses the Mountain River valley between polesets 111 and 112 via OHL (Area of Secondary Amenity – SA3). Viewpoint 3 of the RFI response is located west of polesets 108-112. This area is not characterised by open views along the river, which are largely obscured by mature trees and vegetation. Significant landscape and visual impacts or interference with views are not therefore expected.

Section 4: Carrick Roe to Luppan / Windfarm substation

This section comprises approx. 3.2km of overhead line between polesets 152 and 188 / substation. The development plan identifies the majority of this route as Drumlin farmland with the northern section comprising Farmed Foothills. At Carrickroe the route crosses a low-lying wetland area then climbs to an area of elevated farmland. The primary elements in views north of Carrickroe are the hills at



Coolberrin and Luppan. Significant impacts on landscape and visual amenities by the proposed overhead line are not anticipated.

#### Section 5: Substation Site:

The substation adjoins a coniferous plantation, within an area characterised in the development plan as Farmed Foothills. It occupies a sloping, elevated position, exposed to limited views from the east. Views from the south are restricted by existing intervening vegetation and topography. The presence of the substation would be viewed in the context of the associated windfarm development. The rolling nature of the landscape generally serves to contain views of the site and boundary planting could reduce the impacts of the substation development satisfactorily. There will be local visual interactions with the proposed line however, these are not extended in length.

I note that the substation design has been amended since the original grant of permission in 2010. The original substation was a 38kv station, reduced to 20kv as part of the proposed amending application (PL18.300998). The current application provides again for a 38kv sub-station, however, the proposed compound is larger than that previously permitted.

There may be potential for the proposed development to also serve as a grid connection for the permitted adjoining Coolberrin windfarm as well as the Mountain Waters windfarm. I am not aware of any proposals for a grid connection for that windfarm, however, and such a possibility are outside the scope of this application.

In wider views from identified Scenic Routes the nature of development and separation distances are such that the proposed electricity line will not impact negatively on views or prospects of value.

#### 7.3.3. Conclusion

It is not considered that the proposed overhead line would comprise a significant intervention in this landscape and or that its development would give rise to significant or unacceptable impacts on the landscape character or visual amenities of the area. Such impacts are described in the EIAR as local, diminishing with distance, which is considered to be a reasonable description. When viewed from

that locality, the development including in particular the substation, will be seen as part of the windfarm development and I do not consider that significant negative cumulative landscape impacts will arise.

**7.4. Water:**

- 7.4.1. A separate report on soils / geological and hydrogeological impacts is included as Annex 3 to the EIAR.
- 7.4.2. The proposed line is located within the catchment of the River Blackwater, within Neagh Bann International River Basin District. Drainage in the area is generally in an easterly direction. The proposed route crosses 14 no watercourses along its length, mainly first order streams. The two main water courses crossed by the route are the Mountain Water River (3rd Order) and Blackwater River (4th Order). Crossings are generally by overhead line, with two crossings requiring in-stream / underground works. None of the surface water features crossed are hydrologically connected to sites designated for nature conservation. Excavations will not give rise to impacts on identified groundwater features.
- 7.4.3. At river crossings, the stated design approach is to avoid pole-sets running along watercourses for long distances and maximising set-back from the watercourse and riparian strips. Cable crossings will involve in-stream works to the Mullamurphy Stream (3 Order) and Killygavna Stream (1st Order). I note that for approx. 600m north of the Killygavna crossing, the cable route runs parallel to the stream / drain.
- 7.4.4. The proposed substation includes toilet facilities. The further information response indicates that wastewater will be stored in a holding tank on-site, subject to removal and disposal off-site. No on-site disposal is proposed and no operational impacts on water quality are therefore considered likely.
- 7.4.5. While a number of pole-sets lie within mapped 100-year fluvial flood zones, no impacts on the proposed development are expected due to potential flooding and there will be no potential for increased local flood risk as a result of the construction or operation of the proposed development. Impacts on wells / water supply, and potential effects on health are unlikely.

7.4.6. With regard to water quality, there is potential for entry of suspended solids to surface waters and contamination by leakages, spillages of hydrocarbons or other chemicals. The EIS and the hydrological impact assessment submitted in Annex 3, along with the Outline Construction Environmental Management Plan and Surface Water Protection Plan submitted at further information stage, detail the methodology to avoid impacts on watercourses and I note the submissions from Inland Fisheries Ireland on this case. Construction impacts will be temporary in duration and subject to the application of the mitigation measures identified, significant environmental effects are not considered likely. No significant operational impacts are expected.

7.4.7. I note the works and mitigation measures proposed as part of the permitted windfarm development, and the drainage network in the area. All watercourses in the area ultimately drain to the River Blackwater (main), however, given the temporary and relatively small scale of works proposed in the subject development, and the large catchment area of the River Blackwater, the potential for significant cumulative impacts with the permitted windfarm development is regarded as low. The effect of any such impact is likely to be imperceptible.

## 7.5. **Biodiversity**

7.5.1. Annex 1 of the EIAR contains an NIS. Annex 2 contains an Ecological Impact Assessment (EclA) which informs section 4.2 of the EIAR. Impacts on Natura 2000 sites are also considered in further detail in 7.6 below and in Section 9.0 of this report, *Appropriate Assessment*.

### 7.5.2. **Potential Impacts**

I note the presence of NHAs and pNHAs within the wider landscape, however, it is not considered that the proposed development is likely to negatively impact on these sites due to the separation distances arising, lack of identified pathways / connections for effects and identified mitigation measures.

Habitats within or traversed by the proposed development are described as being mainly of local value, typical of the surrounding countryside. Permanent habitat loss will be minimal with replanting and reinstatement works where loss occurs. Impacts are evaluated in the EIAR as being imperceptible, negative, and temporary to

permanent in duration. The importation and spread of non-native invasive species, in the absence of mitigation, is a potential significant negative impact.

Potential significant impacts on aquatic habitats arise from reduced water quality during construction and disturbance during in-stream works, with impacts on spawning conditions for salmonid species and disturbance and removal of lampreys. A Construction Environmental Management Plan and Surface Water Management Plan were submitted which identify specific mitigation measures in this regard. Method statements for each of the three watercourse crossings along the underground sections are to be prepared and I note the submission of Inland Fisheries Ireland in this regard. I consider that subject to the identified mitigation measures significant impacts on fish and other aquatic species are unlikely. Some imperceptible cumulative impacts may arise in relation to disturbance and water quality affecting species such as Brown trout and lamprey species, however this is not considered to have the potential to be significant.

The EIAR reports that low levels of mammal activity were observed generally but that there is evidence of the presence of otter proximate to the Mountain Water River. No bat roost sites were identified and overall habitats suitability for bats is described as low. Potential impacts during construction due to disturbance are evaluated as being slight / imperceptible negative, in the absence of mitigation. Mitigation includes the timing of works and undertaking of pre-construction mammal surveys. The proposed development, in combination with other developments in the study area is not considered to have the potential for significant cumulative impacts on fauna including bats and other non-volant mammals.

Submissions on the file raised the issue of potential loss of habitat and species loss of the Marsh Fritillary butterfly, given the presence of a colony at Mullagh Otra, south of the proposed substation site at Luppan. I note that the development does not traverse any designated site for which this Annex II species is a qualifying interest. The first party note that based on site walkover, the grid connection route will not give rise to likely significant direct effects on suitable habitats for this species. Direct habitat loss within the footprint of development is described as imperceptible in the context of the wider landscape.

The site walkover survey was undertaken in June 2018. The optimum time for such surveys would generally be August and September when the larval foodplant, Devil's-Bit Scabious, is in full flower. I note that the footprint of development is relatively limited and that there is scope for micro-siting of polesets to avoid habitats of interest. I consider that in the event of a decision to grant permission in this case, conditions requiring that further pre-construction surveys at suitable times of the year be undertaken would be appropriate. All activity in areas of habitat identified as suitable for these species should be undertaken in accordance with the requirements, and under the supervision of, the project ecologist.

## **7.6. Potential Impacts on Birds**

Note: This aspect of the development is given further consideration in section 9.0 of this report, Appropriate Assessment.

- 7.6.1. The proposed development is described as a common feature in the Irish countryside. The submitted Ecological Impact Assessment notes that potential direct impacts arising from the construction phase relate predominately to disturbance due to the temporary removal of habitat (hedgerow) and increased levels of activity. Mitigation will involve avoidance of construction works in close proximity to sensitive habitats or good quality hedgerows, treelines or woodland and during the nesting season. Having regard to the nature of the proposed development, the construction methodologies to be employed, and the species present in receiving environment, the impact assessment describes the potential for direct impacts as imperceptible negative in the local context.

In terms of impacts on birds, potential impacts on Curlew and Hen Harrier are of particular interest in this case.

### **7.6.2. Curlew - Current status**

The population of breeding Curlew in Ireland is reported to have declined dramatically in the past number of decades to very low levels. A Curlew Task Force was established in February 2017, under the Biodiversity Action Plan 2017-2021. The *Action for Curlew in Ireland, Recommendations of The Curlew Task Force* (May

2019)<sup>1</sup> notes that Curlew are included on the Red List of Birds of Conservation Concern in Ireland and are included in Ireland's Prioritised Action Framework as a conservation priority. As Curlew are not listed on Annex 1 of the Birds Directive, no Special Protection Areas (SPAs) have been designated with Curlew as a selection feature.

The background papers record that Pearce-Higgins et al. (2009) identified a 42% reduction in the density of nesting Curlew within 500m of wind turbines. Follow up work recorded reduced densities of curlew at wind farm sites during the construction phase, with populations possibly declining by about 40% as a result of disturbance, failing to recover in these areas subsequently (Pearce-Higgins et al. (2012). The papers note that consent authorities may not be aware of the critical importance of breeding Curlew sites and identify knowledge gaps which hinder relevant bodies from making recommendations / decisions which would protect such sites.

The Curlew Conservation Programme<sup>2</sup> (NPWS) is a pilot project focused on seven of the most important areas for breeding Curlew in Ireland, including North Monaghan. The Annual Report 2019 records 3-6 breeding pairs in North Monaghan, with only one pair reaching hatching and no fledglings. The Report notes that for some areas, including Monaghan, breeding productivity has overall not been sufficient to maintain a stable breeding population. This has likely been for various site-specific reasons, which may not be overcome or changed in a matter of years. These populations could therefore be lost entirely unless further novel measures are taken in tandem with wider land use management / design.

### 7.6.3. Curlew & Proposed development

First party submissions note that Curlew already use this cluttered landscape and that there have been no records in the area of collision with obstacles. It is argued that the subject grid connection does not add to the collision risk. The application identifies five Curlew nest sites in this area from 2018 / 2019 seasons and indicates that following mapping of 2018 nesting activity, the route of the proposed powerline was revised to achieve greater separation from identified nest sites. Separation is identified as 370m from the nearest 2018 nest site and 260m from the nearest 2019

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<sup>1</sup> <https://www.chg.gov.ie/app/uploads/2019/09/curlew-task-force-recommendations.pdf>

<sup>2</sup> <https://www.npws.ie/farmers-and-landowners/schemes/curlew-conservation-programme>

nest site, with existing intervening wires and poles. The assessments note that significant increase in predator perch sites is not therefore anticipated. Access tracks are 730m from the closest 2018 nest sites, which is regarded as sufficient to address potential for increased predation. The first party confirm that all curlew nests in the wider area in 2018 failed and state that sub-optimal nesting habitats is a factor in fledgling failure. Habitat loss is identified as the likely primary threat / risk for Curlew.

The applicants conclude that given separation from 2018/2019 nest sites and the sub-optimal nature of habitats adjoining the development, the proposal is unlikely to give rise to increased likelihood of predation of future nests or other significant effects on breeding waders.

#### 7.6.4. **Conclusions: Impacts on Curlew**

This area of North Monaghan is a nationally important area for breeding Curlew and forms part of the conservation pilot programme. The species is suffering from habitat loss / displacement and predation and while the number of breeding pairs is small, it is nationally significant. The route of the line passes through or close to areas identified as suitable for breeding curlew primarily toward the northern end of the electricity line route, while the application acknowledges that other suitable breeding areas may also exist. Three 2019 nest sites have been identified within the study area of the proposed line / windfarm. One of these identified nest sites lies immediately adjacent to permitted Wind Turbine no. 3.

Based on submissions on the file, it would appear unlikely that the development would directly facilitate increased predation in the vicinity of existing identified nest sites given the separation distances provided. In certain cases, there are intervening overhead lines. Similarly, track creation as part of the development would not appear likely to impact on known nesting sites given the separation distances arising. There is, however, potential to reduce the suitability of other areas identified as potential curlew breeding sites. Given the vulnerable state of the breeding population of Curlew in this area, it is considered that further erosion of habitats used, or with potential for use by Curlew should be avoided. The first party describe other pressures on Curlew nest sites, however, the pilot conservation programme is

seeking to address such direct and indirect pressures and nationally has reported some success in recovery of breeding numbers.

The EIAR concludes that the proposed development, in combination with other developments in the study area does not have the potential for cumulative impacts on birds, having regard to the imperceptible nature of impacts, construction methodologies and avoidance of works during the bird breeding season. I do not consider, however, that the cumulative impact of this enabling power line with the permitted wind farm development, has been adequately assessed. The assessment of impacts on curlew under 10/110, PL18.240760 did not identify or assess the nest site at Turbine 3 and this would appear to be a change to the baseline environment which has not been previously identified or assessed. The information now available leads me to conclude that potential significant cumulative effects on this nationally important, endangered species are likely.

#### **7.6.5. Hen Harrier & Proposed Development**

The proposed grid connection and the windfarm which it is to serve lie outside the Slieve Beagh SPA, approx. 2km distant. The first party submit that the development relates to the construction of a power line and does not propose any wind turbines. While the windfarm will result in the direct loss of a limited area of sub-optimal habitats the subject grid connection will result in imperceptible habitat loss, and no displacement effects will occur. The first party state that there is no evidence of avoidance of overhead lines by birds or of hen harrier collision risk. Hen harrier activity is described as already low in this area and the development is unlikely to result in any further avoidance.

In response to the submission from Dept, of Culture, Heritage and the Gaeltacht, the applicants note that surveys carried out since 2009 have consistently recorded low levels of hen harrier activity in this area. Higher levels of activity would have been recorded if breeding habitat and / or optimal foraging habitat was present on the site. Their occasional presence in this area results from other pressures forcing this species to forage in areas outside the SPA and in areas comprising sub-optimal habitat. The proposed development will not result in the appreciable loss of any suitable habitats.



The EIAR predicts therefore that there will be no direct operational impacts from the proposed power line on hen harrier given that the development is not located within sensitive Hen Harrier habitat or on regular flight routes between either feeding areas, resting or breeding sites. Taking into account the already cluttered nature of the habitats in this area in addition to the low usage of the northern section of the route by foraging Hen Harrier, it concludes that collision impacts on Hen Harrier are negligible. This is not considered to be an unreasonable conclusion.

#### **7.6.6. Conclusion: Impacts on Hen Harrier**

I refer to Section 9.0 below and the conclusions reached therein.

The grid connection and windfarm development are regarded as one project, although subject to two separate planning applications. There is a strong functional interdependence between these two projects and the grid connection is regarded as enabling infrastructure which may result in indirect impacts on the conservation objectives of the SPA. There may also be in-combination effects with the adjoining Coolberrin Windfarm, however, there is no identified functional interdependence between these projects.

I conclude that the proposed development in itself is not likely to have significant adverse impacts on hen harrier or the achievement of the conservation objectives of the SPA. Significant direct construction impacts on habitats used by hen harrier are not considered likely given the nature and the localised temporary nature of activities. When considered in combination with the windfarm development with which it is functionally linked, however, it is considered that there is potential for the development to give rise to negative impacts on the ex-situ foraging area of the qualifying species of that site and that such impacts have the potential to be significant in scale.

#### **7.7. Cultural Heritage**

A separate Cultural Heritage Impact Assessment was submitted as Annex 4 to the EIAR.

The route of the line generally avoids features of cultural or heritage importance. There are no Recorded Monuments within the site boundary or the 50m

development corridor. Two recorded monuments (ringforts) occur within 100m of the proposed electricity line, while two Protected Structures are also sited within 100m of the line:

- Coolmain House - c. 100, east of pole-set no. 12.
- Bessmount House - c. 50m from the route of the UGC south of the N12. (The NIAH also records Bessmount Walled Garden and Bessmount Park outbuildings.)

There will be no direct or indirect construction impacts on any recorded archaeological, architectural or cultural heritage remains, although impacts on previously unrecorded features are possible. There will be no significant operational visual impact on any archaeological and architectural features. The assessment concludes that the potential for significant cumulative impacts with the permitted windfarm development or with other developments in the surrounding area are low. Proposed Mitigation Measures involve monitoring of excavations at identified locations along the route, including all underground cable excavations. I note the submission of the Department of Culture, Heritage and the Gaeltacht on this case and consider that subject implementation of the identified mitigation measures, significant residual impacts arising from the development are not likely.

## **8.0 Environmental Impact Assessment**

### **8.1. Introduction**

The proposed development, comprising a 38kv substation and associated works and approx. 17km of 38kv overhead line and 5km of underground cable, falls below the thresholds for mandatory EIA in Schedule 5 of the P&D regulations. Having regard to the nature of the development, however, comprising a grid connection from a permitted windfarm to the national grid, the applicants have submitted an EIAR with the planning application. The planning application was lodged with the planning authority in December 2018 and therefore falls to be considered under the 2014 Directive.

I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the appeal. A

summary of the results of the submissions made by the planning authority, prescribed bodies, appellants and observers is set out at Section 6.0 of this report. The main issues raised specific to EIA can be summarised as follows:

- the scope of the assessment undertaken
- cumulative effects with the permitted windfarm development
- Impacts on bird species for which the adjoining SPA has been designated (hen harrier) and other species of national conservation interest, in particular Curlew.

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct, indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2000, as amended. I am not satisfied, however, that the cumulative effects of the development with the associated and permitted windfarm development have been adequately described and this matter is considered in further detail below.

The EIAR is set out as follows:

- Vol. 1 Main Statement
- Technical Annex 1 – 6: Technical reports informing the EIAR
- Annex 7: Non-technical Summary
- Vol. 2 EIS submitted in respect of PA ref. 10/110, ABP ref. PL18.240670
- Vol. 3 Environmental report submitted in respect of PA ref. 17/258, ABP ref. ABP-300998-18

Article 94 of the P&D regs sets out the required contents of the EIAR. Art. 94(d) requires a reference list detailing the sources used for the descriptions and assessments included in the report. I note that this has not been provided in this instance.

Art. 94(e) requires a list of the experts who contributed to the report, identifying for each such expert which part they contributed to and their relevant competence and experience, including qualifications, if any, and any additional relevant information. While the submitted EIAR identifies the contributors and their areas of competence, no additional detail on their experience, expertise or qualifications have been provided. Exceptions in this regard include the information provide in the Cultural Heritage Impact Assessment in Annex 4.

## **8.2. Alternatives**

With regard to alternatives considered, the EIAR notes the following:

The substations permitted under planning ref. 10/110 / PL18.240760 and under planning ref. 17/258 / ABP-300998-18 no longer meet with ESB technical requirements and a new 38kv substation design is therefore required. An alternative route, connecting to a nearer 20Kv substation to the south is not now feasible and a 38kv connection to Lisdrum is therefore the only feasible option.

Undergrounding of the overhead line in the public roads was discounted on the basis of conflicts with existing underground services, impacts on traffic and the prolonged construction phase for such option. Undergrounding of the cable through private lands was rejected on the basis that it would require a 4m wide construction access track along the entire route with potential for increased disruption to agricultural activities.

## **8.3. Consideration of risks associated with major accidents and/or disasters**

The EIAR does not identify risks in this regard. Potential impacts associated with climate change are identified in relevant sections of the EIAR.

## **8.4. Description of the Existing Environment:**

The EIAR contains a broad description of this part of northern Monaghan, noting that there are no designated sites or significant environments within the development

site. While the EIAR notes the presence of Slieve Beagh SPA 2km from the site at its closest, it states that there is reasonable scientific certainty that the proposed development will have no impact on the site. The EIAR notes the landscape and visual, and cultural context of the proposed development and constraints thereon.

## 8.5. Likely Significant Effects

### 8.5.1. Population & human health

Population & human health	Mitigation measures
<p>Traffic volumes during construction and works on public roads will give rise to short term inconvenience and traffic impacts.</p> <p>Disturbance / Residential amenity impacts</p> <p>Non-Ionising Radiation</p>	<p>Works subject to road opening licenses</p> <p>Compliance with best construction management measures and guidance for construction noise &amp; dust control and monitoring.</p> <p>Adherence to the measures in the Construction Environmental Management Plan (CEMP), including the phasing &amp; timing of construction works.</p> <p>Minimum separation from residential properties. Design and construction informed by the “Electromagnetic Fields International Commission on Non-Ionising Protection”</p>
<p><b>Residual Effects:</b> Residual impacts are not predicted to be significant.</p>	
<p><b>Cumulative Impacts:</b> No significant cumulative impacts are expected</p>	
<p><b>Conclusion:</b> I have considered all the written submissions made in relation to population and human health. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

### 8.5.2. Biodiversity

Biodiversity	Mitigation Measures
<p><b>Habitats and Flora:</b>  Habitat loss and disturbance  Species disturbance and displacement;  Water quality impacts  Non-native invasive species</p> <p><b>Birds:</b> Disturbance of breeding birds and nest sites, loss of foraging habitat.  Displacement of prey and displacement arising from the associated windfarm development</p> <p><b>Fish &amp; aquatic life:</b> Potential impacts on water quality through sediment release and contamination, and through direct disturbance</p>	<p>Micrositing of pole sets and minimising works areas;  Timing of construction activity;  Protection of treelines and hedgerows according to NRA (2006a) and replanting hedgerows and treelines with native species;  Implement Surface water management plan following IFI (2016) and NRA (2008) guidance &amp; Invasive Species Management Plan following NRA (2010);  Waste disposal through registered facility;  Temporary storage only in assigned areas; portaloos only in fenced off site compounds on habitats of low ecological value;</p> <p>Routing to avoid identified nest sites.  Avoid / minimise off-road vehicle activity outside of the works areas and encroachment of machinery onto habitats outside the development footprint.  Undertake works at sensitive locations outside bird nesting season;  Follow NRA (2006a) guidelines for protection of hedgerows / treelines</p> <p>Implement measures set out in the Construction Environmental Management Plan (CEMP) and Surface Water Management Plan (SWMP) following IFI and NRA guidelines for watercourses;</p>

<p><b>Bats</b> Commuting / foraging route habitat loss; Disturbance /</p> <p><b>Other species:</b> Non-volant Mammals: Disturbance; Water quality</p> <p><b>Marsh Fritillary:</b> Potential habitat loss</p>	<p>For instream works, fish and Crayfish translocated under agreement with IFI and carried out by Ecological Clerk of Works (ECoW);</p> <p>Site specific method statements for all watercourse crossings particularly for construction of the UGL.</p> <p>Timing of works outside salmonid closed season;</p> <p>No works between dusk and dawn; no illumination of hedgerows / treelines scrub habitats; NRA (2006a) guidelines; any mature trees required to be felled checked for bats prior to works.</p> <p>Works to be undertaken during daylight hours only; pre-construction mammal surveys</p> <p>Pre-construction surveys and on-going construction monitoring. Timing of construction activities. Avoidance of sensitive sites through micro-siting of polesets.</p>
<p><b>Residual Effects:</b> Potential reduction in suitability of potential Curlew breeding sites.</p>	
<p><b>Cumulative Impacts:</b> Significant cumulative impacts due to displacement of Curlew and erosion of breeding habitat.</p> <p>Potential loss of foraging habitat for hen harrier.</p>	

**Conclusion:** I have considered all the written submissions made in relation to biodiversity, in addition to those specifically identified in this section of the report. I am satisfied that significant cumulative effects are likely and that they have not been adequately addressed in terms of the application.

### 8.5.3. Land and Soils

Land, soil & water	Mitigation Measures
<p>Land use: Loss of agricultural lands.</p> <p>Treatment of excavated materials.</p> <p>Excavations and drilling activity giving rise to water quality impacts</p> <p>Ground and surface water contamination from leakage &amp; spillages from construction vehicles and fuel stores.</p>	<p>Extent of loss is minor and localised.</p> <p>Construction activities will be short-term in nature.</p> <p>Excavation activity limited in extent and nature. Reuse materials for reinstatement and disposal to authorised sites where necessary.</p> <p>Compliance with the Construction Environmental Management plan and Surface water Management plan.</p> <p>Suite of measures including timing and sequencing of works;</p> <p>On-site drainage; buffer zones, around watercourses; bunding silt traps, interceptors &amp; settlement ponds; water treatment; storage &amp; disposal sites; best construction practice methodologies;</p>
<p><b>Residual Effects:</b> Residual impacts not predicted to be significant subject to the implementation of mitigation measures.</p>	
<p><b>Cumulative Impacts:</b> No significant impacts predicted.</p>	
<p><b>Conclusion:</b> I have considered all the written submissions made in relation to land, soil &amp; water. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	



8.5.4. **Water**

Water	Mitigation Measures
<p>Potential silt / sediment release to watercourses during construction.</p>	<p>Follow construction best practise methodologies. Implement measures set out in the Construction Environmental Management Plan and Surface Water Management Plan following IFI and NRA guidelines,</p> <p>Agree site specific method statements for all UGL watercourse crossings with IFI.</p> <p>Undertake works outside salmonid closed season.</p> <p>Management and transport off-site of wastewater at sub-station site.</p>
<p><b>Residual Effects:</b> Residual impacts not predicted to be significant subject to the implementation of mitigation measures.</p>	
<p><b>Cumulative Impacts:</b> Potential significant cumulative impacts at construction stage with adjoining windfarm subject to implementation of identified mitigation measures, significant effects not anticipated.</p>	
<p><b>Conclusion:</b> I have considered all the written submissions made in relation to water. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

8.5.5. **Air & Climate**

Air & Climate	Mitigation measures
<p>Dust &amp; air quality issues during construction are short-term and not significant.</p> <p>The development will facilitate a wind energy development which would contribute to the achievement of</p>	<p>Adherence to Construction Environmental Management Plan, timing and duration of activities.</p>

renewable energy target set out in the Climate Action Plan.	
<b>Residual Effects:</b> No significant residual effects expected.	
<b>Cumulative Impacts:</b> Potential positive contribution to reduction in carbon emissions in facilitating the operation of the adjoining wind farm.	
<b>Conclusion:</b> I have considered all the written submissions made in relation to population and human health. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.	

#### 8.5.6. Noise and Vibration:

Noise and Vibration	Mitigation measures
Only minor localised vibration impacts in the vicinity of drilling activities. Construction activity noise and disturbance at pole sites	Implementation of the Construction Environmental Management Plan and standard construction management measures.  Limited duration and extent of works.
<b>Residual Effects:</b> No significant residual effects expected.	
<b>Cumulative Impacts:</b> Significant cumulative noise impacts during construction of the windfarm are not expected due to separation from sensitive receptors.	
<b>Conclusion:</b> I have considered all the written submissions made in relation to landscape. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.	

#### 8.5.7. Landscape:

Landscape	Mitigation measures
Impact on scenic routes and features of landscape / heritage interest.	Minor local impacts anticipated, and specific mitigation measures are not identified. Routing and undergrounding to

	<p>avoid areas of cultural or heritage sensitivity.</p> <p>Screen planting at substation site would be appropriate.</p> <p>Separation from designated scenic routes</p>
<p><b>Residual Effects:</b> Significant residual impacts not expected.</p>	
<p><b>Cumulative Impacts:</b> Significant cumulative impacts with the permitted windfarm development would be expected, however, such cumulative effects are not regarded as significant adverse in this landscape.</p>	
<p><b>Conclusion:</b> I have considered all the written submissions made in relation to landscape. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

#### 8.5.8. Cultural heritage

Cultural heritage	Mitigation measures
<p>Permanent direct construction impact on previously unrecorded archaeological remains.</p>	<p>Archaeological monitoring of excavations under licence, at locations where the proposed development crosses townland, parish or barony boundaries and at locations in close proximity to previously recorded monuments and structures.</p> <p>Constant archaeological monitoring under licence to be carried out on all excavations associated with construction of the UGL and on all excavations in the vicinity of two RMP recorded within 100m of the line.</p>

	<p>Full excavation and recording of any archaeological features or deposits that may be exposed during monitoring.</p> <p>Archaeological monitoring of the permitted Mountain Waters Wind Farm.</p>
<b>Residual Effects:</b> No significant residual impacts are not predicted.	
<b>Cumulative Impacts:</b> No significant cumulative impacts predicted	
<b>Conclusion:</b> I have considered all the written submissions made in relation to material assets and cultural heritage. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.	

#### 8.5.9. Material Assets

Material assets	Mitigation measures
<p><b>Transportation:</b> Potential for short term disruption on local road network during the laying of 40m of cables under public roads, generally comprising direct crossings.</p> <p><b>Telecommunications &amp; Services:</b> Interference or loss of services</p>	<p>Compliance with Council road opening licences and localised construction traffic management measures</p> <p>Drilling under N2 to reduce disruption.</p> <p>Separation by design, undertaking pre-construction surveys of services, contact relevant service providers will be contacted in advance to determine specific excavation, relocation or reinstatement requirements.</p>
<b>Residual Effects:</b> Residual impacts are not predicted to be significant.	
<b>Cumulative Impacts:</b> No significant impacts predicted	
<b>Conclusion:</b> I have considered all the written submissions made in relation to material assets and cultural heritage. I am satisfied that they have been	

appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.

## 8.6. Interactions:

### **Population & Human Health / Landscape**

The proposed substation and OHL will be locally visible in the landscape, existing vegetation will provide screening. There will be a cumulative impact with the permitted windfarm and they will read locally as one development. The proposed overhead line will be visible to local receptors but the impacts will be low.

### **Population & Human Health / Noise & Vibration**

Construction activity will give rise to temporary, short-term noise and vibration impacts, but given separation distances from receptors significant and temporary duration, impacts are unlikely. There will be no significant cumulative operational impacts with the permitted windfarm.

### **Population & Human Health / Transport & Access**

Construction activity will result in some disruption requiring traffic management. Construction activity will not use the identified haul route for the permitted windfarm. Significant interactions are not considered likely.

### **Population & Human Health / Telecommunications & Services**

During construction, the applicant will engage with service providers where the development comes within close proximity to existing services in order to avoid disruption impacts. Mitigation of telecom signal impacts were previously identified in respect of the permitted windfarm.

### **Biodiversity / Land & Soil / Water**

Construction activity will lead to some minor habitat loss, however, the proposed and permitted developments are not located within designated ecologically sensitive areas. Surveys during construction will allow for identification of minor modifications to avoid sensitive habitats. There is potential for impacts on water quality and

aquatic species from contamination or silt run-off to watercourses during construction activity, requiring mitigation.

### **Land and Soil / Cultural Heritage**

Excavation activity has the potential to impact on previously unrecorded archaeological features. The monitoring of excavations will ensure that any interactions with items of cultural heritage significance will be appropriately managed.

### **Landscape / Cultural Heritage**

There is potential for visual impacts on cultural heritage, however, significant impacts are not likely given separation from features of interest, the existing vegetative screening and the nature and extent of the overhead line and underground cabling. The line will run underground in proximity to Bessbrook House.

## **8.7. Cumulative Effects**

- 8.7.1. The subject development would, on its own, not exceed the threshold for submission of a mandatory EIAR. In the light of the O’Grianna judgement, however, an EIAR was submitted in order to consider the likely significant environmental effects of the proposed development in combination with the permitted Mountain Waters Wind Farm.
- 8.7.2. There is a clear functional interdependence between the permitted but as yet unconstructed windfarm and this grid connection project. I would distinguish this relationship from that which might arise between two adjacent but functionally separate projects. Having regard to this relationship, there would appear to me to be two courses available to the Board in considering the cumulative environmental effects of the development with the permitted windfarm.
- 8.7.3. The Board could accept the approach proposed by the first party whereby it is argued that the permitted windfarm development was previously found to not give rise to significant impacts and therefore as the subject grid connection as “is determined to be unlikely to result in any significant effects on the environment,

.....” it is unlikely to result in any cumulative impacts with existing, permitted or proposed projects.

8.7.4. I do not consider that this approach adequately addresses the requirement to assess potential in-combination / cumulative effects in the area however. I consider that a more holistic interpretation of the consideration of cumulative impacts is required in respect of such enabling or facilitative infrastructure because of the strength of the link between the proposed development and the final impacts. This approach would effectively consider the windfarm and grid connection as one project. I consider that this approach is the one which should be adopted in this instance having regard to,

- the overarching objectives of the EIA Directives to ensure a high level of protection of the environment and of human health.
- the functional interdependence between these two projects and the reliance of the windfarm on the grid connection to proceed, notwithstanding the previous approval for the windfarm development.
- the information which is now available and which was not considered in the assessment undertaken in 2013 in respect of the windfarm, particularly relating to the protection of curlew in North Monaghan.
- the strong likelihood that the windfarm development facilitated by this grid connection would negatively impact on identified curlew nesting sites, a nationally important and threatened species in respect of which specific measures are being implemented in this area to maintain a stable breeding population.
- the conclusion that the development of the windfarm site would result in the loss of, displacement from, habitat used for foraging by hen harrier, the qualifying species for Slieve Beagh SPA, notwithstanding the sub-optimal status of such foraging habitats.

I am not satisfied that the proposed development in combination with the associated windfarm development would not give rise to significant cumulative ecological effects on the environment or that these cumulative impacts can be avoided, managed or

mitigated by the measures proposed as part of the development or otherwise by condition.

### Reasoned Conclusion on Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR, associated technical reports and subsequent submissions including the Natura Impact Assessment, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, the main significant direct and indirect effects of the proposed development on the environment are identified as follows.

- The ***risk of pollution of ground and surface waters during the construction phase*** arising from a lack of control of surface water during excavation and construction, the mobilisation of silt / sediments during excavation and construction and the necessity to undertake construction activities within and in the vicinity of existing watercourses. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages. These impacts would be mitigated particularly by the implementation of measures identified within the Construction and Environment Management Plan, Surface Water Management Plan and Spoil Management Plan submitted to the planning authority on 11/07/2019.
- ***Biodiversity impacts.*** Cumulative biodiversity impacts would also arise with the associated windfarm development in terms of loss of habitat and displacement of priority bird species, in particular Curlew and Hen Harrier and their prey species. No measures to adequately mitigate these impacts are identified in this proposal and significant adverse cumulative effects on these species are therefore considered likely. Such effects would undermine the conservation objectives of the Slieve Beagh SPA and would potentially significantly impact on the population of breeding curlew in this area.



- The project could give rise to an increased risk of damage to **cultural heritage** (including as yet undiscovered archaeological features) during the construction phase, however, on-going monitoring of excavations and the appropriate treatment of such previously unrecorded features in terms of excavation and recording would adequately address such impacts.
- The proposed development would have ***potentially significant positive environmental impacts*** during the operational phase by facilitating the generation, and providing for the transmission of, renewable energy from the associated windfarm with an associated contribution toward a reduction in carbon emissions.

In ***conclusion***, having regard to the above identified significant effects, I am not satisfied that, notwithstanding the identified mitigation measures, that the proposed development would not have any unacceptable direct or indirect impacts on the environment.

## 9.0 **Appropriate Assessment**

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

The overarching objective of the Habitats and the Birds Directives is to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary for 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.

This application was accompanied by a Stage 1 AA Screening Report and a Stage 2 Natura Impact Statement (NIS). This was supplemented by the applicant's response to the request for further information and subsequent appeal correspondence.

## 9.2. Stage I: Screening for Appropriate Assessment

### 9.2.1. European Sites

The Screening Assessment notes that the proposed development will not cross any protected habitats or sites identified for protected species and, further, that there are no suitable breeding habitats for hen harrier within the site boundary. European Sites in the wider area surrounding the site are identified as follows:

#### **Slieve Beagh SPA 004167 / Slieve Beagh – Mullaghfad – Lisnaskea SPA UK902302.**

The Slieve Beagh SPA forms part of a cross border SPA with the Slieve Beagh - Mullaghfad - Lisnaskea SPA (UK902302) in Northern Ireland, whose Conservation Objective is: To maintain or restore the favourable conservation condition of the Hen Harrier (A082). Merlin, listed on Annex I of the Birds Directive are also noted to occur in the site.

The Conservation Objectives note that the favourable conservation status of a species is 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, and
- 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.

The same conservation objectives are reflected across the two cross-border SPA's.

The applicant's Screening Assessment notes that the SPA is located approximately 2km south-west of the proposed development and that having regard to potential impacts thereon, this SPA is Screened In.

#### **Slieve Beagh SAC UK0016622.**

This SAC is located ca. 6km west of the proposed development and is designated for the presence of Annex I habitats: Natural dystrophic lakes and ponds (3160) and

Blanket bogs (7130) and also for European Dry Heaths (4030). The site is screened out by the applicant due to the nature of the habitats present within the SAC; the nature and scale of the proposed development, the absence of hydrological connections / pathways for impacts upon the habitats for which this site is designated.

### **Magheraveely Marl Loughs SAC UK0016621**

This site is located ca. 12km south-west of the proposed development. It is designated for the presence of Hard oligo-mesotrophic waters with benthic vegetation; Alkaline fens; rare Calcareous fens and for White-clawed Crayfish. The applicant's Screening Assessment notes that given separation between the SAC and the proposed development site, the lack of hydrological connectivity or of identified pathways for impacts to occur, that there is no potential for impacts to occur in the SAC and thus this site is screened out.

These principle conclusions of the Screening Assessment in this regard are considered to be reasonable.

#### **9.2.2. Description of Natura 2000 site likely to be affected: –**

##### **Slieve Beagh SPA / Slieve Beagh – Mullaghfad – Lisnaskea SPA.**

The appeal site lies outside the designated area of the Special Protection Area, of special conservation interest for Hen Harrier. The 2012 NPWS site synopsis describes this site as one of the strongholds for Hen Harrier nationally, providing excellent nesting and foraging habitat for breeding hen harrier. The mix of forestry and open areas provides optimum habitat conditions for this rare bird. The early stages of new and second-rotation conifer plantations are identified as the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank.

The Northern Ireland Environment Agency Conservation Objectives for Slieve Beagh – Mullaghfad – Lisnaskea SPA note that the SPA area does not include all lands

used by foraging Hen Harrier during the breeding season. Foraging ranges of individual birds are known to exceed 10km and some degraded habitats (e.g. degraded heath and semi-improved acid grasslands) hold higher densities of prey species (e.g. Meadow Pipit), which will not have been included in the SPA area.

### 9.2.3. **Assessment of Impacts.**

In terms of survey work, the submitted screening assessment indicates that walkover surveys of the site were undertaken in June 2018. Breeding and winter bird surveys were undertaken in 2018 and additional vantage point watches were undertaken at the northern end of the route. The assessment concludes that there will be no direct impacts on the Natura 2000 network given the separation distances arising. Indirect impacts are identified as potential disturbance during construction and collision risk / electrocution impacts during operation. It is reported that there is no suitable breeding habitat for Hen Harrier within the proposed development site and that the preferred foraging habitat of Hen Harrier are not present within any section of the site. The screening assessment therefore concludes that displacement or loss of habitat is not considered to be a likely impact of the proposed power line.

The screening assessment cites a typical foraging range of 1-2km from nest sites and argues that given separation from the SPA and reported westward movement of breeding sites recorded in 2015, the frequency with which flights may occur in the vicinity of the proposed development and the permitted wind farm site, is significantly reduced. In this regard, I note the foraging ranges of 5-10km referenced in the NPWS site synopsis and the NIAE Conservation Objectives documents for this cross-border SPA. This range would extend beyond the boundaries of the SPA, subject to the availability of suitable foraging habitats / prey. It is the case therefore that ex-situ foraging sites for the identified species may play an important role in achieving the conservation objectives of this European site. I note also the comments of the Department in relation to the westward movements of breeding sites recorded in 2015.

The risk of collision and/or electrocution is stated to arise solely from the overhead line element of the proposed development. Given recorded low levels of Hen Harrier activity in the vicinity of the proposed development and separation from any known nest site, the assessment describes the risk of collision during displaying as unlikely.

The likelihood of an effect on Natura 2000 sites as a result of collision with the line is therefore described as extremely low. The assessment concludes, however, that there is the potential for disturbance impacts to arise during construction, and collision / electrocution impacts during the operational phase.

#### 9.2.4. **In-combination Impacts**

The Screening Assessment states that it takes account of the permitted Mountain Waters Wind Farm & Coolberrin Wind Farm to the south, the proposed North-South Interconnector and other residential, industrial and agricultural developments in the surrounding area. The main threat to the long-term survival of Hen Harrier within the SPA is identified as reduction or fragmentation of foraging habitat due to afforestation and peat extraction, resulting in a possible reduction in breeding density and productivity. As the proposed development does not involve such activities, the assessment concludes that it would not therefore give rise to in-combination impacts.

The assessment acknowledges that in-combination impacts may arise in terms of disturbance during construction and the potential for in-combination collision risk during the operational phase. It argues however, that numerous previous assessments have concluded that the construction and operation of the Mountain Waters Wind Farm will not result in any likely significant impact on the Hen Harrier or on the conservations objectives of the SPA. It therefore concludes that potential in-combination impacts on the hen harrier are not likely to be significant.

#### 9.2.5. **Screening Conclusion:**

The Screening Assessment concludes that while habitat within the site is sub optimal for foraging purposes, Hen Harrier have been recorded in the northern section of the study area, and a Natura Impact Statement is therefore required.

### 9.3. **Stage II Assessment:**

- 9.3.1. The relevant European site for the purposes of the assessment is the Slieve Beagh SPA 004167 / Slieve Beagh – Mullaghfad – Lisnaskea SPA UK902302 as described above. The proposed development lies outside this European Site, approx. 2km distant at the closest point.

The NIS notes that surveys undertaken in 2009/2010 for the permitted Mountain River Windfarm found that the development area did not contain suitable Hen Harrier foraging habitat, although Hen Harrier were recorded on two occasions. The potential impact to Hen Harrier was assessed as minor negative. A subsequent breeding bird survey in 2011 identified no hen harrier activity or suitable breeding habitats. Further, 2018 winter and breeding bird surveys confirm occasional usage of the northern section of the grid connection route by foraging Hen harrier and foraging over the Mountain Waters Wind Farm site associated with a nest site, 4km distant.

### 9.3.2. **Impact Prediction:**

#### **Proposed Development:**

The route of the grid connection as it travels southeast from the proposed sub-station increases separation from Slieve Beagh SPA and areas of recorded hen harrier activity. With separation, the nature of habitats also change and reduce in suitability for this species. I consider therefore that the key areas of concern relate to the northern end of the proposed grid connection and the substation works, and the in-combination effects with the permitted windfarm which is to be served.

The NIS refers to a shift in the breeding hen harrier population westward in 2015/2016, further away from the appeal site, recorded in the 2015 National Survey. It notes that habitat change was likely to be the key reason for this shift and on this basis, it describes the potential for impacts on this Natura site as minimal. The submission from the Department of Arts Heritage and the Gaeltacht (Feb 2019) indicates that references to such westward movement are relevant only to 2015 and that more recent data indicates that in 2018, 5 no. nest sites in the (Monaghan) SPA were occupied, increasing the importance of foraging sites in North Monaghan, including sub-optimal sites.

I note also the following comments from the Hen Harrier Programme - Hen Harrier Monitoring report 2019.

“The small Hen Harrier population in Slieve Beagh SPA has undergone changes and fluctuations between years over the last 10 years, however this is part of a larger cross-border population ..... and there has been some interchange of breeding

pairs between years. There were three confirmed pairs and one possible pair recorded during surveys in 2019. Two pairs within the SPA successfully fledging four young.” The population in terms of territorial pairs is described as stable.

Submissions on the file are not in disagreement with regard to the lack of suitable habitat for breeding hen harrier on the grid connection route or windfarm site. The question relates more particularly to the presence / potential loss of hen harrier foraging habitats. Occasional hen harrier activity has been observed in the vicinity of the site and the associated wind farm development which the applicants identify as confirming the sub-optimal nature of habitats on the lands for foraging activity. Potential impacts are identified in the NIS as disturbance, collision / electrocution, displacement and the barrier effect.

i Disturbance

The NIS advises that the development avoids designated sites and other sites of significance for birds. No suitable breeding habitats or breeding activity are identified within the proposed development site or immediately adjacent. As sightings of hen harrier have occurred primarily in the vicinity of the northern end of the proposed line, significant disturbance impacts are not anticipated.

Given separation from the SPA, it concludes that there is no potential for construction disturbance on breeding Hen Harrier. Works in proximity to sensitive areas, good quality hedgerows, treelines or woodland will be undertaken outside the bird nesting season to obviate potential for disturbance impacts to significantly affect foraging Hen Harrier.

ii Displacement

In considering the effects of windfarm developments, Pearse and Higgins (2009)<sup>3</sup> concluded that turbines were avoided more strongly than tracks, whilst there was no evidence for consistent avoidance of overhead transmission lines connecting sites to the national grid.

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<sup>3</sup> Pearce-Higgins Journal of Applied Ecology 2009,46, The distribution of breeding birds around upland windfarms

The first party argue that the occasional presence of hen harrier on the site is the result of other pressures in terms of reduced optimal foraging habitat within the SPA. Further it is submitted that the development will not result in any appreciable loss of foraging habitat and that there is no evidence of risk of collision with overhead lines which are a common feature in the landscape. It is indicated that the substation will occupy an area of improved agricultural grassland, although I observed that this field would appear to more closely reflect wet grassland habitat. This area will be permanently removed from potential foraging use, described in the NIS describes as not being a significant adverse impact.

Given the limited extent of works, the nature of habitats traversed and increasing separation from the SPA with distance, it is not considered that the proposed grid connection development in itself would give rise to significant reduction in foraging habitats.

#### iii Collision / Electrocutation

The proposed 38kv line is to be provided with poles of up to 16m height. Hen harrier activity is restricted to the northern end of the route and habitats traversed by the route are not generally favoured by hen harrier for foraging purposes. In this regard, the NIS description of the risk of collision as low and not significant, is not regarded as unreasonable.

#### iv Barrier

Given the height and scale of the proposed power line, reported hen harrier activity and its routing away from the SPA and suitable foraging habitats, it is not considered that it would act as a barrier to movements in the same way as may occur in terms of avoidance of turbines. Having regard to the foregoing, it is concluded that the proposed 38kv line would not significantly impact on the conservation objectives of the SPA.

### 9.3.3. Mitigation:

The NIS concludes that there are no impacts which would have the potential to affect the conservation status of the Annex I species. The proposed works will not have an



adverse effect on the conservation objectives of this site with regard to the restoration of Annex I species to favourable conservation status. Notwithstanding this conclusion, the following mitigation measures are identified:

- Undertaking works outside of the bird nesting season where they occur in proximity to the SPA (upper section of the route), good quality / sensitive hedgerows, treelines or woodland.
- Avoiding or minimising off-road vehicle activity outside of works areas, and avoidance of encroachment onto habitats outside the development footprint.

#### **9.4. In-combination effects**

##### **9.4.1. Scope of Assessment**

I note statements in the first party further information response to the effect that the development relates to the electricity line and associated infrastructure and does not propose any wind turbines.

In considering potential in-combination effects, I refer to my conclusions on the assessment of cumulative effects in respect of EIA above. Similar conclusions would apply in this case. There is a clear functional interdependence between this grid connection project and the as yet unconstructed windfarm. I would distinguish this relationship from that which might arise between two adjacent but functionally separate projects.

In accordance with my earlier conclusion I consider that the windfarm and grid connection projects should be assessed as one project. In adoption such an approach, I would have regard to,

- the overarching objectives of the EIA and Habitats Directives to ensure a high level of protection of the environment.
- the functional interdependence between these two projects and reliance of the windfarm development on such connection to the national grid, notwithstanding the previous approval for the windfarm development.
- The lack of a full Appropriate Assessment of the windfarm development in 2013.

- the potential loss of, displacement from, habitat used for foraging by hen harrier arising from the development of the windfarm site, notwithstanding the sub-optimal nature of such foraging habitats.

#### 9.4.2. **Predicted Effects**

There is a lack of consensus in submissions on the file on the importance of the windfarm site for hen harrier foraging. The NIS notes that the proposed development will not give rise to significant changes in terms of disturbance to key species; reduction in habitat area; habitat or species fragmentation or a reduction in species density. The NIS argues that as there will be negligible impacts from the proposed development, it can't constitute in-combination impacts with the proposed wind farm on the SPA. No significant impacts on the SPA arising from the proposed development are therefore envisaged.

There is significant correspondence on the file with regard to hen harrier activity in the area of the proposed development. It is indicated that survey work has been carried out since 2009, including breeding and winter bird surveys between 2017 and 2019. While dates of surveys have been provided, I note that detailed survey results were not provided with the application or other submissions to the planning authority or the Board.

I consider that any suitable habitats within the range of the qualifying species of the SPA may be functionally linked to that European Site. Having regard to submissions on this and previous cases, I am satisfied that there is sufficient information to conclude that the associated windfarm development site includes suitable ex-situ foraging habitats for hen harrier and, notwithstanding the low frequency of reported sightings, that the site is used for such purposes, notwithstanding the first party description of such habitats as sub-optimal. The definition of sub-optimal in terms of foraging habitat is not clear and the quality of habitats will vary widely between optimum and wholly unsuitable and may vary over time. Status as sub-optimal does not mean that the lands cannot function as supporting habitats for the species and the SPA. In this regard, I note the Dept. Culture Heritage and the Gaeltacht submission on PA ref. 17/258 / ABP-300998-18, which identified the presence of

harrier prey on the windfarm site and confirmed that the site contained suitable foraging habitat for hen harrier.

I note that 2019 figures indicate that there are 3/4 breeding pairs of hen harrier in the SPA (Co. Monaghan). While the numbers are described as stable, they would suggest the need for continued levels of protection and that any further reduction in the availability of habitats to support the species, within or without the SPA, should be strongly resisted. The proposed development will not directly result in a significant reduction in the level of suitable foraging habitat for hen harrier. The development will, however, enable a development which will result in the direct loss of foraging habitats and potential displacement of the qualifying species, albeit that those foraging habitats are not optimal.

#### **9.5. Concluding Statement:**

- 9.5.1. The appeal relates to the construction of a 38kv line, new substation and associated works to connect a permitted windfarm with Lisdrum substation approx. 22km to the southeast. The first party argue that the development relates to construction of a power line and does not propose any wind turbines, and further that there is no evidence of avoidance by birds in respect of OHL's. Hen harrier activity is already low and the grid connection development is unlikely to result in any further avoidance.
- 9.5.2. I conclude that the subject development will not have significant adverse impacts on the integrity of the SPA or the achievement of the conservation objectives of the site. When considered in combination with the associated windfarm development, however, it is considered that there is potential for negative impacts on the ex-situ foraging area of the qualifying species of that site and that such impacts have the potential to be significant in scale.
- 9.5.3. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and having regard to submissions received on the planning application, and in light of the assessment carried out above, I am not satisfied that the proposed development when considered in combination with other plans or projects would not adversely affect the integrity of Slieve Beagh SPA

(004167) and Slieve Beagh – Mullaghfad – Lisnaskea SPA (UK902302), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

## 10.0 Recommendation

10.1. That permission be refused for the proposed development for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. Having regard to:

- (a) the location of the appeal site in proximity to Slieve Beagh Special Protection Area (0041697) and the Slieve Beagh – Mullaghfad -Lisnaskea Special Protection Area (UK902302) and within the foraging range of Hen Harrier, which is the bird species of special conservation interest for the Special Protection Areas,
- (b) the functional interdependence between the proposed development and the associated windfarm development, notwithstanding the previous approval for the windfarm development, and the reliance of the windfarm development on such connection to the national grid.
- (c) the loss of, displacement from potentially suitable foraging habitats for hen harrier arising from the development of the windfarm site, notwithstanding the sub-optimal nature of such foraging habitats.

the Board cannot be satisfied that the proposed development, in combination with the adjoining associated windfarm development, will not impact adversely on the designated sites, individually or in combination with other plans or projects, in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.

2. North Monaghan is identified as a nationally important area for breeding curlew, a priority conservation species. The proposed development traverses an area which supports breeding curlew and the associated wind energy development includes identified nesting sites. The Board is not satisfied that the proposed development, when taken in combination with the wind energy development, would not negatively impact on the achievement and maintenance of a stable breeding population of Curlew in North Monaghan by reason of disturbance and displacement effects on the species. The proposed development would therefore be contrary to the proper planning and development of the area.

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Conor McGrath

Senior Planning Inspector

20/05/2020