



An
Bord
Pleanála

Inspector's Report

ABP-309906-21

Development	Construction of a 38kv electricity substation; and the installation of approximately 22km of 38kV electricity cables from proposed substation to existing substation.
Location	North County Monaghan extending in a north west to south east line, across the townlands listed at section 2 of this report.
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	18562
Applicants	Coolberrin Windfarm Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	An Taisce
Observers	Wild Ireland Defence CLG
Date of Site Inspection	1 st October 2021
Inspector	Dolores McCague

1.0 Board Correspondence

- 1.1.1. The Board issued a letter on the 14th January inviting submissions and stating that it proposed to take the following into account:

Having regard to the location of the proposed development in a known breeding area of Curlew, an annex II species under the EU Birds Directive and a species on the red list of Birds of Conservation Concern in Ireland, and on the IUCN list being of high conservation concern and threatened with extinction, and which has been the subject of the work of the Curlew Task Force since 2017, in an area which is the focus of a Curlew Action Team, the Board is not satisfied on the basis of the information submitted with the application and in response to the appeal, that the proposed development, would not have serious negative impacts on this protected species. The proposed development might, therefore, be contrary to the proper planning and sustainable development of the area.

2.0 Responses

2.1. Appellant Response

- 2.1.1. A response was received from An Taisce, 23rd February 2022, which includes advice provided to them by BirdWatch Ireland:

The NPWS Curlew Conservation Programme (CCP) was established in 2017 to support Curlew conservation efforts in Ireland, following the recommendations of the Curlew Task Force. According to the report of the CCP there were between 2-5 breeding pairs in north Monaghan. Adult Curlews are strongly philopatric, returning to the same nesting site in 86% of cases. This was found to be statistically related to the breeding success of a chosen area. This is despite the use of a wide variety of wetland habitats for feeding and winter roosting. Therefore, fidelity to breeding sites across multiple years may be linked to disturbance of other suitable sites, such as nest predation by avian predators and human effects.

They recommend that the Board engage with the NPWS in relation to data on the Coolberrin and Coraghbrack sites, because data on nest sites is not usually divulged.

The zone of sensitivity for this species has been set at 800m around point locations of known Curlew breeding sites (a reference for the source of this buffer is given). The same paper notes that the species steady decrease in population, range and low hatching success means that any additional pressures through displacement or barrier effects may have a disproportionate effect on this species' conservation. Given that Curlew are generally faithful to the location of their breeding grounds, habitat loss and degradation are serious causes of concern and are major drivers of the projections for population extinction of breeding Curlew in Ireland. Curlew are not listed on Annex 1 of the Birds Directive, though this list dates back to 1978 and has not been updated, when breeding Curlew were not considered threatened. Species such as Curlew and other breeding waders are now considered Globally threatened by the International Union for the Conservation of Nature (IUCH), with breeding Curlew added to the Red List of Globally threatened Species in 2008. They are also red listed in Birds of Conservation Concern in Ireland assessment.

Article 4 (2) of the Birds Directive states that 'Member States shall take similar measures for regularly occurring migratory species not listed in Annex 1, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migratory routes. To this end, Member States shall pay particular attention to the protection of wetlands and particularly wetlands of international importance'.

In addition, Article 4(4) requires 'in respect of the protection areas referred to in Paragraphs 1 and 2, Member states shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or degradation of habitats'.

While the Eurasian Curlew is not listed on Annex 1 of the Birds Directive, it is a highly migratory species in need of coordinated conservation action and research. In Ireland it is not known where the Irish breeding population of Curlew spend the

winter due to lack of research. Swedish ringed Curlew have been recovered in Ireland.

Recommendation 6.1 of the Curlew Task Force recommendations is quoted.

On the basis of the very significant adverse affects to Curlew they recommend that this planning application is refused.

They refer to foraging Hen Harrier.

They attach an appendix which reiterates submissions in their original appeal.

2.2. Applicant Response

2.2.1. Energia responded, 24th February 2022, as the applicant, which response includes:

They attach as an appendix a detailed ornithological report prepared by Ecofact Environmental Consultants, which they say includes an updated assessment, based on comprehensive and current survey data, with the benefit of further survey work undertaken in 2022. They point out the amount of survey work undertaken and that based on this unparalleled survey work, the assessment concludes, with high confidence, that the proposed development will not have any impacts on any Curlew in the area.

Although not considered necessary, they intend to comply with extensive additional mitigation measures, out of an abundance of caution only.

Curlew in Monaghan has been subject to pressure from agriculture, forestry and one-off house developments. Habitat loss has been the main driver of Curlew loss. There is one nesting site remaining within the extensive study area for the proposed development, nest C2.

Historical Breeding Area:

C1 site historic – located 1.5km west of proposed grid connection, the former nest site on the permitted wind farm is no longer suitable for breeding Curlew and there were no attempts to nest there in 2020-2021. In addition to the sub-optimal habitat at the nest site there are also one-off houses with domestic pets in proximity, which have further contributed to the unsuitability of this site.

C3 site historic - located 580m west of proposed grid connection, there were no attempts to breed there, which was last used in 2018. Construction works in 2019 resulted in permanent habitat loss at this site and the site is unsuitable for Curlew.

C4 site historic - located 1km west of proposed grid connection. No attempts were recorded 2020-2021.

C5 site historic - located c270m west of proposed grid connection. Nesting was unsuccessful in 2019. No attempts were recorded 2020-2021.

C6 site historic - located c750m west of proposed grid connection, close to C2. No attempts were made in 2021.

Current Breeding Area:

C2 site existing - located c300- 360m west of proposed grid connection. Nesting attempts have been made on C2 in 2018, 2019 and 2021. All attempts failed and the NPWS consider that this female is no longer laying viable eggs due to her age.

N7 site existing - located c2.7km west of proposed grid connection. Nesting attempts have been made on N2 in 2021. Three chicks were successfully fledged in 2020. Nest attempts failed in 2021.

Potential Impacts:

Only one territory was within 500m of the proposed development. In order to avoid any construction phase impacts, construction will not occur during the bird breeding season within 800m of any known or historic Curlew nest site between 1st March and 31st August.

During the operational phase there is potential for the proposed development to result in displacement, habitat loss, collision and increased predation risk. From the outset the proposed development has been designed to avoid the most suitable areas for Curlew. There are no records of Curlew ever breeding within 270m of the proposed development. Notwithstanding this, studies of disturbance/displacement of power lines on Curlew, provided no evidence to assume the presence of power lines has any effect on Eurasian Curlew. The presence of the proposed development will therefore not result in disturbance/displacement to breeding/nesting Curlew.

The habitat surveys carried out for the proposed development demonstrated it is not located on optimum Curlew breeding habitat nor is it located on lands where breeding Curlew have been recorded. It is acknowledged, based on survey data

associated with the project, that a portion of the proposed development traverses an area considered to be 'potential Curlew habitat'. The footprint of the proposed development within this habitat designation is minimal (2.5 sq m) and, when considered in the context of 'potential Curlew habitat' identified within a 250m buffer of the proposed development, equates to 0.0007% loss which is not considered a significant impact. The area has not been used and is not being used for breeding, nesting or foraging by the declining Curlew population, is not within any protected area, and is not useful to the function of any protected area.

On-going ornithological surveying specific for the proposed development, as well as annual reporting as part of the Curlew Conservation Programme, show no records of Curlew colliding with overhead lines. Notwithstanding this, and out of an abundance of extreme caution only, bird diverters will be put on the line in the vicinity of all historic and existing nesting sites to ensure that potential line collisions can be fully ruled out.

The proposed development will not result in an increase of predation opportunities to existing Curlew breeding territories that would result in significant impacts. Section 4.2.2 of the EcoFact Report which accompanies the response, provides that a 100m buffer between nest site(s) and overhead lines is sufficient to avoid additional predation opportunities within the development area. No historic or existing Curlew nest sites are located within 100m from the proposed development. Out of the recorded Curlew nesting territories in Co Monaghan in 2020 and 2021 only one territory was recorded within the study area. This territory was nest site C2 and was located c340m from the proposed development, over x3 the recommended distance. The proposed development will not result in an increase of predation opportunities to historic or existing Curlew breeding territories.

Having regard to the 100m buffer relating to predation, it has been calculated that a 100m buffer along the proposed development equates to 439ha, of which only 2.02% equates to potential curlew habitat. It is clear that this potential is not important for the population.

The operation of the proposed development does not significantly reduce the suitability of areas identified as 'potential Curlew habitat'. Given the location of historic and existing nest sites located at a distance that far exceeds 100m, and having regard to the low level of potential Curlew habitat within 100m of the

proposed development, the proposed development will not result in increased predation risk. Notwithstanding this, and out of an abundance of extreme caution, perch deterrents will be implemented as part of the proposed development. The location of perch deterrents will be reviewed and selected by the onsite ecologist and will be implemented prior to the first breeding season of the operational phase. In the unlikely event that Curlews will utilise other areas in proximity to the proposed development which are currently considered unsuitable, additional locations of perch deterrents may also be considered appropriate during the lifetime of the development. Throughout the operational phase of the development, the developer will continue its engagement with the Nest Protection Officer during the breeding season. If Curlew activity is noted in new areas in proximity to the grid connection, additional perch deterrents will be installed where required.

Notwithstanding the conclusion that the proposed development would not result in a significant impact on the Curlew population in the area, the developer is committed to contributing to the ongoing conservation efforts in Co. Monaghan. In the event that the proposed development is consented, and the permitted Mountain Waters windfarm becomes operational, the developer is committed to contributing to community funding for Curlew Conservation and Protection in the wider study area. This fund will be used for habitat management and Curlew protection going forward and aims to improve habitat quality for the species in areas outside the permitted grid connection area. Consultations with the Curlew Conservation Programme will be ongoing for the operation of the permitted wind farm. The developer welcomes a condition for same.

In case necessary, they highlight what was said in their submission (17th May 2021) about the correct approach to cumulative assessment:

It does not require the Board to attribute to the grid connection or assume the impact of the grid connection will include the impacts that might arise from every existing and/or approved development including the construction and operation of the permitted wind farm.

The correct approach is for the Board to consider the effects of the grid connection on an environment that includes, and is burdened by, those existing and/or approved developments. In some cases, that might increase the risk being the straw that breaks the camel's back (as the baseline environment is perhaps more stressed) but

it does not mean that the impact of the grid connection must be assumed to include every other existing and/or approved development.

It is noted that while a Curlew nest was previously recorded at the site of the proposed windfarm, that nest site has since failed and even the permitted windfarm will not impact on any nesting sites.

The proposed development either assessed alone or in combination/cumulatively with any other development will not have an impact on Curlew.

- 2.2.2. Appendix 1 attached to the response is a report by Ecofact Environmental Consultants, which includes a summary, and which has been referred to in the response.

It includes:

During the operational phase of the proposed grid connection, it is highly unlikely that Curlew would be affected. Some of the overhead line section does pass through areas where there has been historical Curlew activity, but it is not expected that this line would pose any difficulties for Curlew, if they are still present. The proposed 38kV line is relatively modest in size and will be easily absorbed into the existing drumlin and cluttered landscape. Curlew are agile birds and have to currently negotiate a range of obstacles in this landscape that include existing power lines, telecommunication lines, trees, hedgerows, and other features in this undulating cluttered landscape. Curlew can be at risk from larger high voltage powerlines, especially when migrating. However, in the subject study area, it is a case of Curlew moving between fields and the proposed line will not significantly add to the current obstacles that are in this landscape. Also, all the confirmed nest sites are located to the west of the proposed grid connection route and the Curlew have never been recorded nesting or feeding along the actual grid connection route. Although it is not considered necessary, bird diverters will be put on the line in the vicinity of the former nest sites as a precaution to ensure that potential collisions with the line can be fully ruled out.

There are currently large numbers of generalist predators in the degraded landscape of this part of Co Monaghan.

The proposed grid connection route will have a neutral effect on this issue. Site clearance and construction works will not increase access for predators, due to the provision of a buffer area and the careful timing of the works. Also, the proposed grid connection line will not add to the available perches for avian predators in this area, due to the distance of the line from any nesting sites and the wide array of perches that are already available in this cluttered landscape. Perch deterrents will be installed along the proposed line.

Curlew have also not been recorded using the areas within 250m of the proposed line. It is therefore considered unlikely that the proposed development would result in any disturbance/ displacement to breeding / nesting Curlew. Previous studies have indicated that breeding waders would not be affected outside a 100m buffer from a power line. Indeed there is evidence to suggest that Curlew are not displaced by powerlines, and they have nested beside existing powerlines in the current study area.

Without restoring and managing a large area of habitat for Curlew, and perhaps the use of head-starting/restocking, the continued presence of this species in Co Monaghan is unlikely.

The report details survey work carried out and states that the only nest that was successful in the last 4 years was located inside a predator proof fence at a poultry farm. This highlights the issues of predation in Co Monaghan which the Curlew Conservation Programme highlight each year.

4.2.2 indirect impacts

There are no activities which would cause indirect effects on Curlew within the study area. The proposed transmission line will be 38kV, which means that the line is not of a high voltage. Such an electrical line will have a lower height than most pylons. In addition, the Monaghan countryside is already very cluttered. There are already multiple powerlines in the area. For example, an ESB cable runs along the road at the field of Curlew nest site C1. There are also two ESB cable which run adjacent to nest site C2. There are also multiple one-off houses, aereals and sections of forestry further cluttering this landscape. The drumlin features here further reduces the impact these powerlines would have on Curlew. The 100m buffer distance during the operational phase is suitable due to this. At a distance of 100m in this kind of cluttered landscape the presence of these power lines will not be noticeable. There

is no potential for indirect operational impacts on Curlew regarding displacement of Curlew.

Corvids and raptors do perch on top of powerlines but at a 100m distance in this type of landscape the proposed powerline would not be significantly adding to the available perches.

Mitigation (section 5):

Construction:

Avoidance – work in areas where Curlew have recently or historically nested will be undertaken outside the bird nesting season.

Site ecologist – will be employed during construction and will consult with the Curlew Conservation Programme.

Operational:

Bird diverters – the ecologist will review locations.

Predator Perch Deterrents – will be used in areas of the grid connection that are closest to Curlew nest sites. A 100m buffer is considered suitable to mitigate operational phase impacts.

Conservation – commitment to contribute to a community funding for Curlew Conservation and Protection.

A map attached, 05603-400A, shows the route and a 100m buffer either side, within which potential Curlew habitat is indicated.

Appendix 2 includes details of nest sites. Figures 6 and 7 show recorded Curlew nesting areas in the vicinity of the permitted Mountain Waters Wind Farm and proposed grid connection route, with a 100m buffer along the route indicated.

Figures 4 and 5 show Curlew activity recorded for the permitted Mountain Waters Wind Farm and proposed grid connection route, with a 100m buffer along the route indicated.

The 100m buffer along the route should be read in conjunction with Figure 1 of the Further Information Response where a 500m buffer was used.

2.3. Planning Authority Response

The Planning Authority has responded, 29th March 2022, stating that it has no comment to make on the submissions by Energia and An Taisce.

2.4. Further Responses

2.5. Applicant Response

- 2.5.1. Energia responded, 11th April 2022, as the applicant, to the An Taisce submission; the response includes:

They are surprised to be asked to comment on this brief submission and are disappointed at the delay, which is putting the project at risk of failure

30 of the 33 pages are already on the Board file. The letter does not contain new information relevant to the proposed development.

The assertion of ‘very significant adverse effects’ to Curlew is not supported by any relevant information about the site, or the proposed development.

Coolberrin has predicated all assessments and conclusions on detailed survey work carried out by an expert ornithologist and has identified the precise location of all recorded active and historic sites. In addition to detailed survey work, the expert ornithologist has been in regular contact during the Curlew breeding season with the Nest Protection Officers of the Curlew Conservation Programme.

The BirdWatch Ireland letter suggests that ‘the zone of sensitivity for this species has been set at 800m around point locations of known Curlew breeding sites.’ The Board should be careful to avoid a material risk of confusion, as the zone of sensitivity suggested is for wind turbines and is not applicable to static infrastructure, such as the proposed grid connection. Even with respect to turbines, this zone of sensitivity is not well proven, with clear evidence at other sites of Curlew within 200m of turbines.

Other points are reiterated. They urge the Board to make a final decision as soon as practicable and they waive the freedom to make any submission or observation between now and the deadline of 14th April, referred to in the Board’s letter.

Planning Inspector
12 May 2022