



An
Bord
Pleanála

Inspector's Addendum Report ABP-312728-22

Development

Wind Farm

Location

Townlands of Glendine North,
Fahanlunaghta More, Curraghodea,
Letterkelly, Cloghaun More, Tooreen,
Silverhill, Doonsallagh East, and
Knockalassa, County Clare

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

21/1226

Applicant(s)

Slieveacurry Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First & Third Party

Appellant(s)

Slieveacurry Limited
Cathal Mac Mahon & Lisa Carkill

Observer(s)

Susan Crawford

Milltown Malbay Wind Farm
Opposition Group
Fergal MacMahon
Patrick Lafferty & Others

Date of Site Inspection

23rd & 24th January, 2023

Inspector

Kevin Moore

Part One

1.1. Introduction

The following addendum to my original report is provided in response to the Board's Direction dated 9th May, 2023, which stated the following:

"The Board decided to refer the file back to the Inspectorate for an Addendum Report assessing the proposed development by reference to the relevant provisions of the new statutory development plan for the area which has come into effect since the Inspectors report was discharged."

1.2. Clare County Development Plan 2023-2029

1.2.1. Introduction

Clare County Development Plan 2023-2029 was adopted by the elected members of Clare County Council on 9th March, 2023 and the Plan came into effect on 20th April, 2023. At the outset, I wish to identify some of the key provisions of the Plan which are relevant to the consideration of the proposed development, in my opinion.

1.2.2. Chapter 2 - Climate Action

Climate Change

To guide, support and facilitate County Clare's transition to a low carbon and climate resilient county it is necessary to implement a wide array of measures during the plan period. Having regard to the county's significant available renewable resources, Clare County Council will seek to take a lead role in respect of renewable energy technology to assist in meeting national, regional and county targets in energy consumption and CO2 reduction.

Table 2.2 sets out Renewable Energy Resource Targets for County Clare to 2030. These include 1,590.0 GWh/y / 550.0 MW for onshore wind.

Objectives include:

Development Plan Objective: Climate Action

CDP2.1 It is an objective of Clare County Council: a) To support the implementation of the National Climate Action Plan 2023 and the National Climate Change Adaptation Framework (and any subsequent versions thereof), and to work with the Regional Climate Action Offices to enable County Clare to transition to a low carbon and climate resilient county; ...

Development Plan Objective: Climate Change Mitigation, Adaptation and Resilience

CDP2.2 It is an objective of the Clare County Council:
a) To support the implementation of the Clare Climate Change Adaptation Strategy 2019-2024 (and any subsequent versions);
b) To promote measures that build resilience to climate change to address impact reduction, adaptive capacity, awareness raising, providing for nature-based solutions and emergency planning; ...
f) To facilitate and support the relevant stakeholders and enterprises in the progression of advancements in climate adaptation solutions and renewable energy generation and technologies.

Climate Action Strategy

Biodiversity

Biodiversity is affected by the impacts of climate change, and it also contributes to climate change mitigation and adaptation measures through the role of ecosystems in the carbon cycle. It is an objective of the Council to ensure that all risks to biodiversity, habitats and natural resources from climate change impacts are identified and measures are employed to appropriately address these issues. The Council will also seek to protect and promote the sustainable management of the natural heritage, flora and fauna of the county both within protected areas and in the

landscape through the protection of biodiversity, the conservation of natural habitats, the enhancement of new and existing habitats, and through the integration of Green Infrastructure (GI) and ecosystem services including landscape, heritage, biodiversity and management of invasive and alien species into the plan.

Transition to a Low Carbon Economy and Society

Development Plan Objective: Transition to a Low Carbon Economy and Society

CDP2.14 It is an objective of Clare County Council:

- a) To facilitate measures which will accelerate the transition to a low carbon economy and a circular economy through mechanisms such as the Climate Action Competitive Fund; ...*
- f) To facilitate the development of energy sources which will achieve low carbon output ...*
- h) To work to implement the provisions of Ireland's Transition to a Low Carbon Energy Future 2015-2030 as they relate to County Clare; ...*

1.2.3. Chapter 3 – Core Strategy

Core Strategy and relevant Environmental Assessments

Development Plan Objective: Appropriate Assessment, Strategic Environmental Assessment and Strategic Flood Risk Assessment

CDP3.3 It is an objective of Clare County Council:

- a) To require compliance with the objectives and requirements of the Habitats Directive, specifically Article 6(3) and where necessary 6(4), Birds, Water Framework, and all other relevant EU Directives and all relevant transposing national legislation;*
- b) To require project planning to be fully informed by ecological and environmental constraints at the earliest stage of project development and any necessary assessment to be undertaken, including assessments of disturbance to species, where required together with*

the preparation of both statutory and non-statutory Ecological Impact Assessments (EclA);

c) To protect, manage and enhance ecological connectivity and improve the coherence of the Natura 2000 Network;

d) To require all proposals to ensure there is 'no net loss' of biodiversity within developments

d) To ensure that European sites and Natural Heritage Areas (designated proposed NHAs) are appropriately protected;

e) To require the preparation and assessment of all Plans and Projects to have regard to the information, data and requirements of the Appropriate Assessment Natura Impact Report, SEA Environmental Report and Strategic Flood Risk Assessment Report contained in Volume 10 of this Development Plan; and

f) to require compliance with the objectives of the Water Framework Directive and support the implementation of the 3rd Cycle River Basin Management Plan (and any other iteration during the lifetime of the CDP).

1.2.4. Chapter 6 – Economic Development

Energy

County Clare has a secure energy supply and the network in the county has significant potential to accommodate further generating activity. The county also has potential to increase the production of electricity from renewable energy sources such as wind and tidal energy. The Council's Wind Energy Strategy (Volume 6) and Renewable Energy Strategy (Volume 5) provide for a strategic plan-led approach to secure renewable energy production in County Clare.

Development Plan Objective: Energy Supply

CDP6.17 It is an objective of Clare County Council:

a) To contribute to the economic development and enhanced employment opportunities in the county by:

- i) Enabling the development of a self-sustaining, secure, reliable and efficient renewable energy supply and storage for the County in line with CDP Objective 3.3;*
- ii) Facilitating the county to become a leader in the production of sustainable and renewable energy for national and international consumption through research, technology development and innovation; and*
- iii) Supporting on-land and off-shore renewable energy production by a range of appropriate technologies in line with CDP Objective 3.3.*

1.2.5. Chapter 8 – Rural Development and Natural Resources

Natural Resources

Development Plan Objective: Natural Resources

CDP8.8 It is an objective of Clare County Council: To facilitate, encourage and appropriately manage the development of the natural resources of the County and to ensure that this is done in a sensitive way, eliminating any significant adverse effects on the natural and built environment, negative impacts on archaeological heritage and in compliance with all relevant legislation and planning requirements.

Renewable Energy

There is significant potential for the development of renewable energy in County Clare. The County has one of the best wind resources in the world – almost the entire County has either an excellent or very good wind energy resource. However, the development and siting of wind energy projects must be balanced with the potential impacts on the landscape, ecology and the amenities of local communities. Areas that are considered suitable for commercial wind energy developments are set out in Volume 6 of this Plan.

Development Plan Objective: Renewable Energy Development

CDP8.12 *It is an objective of Clare County Council: To support the implementation of the National Renewable Energy Action Plan (NREAP), the Clare Wind Energy Strategy and the Clare Renewable Energy Strategy to facilitate the development of renewable energy developments in rural areas to meet national objectives towards achieving a low carbon economy by 2050 subject to the requirement of the RES SEA Environmental Report and the mitigation measures arising from the CDP Appropriate Assessment as contained in Volume 10(a).*

1.2.6. **Chapter 11 - Physical Infrastructure, Environment and Energy**

Energy and Communications

Development Plan Objective: Energy Security

CDP11.44 *It is an objective of Clare County Council: To promote and facilitate the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure, to integrate renewable energy sources, thereby creating a secure and efficient energy supply and storage system for County Clare which is ready to meet increased demand as the regional economy grows.*

Development Plan Objective: Electricity Networks

CDP11.45 *It is an objective of Clare County Council:*

- a) To facilitate improvements in energy infrastructure and encourage the expansion of the infrastructure within the County;*
- b) To facilitate future alternative renewable energy developments and associated utility infrastructure throughout the County;*
- c) To support the Integrated Single Electricity Market (I-SEM) as a key priority for the Southern Region and the sustainable development and reinforcement of the energy grid including grid connections,*

transboundary networks into and through County Clare subject to appropriate environmental assessment and planning processes;

d) To collaborate with EirGrid to facilitate the development of a safe, secure and reliable supply of electricity, enhanced electricity networks and new transmission infrastructure projects that might be brought forward in the lifetime of this Plan under EirGrid's (2017) Grid Development Strategy (subject to appropriate environmental assessment and the planning process);

e) To collaborate with EirGrid over the lifetime of the plan to ensure that the County's minimum target of 1,167MW of renewable energy generation is achieved and can be accommodated on the electricity network in County Clare; and

f) To have regard to environmental and visual considerations in the assessment of developments of this nature and ensure compliance with the environmental requirements of Objective CDP3.3 of this plan.

Renewable Energy Sources

A Renewable Energy Strategy and Wind Energy Strategy have been prepared for County Clare and comprise Volumes 5 and 6, respectively, of this Plan. The Clare Wind Energy Strategy identifies the optimum locations for wind energy developments in the County having regard to environmental and geographical constraints and the protection of the amenities of local residents. An updated Wind Energy Strategy will be prepared upon the publication of the update to the Wind Energy Guidelines for Planning Authorities 2006.

Development Plan Objective: Renewable Energy

CDP11.47 It is an objective of Clare County Council:

a) To encourage and to favourably consider proposals for renewable energy developments, including community owned developments, and ancillary facilities in order to meet National, Regional and County renewable energy targets, and to facilitate a reduction in CO2 emissions and the promotion of a low carbon economy;

- b) To assess future renewable energy-related development proposals having regard to the Clare Renewable Energy Strategy 2023-2030 in Volume 5 of this plan and associated SEA and AA;*
- c) To support the sustainable development of renewable wind energy (on-shore and offshore) at appropriate locations and of its related grid infrastructure in County Clare, in accordance with all relevant policies, guidance and guidelines pertaining to the protection of the environment and protected habitats and species, and to assess proposals having regard to the Clare Wind Energy Strategy in Volume 6 of this plan and the associated SEA and AA, or any subsequent updated adopted Strategy and to national Wind Energy Guidelines;*
- d) To prepare a new and updated Wind Energy Strategy for County Clare during the lifetime of this plan, subject to the publication of the update to the Wind Energy Development Guidelines for Planning Authorities 2006;*
- e) To strike an appropriate balance between facilitating renewable and wind energy-related development and protecting the residential amenities of neighbouring properties;*
- f) To support and facilitate the development of new options and technological advances in relation to renewable energy production and storage, that may emerge over the lifetime of this Plan;*
- g) To support the integration of indigenous renewable energy production and grid injection;*
- h) To ensure that all proposals for renewable energy developments and ancillary facilities in the County are in full compliance with the requirements of the SEA and Habitats Directives and Objective CDP3.3 of this plan; and*
- i) To promote and market the County as a leader of renewable energy provision.*

1.2.7. Chapter 14 – Landscape

Landscape Character Area

As with the previous Clare County Development Plan, the site of the proposed development remains within the Slieve Callan Upland Landscape Character Area.

Development Plan Objective: Landscape Character Assessment

CDP14.1 It is an objective of Clare County Council:

- a) To encourage the utilisation of the Landscape Character Assessment of County Clare, the forthcoming Regional Landscape Strategy and other relevant landscape policy and guidelines and to have regard to them in the facilitation, protection and management of appropriate landscape change in County Clare.*
- b) To review and update the County Clare Landscape Strategy as soon as is practicable following the publication of the National Landscape Character Assessment and taking any associated guidelines.*

Living Landscape Types

Settled Landscapes

As with the previous Clare County Development Plan, the site of the proposed development remains within a designated 'Settled Landscape'. Uses envisaged within 'Settled Landscapes' include agriculture, energy, forestry, extraction, transportation, industry, commerce, tourism, recreation, leisure, education, residential, healthcare and social infrastructure. As with the previous Plan, the following objective applies:

Development Plan Objective: Settled Landscapes

CDP14.2 It is an objective of Clare County Council:

To permit development in areas designated as 'settled landscapes' to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- I. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;*
- II. Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting*

and design which are directed towards minimising visual impacts;

III. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:-

- a) That the site has been selected to avoid visual prominence*
- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.*
- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.*

Heritage Landscapes

‘Heritage Landscapes’ are those areas within the County where sensitive environmental resources – scenic, ecological and historic - are located. These landscapes are envisioned as the most valued parts of the County, that are important to the people of County Clare as well as to wider national and international communities. The principal role of these landscapes is to sustain natural and cultural heritage. Plans, policies and development decisions in these areas are required to take account of scenic, ecological and historical considerations. These landscapes include the coastlands west of the site for the proposed development.

Views and Prospects

There is a need to protect and conserve views adjoining public roads throughout the County where these views are of high amenity value. In conserving views, it is not proposed that this should give rise to the prohibition of development along these routes but development, where permitted, should not seriously hinder or obstruct these views and should be designed and located to minimise their visual impact.

Designated Scenic Routes throughout the County are identified in the maps contained in Volume 2 of the Plan. Scenic routes in the vicinity of the site of the

proposed development include the N67 National Secondary Route adjoining the coastline to the west and Regional Road R474 Milltown Malbay - Connolly.

Development Plan Objective: Scenic Routes

CDP14.7 It is an objective of Clare County Council:

- a) To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*
- b) To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact; and*
- c) To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

1.2.8. Chapter 15 Biodiversity, Natural Heritage and Green Infrastructure

Threats to Biodiversity

While there is an emphasis on nature-based solutions as a response to climate change, the modification of any existing habitats that maintain ecological functions should generally be avoided. Retention of existing habitats is a priority. The creation of new habitats should only take place after detailed ecological assessment which would establish the nature of existing habitats to minimise the chances of ecological damage.

Developments which are inappropriately located or designed have the potential to cause habitat fragmentation and have negative impacts on biodiversity and climate change.

The inclusion of buffer zones between developments and biodiversity sites or areas of natural heritage importance may be required for a variety of reasons including the protection of biodiversity, flood alleviation and the management of nutrient and silt loading.

As with the previous Plan, the following objective applies:

Development Plan Objective: Biodiversity

CDP15.1 It is an objective of Clare County Council:

- a) To implement the National Biodiversity Action Plan 2017- 2021, the All Ireland Pollinator Plan 2021-2025, the EU A Farm to Fork Strategy 2020, the County Clare Heritage Plan 2017-2023 and the County Clare Biodiversity Plan 2017- 2023, or any subsequent plans, in partnership with all relevant stakeholders; ...*
- d) To ensure that features of importance to local biodiversity are retained as part of developments and projects being undertaken in the County;*
- e) To identify ecological buffer zones, where appropriate, in the Plan area; and*
- f) To support current and future projects with the aim of restoration/rehabilitation of natural habitats and species.*

European Sites

As with the previous Plan, the following objective applies:

Development Plan Objective: European Sites

CDP15.3 It is an objective of Clare County Council:

- a) To afford the highest level of protection to all designated European sites in accordance with the relevant Directives and legislation on such matters;*
- b) To require all planning applications for development that may have (or cannot rule out) likely significant effects on European Sites in view of the site's Conservation Objectives, either in isolation or in combination with other plans or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats*

Directive and the Planning and Development Act, 2000 (as amended); and

c) To recognise and afford appropriate protection to any new or modified SPAs or SACs that are identified during the lifetime of this Development Plan through the planning application process bearing in mind proposals for development outside of a European site may also have an indirect effect.

Non-designated Sites and Biodiversity

County Clare has many important biodiversity sites which are not designated as European sites or (p)NHA but their ecological value is of high importance as they host important plant and animal species or their habitats (including Annex I habitats, Annex I birds and Annex II and IV species).

The Council will encourage new infrastructure projects to demonstrate a high degree of permeability for wildlife, to allow the movement of species and to prevent the creation of barriers to wildlife and aquatic life in the wider countryside.

As with the previous Plan, the following objective applies:

Development Plan Objective: Non-Designated Sites and Biodiversity

CDP15.8 *It is an objective of Clare County Council:*

- a) To ensure the protection and conservation of areas, sites, species and ecological networks/corridors of biodiversity value outside of designated sites throughout the County and to require an ecological assessment to accompany development proposals likely to impact on such areas or species;*
- b) To ensure that available habitat mapping is taken into consideration in any ecological assessment undertaken;*
- c) To complete the Habitat Mapping of the County (in accordance with A Guide to Habitats in Ireland - The Heritage Council 2000) in order to*

identify and record the natural habitats of the County at a detailed level and afford appropriate protection to areas of importance as required; and

d) To implement and monitor the actions as set out in the Clare Biodiversity Action Plan and the National Biodiversity Action Plan.

Promoting and Protecting Biodiversity and Wildlife Corridors

Wildlife and biodiversity are not confined to statutorily designated sites but rather are dispersed throughout County Clare's urban and rural areas and beyond. The promotion of biodiversity has become increasingly important over recent years and the protection of wildlife corridors and stepping stones (including those covered by Article 10 of the Habitats Directive) are of particular importance. These areas assist the movement of wildlife from one area to another for breeding, hibernation, in search of food etc and are also essential for migration, dispersal and genetic exchange of wild species.

Development Plan Objective: Biodiversity and Habitat Protection

CDP15.12 It is an objective of Clare County Council:

a) To protect and promote the sustainable management of the natural heritage, flora and fauna of the County both within protected areas and in the general landscape through the promotion of biodiversity, the conservation of natural habitats, the enhancement of new and existing habitats, and through the integration of Green Infrastructure (GI), Blue Infrastructure and ecosystem services including landscape, heritage, biodiversity and management of invasive and alien species into the Development Plan;

b) To promote the conservation of biodiversity through the protection of sites of biodiversity importance and wildlife corridors, both within and between the designated sites and the wider Plan area;

c) To support the implementation of the All Ireland Pollinator Plan, National Biodiversity Action Plan and National Raised Bog SAC Management Plan;

- d) To ensure there is no net loss of potential Lesser Horseshoe Bat feeding habitats, treelines and hedgerows within 2.5km of known roosts;*
- e) To implement and monitor the actions as set out in the Clare County Biodiversity Plan; and*
- f) To promote biodiversity net gain in any new plans/projects/policies to promote development that leaves biodiversity in a better state than before.*

Habitat Fragmentation

Development Plan Objective: Habitat Fragmentation and Green Infrastructure Corridors

CDP15.14 It is an objective of Clare County Council:

- (a) To ensure that development proposals support and enhance the connectivity and integrity of habitats in the Plan area by incorporating natural features into the design of development proposals.*
- (b) To ensure that the potential impacts upon the migratory routes of fauna including birds and bats and the movement of species between European Sites are fully considered within the relevant ecological assessment. These assessments shall fully consider flight collision risks, habitat fragmentation and barrier risk as required.*

Peatlands

Development Plan Objective: Peatlands

CDP15.18 It is an objective of Clare County Council:

To protect and enhance the valuable peatland resource in County Clare including protecting the heritage and environmental value of these peatland areas.

1.2.9. Volume 6 - Clare Wind Energy Strategy

This Strategy is the same strategy that has been in place since the previous Clare County Development Plan 2017-2023. Indeed, this Strategy formed part of the Clare County Development Plan 2011-2017. The Preface of this document states the following:

“Circular PL20-13, dated 20th December 2013, states that in the cyclical review of a Development Plan it is advised that, until the national policy review processes have concluded in relation to the Wind Energy Development Guidelines and the Renewable energy Export Policy and Development Framework, local authorities should defer amending their existing Development Plan policies and should instead operate their existing Development Plan policies and objectives until the completion of these processes and further advice is issued.”

1.3. **Assessment**

My considerations on the above referenced sections of the recently adopted Clare County Development Plan are as follows:

1.3.1. **Chapter 2 - Climate Action**

It is my submission to the Board that the principle of the development of a wind farm would not be in conflict with the generalised provisions of Clare County Development Plan as they relate to climate change, climate action, and transitioning to a low carbon economy, including meeting its targets for onshore wind. Therefore, the proposed development could be seen to be compatible with Objectives CDP2.1, CDP2.2 and CDP2.14 of the Plan.

With regard to the Climate Action Strategy and Biodiversity, it is my submission that there is very significant concern about conflict with the Council’s objective to ensure that all risks to biodiversity, habitats and natural resources from climate change impacts are identified and measures are employed to appropriately address these issues. On the one hand, the principle of a wind farm development, as a response to

climate change, can reasonably be seen to be compatible with responsible climate action, while on the other hand, it is evident that this proposed development, as highlighted in my main report, would likely pose very substantial risks to biodiversity, habitats and natural resources in this important area of West Clare, valued for its avian habitats and an extensive range of Annex I bird species in particular.

1.3.2. **Chapter 3 – Core Strategy**

I note Objective CDP3.3 is one which is referenced on a number of occasions in the Development Plan in other objectives on matters relating to energy supply, electricity networks, and renewable energy. This objective, amongst other things, seeks to protect, manage and enhance ecological connectivity and improve the coherence of the Natura 2000 Network and to require all proposals to ensure that there is ‘no net loss’ of biodiversity within developments. My assessment in my main report has clearly set out the significant loss of biodiversity that would likely result from the proposed development. Furthermore, in my main report I have concluded that there could be no reasonable conclusion drawn, beyond scientific doubt, that the proposed development would not be likely to have a significant effect on European Sites in this area, namely Inagh River Estuary SAC (Site Code: 000036), Carrowmore Point to Spanish Point and Islands Special Area of Conservation (Site Code: 001021), and Mid-Clare Coast Special Protection Area (Site Code: 004182). As a result, one could not be assured that the proposed development would be compatible with an objective which seeks to improve the coherence of the Natura 2000 Network.

I submit that the proposed development would be in conflict with Objective CDP3.3.

1.3.3. **Chapter 6 – Economic Development**

The Plan recognises the county’s potential to increase the production of electricity from renewable energy sources. It is reasonable to determine that the principle of a wind farm development would be in keeping with Objective CDP6.17, whereby facilitating such development would enable the development of a self-sustaining, secure, reliable and efficient renewable energy supply. However, this objective

supports onshore renewable energy production premised upon such development being in line with Objective CDP3.3 and the conflict with this is evident.

1.3.4. **Chapter 8 – Rural Development and Natural Resources**

I submit to the Board that, based upon my considerations in my main report, the proposed development conflicts in a material way with the objectives of the Clare County Development Plan as they relate to the management of the county's natural resources (Objective CDP8.8). The likely adverse impacts on the environment arising from the construction and functioning of the proposed development would be contrary to this objective.

Regarding renewable energy, it is noted by the Plan (and it is accepted) that the county has a very good wind energy resource. However, the Plan expressly states that “... *the development and siting of wind energy projects must be balanced with the potential impacts on the landscape, ecology and the amenities of local communities.*” My main report has clearly highlighted how the proposed wind farm development would likely have adverse environmental impacts on the landscape, ecology and the amenities of local communities in this part of West Clare.

I note Objective CDP8.12 seeks to support the implementation of the Clare Wind Energy Strategy. This issue is referred to below.

1.3.5. **Chapter 11 - Physical Infrastructure, Environment and Energy**

Regarding renewable energy, the Plan notes that the Clare Wind Energy Strategy identifies the optimum locations for wind energy developments in the county having regard to environmental and geographical constraints and the protection of the amenities of local residents. It states that an updated Wind Energy Strategy will be prepared upon the publication of the update to the Wind Energy Guidelines for Planning Authorities 2006. This strategy is considered further below.

I note the provisions of Objective CDP11.47. This includes supporting the sustainable development of renewable wind energy at appropriate locations and of its related grid infrastructure in County Clare, in accordance with all relevant policies, guidance and guidelines pertaining to the protection of the environment and protected habitats and species, and to assess proposals having regard to the Clare Wind Energy Strategy. The findings in my main report clearly address how the proposed development would not likely protect the environment and sensitive habitats and species. My considerations on how the proposal fits with the county's Wind Energy Strategy are also addressed.

I particularly note part d) of this objective which states that it is an objective to prepare a new and updated Wind Energy Strategy for County Clare during the lifetime of this plan, subject to the publication of the update to the Wind Energy Development Guidelines for Planning Authorities 2006. I address this critical issue below.

Part e) of this objective seeks to strike an appropriate balance between facilitating renewable and wind energy-related development and protecting the residential amenities of neighbouring properties. My main report has set out how and why the proposed development would likely fail to protect the amenities of residents in the area.

Regarding part h), I am satisfied to conclude, based on my findings in my main report, that one could not reasonably determine that the proposed development would comply with the Habitats Directive and Objective CDP3.3 of the Plan.

1.3.6. Chapter 14 – Landscape

I note that the site of the proposed development remains within the Slieve Callan Upland Landscape Character Area. This is acknowledged and addressed in my main report, with due regard given to the site's prominence, the insensitive siting of turbines, and the visual sensitivities of the locations for these turbines.

I note that the site remains within the landscape designated a 'Settled Landscape'. I acknowledge Objective CDP14.2 relating to this landscape. This objective seeks to

permit development in areas designated as 'settled landscapes' to sustain and enhance quality of life and residential amenity and promote economic activity. This is subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources, the selection of appropriate sites, with consideration of the details of siting and design which are directed towards minimising visual impacts, and regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines. It is also a requirement of this objective that developments in these areas demonstrate the site has been selected to avoid visual prominence, the site layout avails of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads, and that the design of structures reduces visual impact through careful choice of forms, finishes and colours. The Board will note my assessment in my main report on the visual impact of the proposed development and its incongruity with the provisions of the Plan as they relate to 'Settled Landscapes'. I wish to reaffirm that the proposed development is highly insensitive and is in direct conflict with the provisions of the Plan as they relate to 'Settled Landscapes'.

I note the provisions of the Plan as they relate to 'Heritage Landscapes', which includes the coastland a short distance west of the site. The visual impact of the proposed development when viewed from within the coastal area adversely affects the many panoramic qualitative views and prospects from such areas. This again is addressed in my main report.

I acknowledge the provisions of the Plan as they relate to views and prospects and to development along designated 'Scenic Routes'. This also has been considered in detail in my main report. The impact on the important designated scenic routes along the coastland edge and on the regional route would be significant, reinforced by the insensitivity of the siting arising from the skyline nature of the development. The adverse impact of such development from these important tourist arteries undermines the understanding of the character of the natural landscape and ultimately adversely affects the visual quality and experience of these important tourist routes. I cannot reasonably determine that the proposed development would sit comfortably with Objective CDP14.7 of the Plan. I submit that the skyline impact of the proposed development shows that there appears to have been no regard given to views from the scenic routes to Slieve Callan and Slieveacurry.

Overall, I conclude that the proposed development is significantly in conflict with the provisions of the Plan as they relate to 'Landscape'.

1.3.7. **Chapter 15 Biodiversity, Natural Heritage and Green Infrastructure**

The Plan's provisions relating to the threats to biodiversity are noted. These include avoiding modification of existing habitats that maintain ecological functions and the retention of existing habitats as a priority. It is observed that developments which are inappropriately located or designed have the potential to cause habitat fragmentation and have negative impacts on biodiversity and climate change. The considerations in my main report clearly indicate that there is a significant threat to biodiversity arising from the proposed development. I note the similarity of objectives with those of the previous Plan relating to biodiversity and European sites, and in particular that relating to non-designated sites (i.e. Objectives CDP15.1, 15.3 and 15.8). The provisions relating to the role of wildlife corridors and 'stepping stones' are also noted. I submit that the proposed development would be in direct conflict with Objective CDP15.12 of the Plan as it would likely not leave the biodiversity of this location in a better state than before and it would not promote biodiversity and the conservation of natural habitats.

Further to this, it is reasonable to conclude that, in terms of habitat fragmentation, the proposed development would not likely support and enhance the connectivity and integrity of habitats in the area nor protect the potential impacts upon the migratory routes of fauna including birds and bats and the movement of species between European Sites. Thus, it is apparent that the proposed development would appear to be in conflict with Objective CDP15.14 of the Plan.

Finally, I note the provisions of the Plan as they relate to peatlands. Objective CDP15.18 seeks to protect and enhance the valuable peatland resource in the county, including protecting the heritage and environmental value of these peatland areas. The impact on peatland and the loss of significant volumes of natural peat at the construction stage of the proposed development would not sit comfortably with an objective such as this.

The Board will note the emphasis placed on the adverse impact on biodiversity in my main report. The proposed development clearly conflicts with many provisions of the recently adopted Clare County Development Plan as they relate to biodiversity.

1.3.8. **Volume 6 - Clare Wind Energy Strategy**

The Board will note my extensive considerations of the county's Wind Energy Strategy in my main report. I must impress upon the Board that the strategy in the recently adopted Clare County Development Plan is the same strategy that has been in place since the previous Clare County Development Plan 2017-2023 and that it is the same strategy that formed part of the Clare County Development Plan 2011-2017.

The Preface of this document states the following:

“Circular PL20-13, dated 20th December 2013, states that in the cyclical review of a Development Plan it is advised that, until the national policy review processes have concluded in relation to the Wind Energy Development Guidelines and the Renewable energy Export Policy and Development Framework, local authorities should defer amending their existing Development Plan policies and should instead operate their existing Development Plan policies and objectives until the completion of these processes and further advice is issued.”

The new Plan states that an updated Wind Energy Strategy will be prepared upon the publication of the update to the Wind Energy Guidelines for Planning Authorities 2006. The Board will note that this is the third Clare County Development Plan utilising the same Wind Energy Strategy because it cannot be reviewed due to the failure to complete national policy review processes relating to wind energy. Clare County Council has had no opportunity to review its strategy for more than a decade due to the failure of this review process. This does not allow for a balanced assessment of wind farm development in this county when due consideration is needed to be given to the impact arising from significant wind farm development that has already taken place in the county since the making of the original strategy. I

submit that this undermines balanced forward planning of wind farm development in this county.

A strategy requiring review is a significant constraint to forward planning for wind farm development. This review must be based upon what has been learned from extensive wind farm development since the original strategy was adopted. Very significant wind farm development has occurred in the interim and there has been no opportunity to undertake the necessary review due to the failure to update the Wind Energy Guidelines. I am concerned that the development of wind farms in this part of County Clare continues when such development is premised upon a strategy which the planning authority evidently considers requires updating. Finally, the Board should note that it was also an objective of the previous Clare County Development Plan to prepare an updated Wind Energy Strategy for County Clare during the lifetime of that Plan (Objective CDP8.40). Reliance on a strategy which requires to be updated for many years does not ensure that decisions can be made in the interests of proper planning and sustainable development. I submit to the Board that it is nearing the time when it could reasonably be considered that it is premature to decide on wind farm development in this area pending the provision of an updated Wind Energy Strategy. There is a necessity for the adoption of new Wind Energy Development Guidelines. The effects of outdated guidance is clearly undermining qualitative decision-making as such decision-making is based on long outdated information and, as a consequence, outdated Wind Energy Strategies at county level.

1.3.9. **Conclusion**

I submit to the Board that the proposed development is in conflict with many of the relevant provisions of the recently adopted Clare County Development Plan as they relate to biodiversity, ecological connectivity, the management of natural resources, the siting of wind farm developments, and landscape.

I recommend that the proposed development should be refused permission in accordance with the recommendation set out in my main report. Reasons 3 and 5

should be amended to have regard to the provisions of the recently adopted Plan. It is recommended that they should read as follows:

3. The site of the proposed development is located within an area of national importance for Hen Harrier, an Annex I species, and in an area of significant ornithological value, inclusive of importance for Annex I species Golden Plover, Merlin and Peregrine Falcon and Red-listed Curlew, Red Grouse, Kestrel, Common Snipe and Woodcock. In addition, there is a breeding colony of Annex II species Marsh Fritillary on the site, dependent upon the existing habitat and the abundance of Devil's-Bit Scabious on the site in particular.

Objectives of Clare County Development Plan 2023-2029 include:

- To require all proposals to ensure there is no net loss of biodiversity within developments (Objective CDP 3.3),
- To protect and promote the sustainable management of the natural heritage, flora and fauna of the County both within protected areas and in the general landscape through the promotion of biodiversity, the conservation of natural habitats, and the enhancement of new and existing habitats and to promote the conservation of biodiversity through the protection of sites of biodiversity importance and wildlife corridors, both within and between the designated sites and the wider Plan area (Objective CDP 15.12).

It is considered that the siting, height, scale and operation of the proposed turbines would result in a loss of habitat, disturbance and displacement for Annex I and Red-listed bird species and the Annex II Marsh fritillary, as well as posing a significant risk of collision for the bird species of conservation value. Furthermore, it is considered that the cumulative impact of wind turbines in the vicinity, together with the proposed development, would substantially erode the quality of the natural environment for the sensitive bird species, including distorting migratory routes, eroding habitat, encroaching on foraging areas, and affecting roosting and breeding sites. The proposed development would, thus, have significant adverse impacts on biodiversity and on the ornithological importance of the area by way of collision, mortality, disturbance and displacement of protected bird species and would be incompatible with the

objectives to protect and conserve this area of biodiversity value and to protect the sustainable management and biodiversity importance of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 5 The site of the proposed development is located in a prominent and visually sensitive location on the summit of Slieveacurry and immediately adjoining Slieve Callan in West Clare. This is a location that is visually prominent from the Burren and Cliffs of Moher UNESCO Global Geopark to the north and north-west, the sensitive coastline to the west, and areas of significant tourism, amenity and archaeological value, as well as from designated scenic routes, walking trails and cycling routes, inclusive of the Wild Atlantic Way, which form an integral part of the tourism resource of the area. Furthermore, the site is located within a designated 'Settled Landscape' in the Clare County Development Plan 2023-2029.

Objectives of the Clare County Development Plan include:

- To permit development in areas designated as 'settled landscapes' that sustain and enhance quality of life and residential amenity and promote economic activity subject to:
 - Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
 - The selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts, and
 - Regard being given to avoiding intrusions on scenic routes and on ridges or shorelines.

Developments in settled landscapes are required to demonstrate that a site has been selected to avoid visually prominent locations, the site layout avails of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads,

and the design for structures reduce visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact. (Objective CDP 14.2);

- To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community, to ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact, and to ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved (Objective CDP 14.7); and
- To strike an appropriate balance between facilitating renewable and wind energy-related development and protecting the residential amenities of neighbouring properties (Objective CDP 11.47).

Having regard to:

- The height and scale of the proposed wind turbines,
- The siting on elevated ridgelines on the top of Slieveacurry,
- The highly prominent skyline nature of the wind turbines,
- The high level of visibility from coastal tourist and amenity areas and from the Burren and Cliffs of Moher UNESCO Global Geopark,
- The prominence of the proposed turbines from designated scenic routes,
- The proximity to residential properties and the significant landscape and visual impact thereon;
- The encroachment north-westwards towards the Burren and Cliffs of Moher UNESCO Global Geopark and sensitive coastal areas and the increased visual and landscape impact thereon, and
- The cumulative impact with extensive wind farm development in the immediate vicinity,

it is considered that the proposed development sited at this location would constitute a highly obtrusive development that would:

- detract from the existing natural character of the area,
- adversely affect the natural landscape and visual context of the Burren and Cliffs of Moher UNESCO Global Geopark and sensitive coastal areas to the west and north-west,
- erode the landscape and visual quality of the designated scenic routes in the vicinity,
- seriously injure the amenities of residents in the area,
- adversely impact on the rural character of the area,
- exacerbate the cumulative impact of wind farm development from tourism and amenity sites on the coastline, and
- would otherwise compromise the scenic amenities of this visually sensitive and vulnerable area.

The proposed wind turbines would, thereby, comprise excessively dominant features and a visually obtrusive form of development in this landscape, which would contribute to the erosion of the visual and environmental amenity of the area, would materially conflict with the objectives as set out in the Clare County Development Plan, and would seriously injure the landscape and visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Part Two

2.1. Review of Report

2.1.1. Introduction

In the Board's Direction dated 9th May, 2023, it is stated that, with due regard to the Inspectorate Report Guidance Note July 2020, elements of the phrasing within my original report do not appear to reflect the recommended approach as set out in the Advice Note. Reference was made to paragraphs 7.5.5/6, 7.7.7, 7.9.5, 7.11.1, 7.13.4 and 7.16.2 as examples. It was further submitted that this presented a challenge to the Board in deciphering, on occasion, the clear objective facts and attributable evidence underpinning the assessment as recorded. The Board directs that I review the report phrasing by reference to the criteria set out in the Advice Note to enable it to reach a determination on the case.

In seeking to address this Direction, it is unclear as to whether the Board wishes me to change my report (i.e. the wording and style thereof) throughout its entirety or to focus on the paragraphs so referenced. These paragraphs appear to be highlighted as examples. I propose to address these paragraphs only at this time as there is no other guidance available to me in the Direction on any other parts of my report which are presenting difficulties to the Board to allow it to make a determination on this case.

Further to the above, I consider that it is reasonable to highlight that the Inspectorate Report Guidance Note is an advice note, i.e. its status is solely one of guidance, not direction. I also wish to point out that the wording and manner in which I have presented many reports on wind farm developments have equally reflected the form, style and content of the report now before the Board. It is my understanding that these previous reports have not precluded the Board from reaching determinations

on those cases. I am particularly conscious of my duties under section 146 of the Planning and Development Act, 2000, as amended. I submit that my written report includes a clear recommendation which I consider is one which the Board can reach a determination on. While I consider that there is no lack of clarity in my opinion on the proposed development, I intend to review each of the sections of my report specified in the Direction and synthesise my considerations to ensure that there is further clarity. In each instance I first highlight what was stated in the relevant paragraphs in italics before offering clarity and my considerations.

2.1.2. **Sections 7.5.5. and 7.5.6.**

7.5.5. *Further to the above, I note that Planning Application 20/806 for the wind farm was lodged with Clare County Council in October 2020 and was withdrawn in January 2021, while Planning Application 21/370 for the wind farm was lodged in April 2021 and withdrawn in September 2021. It is not clearly understood if the public consultation that the applicant has referred to in the EIAR took place in relation to the proposed development now before the Board or if it related to one, two or all three of the planning applications. In my opinion, the applicant's actions of lodging applications and withdrawing them and making new applications must have created a high degree of confusion amongst the public about the nature and extent of the proposed development and if such a project was genuinely being pursued. These actions have done very little to allow one to come to a conclusion that community engagement was in any way orderly, meaningful and informative.*

7.5.6. *Overall, I must consider that the public consultation associated with this project constitutes a confusing approach by the developer. The degree of detailed information available on the project itself appears to have been somewhat limited. The confusion and limitations could only have heightened public concerns, in my opinion, and I submit that this is most unsatisfactory. I recognise, however, that the applicant is not obligated under the Planning Act or any guidance to engage further with the local community and has not contravened any legal requirements. However, the poor handling of public consultation, in light of three separate planning*

applications during the period which the applicant submits public consultation was ongoing, must be highlighted.

Paragraph 7.5.5.

In this paragraph, I have pointed out that the applicant made reference to public consultation about which there is some confusion as to whether this consultation related solely to the application now before the Board or if it related to consultation that took place for two previous applications as well as the current application. I have submitted to the Board that it is my opinion that making, withdrawing and re-making applications may cause confusion amongst the general public as to the nature and extent of the proposed development which is subject to consideration. Public consultation relating to one application may or may not be directly relevant to subsequent application(s).

Paragraph 7.5.6.

This paragraph reiterates the conclusion drawn that the approach taken can create confusion and acknowledges its limitations. I submit that this confusion can often heighten concerns amongst those potentially affected by a development of the nature proposed. I consider that the lack of clarity undermines the value of the consultation process. I have also acknowledged that there was no obligation on the applicant under the Planning Act to have engaged further with the public.

Overall, I submit that the language used in these paragraphs is clear, concise, neutral, not subjective, nor does it form a pejorative personal view. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector. I do not consider that these paragraphs conflict with the Inspectorate Report Guidance Note.

2.1.3. **Section 7.7.7.**

7.7.7. Conclusion on Ornithology

It is very clear from the above that the site of the proposed development is significant in terms of biodiversity and its ornithological value must not go unnoticed. It is my opinion that the applicant ultimately seeks to address impacts on bird species of conservation value by constructing the proposed development, removing/eroding habitat, thus eliminating the value of the site for nesting, breeding, and foraging and, therefore, after early years of collision and mortality, ensuring that the matter is addressed by the site being avoided and not being utilised by these species of conservation value.

It is self-evident that this proposed development, alongside the Slieve Callan Wind Farm, will have a significant adverse cumulative impact. The land area for wind farm development that is now squeezing out more and more birds of conservation value is extensive. The EIAR notes that there are 8 wind farms within a 12km radius of the site and there are 72 operating turbines, inclusive of the 29 turbines at Slieve Callan alongside the proposed site. I note from the applicant's cumulative assessment that the Environmental Impact Statement for Slieve Callan Wind Farm did not note any significant impacts on Golden Plover or Red Grouse and did not specifically mention Kestrel or Sparrowhawk in its assessment. This would suggest to me that the applicant's recordings relating to the site of the proposed development now before the Board heightens the understanding that the site is indeed of significant ornithological value in itself and reinforces the need for conservation and protection of species of conservation value in this area.

I contend that it is inappropriate for the applicant to be submitting, as a ground for supporting this proposal, that the amount of habitat that would be lost by the proposed development would be insignificant relative to the availability of habitat in the wider surroundings or that the site does not contain habitats that are unique

to the local area. One cannot expand development of this nature at such sensitive locations premised upon the availability of habitat elsewhere that has not been assessed and determined to be readily suited and assured in its use by birds of conservation value. The site and its location are a known area of ornithological value, proven by the applicant's own survey findings. Speculating on appropriateness and availability of habitat elsewhere cannot and should not be relied upon. What can reasonably be observed is that the location for the proposed development is of ornithological significance.

I note that the proposed turbines would be significantly larger and higher than the neighbouring turbines. They pose a significant collision and mortality threat. It is futile to argue that the adverse impact would not be significant on this area of West Clare, which is now understood to be of significant ornithological value. Development such as that proposed at this location results in destruction of sensitive biodiversity at the expense of renewable energy infrastructure. If one is to be in any way serious about protecting areas of significant biodiversity value, then one must avoid areas such as this now. One cannot be blinded by a simple designation of an area as suitable for wind farm development when considering biodiversity destruction and the consequent sterility of sensitive and valued uplands.

This section of my original report forms my concluding opinion on the impacts of the proposed wind farm on ornithology. The first paragraph sets out my views on the impact the proposed development would have if it is to proceed. In my opinion, it would remove/erode habitat, such that the value of the site for nesting would be undermined, as well as for breeding and foraging. Collision impacts in the early years would result in the site being avoided by species of conservation value. While clearly it would not be the intent of any developer of any wind farm to directly cause such impacts, in my opinion, this is the likely outcome at this location. The second paragraph seeks to highlight the cumulative impacts with existing wind farms in this area and the effects this is having on birds of conservation value, and it recognises

that the applicant's own findings demonstrate that this site is of significant ornithological value. The third paragraph seeks to indicate to the Board that the extent of habitat of ornithological value on the site itself is significant and its loss would be significant. The qualitative nature of habitat elsewhere cannot be determined at this stage as it has not been assessed. One cannot determine that the amount of habitat lost on this site would not be significant and one should not speculate about this when there is no understanding of the qualitative nature of habitat elsewhere. What is evident from the applicant's own findings is that the site itself has been demonstrated to be of ornithological value. The final paragraph seeks to highlight that the proposed turbines are larger than those which exist at this location and they bring with them increased adverse impact for birds of conservation value. In my opinion, this area should be avoided. I contend that adverse impact on biodiversity should not be acceptable. Because the proposed development is a renewable energy project and the lands on which it is proposed to be sited are in a location where there is an extensive designation of an area as suitable for wind farm development, this should not override other planning and environmental considerations. There is a requirement to go beyond simple designation when considering environmental impacts.

Overall, I submit that the language used in these paragraphs is clear, concise, neutral, not subjective, nor does it form a pejorative personal view. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector. I do not consider that these paragraphs conflict with the Inspectorate Report Guidance Note.

2.1.4. **Section 7.9.5.**

7.9.5. Arising from the above, there must be very serious concerns about the containment of vast volumes of peat and spoil on the hillsides as proposed. I repeat that the applicant's Peat and Spoil Management Plan presents as a concept not as a fully

understood component of a physical project. There are so many indefinites and there is too much dependence on reaction to unknowns. It is apparent that the applicant does not know enough about what it proposes to do to contain and manage this waste material, which poses a significant pollution threat if the concept fails. This is a critically important part of the project and one that poses one of the most significant environmental risks. The applicant's lack of understanding, knowledge and assuredness in what measures are necessary form a serious failure in the application.

In my opinion, there is a distinct lack of clarity on the applicant's proposals to contain peat and spoil on the hillsides on this site. The applicant's proposals indicate that there are many unknowns about the site and the development of a wind farm on it. These containment facilities are huge areas. If one is proposing to store vast volumes of waste materials one requires to be specific about the proposals as to how this is to be undertaken. In my opinion, one does not have these specific proposals. Effectively, the proposals would form very large landfills of which a very high content would consist of peaty waters. These landfills would be sited on hillsides. In my opinion, if one does not know what is actually proposed to be constructed then there must be a serious concern about the environmental threat such landfills would pose. In my opinion, there is a lack of understanding, knowledge and assuredness about this project.

Overall, I submit that the language used in this paragraph is clear, concise, neutral, not subjective, nor does it form a pejorative personal view. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector. I do not consider that this paragraph conflicts with the Inspectorate Report Guidance Note.

2.1.5. **Section 7.11.1.**

7.11.1. I note the observation by Milltown Malbay Wind Farm Opposition Group and the reference to the EIAR being a 'copy/paste job' by the applicant's agent. In the context of matters pertaining to the management of waste materials and site drainage, I must concur with this submission. In dealing with many wind farm developments in this location and elsewhere in recent times, I must draw the attention of the Board at this stage to the same methodologies and concepts proposed to be applied consistently. The proposed measures clearly form a 'cut-and-paste' approach to wind farm development. They present as a 'one size fits all' approach no matter where the site is, what the differing topographical characteristics are, what different drainage patterns apply, what the prevailing soils and geology of an area is, etc.

I have dealt with several wind farms in recent years in County Clare and elsewhere. In matters pertaining to the management of waste materials and site drainage, I have seen a consistency of approach, using the same methodologies for different sites in different parts of the country. In my opinion, a replication of the same approaches on different sites cannot reasonably be acceptable where there is a lack of assuredness and understanding about site conditions and the effects a wind farm development would have. Given the nature and extent of the large peat and spoil containment areas proposed on hillsides and the threats posed to the environment by their failure, one must be assured and this requires definite and specifically designed approaches for each site. Examples where there have been the same methodologies and approaches proposed include ABP-310788-21 (County Sligo), ABP-310789-21 (County Leitrim), ABP-312659-22 (County Donegal), and ABP-311044-21 (County Clare). I acknowledge that further clarity would have been provided to the Board if I had made reference to specific planning reference numbers.

Overall, I submit that the language used in this paragraph is clear, concise, neutral, not subjective, nor does it form a pejorative personal view. My view is based upon my knowledge of other wind farm development proposals. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector and my observations arising

from my work. I do not consider that this paragraph conflicts with the Inspectorate Report Guidance Note.

2.1.6. **Section 7.13.4.**

7.13.4. Operational Noise

I note the applicant's submission forming Chapter 11 of the EIAR and the supporting Appendices 11-1 to 11-7. The applicant's assessment considered the construction, operational and decommissioning phases of the development.

A background noise survey was conducted through installing unattended sound level meters at five locations (in the vicinity of residential properties) in the surrounding area. Locations that fell inside the predicted $35\text{dB}_{\text{LA90}}$ noise contour were considered for noise monitoring. The summary of the background noise data acquired (Table 11-11 of EIAR) indicates that these locations constitute a low noise environment at day and night times.

The derived background noise levels were assigned to other NSLs which are deemed to be representative of the background measurement locations (Table 11-13 of the EIAR). Appendix 11-5 of the EIAR tables predicted cumulative omni-directional turbine noise levels from existing and proposed wind energy development for each NSL (198 in total). These are worst-case as they assume all noise sensitive locations are downwind of all turbines at the same time. Results are provided at various standardised wind speeds. Appendix 11-6 tables predicted omni-directional turbine noise levels for the proposed development only. They again are worst-case as they assume all noise sensitive locations are downwind of all turbines at the same time. There were no predicted daytime or night-time excesses at any NSL. The EIAR notes that there is existing wind turbine noise at some NSLs and it states that the contribution from the proposed development will be inaudible and there will be no

significant changes to the noise environment. It is also noted that at other NSLs an increase in the cumulative turbine noise level will be noticeable but it will be within best practice noise criteria curves recommended in the Wind Energy Development Guidelines.

The applicant has acknowledged that turbines can be programmed to run in reduced modes of operation to achieve noise criteria during certain periods and in specific wind conditions (i.e. "Curtailment"). The applicant has submitted that the turbine technology assumed for its assessment offers various low noise modes of operation with an associated energy output reduction.

Having regard to the above, I note that the turbine technology has been assumed for the assessment. The Board has no details contained in the application on the actual proposed turbine technology which can reassure the Board or neighbouring residents that adverse noise impacts would be adequately addressed. In my opinion, there should an obligation on the applicant to provide some clear understanding about any proposed curtailment strategy in order that the Board can take an informed position on the likely effectiveness of such a strategy. In the event that alternative turbine technologies are proposed for the site, an updated noise assessment would evidently be required also to confirm that the noise emissions associated with them will comply with the noise criteria curves as per best practice guidance and/or the relevant operational criteria associated with the grant of planning permission for the development. This gap on information does not allow for a comprehensive assessment of these proposals and one should not potentially be dependent upon addressing potential environmental effects after a decision is made to permit the development.

I note the EIAR also assessed noise with regard to the operation of site roads and the proposed substation. I acknowledge the significant separation distances between the site and established NSLs and consider the use and operation of these

infrastructural components would have no notable adverse noise impacts on the wider community.

The applicant acknowledges in Section 11.5.6.2 of the EIAR the potential for low frequency noise. It is submitted that, if this arises, an appropriate investigation should be undertaken. Reference is made to guidance on conducting such an investigation but no reference is made to what should be done in the event that this is a problem. Similarly, the applicant acknowledges the potential of amplitude modulation (AM) (Section 11.5.6.3 of the EIAR) and it is proposed to employ an independent acoustic consultant to assess the level of AM in accordance with stated guidance should this arise. Once again, no reference is made to what would actually be done in the event there is a problem with amplitude modulation. It is regrettable that the Wind Energy Guidelines are silent on what is evidently becoming a significant noise concern for residents of wind farm development.

Overall on operational noise, I note the predicted noise impacts arising for noise sensitive locations in the area where the proposed development is intended to be sited. I again acknowledge the low noise environment which houses in the general vicinity of this site experience. I note also that wind farm noise from Slieve Callan Wind Farm comprises part of the established noise environment for some NSLs. I acknowledge the submissions from residents of this area who have submitted that they will be adversely affected by noise from the proposed wind farm and who express concerns about existing impacts. In light of the applicant potentially seeking to address noise impacts by way of a curtailment strategy, details of which are effectively unknown or substantially limited, and to potentially be utilising alternative turbine technologies which would require updated noise assessment, I submit that third party concerns on noise impact can to some degree be understood. I also consider that it is particularly difficult to draw any reasonable conclusion on residual noise impacts when the applicant acknowledges the potential for low frequency noise and amplitude modulation. While it proposes to investigate such adverse effects if they arise, the applicant does not clearly specify how it is going to mitigate such negative impacts. Therefore, there is further uncertainty with operational noise. Any grant of planning permission would be premature without suitable reassurances

on protecting residents from harmful noise effects, in my opinion. The Board is not in a position to take an informed decision on this issue.

I submit to the Board that the first four paragraphs in this section reflect details which the applicant has provided in the application. Regarding paragraph five, I maintain the view that there are no details in the application on the actual proposed turbine technology to reassure the Board on how it is proposed to address potential adverse noise and that the strategy to deal with this should be clear in the application. I consider that, in the event that alternative turbine technologies are proposed for the site, an updated noise assessment would be required in order to confirm that the noise emissions associated with them would comply with noise criteria curves as per best practice guidance. In my opinion, this forms a gap in information which undermines the ability to undertake comprehensive assessment. I consider that paragraph six is clear and concise. Paragraph seven forms an observation, the lack of specific actions in response to low frequency noise and amplitude modulation, and an observation that the Wind Energy Guidelines are silent on these important issues. Paragraph eight draws together the main observations and key issues relating to noise and my opinion that the Board is not in a position to take an informed position on this issue.

Overall, I submit that the language used in these paragraphs is clear, concise, neutral, not subjective, nor does it form a pejorative personal view. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector. I do not consider that these paragraphs conflict with the Inspectorate Report Guidance Note.

2.1.7. Section 7.16.2.

7.16.2. The first point that must be made when considering this issue is to note that there are no studies done in Ireland which determine the siting of a wind farm does or

does not affect property values. In my opinion, I would find it particularly difficult to accept that if a wind farm, with turbines of the scale and height proposed in this application, is located near a residential property, that one could rationally conclude that the siting of such large turbines would either enhance the value of the property or, indeed, have a neutral effect. The Board can peruse the photomontages presented by the applicant to draw its own conclusions. The photomontages presented as being closest to the wind farm site are those which the applicant itself seeks to show how the proposed turbines would impact on neighbouring houses. It is my view that the proposed turbines would have significant adverse impacts on the amenities of their closest neighbours in terms of landscape and visual impact and potentially by way of noise and shadow flicker. I cannot see how these impacts would not adversely affect a property value. I appreciate that this opinion is not founded on empirical evidence.

I first note for the Board that I undertook a site inspection as part of my considerations of this application. I visited many locations, including all of those relating to the submitted photomontages. I examined the proposed development in the context of its proximity to many residential properties. My experience and understanding of the scale, form and character of wind farm development and its potential environmental effects allows me to offer an informed view on effects, in my opinion.

I submit that the language used in this paragraph is clear and concise. It is not subjective as it is based on my experience as an Inspector who has dealt with many wind farm proposals. It does not form a pejorative personal view. It is based on my observations on the impact of wind farm development and an assessment of whether large turbines and their effects in close proximity to residential property would likely enhance, have neutral or have adverse impacts. I repeat that my view is based upon my knowledge of wind farm development proposals. I understand that my work as a reporting Inspector requires me to offer opinions, some of which are based upon my 25 years of experience as such an Inspector and my observations arising from my

work. I do not consider that this paragraph conflicts with the Inspectorate Report Guidance Note.

In conclusion, I hope that the Board will now be able to reach a determination on this case based on the clarity which I have provided.

Part Three

3.1. Update on Information on Hen Harrier

3.1.1. The Board will note my considerations in my original report on the ornithological impact of the proposed development and on Hen Harrier in particular. Given my recommendation and to keep the Board up to date on relevant information, I consider that it is reasonable to inform the Board of a recent important study and of its findings which were not available at the time of the preparation of my original report and the making of the recommendation. I draw the attention of the Board to the recent publication by NPWS “*The 2022 National Survey of breeding Hen Harrier in Ireland*”, published in 2024. This fifth national survey of the species in Ireland has documented very significant further population declines and a diminished range for this Annex I species, both in the wider countryside and within Special Protection Areas (SPAs). The following is noted:

- The hen harrier population is severely affected by a range of activities, pressures, and threats across Ireland. The population has declined substantially in the short-term 2015 to 2022 by one third and in the long-term 1998/2000 to 2022 by more than half.
- The hen harrier population in Ireland is estimated at 84 confirmed and 21 possible breeding pairs (85-106) in 2022. This is a decline of one third (33%) in the total population since the previous national survey in 2015 and a 27% contraction in their breeding range for the same period.
- Given the continued declines and myriad pressures and threats acting on hen harrier in Ireland, it is likely the hen harrier will feature on the next Red-list of the Birds of Conservation Concern in Ireland (BoCCI) subject to a full assessment using the BoCCI Red-list criteria.
- At the current rate of decline, population extinction could be expected within 25 years and there could be fewer than 50 breeding pairs of hen harrier remaining within the next 10 years.
- The breeding population of hen harrier in north and west Co. Clare has declined by around one quarter since 2015 (22%) and by around 56% since the peak recorded in the 2010 survey. These declines are extensive ... Surveyors

here observed that wind turbines and associated infrastructure (including erection of electricity pylons) may be causing disturbance and displacement.

- The most frequently occurring pressures and threats highlighted by surveyors in 2022 as negative for hen harriers close to breeding / nesting sites (i.e. in the 500 m zone) include: forest management and use; the mechanical removal of peat; increased access (via paths, tracks, cycling tracks (includes non-paved forest roads); non-intensive grazing; wind energy production and agricultural intensification.
- Surveyors in 2022 identified three main sectoral pressures across breeding hen harrier sites: forestry (NPWS, 2015), wind energy development (NPWS, 2021) and agriculture (NPWS, 2015). The negative effects of activities associated with these sectors typically manifest directly on the species (e.g. nest destruction, disturbance, or displacement) and also indirectly on the supporting breeding and/or foraging habitats via destruction, disturbance, or displacement i.e. loss of habitats.
- Surveyors have recorded that the wider loss and degradation of formerly-suitable breeding and foraging habitats, particularly through agricultural improvement, removal of scrub and heather; afforestation and intensification of land management often associated with wind energy development are determinants of hen harrier occurrence and/or abundance. The quality and quantity of prey species are also likely to be significantly affected by these factors.
- A range of negative interactions can occur with wind energy development, including displacement from foraging habitats, avoidance, disturbance at nesting or roosting sites, lower breeding success and mortality.
- Many surveyors reported that there is poor spatial planning around extant sites and there is persistent loss of suitable hen harrier habitats during wind energy development projects, but particularly in regions of Co. Donegal, Co. Clare, Co. Limerick and Co. Kerry.
- An increasing number of hen harrier collision strikes have been reported since the last national survey (NPWS, 2022) and a number of well-used winter roost sites have had turbines constructed within and/or immediately adjacent and resulted in displacement effects on the birds at the roost sites (O'Donoghue, 2021).

- The wind energy work programmes in Ireland typically follow the best practice guidance in Scotland (SNH, 2017; NatureScot, 2023). These methods may not be as appropriate in Ireland and/or require modifications, due to variations in e.g. breeding or wintering seasons, typical home range size of hen harriers in Ireland, which may be much larger (Irwin et al., 2012) than in Scotland (Arroyo et al., 2009).

3.1.2. The report's recommendations include:

- Hen harrier conservation in Ireland requires urgent implementation of concrete and significant actions promptly to prevent its further deterioration.
- The 2015 published habitat mapping for the SPAs needs to be updated and it is recommended that it be expanded to include the non-designated regionally important areas.
- Disturbance and habitat losses with the hen harrier range from land-use changes and development activities must be reduced.

3.1.3. It is apparent from this recent report that wind energy development is having a significant negative impact on Hen Harrier nationally, including in the West Clare area where the proposed development is intended to be sited. I acknowledge from my original report that the Development Applications Unit of the Department of Housing, Local Government and Heritage has noted that the site of the proposed development is used by Hen Harrier for foraging (winter and breeding season), with possible breeding also recorded. It also noted that the West Clare area is nationally important for Hen Harrier and that wind farms are known to have significant negative effects on foraging for the species. The Department has submitted that the population of the area is becoming more important due to the declining Harrier numbers within the current Special Protection Area network. DAU has further submitted that the vast majority of the site is comprised of potentially suitable foraging habitat and the displacement effects will result in the loss of a large foraging resource.

3.1.4. I put it to the Board that my conclusions on the adverse impact on Hen Harrier at this location, due to the development and operation of the proposed wind farm, are supported and reinforced by the findings of *The 2022 National Survey of breeding Hen Harrier in Ireland*.

Kevin Moore
Senior Planning Inspector

11th March, 2024