



An
Bord
Pleanála

Inspector's Report

ABP-315558-23

Development

Planning permission for the erection of a guyed wind monitoring turbine, with instruments, one hundred metres in height for a period of six years. The purpose of the turbine is to assess the suitability of the company's adjacent lands for a wind farm development.

Location

Derryfadda, Ballyforan, Ballinasloe, Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

22/263

Applicant(s)

Bord na Mona Powergen Ltd

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party v Refusal

Appellant(s)

Bord na Mona Powergen Ltd

Observer(s)

(1) Gerard & Angela Lennon

(2) Mary Moore

Date of Site Inspection

14th day of February 2024

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The site is located in the townland of Derryfadda, a rural area in north-east County Galway, close to the Roscommon border. The appeal site is located approximately three kilometres south-west of the village of Ballyforan and approximately twenty-two kilometres north of Ballinasloe. The appeal site area is shaped as an equilateral triangle with each side comprising a stated 139 metres, giving a site area of approximately 0.966 hectares. The levels within the appeal site are largely consistent with those within the adjacent excavated peatland bog, with levels falling marginally towards the north and south-east and rising marginally towards the south and west. The appeal site and its immediate surroundings comprise an area of worked out peatland within Derryfadda Bog.
- 1.2. The appeal site is accessed from a narrow local bog access road with a carriageway width that varies between 3.5 and 4 metres. The appeal site is located two kilometres back from the public road, the L3406, linking Ballyforan with Ahascragh. The bog access road leads to a redundant compound area and canteen cabin previously used by the workers within the peatland bog. The appeal site is located approximately 550 metres east of the compound area and is accessible on foot from the compound area, through the worked-out peatland area. The L3406 is not visible from the appeal site due to the separation distances and the forestry plantation along the eastern site of the local public road. The Derryfadda area is sparsely populated with a number of one-off rural dwellings and agricultural buildings, the nearest of which are located approximately two kilometres west of the appeal site adjacent to the junction of the Derryfadda bog access road and the local county road, the L3406. The River Suck is located approximately 0.75 kilometres east of the appeal site and a number of the Derryfadda bog drains ultimately feed into that river channel.

2.0 Proposed Development

- 2.1. The development would comprise the following:

- Erection of a guyed wind monitoring turbine with instruments, one hundred metres in height for a period of six years.
- 2.2. The applicants submitted an Appropriate Assessment (AA) screening report as part of their planning documentation.
- 2.3. Further information was submitted by the applicants in relation to the following matters: Details of the construction of the base for the wind monitoring mast: Surface water drainage details, including details of silt ponds: Details of flooding in the area; How the proposal would comply with the provisions of the Renewable Energy Strategy set out within the Development Plan: A Habitat Map, An updated Appropriate Assessment (AA) screening report, a Natura Impact Statement (NIS) and a Construction Environmental Management Plan (CEMP).
- 2.4. An Appropriate Assessment (AA) examination was carried out by the Planning Authority. They set out a number of issues in terms of the construction of foundations for the wind monitoring mast, the hydrological connectivity between the appeal site and the River Suck Callows SPA and the potential for the monitoring mast to adversely impact flight paths of the winter birds identified as qualifying interests associated with the SPA. The Planning Authority requested a revised an AA screening report and a Natura Impact Statement be submitted as part of a further information response. This is a matter that will be addressed in detail later within this assessment.
- 2.5. The Board referred the appeal to the Department of Housing, Local Government and Heritage (DoHLGH), the Heritage Council and An Taisce for comment. No response was received from any of these prescribed bodies. A response was received from the Department of Housing, Local Government and Heritage in relation to natural heritage. This response will be referenced later within Section 7 of this report.
- 2.6. A letter of consent from Bord na Mona has been submitted with the planning documentation consenting to the inclusion of part of their lands within the application site boundary for the development of the wind monitoring turbine.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by Galway County Council for one reason as follows:

On the basis of the information provided with the application, including the Natura Impact Statement (NIS) submitted as further information on the 19th day of October 2022, the Planning Authority is not satisfied having regard to the precautionary principle, that there is reasonable scientific certainty that the proposed development would not adversely affect the integrity of European sites in the vicinity, in light of the conservation objectives and qualifying interests for which the site is designated by virtue of it not being demonstrated that the development would not contravene the conservation objectives for some of the qualifying interests for some of the conservation objectives of the nearby River Suck Callows Special Protection Area. In particular, it is considered that there is a risk of contravening the conservation objectives for Golden Plover at the River Suck Callows Special Protection Area (site code 004097). Based on the deficiencies received in the content of the further information reply with respect to the potential for the proposed development to impact negatively on avian movements of the Golden Plover, the Planning Authority is not satisfied having regard to the uncertainty that exists that the proposed development would not adversely affect the integrity of the conservation objective and qualifying interests of the adjacent River Suck Callows SPA by virtue of the lacunae in respect to the potential for collision/obstruction with flight paths of the Golden Plover to arise owing to the siting and scale of the turbine and its associated support structures. Accordingly, to grant planning permission for the proposed development would be contrary to Policy Objective NHB 1 of the Galway County Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.3. Planning Reports

Initial Planning Report:

The initial report prepared by the Planning Officer set out the following:

- The proposals are to be assessed against policy objective WE5 whereby proposals relating to wind energy developments will be evaluated on a case-by-case basis, subject to viable wind speeds, environmental resources and constraints, amenity, safety, and cumulative impacts.
- The site is identified as being located within a low wind area within the County Renewable Energy Strategy (RES).
- There are no residential properties identifiable within a fifty-metre radius of the proposals.
- There are no protected structures in the vicinity of the appeal site.
- There are archaeological remains located approximately 550 metres removed from the appeal site. However, no comments were received from the Department of Housing, Local Government and Heritage (DoHLGH) in this regard.
- The appeal site is not a visually prominent one, designated as being a class 2 landscape within the landscape character assessment for the county.
- The site is not located within an identified flood risk area.
- There is a hydrological connection identified within the AA screening report linking the appeal site to the River Suck Callows Special Protection Area (SPA).
- The project provides for mitigation measures in the form of silt ponds and, therefore, a Stage 2 AA should be submitted which allows for the consideration of mitigation measures.
- Further information was requested in relation to details of bird survey results and flight path analysis to be completed by an ornithologist, details of excavations for the turbine structure and details of the silt ponds.

Subsequent Planning Report:

- Calculations for peat and marl excavations have been submitted including detail of the volume of stone backfill required for the shallow excavations.

- That the development is located outside of the areas identified within Local Authority Renewable Energy Strategy (LARES) and would be open to consideration rather than acceptable in principle as per the mapping set out within the LARES.
- There are no proposals to construct silt ponds, the surface water from the development will drain naturally within the peat area that underlies the wind monitoring structure.
- Results of bird surveys were submitted and indicated that there were a number of instances of Golden Plover flying/circling/resting and potentially roosting within the Derryfadda peatland area. The survey results reveal that the flight paths associated with the Golden Plover traversed the appeal site. Line marking on the supporting guy wires is presented as mitigating any adverse impact.
- Within the LARES, the appeal site is located outside of a Strategic Area or of areas which are acceptable in principle for wind energy developments.
- The scale of the proposed wind monitoring mast and the potential for collision with the flight paths of winter birds, the Golden Plover in particular that there are ecological lacunae within the information submitted in respect of the potential to adversely impact the Golden Plover bird species, a qualifying interest associated with the River Suck Callows Special Protection Area (SPA).
- The Planning Officer recommended a refusal of planning permission due to the potential for adverse impacts to arise upon the Golden Plover species and the conservation objective for the River Suck Callows SPA and the proposals being contrary to policy objective NHB1 within the Development Plan.

3.4 Internal Reports

There were no comments received from any of the internal departments within the Local Authority.

3.4. Prescribed Bodies

3.4.1. None received.

3.5. **Third Party Observations**

3.5.1. Three observations were received by the Planning Authority from local residents. The issues raised within the observations are similar to those raised within the two observations received by the Board in relation to the appeal as set out below within Section 6.3 of this report and included the following:

- The development is located in proximity to the River Suck Callows SPA. The applicants have not demonstrated beyond reasonable scientific doubt that the development would not adversely impact the conservation objective of the River Suck Callows SPA.
- The applicants have not demonstrated beyond reasonable scientific doubt that the development would not adversely impact upon water quality within the River Suck and its tributaries.
- The decommissioning and rehabilitation plan for the Derryfadda Bog identifies other species of conservation interest birds, species and mammals which are also protected outside of the European network of Natura 2000 sites.
- The applicants have failed to sufficiently assess impact upon connectivity to European sites.
- The applicants have not considered the in-combination effects of other plans and projects within their Natura Impact Statement, including the seven hills wind farm project located approximately five kilometres east of the appeal site.
- A number of precedents are referenced including a decision where the High Court quashed a decision by An Bord Pleanála to permit a wind farm in south Roscommon.
- That the current proposal is a precursor to an application for a wind farm development.

- The applicants have not referenced the karstic swallow hole, located approximately 1.1 kilometres north-east of the appeal site.

4.0 Planning History

4.1.1. On site:

I am not aware of any planning history associated with the appeal site.

In proximity to appeal site:

Planning reference number 313750-22-An Bord Pleanála granted planning permission for a twenty turbine wind farm development adjacent to the village of Dysart in south County Roscommon, located approximately five kilometres east of the appeal site.

5.0 Policy Context

5.1. Galway County Development Plan 2022-2028

The Elected Members of Galway County Council adopted the Galway County Development Plan 2022-2028 on the 9th day of May 2022, and it came into effect from the 20th of June 2022.

Section 8: Landscape

Map 8.1 the appeal site is located within the North Galway Complex landscape which has a landscape sensitivity rating of 1-low sensitivity where the landscape is unlikely to be affected by change.

The appeal site and the wider peatland area, known as Derryfadda Bog is located within a rural area, on unzoned lands as set out within the Plan.

There are no designated protected routes or scenic views in the vicinity of the appeal site as per Maps 8.3 and 8.4 of the Plan

Section 10: Natural Heritage

Policy objective NHB1: To protect and enhance natural heritage sites protected under National and EU legislation.

Section 14.8 Renewable Energy Generation

RE1: Renewable Energy Generation and ancillary facilities

To facilitate and support appropriate levels of renewable energy generation and ancillary facilities in the county to meet national, regional, and county renewable energy targets, to facilitate a reduction in CO2 emissions and the promotion of a low carbon economy.

RE 2: Local Authority Renewable Energy Strategy

The policy objectives and Development Management Standards set out in the Local Authority Renewable Energy Strategy for County Galway shall be deemed the policy objectives and development management standards for the purpose of the Galway County Development Plan 2022-2028.

RE 3: Wind Energy Developments

Promote and facilitate wind farm developments in suitable locations, having regard to areas of the County designated for this purpose in the Local Authority Renewable Energy Strategy. The Planning Authority will assess any planning application proposals for wind energy production in accordance with the Local Authority Renewable Energy Strategy, *the DoEHLG Guidelines for Planning Authorities on Wind Energy Development, 2006* (or any updated/superseded documents), having due regard to the Habitats Directive and to the detailed policy objectives and Development Standards set out in the Local Authority Renewable Energy Strategy.

Appendix 1: Local Area Renewable Energy Strategy (LARES)

Map 13 of the LARES identifies the wind potential for the County and the appeal site is identified as being an area open to consideration for wind project proposals.

5.2. THE WIND ENERGY GUIDELINES FOR PLANNING AUTHORITIES

5.2.1 These guidelines were published by the Department of the Environment, Heritage, and Local Government in 2006. Section 4.2 of the guidelines on Wind Measuring Masts notes that planning applications for wind anemometers and measuring masts are generally sought for a limited period only. Permission should be granted for approximately a two-year period in consultation with the developer to allow wind resource analysis to be carried out. It would be inadvisable for a planning authority to grant permission for a wind measuring mast in an area where there is a presumption against wind energy development in the development plan. In a case where a developer wishes to extend the period of the permission an application should be made to the planning authority to retain the wind measuring mast. Otherwise, the developer should be required to remove it.

5.3. Natural Heritage Designations

- 5.3.1. The nearest European site is the River Suck Callows SPA (site code 004097). located approximately 620 metres east of the appeal site. The nearest SAC to the appeal site is the Killeglan Grassland SAC (site code 002214) which is located approximately four kilometres south-east of the appeal site.
- 5.3.2. The nearest natural heritage site is the River Suck Callows NHA (site code 000222), located approximately 605 metres north-east of the appeal site.

5.4. Environmental Impact Assessment (EIA)-Preliminary Screening

- 5.4.1 An Environmental Impact Assessment Screening report was not submitted with the application.

Class 2(a) and class 3 (i) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended), provides that mandatory EIA is required for the following classes of development:

- Peat extraction which would involve a new or extended area of 30 hectares or more.
- Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.

5.4.2 It is proposed to erect a single wind monitoring turbine in this instance. Its base will require the removal of approximately one hundred cubic metres of peat and marl around the base of the wind monitoring structure. The area of the appeal site is approximately 0.966 hectares and is, therefore, well below the threshold of 30 hectares for a peat extraction development project. The number of turbines proposed for the wind monitoring (one) is well below the threshold of five turbines, and in any event, there is no electricity generation proposed in this instance, as the purpose of the turbine is specifically for wind monitoring purposes. A wind farm proposal may follow after the six year temporary monitoring period ceases, where the issue of environmental impact assessment (EIA) would be re-examined. The development of a monitoring turbine within a three hundred hectare raised peatland area will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not located within an area of landscape sensitivity or of cultural heritage. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development has no servicing requirements in terms of connections to water or wastewater.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Classes 2 and 3 – Extractive and Energy Industry of the Planning and Development Regulations 2001 (as amended),
- The location of the site on peatlands that form part of an extensive three-hundred-hectare exhausted peatland area. Regulations 2001 (as amended),

- The results of the Strategic Environmental Assessment of the Galway County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within a permitted, established, and exhausted peatland area, where there are no requirements for water supply or wastewater services, and the established pattern of peatland extraction in the vicinity,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003), and
- The criteria set out within Schedule 7 of the Planning and Development Regulations 2001 (as amended).

5.4.3 I have concluded that, by reason of the nature, scale and location of the development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 A first party appeal has been submitted by the applicants Bord na Mona Powergen Ltd against the decision of the Planning Authority to refuse planning permission for the wind monitoring turbine. The issues raised within the appeal can be summarised as follows:

Zoning and Development Plan considerations:

- The Development Plan Renewable Energy Strategy, Map number 15, Wind Potential Map identifies the appeal site as being within an area open to consideration for Wind Energy Development.

Appropriate Assessment:

- From the reason for refusal, it is assumed that the Local Authority has no concerns regarding potential impacts on other European sites, aside from the River Suck Callows SPA and that the Golden Plover is the single key species of special conservation interest.
- The Local Authority's main concern relates to the potential for collision/obstruction of flight paths of the Golden Plover species to arise owing to the siting and scale of the wind monitoring turbine and its associated support structures.
- The AA screening concluded that in the absence of mitigation, potential significant effects could arise within the River Suck Callows SPA.
- The potential impacts identified within the AA screening include the generation of sediment during the construction phase and disturbance and/or collision risk to birds flying within or through the appeal site. The concern of the Local Authority corresponds with the latter potential impact in terms of the potential for mortality, disturbance and/or displacement of winter birds.
- Bird surveys were conducted in accordance with best practice guidance.
- Section 3.3 of the NIS specifically addresses the issue of bird collision.
- The NIS acknowledges that in the absence of mitigation, there is some risk of the winter birds colliding with the supporting guy wires. However, it is considered that the wind monitoring structure itself would be readily seen by approaching birds.
- The Scottish guidance, prepared in 2016 relating to power lines and guyed meteorological turbines sets out the following: Collisions are usually site, season, and species specific, and a generic risk model is unlikely to accurately predict levels

of mortality. ...we recommend that emphasis is put on mitigation where surveys indicate potential conflicts.

- Mitigation, in the form of line marking is proposed in accordance with best international practice.
- Bird markers/diverters are a tried and tested measure to minimise bird collision with wires.
- There is no uncertainty/lacunae in respect of the potential for collision of the Golden Plover with the guy wires and wind monitoring mast.
- The bird surveys noted the existence of the Golden Plover species was recorded throughout the site and within the neighbouring peatlands. They often circled and landed on the bare peatland.
- The flightline maps indicate that the flightlines for the Golden Plover were quite random, not following any particular pattern. More sightings of the species were recorded in the northern part of the Derryfadda bog where there is extensive bare peatland.
- There was no evidence of a regular movement of Golden Plover in corridors across the site, in the vicinity of the proposed development or in any other part of the site.
- The presence of the monitoring turbine itself would not cause obstruction/displacement to flight paths of the Golden Plover.
- The Local Authority refer to deficiencies within the content of the further information response, however, the precise nature of these deficiencies has not been clearly set out by them.
- The baseline bird data submitted is based on a thorough and complete series of surveys carried out over a six-month period from October 2021 to March 2022.
- There is reasonable scientific certainty that with the incorporation of the mitigation measures that the development would not adversely affect the integrity of any

European site, and particularly the conservation objective of the River Suck Callows SPA.

Other Issues:

- Request that the Board reverse the planning decision made by Galway County Council and grant planning permission for the development.

6.2 Planning Authority Response

No comments in relation to the appeal were received from the Planning Authority.

6.3 Observations

6.3.1 The issues raised within the third-party observations, made by two parties of local residents who state that they reside in the townland of Dysart, Ballinasloe. The issues raised relate to the following:

Appropriate Assessment:

- The applicants have failed to demonstrate beyond reasonable scientific doubt that the project will not create disturbance or a risk of collision to the key protected winter bird species associated with the River Suck Callows SPA.
- The applicants have not demonstrated that the proposals will not result in a deterioration in water quality within the River Suck Callows European site.
- Within the AA Screening and NIS submitted by the applicants, they acknowledge that there is a risk of disturbance and/or collision to key protected species flying within the Derryfadda peatland area.
- The applicants set out that there is no reliable statistical model available to provide a robust assessment of potential winter bird mortality.

- The applicants acknowledge that the mitigation measure proposed, in the form of line marking is very unlikely to eliminate mortality.
- Section 3.3.5 of the Guidance Document-Appropriate Assessment of Plans and Projects in Ireland-Guidance for Planning Authorities sets out the following: If mitigation measures are insufficient or are not actually practicable and achievable to avoid the risk entirely, then, in the light of a negative assessment, the plan or project may not proceed.
- The Planning Authority was not satisfied that the development would not conflict with the conservation objectives of the River Suck Callows SPA.
- The applicants have failed to reach the standard of beyond reasonable doubt.
- The applicants do not contest the conclusions of the Planning Authority within their appeal submission, but merely repeat extracts from their NIS.
- The applicants have failed to consider other projects in the in-combination effects including the rehabilitation of the Derryfadda peatlands bog and the Seven Hills Wind farm project permitted by the Board under reference number 313750.
- Galway County Council were unable to determine that no scientific doubt remains as to the absence of potential adverse impacts upon qualifying interests associated with the River Suck Callows SPA.
- The applicants appeal submission does not provide any additional evidence which would allow the Board to determine otherwise.

7.0 **Assessment**

7.1 The key issues raised within the third-party appeal are considered to include the following:

- Principle of development
- Landscape

- Other Issues
- Appropriate Assessment
- Other Issues

7.2 Principle of Development

7.2.1 The appeal site is located within the Derryfadda raised bog which was used for the harvesting of commercial peat up until 2020 when peat production ceased. The appeal site is centrally located within area of bare peat and there are several bog drains which fall in an easterly direction towards the River Suck, which is located approximately 750 metres east of the appeal site.

7.2.2 Policy objective RE3 seeks to promote and facilitate wind development proposals once they are in accordance with the Local Authority Renewable Energy Strategy (LARES) and in accordance with the Habitats Directive. I am satisfied that the current proposals are open to consideration as per the current LARES and, therefore, will be assessed on their merits. In terms of compliance with the Habitats Directive, this is a matter that will be addressed in detail later within this report within Sections 7.5 and 7.6.

7.2.3 The Local Authority Renewable Energy Strategy (LARES) for the county is set out within Appendix 1 within the current Galway County Development Plan 2022-28. The Strategy identifies the appeal site as being within an area open to consideration in terms of wind energy development proposals. Therefore, I consider that the proposals can be considered on their planning merits subject to the issues raised within the Planning Authority decision and those raised by the observers in relation to potential adverse impact upon the conservation objective associated with the River Suck Callows SPA being comprehensively addressed. These are all matters that will be considered in detail later within this assessment.

7.2.4 In conclusion, I consider that the principle of the erection of the wind monitoring turbine as being acceptable in this instance, would accord with the provisions of the

Development Plan, subject to the issue of the Habitats Directive, as raised by the PA within its refusal treason and by the observers being satisfactorily addressed.

7.3 Landscape

7.3.1 Section 8 in the Plan pertains to tourism and landscape. The appeal site is located within the North Galway Complex landscape. This area has a landscape sensitivity rating of 1-a low sensitivity. This landscape is unlikely to be affected by change. The appeal site is part of the wider Derryfadda raised bog area. There are no designated scenic views or protected routes as set out with Map numbers 8.3 or 8.4 within the Plan.

7.3.2 Having regard to the location of the appeal site, located approximately two kilometres removed from the nearest local county road, east of a mature afforested area which restricts views of the appeal site from the local road network, I consider that the appeal site is not visually prominent within the local landscape. Whilst I acknowledge that a one-hundred-metre-tall turbine structure could adversely impact a local landscape, in this instance, I do not consider the development would have an adverse impact on the local landscape and that only intermittent long-distance views of the turbine structure would be available and that the structure would be viewed against the backdrop of the local peatland and agricultural landscape. Therefore, I am satisfied that the proposals would not conflict with the provisions of policy objective LCM1 within the Development Plan in relation to preserving and enhancing the character of the landscape.

7.4 Other Issues

Hen Harrier:

7.4.1 The Hen Harrier, though not specifically identified as a qualifying interest of the River Suck Callows SPA, is an Annex 1 protected bird species. Two sightings of this species were recorded during the bird surveys, one of which was on the opposite (eastern) side of the River Suck channel. I am satisfied that the Hen Harrier species was recorded at

ground level and therefore, I am satisfied that the proposed development would not result in a significant effect upon this particular species given the appeal site comprises only a modest 1.38% of the total Derryfadda peatland area and that there is adequate similar type habitat available, immediately adjacent to the appeal site.

7.5 Appropriate Assessment Screening (Stage 1)

- 7.5.1 The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, Section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.
- 7.5.2 This section of the report considers the potential for likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. It is informed by an updated and revised Appropriate Assessment (AA) screening report submitted at the further information stage. The applicants screened the proposals for the need for AA and a Natura Impact Statement (NIS) was submitted as part of the further information response to inform AA (Stage 2).
- 7.5.3 The characteristics of the local environment including the habitats and/or fauna identified within the appeal site include: Bare or near bare peat (ED2) occurs over substantial parts of the Derryfadda bog, recolonising bare ground (ED3), remnant high bog and heath (PB1) and bog woodland (WN7) dominated by Birch and Willow and BL3, buildings and artificial surfaces. There are a number of bog drains which drain in an easterly direction towards a number of silt ponds, located approximately three hundred metres east of the appeal site and which are subject to an IPPC licence, a process that is managed by the Environmental Protection Agency (EPA). The outfall from the silt ponds is into a short tributary of the River Suck, before it reaches the main channel of the River Suck. Since the cessation of peat production, revegetation (with bog cotton) within the bog drains, has occurred which is stated to assist in managing any siltation which may enter the drains as a result of the construction works associated with the development of the wind monitoring turbine. Section 2.2 of the AA screening report sets out that the appeal site presently provides poor habitat for nesting birds and

...overall, the location for the proposed wind turbine is of low or negligible ecological value and is ranked local (lower value) importance according to the classification recommended by the National Roads Authority.

The Project and Its Characteristics

- 7.5.4 See the detailed description of the proposed development in Section 2.0 above.

The European Sites Likely to be Affected.

- 7.5.5 The nearest SAC to the appeal site is the Killeglan Grassland SAC (site code 002214) which is located approximately four kilometres south-east of the appeal site on the eastern (opposite) side of the River Suck channel. There are no hydrological nor ecological linkages connecting the appeal site to the SAC. Therefore, I am satisfied that this SAC and other SAC's which are located between eight and fifteen kilometres distant from the appeal site can be screened out, due to the separation distances involved and the absence of connectivity to them from the appeal site. The River Suck Callows SPA (004097) is located a distance of approximately 620 metres east of the appeal site. By virtue of the hydrological connectivity between the appeal site and the SPA and the potential for collision, displacement and/or disturbance of winter/migratory birds over the Derrytadda peatland area and the appeal site as recorded within the bird surveys, this European site needs to be considered and assessed in greater detail.
- 7.5.6 Other European sites are not hydrologically or ecologically connected to the appeal site or are such a distance from the appeal site, that there would not be any likely significant effects on them as a result of habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation interest, mortality of species, noise pollution, emissions to air and emissions to water.
- 7.5.7 The relevant European site, its conservation objective and its Qualifying Interests/Species of Conservation Interest are listed below:

Table 1:

European Site	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Further Consideration in Screening
		Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	
River Suck Callows SPA (site code 004097).	To maintain and restore the conservation status of the River Suck Callows SPA European site	Whooper Swan Greenland White-fronted Goose. Wigeon. Golden Plover. Lapwing. Wetland and Waterbirds.	Approximately 620 metres east of the appeal site.	Yes. Requires further assessment due to there being hydrological connectivity between the appeal site and the SPA via bog drains. There is also the potential the monitoring turbine and its associated supporting guy wires could result in collision, disturbance and/pr displacement of the protected winter birds	yes

				and potentially impact upon the flight paths of the protected winter bird species during the operational phase. of the development.	
--	--	--	--	---	--

I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening separation distances, the lack of suitable habitat for qualifying interests and the lack of hydrological or other connections. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

Identification of Likely Significant Effects

7.5.8 Given the location, nature, and scale of the proposed project, it is apparent that a number of qualifying interests have the potential to be impacted upon within the following European site:

- River Suck Callows SPA (Site Code: 004097).

7.5.9 Given the existence of hydrological and ecological connections between the appeal site and the SPA and that the bird surveys have identified that a number of the protected bird species associated with the SPA were identified as flying, circling, resting and potentially roosting within the peatland area and recorded specifically within the appeal site on a number of occasions during the bird surveys, the development will be screened in. The Derryfadda peatland area is identified as an area where the Golden Plover species move between the river channel and the peatland area, including the appeal site. Therefore, there is potential for collision and/or disturbance of a qualifying

interest species associated with the SPA site by reason of the scale of the proposed wind monitoring turbine and its associated support infrastructure and specifically the guy wires. Therefore, the proposed development is screened in for Appropriate Assessment.

Appropriate Assessment Stage 1- Screening Conclusion

- 7.5.10 In conclusion, having regard to the scale of the wind turbine monitoring structure and its associated support infrastructure, the results of the bird surveys conducted, and the proximity of the appeal site to the nearest boundary of the River Suck Callows SPA European site, I consider that the proposed development could have the potential to significantly impact Qualifying interests associated with a European site, in view of the sites' conservation objectives and, therefore, a Stage 2 Appropriate Assessment Statement is required.

Appropriate Assessment-Stage 2

- 7.6.1 The Natura Impact Statement (NIS) submitted as part of the further information response examines and assesses the potential for adverse effects of the development on the nearest European site, namely the River Suck Callows SPA. Sections 3.1 to 3.3 inclusive set out the potential impacts that would arise from the construction and operational phases of the development on the European site and includes details of mitigation measures to minimise these potential impacts.
- 7.6.2 The NIS concludes that with the implementation of the mitigation measures and the implementation of preventative measures during the construction and operational phases, adverse effects on the site integrity of the European site(s) alone, or in combination with other plans and projects can be excluded.

Appropriate Assessment of implications of the wind monitoring turbine and associated infrastructure on the European Sites

- 7.6.3 The following is an assessment of the implications of the project on the qualifying interest features and conservation objective of the River Suck Callows European site. All aspects of the development which could result in significant effects are assessed

and details of mitigation measures used to avoid or reduce any adverse effects are considered and assessed. The conservation objective for the River Suck Callows SPA site is: To maintain or restore the favourable conservation status of the bird species and habitat associated with the site. Given the nature of the wind monitoring turbine, it is considered that the main issues that need to be assessed in further detail in this particular instance, given the attributes of the local environment include: The generation of sediment which would potentially adversely impact water quality during the construction and de-commissioning phases of the development and the potential for the collision and/or disturbance of protected winter birds with/by the wind monitoring turbine structure and its associated support infrastructure.

Potential Impacts on the identified European Site

7.6.4 Section 3 of the NIS identifies that there is potential for sediment to be generated during the construction and de-commissioning phases of the development. The base of the turbine will require the excavation of peat and marl and the importation of hardcore stone. The applicants state that no concrete would be used within the base construction. However, sediment would be generated during the peat and marl excavation (approximately one hundred cubic metres) and replacement with a hardcore stone base (approximately forty-nine cubic metres), railway sleepers and marl would be used for the construction of the turbine base. The sediment generated by these works would potentially find its way to the surface water bog drains that exist throughout the peatland area. These bog drains ultimately discharge to a number of silt ponds which are managed by the EPA under an IPPC license. The outfall from the silt ponds is to bog drains and a small tributary of the River Suck until it ultimately discharges to the main River Suck channel.

7.6.5 It is stated that these bog drains have started to revegetate since commercial production of peat ceased in the Derryfadda peatlands in the year 2020. This revegetation would contribute to the management of silt and reduce the volume of sediment that would reach the silt ponds and ultimately to the river channel. They state

that the construction of the base would not adversely impact upon water quality within the European site. I am satisfied that due to the relatively modest extent of the construction works, the absence of concrete being used within the construction works and the existence of the silt ponds, where the bog water is treated prior to discharge to the River Suck channel and the SPA site. Therefore, I consider that this particular threat can be discounted and would not result in an adverse impact on the integrity of the River Suck Callows SPA having regard to its conservation objective.

7.6.6 The applicants submitted details of bird surveys conducted between October 2021 and March 2022. From the survey results it is apparent that a number of the Qualifying interests (QI's) would not be likely to be adversely impacted by the development. This is due to the fact that some of the QI's were not recorded in proximity to the appeal site area or were recorded in proximity to the main river channel and lands further east of the channel within the bird surveys. These species include Wigeon, Lapwing, Greenland White Fronted Goose, and the Whooper Swan. For these reasons, I consider that these qualifying interests can be removed from further consideration under this assessment.

7.6.7 A description of the SPAs' Conservation Objectives and Qualifying Interests are available at (www.npws.ie). I refer to the National Parks and Wildlife Service specific conservation objective for the Golden Plover species. The specific objective for this species is: To restore the conservation status of the Golden Plover as it relates to the River Suck Callows SPA. The targets, measures and notes outlined within the Conservation Objective illustrate that the national population of the Golden Plover species have decreased by in excess of 50% as recorded within the bird surveys conducted by the National Parks and Wildlife Service (NPWS) during 1998/1999 and during 2012-2013. Within the River Suck Callows SPA, the bird surveys conducted by the NPWS over the same period recorded a decline of the Golden Plover population of 49% from the baseline period 2001-2002. Therefore, any development proposals must

aim to restore the levels of Golden Plover population and not adversely impact upon the population of this species.

7.6.8 The specific threats to the Golden Plover species arising from the development identified within the NIS are those of bird collision, displacement, and disturbance. Section 3.2 of the NIS acknowledges that the Golden Plover would potentially be impacted by the development and the assessment is focused on this species. A total of thirty-five instances were recorded of flocks of the Golden Plover flying, resting, circling and potentially roosting within the Derryfadda peatland area. The applicants have stated that the peatland area is of low ecological value for this qualifying interest and that the development would not have a significant displacement effect on the occasional use of the site by wetland bird species, principally the Golden Plover species. I note that five of the sightings recorded within the bird survey results submitted specifically related to sightings of the Golden Plover species within the appeal site. The other thirty sightings of the species were within the wider Derryfadda peatland area. I note that the appeal site only comprises approximately 1.38% of the total land area within the Derryfadda peatlands and, therefore, on balance, I consider that there is adequate alternative habitat (almost three hundred hectares) available for the Golden Plover to fly, rest, circle and potentially roost immediately adjacent to the appeal site.

7.6.9 Therefore, on balance, while I acknowledge that there would be some element of disturbance to the Golden Plover species, I consider that this disturbance will not result in a significant adverse impact upon these species, given the wide availability of similar type habitat within the immediate surrounds of the appeal site. I also consider that there is adequate alternative habitat available within the vicinity of the appeal site and, therefore, displacement of the winter bird species, specifically the Golden Plover will not be a significant factor in this instance. I am satisfied that the proposed development will not result in any adverse impacts upon the River Suck Callows SPA site, in view of the

sites' conservation objectives by reason of displacement or disturbance of the Golden Plover species.

7.6.10 In terms of bird collision, the applicants acknowledge within their NIS (Section 3.3) that the Golden Plover species would be potentially impacted by mortality through collision with the support guy wires. The applicants state that: Quantification of the risk of collision with guy wires is difficult and that some mortality would occur as a result of the development. They reference Scottish best practice, and they state that: There is no statistical model available that would provide a robust assessment of potential mortality and that a generic modelling would be unlikely to accurately predict levels of mortality. The applicants set out that mitigation to minimise risk of collision and mortality in the form of line marking is the most widespread and practical measure of control. The applicants conclude that with the use of line markers on the supporting guy wires, the risk of collision with the guy wires will be minimised and the significance of the effect on the Golden Plover species is classified as slight.

7.6.11 The applicants have not supported the claim of the slight impact upon the Golden Plover species with robust data or evidence. They state that there is no reliable modelling or data available to assess the effectiveness of the mitigation measures proposed in terms of significantly reducing the risk of bird collision and, hence, significantly reducing mortality. Having regard to the precise wording of the site-specific conservation objective for the Golden Plover species which is: To restore the conservation status of the Golden Plover species within the River Suck Callows SPA site and based on the information submitted, the applicants have not demonstrated the effectiveness of the mitigation measures in reducing the risk of avian collision with the wind turbine and its associated infrastructure. The specific measures and targets set out within (www.npws.ie) to achieve the specific conservation objective of the Golden Plover within this European site have not been referenced by the applicants. Based on the information submitted, insufficient robust data or evidence has been submitted in terms of the potential risk of collision to the Golden Plover species and, therefore, reasonable doubt remains as to the effectiveness of the mitigation measures proposed.

On balance, I am of the opinion that the Board is precluded from granting planning permission.

7.6.12 A referral response was received from Department of Housing, Local Government and Heritage specifically in relation to natural heritage. The Department raised a number of issues as follows: They noted the appeal site is located within six hundred metres of the River Suck Callows SPA site. They make reference to the conservation objectives associated with this European site. They noted that Qualifying Interest (QI) species associated with the nearby SPA use the Derryfadda peatland area for resting, circling, and potentially roosting as confirmed in the bird survey results submitted by the applicants. The bird survey results submitted by the applicants acknowledge that QI's species were either using the appeal site directly or commuting through the site. As vegetation continues to recolonise within the Deryyfadda peatlands, wildlife usage of the site is expected to increase, as is the potential suitable ex-situ habitat for QI species. The impact of unsuitable development upon such protected species should be considered currently and over time as the habitat becomes rehabilitated. The current proposals which relate to the erection of a wind monitoring turbine for a period of six years suggests that the Derryfadda bog area cannot be rehabilitated until at least the expiry of this period.

7.6.13 The Department set out that the Board should satisfy itself that any risk to species or habitats and nearby designated sites does not arise. The Board is advised to assess the risk arising from the development to QI species using the nearby River Suck Callows SPA site. Unsuitable development in the area would be contrary to specific policy objectives for the protection of natural heritage, biodiversity as set out within the current Galway County Development Plan 2022-28, specifically policy objectives NHB 1, NHB 3 and NHB 4. I consider that the comments above set out by the Department are pertinent and accurate and support the stance adopted by the Planning Authority within its planning decision. Given the applicants have acknowledged that the risk of mortality of protected bird species remains as a result of the potential for bird collision with the support guy wires. I am not satisfied that the proposals, including the mitigation

measures would not result in a significant effect upon the protected bird species by reason of collision with the supporting guy wires. Therefore, I consider that the proposals are contrary to the NHB 1, NHB 3 and NHB4 policy objectives as set out within the Development Plan all which relate to the enhancement and protection of European sites, their conservation objectives and qualifying interest species.

7.6.14 One of the observers has referenced the absence of consideration of in- combination effects. I note that the Board permitted a wind farm development for the erection of twenty turbines with tip heights of approximately 180 metres under Board reference number 313750 located approximately five kilometres east of the appeal site, south-east of Dysart Village. The applicants have referenced the rehabilitation of the wider Derryfadda peatlands within their in-combination effects which is consider appropriate. The peatland rehabilitation is subject to an IPPC licence, a process managed by the EPA, and was included as a specific condition (number ten) when the licence was issued. The Seven Hills wind farm project is something that could and likely should have been referenced and considered by the applicants in terms of the potential in-combination effects.

7.6.15 Based on the information submitted by the applicants as part of their NIS, where they acknowledge that the Golden Plover species would be impacted by the development, by reason of collision, the comments received from the Department of Housing, Local Government and Heritage regarding potential significant impacts arising from the development and the fact that the applicants have not demonstrated that the mitigation measures proposed would reduce this risk and, therefore, assist in the achievement of the species specific conservation objective in relation to restoring the conservation status of the Goden Plover species. The applicants have not submitted robust evidence demonstrating that their mitigation measures would assist in restoring the Golden Plovers' conservation status, as required under the conservation objective set out by the National Parks and Wildlife Service. I also note the absence of correlation between the mitigation measures proposed and the specific conservation objective for the Golden Plover bird species. I would concur with the opinions expressed by the Planning

Authority in relation to Appropriate Assessment, that lacunae exist within the Natura Impact Statement as set out above that the mitigation in relation to protecting the Golden Plover species is generic in nature, non site specific and non-species specific.

Appropriate Assessment Conclusion

7.6.16 Having carried out screening for Appropriate Assessment of the project, it was concluded that in the absence of mitigation measures, that the wind monitoring turbine had the potential to indirectly and adversely impact a Qualifying Interest within the River Suck Callows SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European site, in light of its conservation objective.

7.6.17 Following the Appropriate Assessment and the consideration of mitigation measures, I cannot be conclusive that the wind monitoring turbine would not adversely affect the integrity of the River Suck Callows SPA, in view of the Conservation Objective of the site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the wind monitoring turbine including mitigation measures proposed in relation to the Conservation Objectives of the aforementioned designated site.
- Assessment of in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
- Reasonable scientific doubt remains as to the absence of adverse effects on the integrity of the. River Suck Callows SPA.

8.0 Recommendation

I recommend that planning permission be refused for the following reason:

On the basis of the information submitted with the application and appeal, including the revised Appropriate Assessment Screening Report and the Natura Impact Statement (NIS) submitted to the Planning Authority as additional information on the 19th day of October, 2022 and the additional information submitted as part of the appeal submission to An Bord Pleanála on the 13th day of January, 2023, the Board is not satisfied, having regard to the precautionary principle, that there is reasonable scientific certainty that the proposed development would not adversely affect the integrity of a European Site in the vicinity, in the light of the conservation objective and qualifying interests for which this site was designated. In particular, it is considered that there is a risk of contravening the conservation objective for the Golden Plover species within the River Suck Callows Special Protection Area (site code 004097). It is considered that inadequate site specific and species-specific mitigation is proposed which would serve to restore the conservation status the Golden Plover species, as required under the conservation objective. Accordingly, to grant the proposed development would be contrary to Policy Objective NHB 1 of the Galway County Development Plan 2022-2028 which seeks to protect and where possible enhance our natural heritage sites, designated under EU legislation, and to the proper planning and sustainable development of the area. Having regard to the uncertainty which exists, in relation to the impact of the development on the qualifying interests and conservation objective and consequently, the integrity of the European Site in the area, the Board is precluded from granting planning permission by reason of Article 6(3) of the EU Habitats Directive and of Section 177V (3) of the Planning and Development Act 2000, as amended.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Fergal Ó Bric

Planning Inspectorate

29th day of April 2024.