



An
Bord
Pleanála

Inspector's Report

ABP-317240-23

Development	Construction of a 7 turbine windfarm up to 150m in height and a 92m metrological mast and associated works
Location	Shronagree, Ballybane East, & Knockroe Townlands, Ballydehob and Letterlicky Middle, Bantry, Co. Cork
Planning Authority	West Cork County Council
Planning Authority Reg. Ref.	23130
Applicant(s)	Ballybane Windfarms 2 Ltd. (BW2L)
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First and Third Party
Appellant(s)	Ballybane Windfarms 2 Ltd. Gwen Van Spyk
Observer(s)	Christopher McCarthy Florence McCarthy Wild Ireland Defence CLG

Peter Sweetman

Date of Site Inspection

15th and 16th of February 2024

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Shronagree on an east to west upland ridge of the western side of the Coomnagoragh Mountains generally between Bantry town and Ballydehob in West Cork. The elevation of the proposed main application site ranges from approx. 240m - 300m as per the 1:50,000 Ordnance Survey Discovery Series mapping available to the Board. The stated site area is 36.98 ha as per question 2.11 of the planning application form.
- 1.2. The site can be described as an undulating upland terrain with blanket peatlands comprising much of the upland area. The site and surrounding areas are typically not in any apparent use other than commercial forestry and likely peat harvesting. An existing telecommunications mast is evident in the immediate surrounds of the western part of the site just off the L-8456 local road as is evidence of local track building, firebreaks and other groundworks such as drainage. An existing 38kV overhead power line traverses part of the site and it is proposed for use for grid connection purposes.
- 1.3. The site can be accessed of the N71 National Road south of Bantry from a narrow local road L-8456 or from local other roads in the vicinity connecting south to the N71 east of Ballydehob and west of Skibbereen or from local roads connecting to the R586 just to the north of the site connecting Bantry to Drimoleague and onto Dunmanway.
- 1.4. The site and its surrounds are unquestionably scenic as characterised by a network of County Development Plan (CDP) designated scenic routes and evident walking and cycling routes through and surrounding the site. The main designated views achievable from the designated routes are predominantly of the upland areas rather than to the coastlines at considerable distances west and south of the site and as described in the Volume 2 of the CDP. Views to Bantry Bay, Dunmanus Bay and Roaring Water Bay etc. may be achievable from the highest peaks of the site but it is clear these views do not form part of the scenic routes. Views from the coastal areas are likely minimal and or intermittent given the longer viewing distance, presence of high ground and presence of forestation etc.
- 1.5. The Board are advised the application site is divided into three individual parcels of lands- see drawing 5499 0400 (Site Location Key Plan). The largest of these

includes the main application site where the seven turbines are proposed. The two other areas include small parcels of land-

- one to the west of the application site at junction of the N71 and L- 8456 local road to facilitate road works and
- one in Ballydehob along a significant bend in the N71 and includes much of the western side of the road to facilitate road works.

- 1.6. There is a Recorded Monument identified as an unclassified Cairn CO131-048 located c. 17.5 of the northern boundary of the main application site. This is in very close proximity to the location of proposed turbine 3. It is likely the application site boundary is within the zone of notification of this monument as per the National Monument Service (NMS)¹. The NMS describe this monument as: *“On level platform atop NE-SW ridge. Circular area (19.5m N-S; 19m E-W) defined by scatter of large rectangular stones (L c. 1m; 0.5m x 0.15m). The above description is derived from the published 'Archaeological Inventory of County Cork. Volume 1: West Cork' (Dublin: Stationery Office, 1992). In certain instances the entries have been revised and updated in the light of recent research. Date of upload/revision: 14 January 2009”.*²
- 1.7. An existing 21 turbine windfarm lies approximately 1km east of the site and is known as the Ballybane Windfarm.

2.0 Proposed Development

- 2.1. This application is for a wind farm with an operational lifespan of 30 years, from commissioning and includes-
- Grid connection via existing 38kV overhead power line that runs through the site, connection cabling to be located in existing firebreak running adjacent to the L8456 local road. Grid connection length c. 480m.

¹

<https://heritagedata.maps.arcgis.com/apps/webappviewer/index.html?id=0c9eb9575b544081b0d296436d8f60f8>

² The Board are advised that Chapter 9 of the EIAR details that the Cairn is incorrectly sited on associated mapping and is in fact c.170m west of that as indicated.

- 7 no. wind turbines with blade tip heights of up to a maximum of 150 metres, associated foundations and hardstand areas (c. 3m in height and 18-22m in diameter),
- hardstanding of c. 25m * 42m adjacent to each turbine,
- A generating capacity of approximately 30MW,
- a site substation compound with security fencing and a single storey control building (dimensions 24.1m * 6.1m, gfa stated in question 2.12 of the application form is 123.04 sq.m) and associated loop-in infrastructure to tie into an existing 38kV overhead transmission line,
- underground cabling,
- drainage and service infrastructure,
- bored well,
- 1 no. permanent meteorological mast of 92 metres in height, lattice galvanised steel, triangular footprint c. 3m wide at base. 10m wide concrete foundation, 2m high.
- tree felling of c. 2.3ha of forestry and replanting off site,
- a temporary construction compound,
- landscaping and all associated ancillary development works.

2.2. The EIAR details the volume of peat proposed for excavation is estimated at 27,430 m³ or 34,290 m³ with 25% bulking applied.

2.3. Vehicular access will be via an upgraded existing site entrance off the L-8456 local road with provision made for the upgrade of c. 1.7km of existing on-site tracks/firebreaks and the construction of c. 2.7km of new on-site access roads.

2.4. The proposal and identified site boundary include widening of two junctions along the turbine delivery route-

- near and just north of the N71-R592 junction east of Ballydehob. These works will consist of the temporary removal of a section of masonry wall, public street lighting stanchion, gate, gate posts, trees and earthen berm and the raising of levels with engineered fill to that of the adjacent N71.

- at the N71 – L8456 junction in Shronagree townland west of the main application site. These works will consist of the lowering of ground levels to that of the adjacent N71 and L8456 and the removal of traffic signage.

Both locations to be restored following turbine delivery.

2.5. The application is accompanied by-

- a Planning Statement prepared by HW Planning (HWP)
- an Environmental Impact Assessment Report (EIAR) prepared by Keohane Geological & Environmental Consultancy which includes-
 - an Appropriate Assessment Screening Report (AASR) and Natura Impact Statement (NIS) both in Appendix 10 of the EIAR- prepared by Fehily Timoney Consultants
 - Turbine Delivery Route Report Appendix 10- Appendix A
 - Bat Survey Appendix 10, Appendix B of NIS³
 - Bird Survey Appendix 10, Appendix C of NIS
 - Aquatic Ecology Report Appendix 10, Appendix D of NIS
 - a Construction and Environmental Management Plan (CEMP)- Appendix 10, Appendix E of NIS
 - Appendices include- Method Statement for Peat Management, Biosecurity, concrete pours etc.
 - Figures (Drawings related to surveys) Appendix 10 Appendix F-
 - A Habitats and Species Management Plan Appendix 10, Appendix G of NIS
 - Other Appendices-
 - 10.2- Survey Schedule Details- Birds, Bats, habitats, mammal, aquatic, Marsh Fritillary etc.
 - 10.3 Relevé Habitat Mapping

³ The Board should note a possible typing error with two Appendix C's- The one referred to here is 'Raw Data used for Ecobat Tool'

- 10.4 202-2021 Bird Surveys
- 10.5 Marsh Fritillary Survey Report
- a Peat Landslide Risk Assessment is detailed on page 210 of EIAR, Appendix 8.1 & 8.2- provides Peat Probe Data.
- 5 letters from landowners⁴ consenting to the making of the planning application for their lands including-
 1. Cork County Council
 2. Dan Keohane
 3. Patrick Joseph Collins
 4. John O'Donovan
 5. James Buckley

3.0 Planning Authority Decision

3.1. Decision

Cork County Council decided to refuse planning permission on the 05/05/23 for two reasons as follows-

1. *It is considered that the proposed development would be likely to have a permanent significant negative effect on habitats of high ecological value on site and therefore the granting of permission for this development would contravene materially a development objective indicated in the Cork County Development Plan 2022, Objective BE 15-2. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The majority of the site of the proposed development including 6 no. wind turbines, site substation, associated grid connection infrastructure, meteorological mast, site entrance, associated on-site access roads, lies*

⁴ The Board are advised the first party appeal provide a 6th landowner i.e. Eugene Murnane. This relates to lands for the purpose of replanting trees as proposed. A letter of consent is submitted with the appeal. See section 14.2 of this report.

within an area designated as ‘Normally Discouraged for wind farm development in the Cork County Development Plan 2022. Policy Objective ET 13-8 of the Development Plan states that “Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments) and only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered”. Furthermore, the majority of the site of the proposed development lies within the “High Value Landscape’ area as designated in the Development Plan identified as ‘Rugged Ridge Peninsulas’ landscape character type with a Very High’ landscape value, ‘Very High’ landscape sensitivity and of ‘National’ landscape importance. Policy Objectives GI 14-9, GI 14-12, GI 14-13 and GI 14-14 seek in summary to protect the visual and scenic amenities of County Cork’s built and natural environment and preserve the character of all important views and prospects including those obtainable from scenic routes. In addition, the Development Plan has identified the West Cork Peninsulas as a key tourism asset with Policy Objective TO 10-5 seeking to protect and conserve those natural, built and cultural heritage features that form the resources on which the County’s tourist industry is based and these features include areas of important landscape, coastal scenery, and areas of important wildlife interest. Having regard to the height, scale and location of 6 no. turbines (T02, T03, T04, T05, T06 and T07) within an area identified as being ‘normally discouraged for wind farm development, the highly prominent skyline nature of the wind turbines and siting on an elevated ridgeline, the high level of visibility of the proposed turbines over an expansive area, including from the West Cork Peninsulas, the prominent nature of the proposed turbines and visibility from designated scenic routes including the ‘Wild Atlantic Way’ tourism route which form an integral part of the tourism resource of the area and the extent and scale of site development works required including at the N71/L8456 junction, it is considered that the proposed development would constitute a highly visually obtrusive development that would detract from the existing natural character of the area, would erode the landscape and visual quality of the

coastal and designated scenic routes in the vicinity and would adversely impact on the rural character and visual and scenic amenities of this visually sensitive and designated 'high value landscape' area. The proposed development would provide for a highly intrusive visually domineering form of development in this 'high value landscape' which would contravene materially the stated objectives of the Cork County Development Plan 2022, would interfere with the character of the landscape would seriously injure the visual and scenic amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

4.1.1. There are three planning reports on the file from the Council's Case Planner, Senior Executive Planner and Senior Planner. All are dated 05/05/23. All three reports generally reflect the decision of the Planning Authority.

4.1.2. In terms of the submitted EIAR the case planners report details-

"Significant further information is required in order for the planning authority to reach a reasoned conclusion on the significant effects on the environment as a result of the proposed development."

4.1.3. In terms of the submitted NIS the case planner report details-

"The site is located within the SAC screening zone of Roaringwater Bay and Islands Special Area of Conservation which is located approximately 6km to the south of the site"

and

"The applicants have submitted a Natura Impact Statement which considers potential for impacts on Natura 2000 sites. The Council's Ecology unit have reviewed this and recommend that further information is required before a determination can be made."

4.2. Other Technical Reports

- Environment Report
 - 03/05/23- This considered Noise, Drainage and Site Clearance – Waste Material. No objections raised subject to conditions.
- Archaeological Officer Report-
 - 04/05/23-
 - Turbine 03 should not be permitted due to the proximity of a recorded monument and the visual impact upon same
 - Otherwise and archaeological monitoring condition is recommended.
- Ecology Report
 - 04/05/23-
 - The report recommends the Construction and Environmental Management Plan, Peat Landslide Risk Assessment and surface water drainage arrangements be examined by a technically competent person.
 - The report identifies four primary considerations- potential for the proposal to give rise to negative effects on-
 - i. Habitats of high ecological value,
 - ii. Populations of protected species
 - iii. Designated sites and
 - iv. Freshwater habitats and associated species
 - The report considers the main concern to be siting of the proposal within an area of high ecological value but also highlights inadequacies in the information and assessment submitted.

- It considers the extent of peatland habitat to be impacted has been underestimated as it doesn't include construction compounds, parking turbine assembly areas etc.
 - It highlights the proposed location of lands for replanting in lieu of 2.3ha of forestry has not been identified in the submitted documentation.
 - The report details further information could be sought in relation to fauna. In relation to avian fauna it details the assessment provided is based on out of date scientific data i.e. surveys submitted from October 2019 to March 2020 and April 20 to September 20. Regarding the Kerry Slug, no dedicated survey was conducted even though it is stated both direct and indirect impacts may occur.
 - Concerns related to the Annex II Marsh Fritillary (butterfly) are highlighted.
 - Concerns relating to risk of water pollution, changes to flow regimes and disturbance/displacement of species associated with both construction and operation and subsequent impacts to riverine habitats, aquatic species and direct impacts to species including otter and birds are detailed.
 - In terms of the designated sites the mitigation measures proposed should provide sufficient protection of water quality and aquatic fauna given the intervening hydrological distance. However if permission is granted conditions are recommended including a requirement for turbidity monitoring on a daily basis during construction.
 - **Refusal** recommended due to the likely permanent significant negative effect on habitats of high ecological value and the proposal contravenes development objective BE 15-2 of the Development Plan.
- Area Engineer Report

- 04/05/23- There are inconsistencies in the proposal regarding road infrastructure. Deferral/ Further Information required.

4.3. Prescribed Bodies

- Department of Defence
 - 12/04/23- a number of concerns raised including-
 - A need for a condition regarding lighting in the interest of aviation safety
 - Reference is made to a number of renewable energy policies and objectives in the Cork County Development Plan 2022-28
 - 6 of the 7 proposed turbines are in an area designated where commercial wind energy developments will be discouraged,
 - The site falls within an area zoned 'High Value Landscape' as per the Draft Landscape Strategy for County Cork
 - In combination with other windfarm developments the proposal has the potential to have a negative impact on visual amenities of the area
 - Potential impact on archaeology, ecology and the local road network during construction in the area
- Inland Fisheries Ireland-
 - 12/04/23- Concerns raised over potential negative impact on fisheries, including potential escapement of suspended solids and pollutants to waters impacting water quality and fisheries habitat in the context of Water Framework Directive requirements and impediment or prevention of fish passage. A number of conditions to include for grid connection are recommended.
- Transport Infrastructure Ireland (TII)
 - 13/04/23- A number of observations are detailed including-

- The application is not in accordance with the requirements of DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and TII publications.
 - A number of matters relating to 'Oversized Loads Transport Routes' needs to be addressed prior to a decision. These are detailed in the submission.
 - Not all national roads have been checked to confirm the capacity of the roads to accommodate abnormal weight load proposed. The need for a full assessment is considered critical.
 - The grid connection proposal raises no implications for the national road network.
- Uisce Eireann
 - 24/04/23- No objections raised and a number of conditions are requested.
 - Irish Aviation Authority (IAA)
 - 19/04/23- A number of conditions requested

4.4. Third Party Observations

102 observations were received and are on file. I have reviewed these. The main planning related concerns raised can generally be summarised as including-

- Compliance with national, regional and local policy.
- Ecological and environmental impacts including European sites
- Height, size, extent and visual impact related concerns including scenic views etc.
- Road and Traffic related concerns
- Impacts upon underlying peat and ground disturbance
- Impacts upon existing residential amenity
- Impacts upon archaeology

- Cumulative impacts with existing windfarm

5.0 Planning History

This site-

- 00/4594, PL04.121911- 11 wind turbines, electrical substation, upgrading of entrance, site tracks and associated works, **Refused** to Ballybane Windfarms Limited on the 23/05/2001 for one reason-

“Having regard to the exposed and elevated location of the site in a rural scenic landscape, and to the visual prominence of the proposed development from the road network in the area including roads designated as scenic routes in the current Cork County Development Plan, it is considered that the proposed development would be visually obtrusive, out of character in the landscape and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and development of the area.”

Existing and operational east of the application site (21 turbines in total)-

- 15/320, two wind turbines **granted** to Ballybane Windfarms Ltd on the 15/09/2015.
- 09/849, PL88.235028- a wind farm of up to 6 no. wind turbines **granted** to Ballybane Windfarms Limited on the 05/08/10.
- 05/9586, PL04.216875- Windfarm consisting of 13 wind turbines, electrical substation, meteorological mast and site works. **Granted** to Ballybane Windfarms Ltd 14/09/06.

6.0 Policy Context

6.1. EU Legislation/Policy

6.1.1. The Renewable Energy Directive (REDII) 2018/2001/EU⁵

- This came into effect in December 2018 and established a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023. This target is a continuation of the 20% target for 2020.

6.1.2. The revised Renewable Energy Directive (REDIII) proposal for amending Directive (EU) 2018/2001⁶

- This lays down a minimum binding target of 42.5% share of renewables by 2030 with an aspiration to reach 45%. It sets the course for a rapid acceleration of renewable energy deployment, while taking into account other policy considerations such as multiple use of land. It will require a massive scale-up of renewables projects, driving demand for inter alia wind equipment.

6.1.3. European Wind Power Action Plan⁷

- This details-
 - the EU target of at least 42.5% of renewables by 2030 will require the installed capacity to grow from 204 GW in 2022 to more than 500 GW in 2030.
 - Globally, annual wind capacity additions should reach at least 329 GW per year until 2030 to achieve net-zero emissions by 2050, more than quadrupling today's deployment levels (75 GW).
- It identifies six main pillars of concerted action by the European Commission, Member States and the industry:

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L2001>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0557> (adopted by Council of the EU on October 9th 2023) and <https://www.consilium.europa.eu/en/press/press-releases/2023/10/09/renewable-energy-council-adopts-new-rules/>

⁷ https://energy.ec.europa.eu/publications/european-wind-power-action-plan_en

- i. acceleration of deployment through increased predictability and faster permitting;
- ii. improved auction design;
- iii. access to finance;
- iv. creating a fair and competitive international environment;
- v. skills; and
- vi. industry engagement and Member State commitments.

6.2. National Policy and Legislation

6.2.1. Project Ireland 2040- National Planning Framework (NPF) and National Development Plan (NDP)

- The National Planning Framework (NPF) 2018 identifies the importance of climate change through its National Strategic Outcome (NSO 8), which relates to ensuring a ‘Transition to a Low Carbon and Climate Resilient Society’.
- National Policy Objective 55 seeks to

“Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.”
- The National Development Plan (NDP) 2021-2030 sets out the investment priorities that will underpin the implementation of the NPF, one of which is climate action. Section 3.7 of the plan details-

“increasing the share of renewable electricity up to 80% by 2030. This is an unprecedented commitment to the decarbonisation of electricity supplies.”
- Section 8.4 of the NPF discusses Tourism and specifically references promoting strategic attractions of scale and signature tourist attractions such as the Wild Atlantic Way. National Policy Objective 49 seeks to-

“Support the coordination and promotion of all-island tourism initiatives through continued co-operation between the relevant tourism agencies and Tourism Ireland.”

6.2.2. Climate Action Plan 2024 (CAP24)

- This plan was approved by Government on 20 December 2023, subject to Strategic Environmental Assessment and Appropriate Assessment. Public consultation on the Plan commenced on Wednesday, 21 February until 5 April 2024.

6.2.3. Climate Action Plan 2023 (CAP23) Changing Ireland for the Better

- This plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. It states-

“Among the most important measures in the plan is to increase the proportion of renewable electricity to up to 80% by 2030 and a target of 9 GW from onshore wind, 8 GW from solar, and at least 5 GW of offshore wind energy by 2030”

- This is further detailed in Chapter 12 Electricity which sets out 'Key Target' of 6 and 9 GW of Onshore Wind by 2025 and 2030 respectively. It then details-

“Transformational policies, measures and actions, and societal change are required to increase the deployment of renewable energy generation, strengthen the grid, and meet the demand and flexibility requirements required to meet the challenge”

6.2.4. National Renewable Energy Action Plan (NREAP)

- Under the first EU Directive 2009/28/EC⁸ (RED) in 2009, member countries of the European Union were obliged to draft and submit to the European Commission National Renewable Action Plans (NREAPs) outlining pathway which will allow them to meet their 2020 renewable energy, energy efficiency and GHG cuts targets.
- Ireland 2020 electricity target- 42.5% of electricity demand met by electricity generated from renewable energy sources.

⁸ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:EN:PDF>

6.2.5. National Landscape Strategy for Ireland 2015-2025 (NLS)

- Ireland signed and ratified the Council of Europe's European Landscape Convention (ELC) in 2002 which came into effect on 1 March 2004. It obliges Ireland to implement policy changes and objectives concerning the management, protection and planning of the landscape. The National Landscape Strategy is intended to ensure compliance with the ELC and to establish principles for protecting and enhancing it while positively managing its change. It is a high level policy framework to achieve balance between the protection, management and planning of the landscape by way of supporting actions.
- The objectives of this Strategy are-

to establish and implement through a series of actions, policies aimed at understanding, protecting, managing and planning our landscape. It sets out specific measures to integrate and embed landscape considerations in all sectors which influence the landscape and improve and enhance the quality of decision-making by those who have an impact on it.

6.3. Regional Spatial Economic Strategy for the Southern Region 2020-32 (RSES)

- Chapter 5 of the RSES deals with the Environment including responding to Climate Change. It states-

"Environmental protection and enhancement is a core component of the RSES. The relevant Regional Strategic Outcome is: Low Carbon, Climate Resilient and Sustainable Society".

It acknowledges climate change as the most important long term challenge facing Ireland and states-

"The Regional Assembly is committed to implement regional policy consistent with the Climate Action Plan....."

It goes on to state-

"The RSES recognises and supports the many opportunities for wind as a major source of renewable energy. Opportunities for both

commercial and community wind energy projects should be harnessed, having regard to the requirements of DoHPLG Guidelines on Wind Energy. Wind Energy technology has an important role in delivering value and clean electricity for Ireland.

- The RSES sets out a number of Regional Policy Objectives (RPO). The following are considered relevant-
 - RPO 87 Low Carbon Energy Future
 - *The RSES is committed to the implementation of the Government's policy under Ireland's Transition to a Low Carbon Energy Future 2015-30 and Climate Action Plan 2019. It is an objective to promote change across business, public and residential sectors to achieve reduced GHG emissions in accordance with current and future national targets, improve energy efficiency and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture.*
 - RPO 95 Sustainable Renewable Energy Generation:
 - *It is an objective to support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and AA and leverage the Region as a leader and innovator in sustainable renewable energy generation.*
 - RPO 98 Regional Renewable Energy Strategy:
 - *It is an objective to support the development of a Regional Renewable Energy Strategy with relevant stakeholders.*
 - RPO 99 Renewable Wind Energy:
 - *It is an objective to support the sustainable development of renewable wind energy (on shore and offshore) at appropriate locations and related grid infrastructure in the Region in compliance with national Wind Energy Guidelines.*

- RPO 219 New Energy Infrastructure:
 - *It is an objective to support the sustainable reinforcement and provision of new energy infrastructure by infrastructure providers (subject to appropriate environmental assessment and the planning process) to ensure the energy needs of future population and economic expansion within designated growth areas and across the Region can be delivered in a sustainable and timely manner and that capacity is available at local and regional scale to meet future needs.*
- RPO 221 Renewable Energy Generation and Transmission Network:
 - *a. Local Authority City and County Development Plans shall support the sustainable development of renewable energy generation and demand centres such as data centres which can be serviced with a renewable energy source (subject to appropriate environmental assessment and the planning process) to spatially suitable locations to ensure efficient use of the existing transmission network;*
 - *b. The RSES supports strengthened and sustainable local/community renewable energy networks, micro renewable generation, climate smart countryside projects and connections from such initiatives to the grid. The potential for sustainable local/community energy projects and micro generation to both mitigate climate change and to reduce fuel poverty is also supported;*
 - *c. The RSES supports the Southern Region as a Carbon Neutral Energy Region.*

6.4. Ministerial Guidelines and Other Relevant Guidance

- The Wind Energy Development Guidelines, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2006,

- Appendix 4- Best Practice for Wind Energy Development in Peatlands-

“A thorough ground investigation, including hydrogeological investigations where appropriate, and a detailed evaluation of the nature of the peat, its geotechnical properties and the associated risk of instability and habitat loss or disturbance during construction and operation of the wind energy development, is to be carried out where the depth of peat is in excess of 50cm.”

- The Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019.
- Guidelines on the information to be contained in Environmental Impact Assessment Reports (EIAR) (EPA 2022).
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, Department of Housing, Planning, Community and Local Government (2018)
- Guidelines for Landscape and Visual Impact Assessment (3rd Edition) Landscape Institute and Institute of Environmental Management & Assessment 2013 (IEMA)
- Guidelines for Ecological Impact Assessment 2018 Chartered Institute of Ecology and Environmental Management (ICEEM)
- Guidelines for Assessment of Ecological Impacts of National Road Schemes (NRA, 2009)
- Scottish Natural Heritage (SNH) Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation 2019

6.5. Cork County Development Plan 2022-2028

- The Plan came into effect on 6th of June 2022.

6.5.1. Volume 1

6.5.1.1. Chapter 13- Energy and Telecommunications

- Section 13.6 of this chapter deals with Wind Energy and subsection 13.6.2 states-

“....if Ireland is to meet our renewable energy target then we need to double capacity nationally over the next ten years. On a pro rata basis, that could see capacity in Cork expand to 1,100MW. At present they are valid but unimplemented permissions in the county for a further 200MW of wind power.

- Subsection 13.6.3 states-

Cork County Council developed a wind energy strategy for the County Development Plan 2014 using the guidance provided in the “Planning for Wind Energy Development Guidelines 2006” and the SEAI Manual ‘A Methodology for Local Authority Renewable Energy Strategies’ April 2013. The 2006 Guidelines included a methodology for a sieve mapping analysis of the key environmental, landscape, technical and economic criteria to identify the most suitable location for wind energy development. Cork County Council’s Strategy, illustrated in Figure 13.3 below, was based on these Guidelines and a number of key policy considerations as follows:.....

..... Important or high value landscapes.

- County Development Plan Objective ET 13-4: Wind Energy states-

In order to facilitate increased levels of renewable energy production consistent with national targets on renewable energy and climate change mitigation as set out in the National Energy and Climate Plan 2021-2030, the Climate Action Plan 2021, and any updates to these targets, and in accordance with Ministerial Guidelines on Wind Energy Development, the Council will support further development of on-shore wind energy projects including the upgrading, repowering or expansion of existing infrastructure, at appropriate locations within the county in line with the Wind Energy Strategy and objectives detailed in this chapter and other objectives of this plan in relation to climate change, biodiversity, landscape, heritage, water management and environment etc.

- County Development Plan Objective ET 13-5: Wind Energy Projects states
 - a) *Support a plan led approach to wind energy development in County Cork through the identification of areas for wind energy development. The aim in identifying these areas is to ensure that there are minimal environmental constraints, which could be foreseen to arise in advance of the planning process.*
 - b) *On-shore wind energy projects should focus on areas considered 'Acceptable in Principle' and 'Areas Open to Consideration' and generally avoid "Normally Discouraged" areas as well as sites and locations of ecological sensitivity.*
- County Development Plan Objective ET 13-6: Acceptable in Principle

"Commercial wind energy development is normally encouraged in these areas subject to protection of residential amenity particularly in respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives and taking account of protected species of conservation concern."
- County Development Plan Objective ET 13-7: Open to Consideration

"Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:

 - *Residential amenity particularly in respect of noise, shadow flicker and visual impact;*
 - *Urban areas and Metropolitan/Town Green Belts;*
 - *Natura 2000 Sites (SPA's and SAC's), Natural Heritage Areas (NHA's), proposed Natural Heritage Areas and other sites and locations of significant ecological value.*
 - *Architectural and archaeological heritage;*
 - *Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.*

In planning such development, consideration should also be given to the cumulative impacts of such proposals.

- Subsection 13.6.8 deals with ‘Normally Discouraged’ and states-

These areas (coastal areas, some areas in North Cork, Cork Harbour, and the Lee Valley) are normally not suitable for commercial wind farm developments due to their overall sensitivity arising from ecological, landscape, amenity, recreational and settlement, considerations.

- Subsection 13.6.9 states-

The area shown as “Normally Discouraged” on Figure 13.3 includes provision for a buffer of 800m around coastal and inland wetland SPAs (Ballymacoda Bay, Cork Harbour, Clonakilty Bay, the Gearagh SPAs) and 500m around upland SPAs (Stack’s to Mullaghareirks, West Limerick Hills and Mount Eagle Bog SPA and Mullaghanish to Mushermore Mountain SPA).

- County Development Plan Objective ET 13-8: Normally Discouraged

Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments). Only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered.

- Subsection 13.6.10 states-

The Councils Wind Strategy has been reviewed in light of the requirements of the Draft Revised Wind Energy Development Guidelines 2019, particularly the sieve mapping exercise outlined in the Draft Guidelines. It is considered that the strategy remains applicable and appropriate. The strategy facilitates commercial wind energy development in approximately 55% of Cork County with the remaining 45% unlikely to be suitable.

- County Development Plan Objective ET 13-9: National Wind Energy Guidelines

Development of on-shore wind should be designed and developed in line with the ‘Planning Guidelines for Wind Farm Development 2006’

and ‘Draft Wind Energy Development Guidelines 2019’ and any relevant update of these guidelines.

- County Development Plan Objective ET 13-11: Public Consultation and Community Support

(a) Require wind energy developers to carry out active public consultation with the local community in advance of and in addition to the statutory public consultation required as part of the planning application process.

(b) Applications for large scale wind energy development require a ‘Community Report’ with the planning application documents detailing the full extent of community and wider public engagement.

- Subsection 13.7.1 states-

All planning applications for wind energy development should include a comprehensive assessment of the potential impacts of the proposed development on the receiving environment and landscape. The Planning Authority will require the following criteria to be covered by prospective applicants;

- *The requirement for Environmental assessments (EIA, AA etc.).*
- *Community engagement and participation aspects of the proposal.*
- *Grid Connection. In particular grid connections with the potential to impact on the strategic function of the national*
- *road network should be discussed and agreed with Transport Infrastructure Ireland and should use alternative available routes where feasible in the first instance.*
- *Geology and ground conditions, including peat stability; and management plans to deal with any potential material impact. Reference should be made to the National Landslide Susceptibility Map to confirm ground conditions are suitable stable for project;*

- *Site drainage, water storage and hydrological effects such as water supply and quality and watercourse crossings; management plans to deal with any potential material impact on watercourses; the hydrological table; flood risk including mitigation measures;*
- *Landscape and visual impact assessment, including the size, scale and layout and the degree to which the wind energy project is visible over certain areas and in certain views;*
- *Visual impact of ancillary development, such as grid connection and access roads;*
- *Potential impact of the project on natural heritage, to include direct and indirect effects on protected sites or species, on habitats of ecological sensitivity and biodiversity value and, where necessary, management plans to deal with the satisfactory co-existence of the wind energy development and the particular species/habitat identified;*
- *Potential impact of the project on the built heritage including archaeological and architectural heritage;*
- *Consideration of carbon emissions balance is demonstrated when the development of wind energy developments requires peat extraction.*
- *Local environmental impacts including noise, shadow flicker, electromagnetic interference, etc.;*
- *Adequacy of local access road network to facilitate construction of the project and transportation of large machinery and turbine parts to site, including a traffic management plan;*
- *Information on any cumulative effects due to other projects, including effects on natural heritage and visual effects;*
- *Information on the location of quarries to be used or borrow pits proposed during the construction phase and associated remedial works thereafter;*

- *Disposal or elimination of waste/surplus material from construction/site clearance, particularly significant for peatland sites; and*
- *Decommissioning considerations.*
- Appendix F of the CDP is titled Landscape Character Assessment of County Cork (page 514). It includes a Summary Table of the Landscape Character Assessment of County Cork. The following excerpt from the table is relevant-

Map No.	Landscape Character Type	Landscape Value	Landscape Sensitivity	Landscape Importance
4	Rugged Ridge Peninsulas	Very High	Very High	National

- Relevant Figures and Maps to the above are numbered as follows-
 - Figure 13.2 - Policy Considerations for Wind Energy Projects
 - Figure 13.3 – Wind Energy Strategy Map
 - Figure 14-2 – High Value Landscapes
 - 2. Map of Landscape Character Types of County Cork (Appendix F Page 515)

6.5.1.2. Chapter 14 Green Infrastructure and Recreation

The following Objectives are considered relevant-

- County Development Plan Objective GI 14-9: Landscape
 - a) Protect the visual and scenic amenities of County Cork's built and natural environment.*
 - b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.*

c) Ensure that new development meets high standards of siting and design.

d) Protect skylines and ridgelines from development.

e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

- County Development Plan Objective GI 14-10: Draft Landscape Strategy

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

- County Development Plan Objective GI 14-12: General Views and Prospects

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

- County Development Plan Objective GI 14-13: Scenic Routes

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan. The scenic routes identified in this Plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes of this Plan.

- County Development Plan Objective GI 14-14: Development on Scenic Routes

a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.

b) Encourage appropriate landscaping and screen planting of developments along scenic routes (See Chapter 16 Built and Cultural Heritage).

- Subsection 14.8.8 states-

Landscape Character Types which have a very high or high landscape value and high or very high landscape sensitivity and are of county or national importance are considered to be our most valuable landscapes and therefore are designated as High Value Landscapes (HVL), highlighted in green in the Table in Appendix F Landscape Character Assessment attached and shown in Figure 14.2.

- Subsection 14.8.9 states-

Within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large-scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.

- Section 14.9 deals with Landscape Views and Prospects. Subsection 14.9.2 states-

Each of the scenic routes was examined individually and their location related to the landscape character type traversed and some of the features lending themselves to the attractive nature of these particular routes identified. Scenic routes highlight the quality of the overall environment and landscape experienced within Cork County. It is important to protect the character and quality of those particular stretches of scenic routes that have special views and prospects particularly those associated with High Value Landscapes.

6.5.1.3. Chapter 10 Tourism

The Following Objectives are considered relevant-

- County Development Plan Objective TO 10-2 Wild Atlantic Way and Irelands Ancient East

Continue to actively engage, invest, encourage and promote the development of the Wild Atlantic Way and Irelands Ancient East regional brands through sustainable tourism, which will enable visitors to have enjoyable experiences while having regard for the cultural, built and natural heritage, and environmental impacts, including the protection of Natura 2000 sites.

- County Development Plan Objective TO 10-5: Protection of Natural, Built and Cultural Features

Protect and conserve those natural, built, and cultural heritage features that form the resources on which the County's tourist industry is based. These features will include areas of important landscape, coastal scenery, areas of important wildlife interest, historic buildings and structures including archaeological sites, cultural sites including battlefields, the Gaeltacht areas, arts and cultural sites, the traditional form and appearance of many built up areas and promote access and interpretation of archaeological sites in State and Local Authority ownership.

6.5.1.4. Chapter 15 Biodiversity and Environment

The following objective is relevant-

- County Development Plan Objective BE 15-2: Protect sites, habitats and species-

a) Protect all natural heritage sites which are designated or proposed for designation under European legislation, National legislation and International Agreements. Maintain and where possible enhance appropriate ecological linkages between these. This includes Special Areas of Conservation, Special Protection Areas, Marine Protected Areas, Natural Heritage Areas, proposed Natural Heritage Areas, Statutory Nature Reserves, Refuges for Fauna and Ramsar Sites. These sites are listed in Volume 2 of the Plan.

b) Provide protection to species listed in the Flora Protection Order 2015, to Annexes of the Habitats and Birds Directives, and to animal species protected under the Wildlife Acts in accordance with relevant legal requirements. These species are listed in Volume 2 of the Plan.

c) Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This includes rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands as well as coastal and marine habitats. It particularly includes habitats of special conservation significance in Cork as listed in Volume 2 of the Plan.

d) Recognise the value of protecting geological heritage sites of local and national interest, as they become notified to the local authority, and protect them from inappropriate development

e) Encourage, pursuant to Article 10 of the Habitats Directive, the protection and enhancement of features of the landscape, such as traditional field boundaries, important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species.

6.5.2. Volume 2

6.5.2.1. Chapter 4 Habitats and Species Data

- Table 2.4.3 details- Protected Animal Species occurring in Cork
- Table 2.4.4 details- Bird Species of Conservation Concern and Special Conservation Significance Occurring in Cork

6.5.2.2. Chapter 5 Scenic Routes - Views and Prospects & Scenic Route Profiles

- Table 2.5.1 Scenic Routes – Views and Prospects and Scenic Route Profiles, Relevant Scenic Routes are detailed and summarised below as per table 2.5.1-

Scenic Route	Does route Run through or Adjoin High Value Landscape	Landscape Type(s) Route Runs Through	Overall Landscape Value	Description & General Views Being Protected
S30	No	Type 4 Rugged Ridge Peninsula & Type 15a Ridged & Peaked Upland	Very High - Medium	Local Roads between Dunmanway and Coolkellure, Castledonovan and Bantry. Views of hills, mountains, the Rivers Clodagh, Ilan & Owennashingaun, Lough Bofinna & the surrounding rugged remote rural landscape
S90	Yes	Type 9 Broad Marginal Middle-ground & Lowland Basin	Medium - Very High	N71 National Secondary Route between Skibbereen

		& Type 4 Rugged Ridge Peninsulas		and Ballydehob Views of the River Ilan, Roaringwater Bay & distant mountain views
S91	Yes	Type 4 Rugged Ridge Peninsulas	Very High	Not generally towards Site
S92	Yes	Type 4 Rugged Ridge Peninsulas	Very High	Local Roads between Derreengreanagh & Aghadown via Ballybane Views of Mount Kid, Coomnaggragh & Knocknaveagh Mountains, Sprat Hill & surrounding remote rural landscape
S93	Yes	Type 4 Rugged Ridge Peninsulas	Very High	N71 National Secondary Route between Ballydehob and Parkana Views of Bawnaknockane & Durrus Rivers, Mount Kid, Coomnaggragh

				Mountain & hills
S108	Yes	Type 4 Rugged Ridge Peninsulas	Very High	N71 National Secondary Route, R591 Regional Route & Local Road from Bantry via Durrus

- The Board are advised the Council's second refusal reason refers to the high level of visibility of the turbines from the Cork Peninsulas- i.e. Beara, Mizen and Sheep's Head, as well as from designated Scenic Routes including the 'Wild Atlantic Way'. The Wild Atlantic Way is not specifically designated as a Scenic Route in Table 2.5.1 of the CDP.
- The Board are however referred to the map showing the location of each scenic route within the three peninsula's and County Cork as a whole, at the following County Development Plan Map Browser weblink-
<https://corkcocoour.maps.arcgis.com/apps/webappviewer/index.html?id=b19f8b17dca5474aa2ce1f961ae0fa8d>
- The Board are then referred to the official mapping for the Wild Atlantic Way at <https://www.thewildatlanticway.com/map/> and the evident crossover with a number of the scenic routes set out in the CDP.

6.6. Natural Heritage Designations

6.6.1. The site is located-

- c. 6.3 km north of the Roaringwater Bay and Islands SAC (000101). The small area of road works to the east of Ballydehob is located c. 2-300m north of this SAC.
- c. 7.5k east of the Dunbeacon Shingle SAC (002280)
- c. 11km east of Reen Point Shingle SAC (002281)
- c. 11km east of Sheep's Head SAC (000102)

- c. 15km north east of the Lough Hyne Nature Reserve and Environs SAC (000097). The small area of road works east of Ballydehob is c. 11km north east of this SAC.
- c. 14km south east of the Glengarriff Harbour and Woodland SAC (000090).
- There are a number of other SACs located within 15km of the proposed Turbine Delivery Route to facilitate the assembly of the development.

6.6.2. There are no SPA's located within 15km of the site, save for from the small area of roadworks proposed just east of Ballydehob. There are a number of SPA's located within 15km of the proposed Turbine Delivery Route to facilitate the assembly of the development.

6.6.3. Derreenatra Bog NHA (002105) is located c. 9km south west of the main site and c. 3.5km south west of the small area of roadworks east of Ballydehob.

6.6.4. The site is located-

- c. 6.3km north of the Roaringwater Bay And Islands 000101 pNHA. The small area of road works to the east of Ballydehob is located c.2-300m north of this.
- c. 11km east of Sheep's Head pNHA (000102)
- c. 13km east of Owen's Island pNHA (001071)
- c. 7km south of Cusroe, Whiddy Island pNHA (000110)

6.7. EIA Screening

6.7.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended) transposes Annex I and II of the EIA Directive and sets out prescribed classes of development, for which Environmental Impact Assessment is required. The following classes are noted:

- Part 2 (3) Energy Industry (i)-

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.

- 6.7.2. The Application is accompanied by an Environmental Impact Assessment Report (EIAR) which is examined and assessed in section 9 below.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. First Party Appeal

The grounds of this appeal can be summarised as follows-

- The Council's decision was not unexpected. The Applicants are disappointed as the decision fails to give due consideration to the proposal as required by national policy in response to the current climate emergency.
- The appeal discusses the current energy context, their disappointment further information was not sought, the visual and tourism impacts, the principle of the development, the Wind Energy Strategy Map, Ecology, the site and the proposal, before setting out their specific grounds of appeal which include-
 - The Climate Emergency
 - Landscape Classification,
 - Principle of Development
 - Ecological Impact.
- In terms of the '*Climate Emergency*' they highlight the pronounced need for decisive action to reduce carbon emissions as enshrined in national, regional and local policy. Decarbonising electricity is at the centre of the Climate Action Plan with its ambitious target to deliver 9GW from onshore wind by 2030. Achieving such targets requires a major step up in how we accelerate and increase the deployment of renewable energy to replace fossil fuels. Projects such as the Shronagree Wind Farm should be supported. The Council's decision to refuse without recourse to Further Information (FI) does not reflect national policy.
- In terms of '*Landscape Classification*' with respect to the second Refusal Reason, the Applicants consider-

- the County Development Plan's (CDP) Wind Energy Map is no longer fit for purpose and unnecessarily curtails the Council's response to the climate crisis.
- The 2022 CDP Map has been rolled over from the 2014 CDP which was based on the 2007 Draft Landscape Strategy, with 'Very High Value' landscape areas in the latter aligning completely with the 'Normally Discouraged' Wind Energy Strategy areas.
- This has resulted in c. 45% of the area of Cork County being precluded from consideration for wind energy development.
- It is considered there are shortcomings associated with the CCC Wind Energy Strategy Map, principally due to the draft nature of the Landscape Strategy upon which it is based, which includes mapping errors.
- Issues arise due to the map's 'hard' boundaries upon which policy is rigidly implemented, when these boundaries, due to the crude sieve-mapping approach used to generate them, are 'fuzzy' or 'broad-brush' at best. This has resulted in the preclusion of all coastal and adjacent areas from general wind energy development consideration.
- With the recent dramatic changes in national policy with particular emphasis on renewable energy, many of the underlying assumptions behind this Wind Energy Strategy Map have become questionable.
- With the advent of offshore wind farms the presumption against wind farms in the vicinity of coastal areas needs to be revisited.
- The Applicants refer to the An Bord Pleanála's Inspectors Report for ABP-308244-20⁹ which they consider questioned the appropriateness of the CDP Wind Energy Strategy Map in relation to a nearby wind farm appeal at Derreendonee, Curraglass and Cappaboy Beg.

⁹ The Board's decision was quashed by Order of the High Court (Perfectured on the 21/12/2022), New Case Number ABP-315656-23- undetermined at time of writing.

- They also highlight the Council's Chief Executives Report which also accepted these limitations in their submissions to the Draft CDP in September 2021, when they stated-

..... 'In light of recent and ongoing changes to guidelines and climate / energy policy at a national level, the Planning Authority will prepare a renewable energy strategy for the county during the life of the new Plan, and this will include a review of the wind energy strategy'

This commitment was carried over into CDP Policy 13-1. However, the urgency of the current climate crisis is not appropriately reflected in the proposed review timeframe of 'during the life of this plan'.

- The subject site is a case in point demonstrating these limitations and indicates that there is a degree of arbitrariness in the delineation of these boundaries. The appeal sets out a comprehensive explanation of the matters raised including snips from the policy frameworks referenced.
- In terms of 'Principle of Development' with respect to the second Refusal Reason, the Applicants consider-
 - the site straddles both the 'Acceptable in Principle', and 'Normally Discouraged' CDP wind farm policy areas. In relation to the latter Policy Objective ET 13-8 of the CDP states that: 'in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered'. No significant adverse impacts are anticipated.
 - Turbine T01 is located within an Area classified as 'Acceptable in Principle' while the six others are located just within 'Normally Discouraged' areas. Section 13.6.8 of the CDP does provide for consideration in these areas in exceptional circumstances. The Applicants maintain such exceptional circumstances prevail and no ecological, landscape, amenity, recreational and settlement impacts will arise.

- In relation to impact on landscape the applicants refer to the conclusions set out in the Landscape and Visual Impact Assessment of the EIAR. They question the second refusal reason and the stated 'profound impact' from nearby scenic routes and local residents as per the Planners Report. This is considered subjective and substantiated and should not form the grounds of refusal for proposals of such regional and national strategic importance. The proposal is considered to have a moderate impact within 5km of the turbines in an area of medium sensitivity characterised by existing anthropogenic land uses reducing to low and negligible impacts beyond that.
- Viewpoints (VP) 12-15 along scenic routes are considered to have a borderline significant visual effect and these have been selected as worst-case scenarios. They depict brief glimpses experienced along a journey over a length of a route. They could not be considered overbearing or visually domineering. Turbines 08 and 09 have been omitted due to preplanning concerns.
- The appeal then details the '*Impacts on Tourism*' appears to underpin much of the second refusal reason. They acknowledge tourism and recreational amenity play an important economic and societal role in the area. However they compile a literature review of the interaction between wind energy and tourism which they consider relevant.
- They refer to a 2008 Failte Ireland study in which nearly three quarters of those surveyed claimed more wind farms would have no impact their likelihood to visit or have a strong or fairly strong positive impact on future visits.
- The survey noted the perception of wind farms was positive compared to one off housing, pylons and mobile phone masts.
- Positive statistics are provided from a 2012 Failte Ireland study on tourism and attitudes to wind farms.
- The appeal then refers to research in Scotland and trends in tourism relevant to nearby wind farm developments. Overall the conclusion of the study was there was no evidence to suggest that onshore wind

farm development has had a detrimental impact on the tourism sector even at a very local level.

- The applicants refer to the success of the Galway Wind Park which is positively reviewed in a number of walking and hiking sites.
 - The appellants dispute the Council's assessment that the proposal would have a detrimental impact on tourism.
 - In terms of impacts on Residential Amenity the appeal details there are no dwellings within 500m of any proposed turbine. The proposal is compliant with the current 2006 guidelines. It is also in compliance with the setback distance of 4 times the turbine height i.e. 600m as per the draft wind energy guidelines.
 - Notwithstanding separation distances, shadow flicker modelling has identified 8 habitable dwellings that could potentially experience shadow flicker in excess of the recommended amounts. These are considered a very conservative overestimate on the basis it does not take into account when the wind is not in the direction needed to orientate the turbine perpendicular to the residential dwelling, assumes the sun is always shining and makes no assumption of a clear line of sight to possible windows on affected walls/gables. The appeal considers when sunshine hours are accounted for the potential shadow flicker within 10 rotor diameter distance reduces to well below the 20 hours per year threshold value at all locations.
 - In terms of cumulative impact with the Ballybane Windfarm no dwelling is located within 500m of both windfarms.
 - The Shadow Flicker Analysis includes a dedicated mitigation strategy as a precautionary approach. The turbines can be fitted with a shadow cast module that can turn the turbine off in right weather at the time of day when they could affect a dwelling. The strategy includes monitoring in the first year of operation.
- In terms of 'Ecological Impact' with respect to the first Refusal Reason, the Applicants detail the reasons raised ecological concerns regarding the

development on upland peatland and its potential effect on habitats of high ecological value. The applicant asserts-

- They respect the sensitive nature of the proposed development site and is fully committed to delivering an appropriate design solution in consultation with the Planning Authority as evident by their removal of two turbines from the preliminary wind farm layout, following Council feedback, to eliminate potential visual impacts.
- Had FI been requested it could have been demonstrated that, contrary to the Council Ecologist's assertion, the extent of the peatland habitat to be impacted has not been underestimated.
- The Appeal includes an 'Ecology Response Report' prepared by Fehily Timoney Environmental Consultants. This confirms that the construction compound, associated parking, turbine assembly areas and any required widening of existing trackway have all been captured in the habitat loss calculations.
- An FI Request would also have enabled the applicant to allay the Council Ecologist's concerns regarding- negative effects and impacts on drainage patterns and the hydrological functionality of adjacent peatland and heathland habitats. The submitted 'Ecology Response Report' confirms that there is already existing drainage throughout the site. Consequently, the scope for negative impacts on wet heath habitats (including mosaics) is much reduced. In the do-nothing scenario the site would continue to be drained, reducing the likelihood of bog vegetation recovering. However, in the proposed development existing drains would be blocked within bog and wet heath habitat onsite as part of enhancement measures, creating favourable conditions for peat restoration.
- The applicant proposes addressing the poor quality of the wet heath and wet heath mosaic habitats by means of a Habitat & Species Management Plan. This would mitigate against the current overgrazing issue, ensure no future turbary on-site (primarily responsible for in the degradation of the peatland habitat), includes proposals to block drains

and achieve an overall net gain' in terms of biodiversity and provides for native broadleaf tree planting (2.5ha of low ecological lands outside the site.

- In the absence of the proposal the existing grazing regime would continue with ongoing degradation of peatland ensuing.
- The appeal considers the Council Ecologist assumed the location of the broadleaf planting would be within the site leading to further habitat loss. However 2.5 ha is proposed on low value habitat lands adjacent to the site highlighted on drawing 5499-1069 enclosed with appeal. The appeal details these lands are under the control of the applicants, a letter of consent is submitted with the appeal and there is no objection to a condition in accordance with section 34 (1) and 34 (4) of the Acts.
- The appeal then refers to precedents for similar developments where ecological considerations on degraded upland peat habitats were not so restrictive- 19/04972 and 20/00350.
- The appeal then refers to other Ecological items/concerns raised as follows-
 - Ornithology Data- the submitted 'Ecology Response Report' confirms surveys were completed for two years with no additional target species observed.
 - Kerry Slug- The 'Ecology Response Report' confirms a targeted Kerry Slug survey was not completed, however a habitat suitability survey was undertaken based on which it was assumed the species was present throughout the site. Potential impacts were considered during the construction, operational and decommissioning phases (10.4.2- 10.4.4) of the EIAR¹⁰. Mitigation was proposed in in section 10.4.6¹¹ which includes a pre-construction survey.
 - March Fritillary- This species was identified in three clusters on the site and route options are discussed. Appropriate mitigation is proposed in

¹⁰ Pages 423 & 424

¹¹ Section 10.6 of EIAR, pages 446 and 447.

the EIAR and general habitat enhancement proposals in terms of grazing management will improve the habitat.

- Consideration of Alternatives- Reference is made to section 3.4.1 of the 2022 EPA Guidelines in which there may be no relevant alternative location etc. The subject lands are available to the applicants and no alternative is realistically available. There is a precedent for wind energy developments in the area and the site is partially located within an 'Acceptable in Principle' wind energy zoning.
- Response to Road Concerns- The appeal includes a 'Response Report' prepared by Keohane Geological & Environmental Consultancy. This addresses concerns relating to-
 - Movement of trailers through the N71 junction without oversailing the property on the south side of the N71. Swept path analysis drawing included.
 - Movements at the N71/L-8456 junction with ground clearing ranging from 2.5m to 3.1m depending on selected trailer type. Swept path analysis drawing included.
 - As per the EIAR trial runs will be carried out to confirm suitability of selected trailer.
 - TII compliant bollards/fencing will be installed along the edge of the widened areas to prevent unauthorised access. The widened areas will be surface dressed to prevent loose material going onto the public road.
 - Inaccuracies in some drawings as regards the existing firebreak along the L-8456 road. Proposals are detailed for grid connection cabling including use for laybys and improving bends for delivery. All lay by proposals are within the red line or are existing.
 - Permanent roadside fencing will be erected at the end of the construction phase. There will not normally be wind farm related traffic on this firebreak.

- Drawing provided showing cross section through the L-8456 and adjacent firebreak.
- The appeal concludes-
 - The submitted Fehily Timoney Environmental Consultants report rebuts the first refusal reason relating to negative effects on habitat of high ecological value. The proposed Habitat and Species Plan would ensure the positive management of existing peatland and reverse its trend of degradation.
 - The second refusal reason appears to prioritise tourism objectives over those of renewable energy.
 - The principle of wind development is acceptable at this location in exceptional circumstances where there is no significant impact on ecology landscape, recreational and residential amenity. The EIAR confirms the proposal will not result in significant visual impacts.
 - The proposal will contribute positively to the realisation of national, regional and local policy objectives in full accordance with the wind energy guidelines and proper planning and sustainable development of the area.

7.1.2. Third Party Appeal

This has been received from Gwen Van Spyk of the Snipers Barn, Derreenard House, Derreenard, Ballydehob, Co. Cork. The grounds of appeal can be summarised as follows-

- The Appellant agrees with the Council's refusal and its reasons.
- The appellant believes there is a further reason to refuse the application and that is the Council have no authority to make any decision on the application as it is invalid by virtue of non-compliance with the requirements of Directive 2001/42/EC (the SEA Directive). Specific reference is made to CJEU case 24/19 a case where local residents in Belgium challenged a permitted wind farm development of 5 turbines in which they argued a Government order and circular should have been preceded by a SEA. The court founded the order

and circular constituted a plan or programme under the SEA Directive and in such circumstances such plans and programmes as well as permissions for projects determined based on same must be annulled.

- The Irish Policy Framework for wind farms is based on the 2010 National Renewable Energy Action Plan (N-Reap) and subsequently the National Energy and Climate Plan 2021-2030 (NECP). Both of these were adopted without carrying out a SEA. It is clear from the appeal the appellant considers that N-reap and NECP constitute a plan or programme and therefore SEA was required of these.
- The 2006 Ministerial Guidelines on Wind Energy Development comprises a plan or programme within the meaning of Directive 2001/42/EC. The draft Guidelines issued in 2019. A SEA has not yet been carried out.
- Cork County has therefore no authority or jurisdiction on which to base a decision for this application.

7.2. Applicant Response to Third Party Appeal

This addresses specifically-

- The matter raised concerning the SEA Directive, the CJEU and the Belgian case cited by the Appellant.
- It includes a 'Legal Opinion' prepared by Oisín Collins SC which considers the third party appeal is misconceived as none of the matters raised in the Appeal fall into the category of plan or project requiring SEA.
- They can be readily distinguished from the Belgian Circular
- The Board is only required to have regard to the policy and guidance documents referred to in the appeal, they are not bound by same.

7.3. Planning Authority Response

A response to the Appeals has been received from the Planning Authority (17/07/2023) which can be summarised as follows-

- The Planning Authority's assessment is set out in the planning and technical reports on file which raise significant ecological and visual impact concerns.
- The Board is requested to uphold the decision to refuse permission.

7.4. Observations

Four observations on the first party Appeal have been received from the following-

1. Peter Sweetman & Associates
2. Wild Ireland Defence CLG
3. Florence McCarthy and
4. Christopher McCarthy

The pertinent matters raised in these observations can be summarised as follows-

- The Planning Authority decision was entirely correct. The location is highly scenic, unsuitable for a wind farm, is located in an area where wind farm development is normally discouraged and the proposal contravenes every conceivable objective of the County Development Plan (CDP). The Wind Energy map is the relevant statutory tool to apply for considering wind farm development. The existing wind farm has blighted the original landscape permanently.
- The Council's approach to the application is consistent with its obligation under the CDP. There is no obligation for the council to seek Further Information.
- It is laughable to suggest the current climate emergency constitutes "exceptional circumstances" that the Council should have regard to.
- The appeal and response prepared by Fehily Timoney does not address or offset the loss of high value habitats and the report is inconsistent with the legal obligations under the habitat directives.
- Cork County Council has failed to assess the overall development and its constituent parts in compliance with the EIA Directive. The observation does not explain how the council have failed in this regard.

- Kerry County Council have failed to assess the overall development and its constituent parts in compliance with the requirements of the Habitats Directive¹². I note reference is made to legal precedent in support of the observer's position, yet the observation does not explain how the Council have failed in this regard.
- The proposal must be assessed for compliance with the Water Framework Directive and further reference is made to legal precedents and referral to the European Court of Justice.
- The area is known for the Kerry Slug, Hen Harrier and the Irish hare. There does not appear to be consideration of these species.
- Notwithstanding the further ecological report submitted with the appeal the proposal will create a range of very significant impacts that can neither be mitigated nor resolved satisfactorily to allow the development to proceed¹³.
- There are concerns with the manner in which the developer has approached the application for permission. There have been four applications, one withdrawn and the observer has little or no experience of the planning process. There is an unfair burden on the public. The developer engaged in no public consultation with the local community.
- They do not support a wind farm within 1,000m of their home which will be sandwiched between two windfarms (one existing).
- The proposal is in a peatland area and is not suitable to cater for the proposal.
- An observer is relying on the authorities to ensure people are not forced from their homes due to worries associated with health impacts in connection with wind farms.¹⁴

¹² It is noted the observation raising this matter refers specifically to Kerry County Council. This is likely a typing error as Kerry are not the competent authority in this regard. Nevertheless, it is difficult to reconcile the main premise of this section of the observation.

¹³ The observation does not detail what significant impacts will be created and instead refers to the Council's ecological report prior to the appeal.

¹⁴ These impacts are not detailed or justified.

7.5. Further Responses

A Response to the First Party Appeal has been received from Gwen Van Spyk (third party appellant). This can be summarised as follows-

- The applicant assertion regarding increasing onshore wind energy in Cork is based on fundamentally incorrect core proportionality. The appellant considers Cork already provides in excess of proportional wind generating capability for the country.
- The proposed windfarm (bar one turbine) is located within the area designated 'Normally Discouraged'. The one turbine not located in this area is located within an area that is 'Acceptable in Principle'.
- 50% of the County's land designated 'Open for Consideration' to wind farms is currently free of wind farm developments. There is therefore no need for areas designated 'Normally Discouraged' to be developed for such use. This can't be considered an exceptional circumstance.
- The designation for 'Normally Discouraged' was not challenged in public consultation to the current CDP.
- The entire site is located in an area of 'High Landscape Value' as set out in the CDP. Ballydehob is specifically detailed in the CDP as within an area designated 'High Landscape Value'.
- The area of the proposed site has been recently designated as a 'Specific Natural Constraint' (SNC) within the ACRES scheme. Developing a wind farm in these areas contradicts this designation.
- Biodiversity is an equal partner in fighting Climate Change. Damaging it is illogical.
- It is not accepted that there would be no impact on tourism and there is not sufficient evidence/research to support same in this context.
- The applicants claim regarding the benefits of the proposal in the context of the Climate Crisis Emergency are unreferenced and ignores the need for fossil fuels to support wind energy during times of insufficient wind.
- There is no basis to overturn the Council's refusal of permission.

- As per the first party appeal there is no planning authority with the authority to make any decision on this application. It is invalid by virtue of non-compliance with the SEA Directive.

8.0 Assessment

8.1. Introduction

- 8.1.1. I have examined the application details and all other documentation on file, including the Appeals, Response to the Appeals, Observations and the Further Response to the Appeal. I have inspected the site and viewed it from surrounding scenic routes and public roads. I have had regard to relevant local/regional/national policies and ministerial and other guidance where relevant.
- 8.1.2. I am satisfied the substantive issues for assessment relate generally to Environmental Impact considerations, Appropriate Assessment and matters arising from the grounds of both Appeals. I propose addressing these matters as follows-
- Environmental Impact Assessment
 - Appropriate Assessment
 - The Planning Authority's first refusal reason
 - The Planning Authority's second refusal reason
 - The third party appeal

9.0 Environmental Impact Assessment

9.1. Introduction

- 9.1.1. This section of the report comprises an Environmental Impact Assessment of the proposed development. Both the 2014 amended EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 are applicable.
- 9.1.2. Schedule 5 of the Planning and Development Regulations 2001 (as amended) (PDR's), sets out classes of development type for which a mandatory Environmental

Impact Assessment Report (EIAR) is required. Part 2, Class 3 sets thresholds for certain 'Energy Industry' Projects. Paragraph (i) details-

“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.”

- 9.1.3. This application proposes 7 turbines with each turbine in the range of 4MW with the total installed capacity at approximately 30MW. Therefore an EIAR is required and has been submitted with the application.
- 9.1.4. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application including the appeals and other observations. A summary of the submissions made by the planning authority, prescribed bodies, appellants and observers has been set out at Section 4.0 and 7.0 of this report.
- 9.1.5. The EIAR consists of three volumes grouped as follows-
- Non-Technical Summary (NTS)
 - Main Report and a standalone document containing LVIA Photomontages (March 2022).
 - Appendices (Numbered 1-1 to 11-1)

The EIAR is dated October 2022.

- 9.1.6. The role, expertise and experience of the consultants involved in the preparation of the EIAR are set out in Volume 1 Section 1.3 of the Non-Technical Summary and Volume 2- Preamble pages 3 and 4 of the main EIAR document. It would appear the EIAR and associated documentation have been prepared by competent experts to ensure its completeness and quality.
- 9.1.7. The original assessment by the Planning Authority of the EIAR found it to be lacking in some areas particularly in relation to biodiversity, grid connection works and temporary mitigation measures on public roads to facilitate turbine transportation. The Senior Executive Planners (SEP) Report found there to be a lack of detail regarding alternatives considered, highlighting the siting of 6 of the proposed 7 turbines within an area designated 'normally discouraged' for such developments. The SEP report

refers to the Council Archaeologist report recommending omission of the turbine 3 due to its visual impact upon the 'Cairn'. The Senior Planner (SP) Report does not specifically address EIAR concerns. It is noted that the decision of the Planning Authority does not specifically refer to inadequacies in the submitted EIAR.

9.1.8. Notwithstanding the above having considered the information contained in the EIAR, the supplementary information, appendices and the information submitted with the appeal, it is considered that the information on file reasonably identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment and therefore generally complies with article 94 of the Planning and Development Regulations 2000, as amended and the provisions of Article 5 of the EIA Directive 2014 for the purposes of this assessment.

9.1.9. In their First Party Appeal, the Applicants specifically address the two refusal reasons. In their response to the first reason, they seek to deal with Ecological Concerns and highlight how some of the matters raised in the Council's Ecological Report were addressed in the EIAR with mitigation measures proposed accordingly. The Appeal is accompanied by the following reports-

- 'Biodiversity Appeal Responses' prepared by Fehily Timoney Consultants and
- 'Report Addressing Issues Raised by Area Engineer' prepared by Keohane Geological & Environmental Consultants.

These will be considered as appropriate in this EIAR assessment.

9.1.10. Unfortunately the Planning Authority's response to the Appeal does not take the opportunity to address the Applicant's appeal submission in response to their own ecological concerns.

9.1.11. The third party appeal does not raise any specific concerns relating to the EIAR.

9.1.12. Notwithstanding the above all EIAR issues will be addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation, including recommended conditions if considered necessary.

9.2. Consideration of Alternatives

9.2.1. Article 5(1)(d) of the 2014 EIA Directive requires-

“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”

- 9.2.2. Annex (IV) of the Directive (Information for the EIAR) provides more detail on ‘reasonable alternatives’-

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

- 9.2.3. The Board are reminded that the Planning Authority’s SEP report considered there to be a lack of detail regarding alternatives considered highlighting the siting of 6 of the proposed 7 turbines within an area designated ‘normally discouraged’ for such developments in the Councils Wind Energy Strategy (WES) as per the County Development Plan (CDP). This however did not form part of the Council’s refusal reasons.

- 9.2.4. Chapter 1 of the submitted EIAR is titled ‘Introduction’. The reasonable alternatives examined are addressed in section 1.5 and considered in the context of-

- Alternative Sites
- Alternative site layout and design
- Alternative technologies.

- 9.2.5. The EIAR details several other sites in the area were accessed but the location of those sites is commercially sensitive and are therefore not disclosed. It argues all sites have pros and cons but the subject site was found to be optimal. The site benefits from access with a local road to the site, and National and Regional Roads within 1km of the site. The site can be developed with the least environmental impact, is distant from houses and is not an ecologically sensitive site. The EIAR argues that despite such proposals being ‘normally discouraged’ the detailed landscape and visual impact assessment concludes the proposed wind farm would not give rise to any significant residual landscape or visual impacts.

- 9.2.6. The applicant submission regarding alternative layout and design discusses the need for larger more efficient turbines. This is justified in terms of competitiveness and the market trend. It details originally the proposal provided nine turbines in a different layout consideration but was revised based on landscape and visual impact considerations. This original layout is shown in Appendix 1.1 and proposed is shown in Figure 2.1 and 2.2 of the Non-Technical Summary (NTS). A justification for the proposed grid connection is also set out and shown in Figure 2.2 of the NTS.
- 9.2.7. In terms of the technology proposed the EIAR again discusses the move to larger turbines. It details the actual turbines chosen will be selected following a competitive tendering phase but the tip height will not exceed 150m. The turbine types included in the application have a rotor diameters of 126m and 133m with hub heights of 86 and 83m. Final selection will include consideration of models not on the market at the time of the EIAR and include any conditions of a grant of permission.
- 9.2.8. Should the Board decide to grant planning permission, it is recommended a condition is imposed requiring the Applicant to specify the final design details within the terms of the permission applied for be agreed with the Planning Authority prior to commencement of any development at the site. This should be done, in the interest of clarity and proper planning.
- 9.2.9. Notwithstanding any of the above it is clear the majority of the site's location is within an area designated as 'Normally Discouraged' for wind farm development and 'High Value Landscape' as per the Cork County Development Plan (CDP). The EIAR details several other sites in the area were assessed but the location of those sites is commercially sensitive and not disclosed. The applicants appeal further details the subject lands are available to the applicants and no alternative is realistically available.
- 9.2.10. I appreciate commercial sensitivities are important to the applicants and accept the proposed lands are those available to them. I tend to find these responses to an EIAR Directive requirement somewhat perfunctory, especially in the context of the evident CDP designations, the undoubted Landscape and Visual effects of the proposal as discussed in section 9.5 and the general intention of the EIAR Directive. However, I also note this matter was raised in the Council's SEP planning report but does not specifically form part of the Council's refusal reason.

9.2.11. The Board may consider the EIA Directive requirements in relation to the consideration of alternatives has not been adequately addressed and this matter would then form the basis of a 'New Issue' should a refusal be considered on this basis. However, I don't find this fatal to the overall consideration of the EIA adequacy.

9.3. Likely Significant Direct and Indirect Effects

9.3.1. Article 3 (1) of the EIA Directive 2014/52/EU requires the likely significant direct and indirect effects of the development to be considered on the following factors (or for the purpose of this assessment, the following headings)-

- a) population and human health
- b) biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- c) land, soil, water, air and climate
- d) material assets, cultural heritage and the landscape and
- e) the interaction between those factors

9.3.2. The EIAR does address the above factors but not in the order or headings as set out in the Directive. Ordinarily I would consider the proposed development and its environmental impacts in keeping with the above headings. However, in the context of this application it is considered appropriate to consider the proposal as set out in the submitted EIAR.

9.4. Consideration of Risks associated with Major Accidents and/or Disasters

9.4.1. Article 3(2) of the EIA Directive includes a requirement to identify, describe and assess in an appropriate manner *"the expected effects derived from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned"* within the EIA.

9.4.2. The submitted EIAR does not provide a dedicated chapter to risks from major accidents or disasters. It is considered appropriate therefore to also have regard to such risks during the assessment of each effect under the factors/headings detailed in Article 3(1). In this regard, it is expected the submitted EIAR should address to

some extent the risks of accidents or disasters arising from land slippage, turbine collapse, natural disasters, extreme weather events and their subsequent interactions.

9.5. Landscape and Visual

- 9.5.1. Landscape and Visual impacts are addressed in Chapter 3 of the EIAR. The EIAR includes a Landscape and Visual Impact Assessment Report (LVIA) prepared by Macro Works Ltd detailed as a specialist and experienced LVIA company.
- 9.5.2. The EIAR details the methodology employed involved desktop and fieldwork including establishing the appropriate study area in accordance with the 2006 Wind Energy Guidelines and the draft 2109 version, development of a Zone of Theoretical Visibility ZTV, review of the County Development Plan (CDP) and selection of 'Viewshed Reference Points (VRP) from key visual receptors. The VRP's (VP1-26) were then refined on the ground to provide specialist photomontages as set out in the standalone LVIA document.
- 9.5.3. An assessment criteria for 'Landscape Value and Sensitivity' is set out in Table 3-1, Magnitude of Landscape Impact in Table 3-2 and an Impact Significance Matrix developed in Table 3-3 of the EIAR. The overall range of impact is described from 'Imperceptible' to 'Profound', with judgments of 'Substantial' and above considered to be 'significant impacts' in EIA terms.
- 9.5.4. An assessment criteria for 'Visual Impact' is then described which details that unlike landscape, visual sensitivity has an anthropocentric basis with consideration required of receptor susceptibility versus the value of the view on offer weighed against the magnitude of visual effect. Susceptibility criteria is extracted from the IMEA 2013 Guidelines with the value of the view criteria considered against aspects of the view such as high amenity and scenic views, but not limited by same. A magnitude of impact is then set out in Table 3.4.
- 9.5.5. The EIAR then considers the proposal in the context of the Wind Energy Guidelines 2006 and the Draft Guidelines 2019. It describes the application site within a landscape type consistent with 'Mountain Moorland' as per the Guidelines. However the siting and design recommendation for 'Transitional Marginal Landscapes' and 'Hilly and Flat Farmland' have influenced the turbine layout due to the varied and

complex landscape. The EIAR details the proposal is relatively consistent with the three landscape types but 'especially consistent' with the 'Mountain Moorland'.

- 9.5.6. The EIAR then discusses the proposal in the context of the Cork CDP and provides a number of useful figures showing the turbine location in the context of designated landscapes as per the CDP e.g. 'Rugged Ridge Peninsula', 'high value landscapes' etc. It also discusses the proposal in the context of the Kerry CDP 2015-2021 and the then Draft 2022-28 CDP.
- 9.5.7. Section 3.3.3 of the EIAR establishes the 'Zone of Theoretical Visibility' (ZTV) over a 20k radius. The ZTV map (Appendix 3-2 and Figure 3.9) is prepared based on a 'tip' height of 150m as a worst case scenario for potential visibility. 20km ZTV maps of 'hub' height of 86m and the proposed wind farm in combination with all other wind farms in the study area is also provided. All of the scenic routes and views that fall within the ZTV were investigated with specific viewpoints selected for appraisal (VP1-26). Table 3-5 details all scenic routes within the ZTV as well as a rationale for the selection of viewpoints considered.
- 9.5.8. The EIAR then considers centres of population¹⁵, main transport routes¹⁶ and Tourism, Recreational and Heritage features¹⁷ within the ZTV study area. There is limited if any focus on existing rural houses in the general area and visual impacts upon same.
- 9.5.9. The EIAR then details the visual impact of the proposal is assessed using six categories of receptor type- key views, designated scenic routes and views, local community views, centres of population, major routes and amenity & heritage features. Twenty six Viewshed Reference Points (VRP) (VP1-26) are identified and presented in Table 3-6, Figure 3-11 of the EIAR and the associated LVIA document.
- 9.5.10. **Potential Impacts**
- 9.5.11. Section 3.4 of the EIAR discusses potential impacts and details they have the potential to occur in the following ways-

- Landscape Impacts

¹⁵ Including Bantry, Skibbereen, Durrus, Ballydehob, Schull, Caheragh and Drimoleague

¹⁶ N71, R586, R591, R592, R593 and R594

¹⁷ Wild Atlantic Way driving route, proposed Eurovelo cycling route, numerous walking trails and heritage sites.

- Irreversible physical effects on sensitive landscape features
- Disruption of existing land use patterns
- Incongruous change to areas of sensitive landscape character
- Visual Impacts
 - A combination and spatial dominance as seen from highly sensitive receptor locations. This is most likely to occur within 1-3km of the proposed development
 - Visual clutter and ambiguity as seen from highly sensitive receptor locations. This can occur at any distance but tends to occur beyond 2-3km as turbines become stacked in perspective and a more two-dimensional layout is perceived.
 - A combination of both of the above effects

Sensitive physical landscape receptors are identified as-

- the rugged coastal promontories in the wider western and southern half of the study area, and
- a degree of sensitivity is associated within some of the more elevated remote upland areas within the wider northern half of the study area (not considered to be highly sensitive as they are heavily influenced by anthropogenic land uses).

Sensitive visual receptors identified as-

- the dense network of scenic route designations (as per CDP) that surround the site and criss-cross the wider study area.
- the Sheep's Head Way national way marked walking trail and
- the Wild Atlantic Way scenic driving route

9.5.12. **Effects Identified- Landscape-**

9.5.13. The EIAR discusses these by area type as follows-

1. Central Study Area <c.5km from nearest turbine and

- Notable scenic routes including S92 and S93 passing through a landscape classified with a value of 'Very High'
- Recreational amenity walks and cycling trails- Sheep's Head Way and Skibbereen Looped Cycling trail
- Two landscape designations-
 - Turbine T2-T7 located within LCT4 'Rugged Ridge Peninsula' with-
 - 'Very High' Landscape Value,
 - 'Very High' Landscape Sensitivity and
 - 'National' Landscape Importance.
 - Turbine T1 located within LCT9 Broad Marginal Middleground and Lowland Basin with-
 - 'Low' Landscape Value',
 - 'Medium' landscape sensitivity and
 - 'Local' Landscape Importance.

The EIAR then seeks to justify the proposal based on the site's location within a transition area between the two LCT designations that is not highly distinctive in the context of the wider Cork and Kerry landscape.

- The EIAR considers the 'central study area' to have an overriding **Medium landscape sensitivity**.

2. Wider Study Area c. 5-20km

- This is considered a dynamic and complex landscape area and notes existing wind energy development as a notable land use within the wider study area i.e. to the north east where existing wind farms are in situ.
- Much of this area includes LCT4 'Rugged Ridge Peninsula' with the coastline to the south east identified as LCT 3 'Indented Estuarine Coast' with similar sensitivities.

- The EIAR states *‘The wider study area comprises some of the most sensitive and highly scenic landscape in County Cork’*. It identifies scenic routes, national waymarked walking trails, cycling trails and scenic driving routes, a notable sense of heritage. It states *‘much of the wider study area is considered to be highly sensitive and highly distinctive on a regional and national level’*
- The EIAR considers the ‘wider study area’ to have **High-Medium landscape sensitivity** but with occasional landscape features and areas of higher sensitivity along the coastline and in the uplands in the wider northern half of the study area. Lower sensitivity is identified to the east.

9.5.14. The EIAR then goes on to discuss the Magnitude of Landscape Impacts in both area types in the context of-

- Construction Stage effects
- Operation and Decommissioning Stage Effects and
- Significance of Impacts

It concludes based on a ‘Medium Sensitivity judgment’ for the Central Area the significance of impact upon the landscape to be **‘Moderate’ reducing to ‘Slight and Imperceptible’** at increasing distances.

9.5.15. **Effects Identified- Visual-**

9.5.16. Table 3.7 of the EIAR sets out a summary of visual effects for each of the 26 identified Viewshed Reference Points (VRP). The Board are also referred to Appendix 3-1 and the LVIA Photomontage Book. The summary identifies a range of visual impacts from ‘Imperceptible’ to ‘Substantial Moderate’ across the 26 selected VRP’s. Section 3.7.1 discusses impacts on Scenic Views with 16 of the VRPs representative of such designations i.e. a static view and a ‘worst case scenario’ of turbine visibility along the routes. S92 and S93 are the nearest and most relevant. These are each discussed in detail.

9.5.17. For S92 it details the turbines will be clearly visible from sections of the scenic route and will present in a dominant manner from VP10 and VP14 but are not overbearing.

It highlights the turbines will not obstruct or impede views to be protected but instead the turbines are often viewed in the opposite direction of the most visually sensitive aspects of the routes.

- 9.5.18. For S93 turbines will be prominently visible and partially and fully revealed along the route with VP13, VP18, and VP20 affording the clearest views. VP13 will experience the highest visual impact significance of 'Substantial Moderate'. VP9 and VP12 afford steep uphill views of the turbines and will appear highly dominant for road users. However the most sensitive elements of the view are considered down valley and orientated in the opposite direction.
- 9.5.19. The significance along all other routes ranges from 'Slight' to 'Imperceptible' with a large majority of these routes outside of the 'central study area'. This section concludes the proposal represents the intensification of an existing land use along the ridge and will not notably detract from the most scenic aspects of the designated scenic routes.
- 9.5.20. The EIAR also discusses the impacts on local views i.e. within approx. 5km of the site. VP10, 12, 13, 14 and 15 are deemed to experience a visual impact significance of 'Substantial-moderate' with VP10 and 15 presenting at a significant scale to local residential receptors. VP 9, 11, 18 and 19 are considered a 'Moderate Impact' with only VP19 presenting a view of all proposed turbines. Notwithstanding these the proposal is not considered overbearing.
- 9.5.21. In terms of Centre of Population the highest impact is identified as 'Slight' at Ballydehob VP22 with the impact ranging from 'Slight-imperceptible' to 'imperceptible'.
- 9.5.22. In terms of Major Routes viewpoints generally along the N71 (S93 Scenic Route) are identified with a significance of visual impact detailed as 'Substantial-moderate'. Impacts from other route receptors are generally considered to range from Moderate Slight to Slight.
- 9.5.23. 13 viewpoints are discussed for Heritage and Amenity Features. These include the Sheep's Head walkway which VP 4,10 and 13 are representative with visual impacts ranging from 'Substantial-moderate' to 'Slight-Imperceptible'. The Skibbereen cycle route traverses the central study area with VP19 representative. The Wild Atlantic

Way is discussed with VP1,17,22,23,25 and 26 providing impact significance ranging from 'Slight' to 'Slight-Imperceptible'.

9.5.24. Cumulative Impacts

9.5.25. This is discussed with reference to the 2012 'Scottish Natural Heritage (SNH) Guidance which are adopted into the 2013 Landscape and Visual Impact Assessment Guidelines with the main principal focus on other existing and permitted wind farms particularly within the 'Central Study Area'. The Magnitude of such impacts are set out in Table 3-8 ranging from Negligible to Very High. Tale 3-9 identified four existing wind farms in the study area and two permitted. These are presented in a cumulative ZTV maps and wireframe drawing in Appendix 3-1 to 3-2 and figure 3 -16. This impact is considered from each VRP in Table 3-10. The EIAR concludes the proposal will contribute an additional cumulative effect that is in the order of 'Medium' along the broad upland ridge reducing to 'Low' in the wider surrounds of the study area where the proposal will instead appear as an extension to the existing Ballybane windfarm.

9.5.26. Mitigation Measures

9.5.27. In terms of mitigation measures, the EIAR details that it is not feasible to screen wind farms from view using on-site measures due to their highly visible nature. Instead, the two main forms of landscape and visual mitigation employed were mitigation by avoidance and design (through omission of two intended turbines to the western side of the proposed site due to their visual intrusion and sense of overbearing) and the use of buffers around residential receptors (i.e. in excess of 500m and the setback distance of four times the tip height from any residential property).

9.5.28. EIAR Conclusion

9.5.29. The EIAR considers the proposal is a well-designed and would not appear out of place in the working upland context. Despite the CDP designations including its 'no-go' designation it is not considered the proposal represents an unacceptable form of development at this location.

9.5.30. The EIAR largely relies on its mitigation by design i.e. omission of two turbines from the proposal to address impacts. It argues the proposal is not at odds with the

landscape and scenic amenity policies and objectives outlined in the CDP. The proposal does not give rise to any significant residual landscape or visual impacts.

9.5.31. **Assessment**

9.5.32. The Board are reminded the Planning Authority's second refusal reason considers the proposed development would provide for a highly intrusive visually domineering form of development in this 'high value landscape' which would contravene materially a number of objectives of the Cork County Development Plan, would interfere with the character of the landscape and would seriously injure the visual and scenic amenities of the area.

9.5.33. The Board are also advised that the Council's Archaeological Officer Report (04/05/23) recommends the omission of Turbine 3 due to its proximity and visual impact upon recorded monument Cairn CO131-048 located c. 17.5 of the northern boundary of the application site. This is not addressed in the Landscape and Visual Impacts chapter of the EIAR¹⁸ nor is it addressed in the first party appeal.

9.5.34. In their First Party Appeal the applicants point to the Council's Planning Report which states the development will have a 'profound' impact on views from nearby scenic routes and local residents. The applicants consider this position subjective and unsubstantiated and doesn't differ between 'being visible' and being visually obtrusive. In the applicants view this is contrary to the more considered conclusions of the 'LVIA' and Chapter 3 of the EIAR.

9.5.35. Generally speaking, I find the LVIA as per the submitted EIAR, including the methodologies employed to be a well-considered and robust analysis of many of the issues relevant to this section of the EIAR. Given the extent of the wider study area and the challenges for assessment purposes imposed by same, I am satisfied the identified 20km Zone of Visual Contribution and location and number of Viewshed Reference Points selected represents a comprehensive and reasoned consideration of both the landscape and visual impact matters as explained in the EIAR. The submission in this regard has sufficient and appropriate regard to the Wind Energy Guidelines 2006, the Draft 2019 guidelines and the IEMA Guidelines and allows for

¹⁸ The Board are advised 'Visual Impact' is addressed in Chapter 9 Archaeology, Architecture & Cultural Heritage section 9.3.2 in which turbine No. 3 is considered to have a moderate negative impact on the setting of the cairn. It also considers T1,2,5 and 6 will have a slight negative impact on the setting of the cairn.

adequate consideration of landscape and visual impacts while noting the turbine envelope considerations and highest possible tip height and hub height combination discussed in section 3.8 of the EIAR, regardless of the final turbine chosen if permitted within the specified turbine range.

9.5.36. Assessment of Landscape and Visual Impact considerations are always challenging, especially those as divisive as wind farms developments. In this regard, the local policy context and wind energy designations as formulated in the County Development Plan is paramount.

9.5.37. It is worth highlighting sections 3.6.2 Magnitude of Landscape Impacts and section 3.7 'Residual Visual Impacts' of the EIAR. The authors of the LVIA clearly highlight that they employ 'professional judgement' to contribute to their consideration of the sensitivity, the magnitude of impact and significance of the effect of the development from each VRP and upon the landscape. The conclusion of chapter 3 of the EIAR details the application site is not considered to represent west Cork's more scenic and vulnerable areas¹⁹. It argues mitigation measures have already been employed to address impacts from surrounding scenic routes e.g. non-inclusion of two turbines in the proposal. Finally it considers the proposal will not give rise to significant residual landscape of visual impacts.

9.5.38. In summary the Impacts identified in the EIAR are detailed as-

- Landscape-
 - Physical impact as a result of 7 turbines and supporting works. Impact considered minor because of existing conifer plantations.
 - Change in character of the area due to large turbines. These will be prominent and defining features on the landscape.
 - Minor impacts as a result construction works, the substation, meteorological mast and grid connection.
 - The significance of landscape impacts is considered moderate within the immediate context (<5km) reducing to 'Slight' and 'Imperceptible' at increasing distances.

¹⁹ This is in stark contrast to section 14.8.8 of the CDP- see section 9.5.41 below.

- Visual- (Considered against 26 viewpoints/receptors where the sensitivity of each receptor varied from Medium-Low to High Medium)
 - Most Notable Impacts from national, regional and local road network in immediate surrounds of the site including scenic routes.
 - Impacts to local community receptors
 - Impacts from local roads not considered overbearing
 - The turbines do not obstruct or impede views protected in the CDP and in many cases the turbines are viewed in the opposite direction
- Cumulative
 - Wind Energy Development has been an established landscape feature within the study area for the past decade with the existing Ballybane Wind Farm located c. 1km east of the proposed development.
 - There are also three other existing and two permitted wind farms located in the north east of the study area. (See ZTV drawings)
 - The proposed turbines will present as an extension to the existing windfarm development.
 - Increased intensity of wind farm energy on scenic routes in closest proximity to the proposal

9.5.39. Section 13.6.3 of the Cork CDP 2022-2028 sets out the Wind Energy Strategy (WES) for the county. It is clear the vast majority of the application site is located within an area where such developments are 'Normally Discouraged'- as per Figure 13.3 Wind Energy Strategy Map. This map aligns with Figure 13.2 which describes policy considerations for the area of the majority of the application site as 'Important Landscape (High)'. Objective ET13-8 Normally Discouraged states-

“Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments). Only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered.”

9.5.40. Section 14.8 and Appendix F of the CDP sets out the Landscape Character Assessment of County Cork. The vast majority of the application site is determined as 'High Value Landscape' (Figure 14.2) which aligns with the landscape character area type called 'Rugged Ridge Peninsula'. Appendix F describes this area type as having-

Landscape Character Type	Landscape Value	Landscape Sensitivity	Landscape Importance
4. Rugged Ridge Peninsula	Very High	Very High	National

9.5.41. Of particular note the Board are referred to section 14.8.8 of the CDP which states-

*“Landscape Character Types which have a very high or high landscape value and high or very high landscape sensitivity and are of county or national importance **are considered to be our most valuable landscapes and therefore are designated as High Value Landscapes (HVL)**²⁰, highlighted in green in the Table in Appendix F Landscape Character Assessment attached and shown in Figure 14.2.*

9.5.42. Section 3.3.2 of the EIAR discusses the Landscape Policy, Objectives and Designations in the context of the proposed development, the CDP and the Draft Cork County Landscape Strategy of 2007 which informed the CDP regarding the landscape character type 'Rugged Ridge Peninsula'. The First Party Appeal however focuses much of its content on the appropriateness of the Wind Energy Strategy and the Landscape Character based on what it considers out-dated and arbitrarily drawn hard boundaries. They argue the Wind Energy Map is not an appropriate basis upon which to make such policy decisions and that it is not fit for purpose. These arguments are not reflected in the EIAR.

9.5.43. Notwithstanding the above, there is a legal obligation imposed on Planning Authorities when making their Development Plans to include certain objectives i.e. section 10 (2) (e) of the Planning and Development Act 2000 (as amended) states—

²⁰ Emphasis added.

“the preservation of the character of the landscape where, and to the extent that, in the opinion of the planning authority, the proper planning and sustainable development of the area requires it, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest”

- 9.5.44. Accordingly, it is clear to me that regardless of the merits underpinning the basis of the CDP as regards the Wind Energy Strategy and the Landscape Character Assessment, the inclusion of such policies and objectives are entirely appropriate. In this regard the areas designated ‘Rugged Ridge Peninsulas’ is one of the most valuable landscapes in County Cork as determined by the elected members of that Council and detailed in section 14.8.8 of the CDP. Therefore the value, sensitivity and importance of this character landscapes and the visual impacts of significant developments such as the wind farm proposed, which is ‘normally discouraged’ in such areas should not be underestimated or understated.
- 9.5.45. In my opinion, the EIAR largely downplays the sensitivity of receptors and the order of magnitude the proposed development would impose on the landscape as per the criteria set out in Table 3-3 (Impact Significance Matrix). Equally, in terms of visual impacts, I can only conclude the EIAR understates the susceptibility of identified receptors and the magnitude of impacts i.e. section 3.2.6 and Table 3-3.
- 9.5.46. In terms of the Cumulative Impacts, I acknowledge the finding of the EIAR which considers the proposed turbines will present as an extension to the existing Ballybane windfarm development and will increase the intensity of wind farm energy on scenic routes in closest proximity to the proposal. I tend to agree with these findings from some viewpoints but disagree with the extent and appropriateness of such impacts. In this regard, the perceived extension of the existing windfarm would clearly represent an undue intrusion upon the designated ‘High Value Landscape’ in which wind farms would normally be discouraged and an increased intensity of such intrusions would run contrary to the requirements to protect designated scenic routes.
- 9.5.47. Having considered the policy context and applicable objectives, visited the site, and viewed it from the general and actual area of the majority of the identified VRP’s as

per the EIAR, a number of the designated scenic routes²¹ and having considered the contents of the EIAR including the LVIA book with photomontages, I find the proposed development considered against the criteria set out in Table 3-3 of the EIAR (Impact Significance Matrix) would have-

- Substantial to Profound impacts upon a designated 'High value Landscape' contrary to Objective GI 14-9,
- Substantial to Profound visual impacts from generally within the 'High Value Landscape' and from a number of identified sensitive receptors (including VP2, 4, 5, 7, 8, 9, 10 a&b, 11, 12, 13, 14a&b, VP15a&b, VP18, 19a&b, 20, 21, 22²² and 23, discussed in the EIAR that would be contrary to Objectives GI 14-9 and GI 14-12 i.e. upland landscapes and Objective 14-13 scenic routes including²³ S30, S90, S92, S93 and S108 in both the central study area (<c. 5km) and the wider study area (c.5-20km)
- Substantial to Moderate to Slight impacts from other identified sensitive receptors and VRPs in the identified wider study area (c.5-20km) which the Board should note also includes from some areas likely not considered 'High Value Landscape' as per the CDP.

9.5.48. Overall Conclusion

9.5.49. I have considered all of the content provided in relation to landscape and visual impacts including the EIAR. I have visited the site and viewed it from the majority of VP's and many of the sensitive receptors identified within the EIAR and the wider landscape especially those within the designated 'High Value Landscape'. I consider the potential for significant landscape and visual impacts upon the 'High Value Landscape' cannot be avoided, managed and/or mitigated by measures that form part of the proposed scheme, or through suitable conditions. The mitigations measures identified in the EIAR are not considered actual/appropriate mitigation

²¹ Most notably the western end of S30, S90 from VP23 northwards, most of S92, the northern half of S93 and the northeastern part of S108 in general area of VP8 and along R591.

²² My consideration from here also includes consideration of impacts from the designated ACA in Ballydehob which is not specifically addressed in Chapter 3 or 9 of the EIAR.

²³ While the EIAR considers other many other scenic routes in Table 3-5, having reviewed Volume 2, Table 2.5.1 of the CDP I am satisfied the description and general views being protected by those designations do not include ones towards the application site and are therefore excluded from my considerations.

measures in this regard. I therefore can only consider that the proposed development would have unacceptable landscape and visual impacts and should not be permitted. I recommend this application be **Refused**.

9.6. Population and Human Health

- 9.6.1. Chapter 4 of the EIAR is titled 'Human Beings – Impacts & Mitigation'. It sets out the Methodology used which involved desk-based research of dwelling locations, land uses, centres of population, census data etc. Field surveys were then carried out to confirm location of dwellings which were then mapped. Table 2.1²⁴ identifies nearest houses from the site boundary and off set from nearest proposed turbine. None are indicated as located less than 750m from a turbine. Figure 2.3²⁵ shows house location in the context of the proposal. Plate 4.1 is titled Electoral Divisions Map and Table 4.1 identified population of settlements in the wider area. The EIAR then discusses the proposal under headings of Tourism, Recreation and Amenity, public health and house prices.
- 9.6.2. Section 4.7 deals with Impact Assessment. It states in a do-nothing scenario there will be no changes to the baseline population, social and economic context. Potential income for landowners, Council rates, community benefit funds and employment would then not be realised. Negative impacts would be avoided but the wider benefit on a national level to tackle climate change will be lost.
- 9.6.3. In general the impacts identified can be summarised as-
- Health and Safety risks including employees and the public during construction
 - Risks to public during operation
 - Positive temporary impacts to socio economics through employment during construction. Some minor positive permanent impacts during operation and to landowners
 - Development Contributions to the local authority

²⁴ Page 27 of EIAR

²⁵ Page 47

- Visual impacts which are not considered significant
- Shadow flicker impacts

9.6.4. I note some impacts are also considered in greater detail in other chapters of the EIAR including Chapter 3- Landscape and Visual, Chapter 5- Noise and Vibration, Chapter 6 Traffic & Transport, Chapter 9 Cultural Heritage, Chapter 11 Air Quality & Climate Change. These will be addressed further and as necessary under the factors set out in Article 3 of the EIA Directive 2014/52/EU.

9.6.5. Some impacts such as delivery of employment, rent to landowners, a community benefit fund estimated at €130,000 per annum, annual payment to homes within 1km of turbines, rates to the Council estimated at c €200,000 per annum and possible integration of site roads into the Sheep's Head Way walking route are considered positive and no mitigation measures are proposed.

9.6.6. Mitigation measures for negative impacts include-

- Health and safety measures during construction and operation
- Design mitigation and omission of two turbines from the project to address negative visual and landscape impacts
- Fitting of turbines with a shadow cast module to turn the turbine off in bright weather at certain times when shadows may affect dwellings
- Use of semi-matt paint reducing potential for reflected light

9.6.7. The EIAR considers that negative impacts to Population and Human Health are not significant. The proposal generally provides positive impacts.

9.6.8. **Assessment and Conclusion**

9.6.9. Construction of the proposed wind farm development would undoubtedly result in substantial investment in the area with employment opportunities for construction workers and ancillary benefits for the local economy. Given the short-term nature of the construction phase I do not consider that there would be any significant negative impact on the population or economy during the construction phase. In the operational phase, significant adverse employment or population impacts are unlikely. Furthermore the Community Benefit Fund would result in a significant

positive socio-economic impact as would the payment of rates and development contributions.

- 9.6.10. In terms of impacts on residential property values I tend to agree with the applicant's contention regarding international studies and their applicability to similar developments in Ireland and the subject application. In particular I note the nearest house to a turbine is unidentified as 750m which is well in excess of the 500m recommended in the Wind Energy Guidelines of 2006. Accordingly it is reasonable to conclude that the proposed development is not likely to result in a significant impact on property values in the area.
- 9.6.11. With regard to human health, issues related to noise, air, dust, water pollution, shadow flicker etc. are considered elsewhere in this report. Given the nature of the proposed development there is potential for significant health and safety impacts during the construction and decommissioning phases, however I am satisfied that the proposed mitigation measures, including a condition requiring the Construction and Environmental Management Plan (CEMP)²⁶ to be agreed with the Planning Authority prior to commencement of development and general best practice construction methods, would be capable of mitigating these potential impacts to an acceptable residual level.
- 9.6.12. The issue of risks associated with major accident hazards and/or disasters is not considered in detail in this section of the EIAR and this could be considered a shortcoming in the EIAR. I give further consideration to this EIA Directive requirement in section 9.18 of this report.
- 9.6.13. A Construction Environmental Management Plan is included with Appendix 10, Appendix E of the EIAR. A number of the measures proposed in this represent best practise construction methods that benefit population and human health. Subject to a condition for this to be agreed with the Planning Authority and other mitigation measures proposed, I am satisfied impacts will be minimised.
- 9.6.14. Cumulative individual environmental factors can interact with population and human health such as air quality, noise, vibration and traffic during construction and operation. The cumulative impact of these and other permissions and development

²⁶ See Appendix 10- Appendix E of NIS

have been considered, and no significant adverse impacts are identified that cannot be managed through mitigation measures such as those set out in the CEMP.

- 9.6.15. Overall, I consider that the proposed development will have significant positive impacts on the local socio-economic environment. I am also satisfied that the potential for significant adverse impacts on population and human health can be avoided, managed and mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on population or human health.

9.7. Noise and Vibration

- 9.7.1. Although not specifically listed in Article 3 of the EIA Directive 2014/52/EU matters covered in this heading are considered pertinent under many of the environmental factors listed in Article 3 and discussed above. Noise and Vibration are specifically addressed in Chapter 5 of the EIAR. In terms of Vibration the EIAR details it has been scoped out of the assessment as the proposal will not give rise to ground borne vibration during construction and/or operation.
- 9.7.2. The methodology used included a review of relevant standards and guidance documents as detailed in section 5.2 of the EIAR including guidance relating to ETSU-R-97 published by the UK Department of Trade & Industry and the DoEHLG 2006 Wind Energy Guidelines. The EIAR clearly details that the noise limitations set out in the DoEHLG 2006 Wind Energy Guidelines (and not the Draft 2019 version) and the ETSU guidance form the basis of the assessment.
- 9.7.3. The nearest noise sensitive locations (NSL) are identified as residential dwellings primarily at lower elevations (Figure 2-3 of EIAR²⁷). A baseline Noise Survey²⁸ was undertaken from the 08/09/20 to the 03/11/20 at four stations as detailed in Table 5.2 of the EIA with a further explanation of the survey including limitations set out. Predicted results are then extrapolated across a number of tables 5.6-5.10 with Table 5-11 showing predicted cumulative levels against identified receptors against DOEHLG 2006 Guidance limits. Table 5.11 and 5.12 suggests compliance with

²⁷ Pages 27 and 28. See also Figures 2-3 and 2-4 on pages 47 and 48.

²⁸ Full noise modelling results provided in Appendix 5-3 to 5-6 of EIAR.

DOEHLG criteria with two exceptions i.e. marginal exceedances relating to the more onerous '10m measured' assessment which includes a large margin of error. The EIAR details marginal exceedances can be curtailed at commissioning stage with implementation of reduced operation modes at Turbines 1 and 5 in certain wind conditions ensuing the proposal will meet DOEHLG criteria at dwellings H13 and 14.

9.7.4. During construction the following impacts are identified-

- General construction operations

9.7.5. During operation the following impacts are identified-

- General operational noise emissions

9.7.6. Mitigation measures for the impacts during the construction stage are detailed and can generally be summarised as-

- Construction
 - No specific measures but general measures including plant maintenance,
 - Communication through plant horns prohibited,
 - Rock breaking confined to 08.00-19.00 hours.
- Operational
 - Compliance with DOEHLG limits,
 - Reduced operation modes at turbines 0 and 5 during certain conditions. A noise survey to be undertaken within 6 months of commissioning to assess compliance including planning conditions with results used to determine additional curtailment if required,
 - Progressively stricter curtailment to be applied to address worst case scenario.

9.7.7. The EIAR details the following residual impacts are expected-

- As per Table 5-13 including-
 - Operational impact 30 year life span considered long term

- Cumulative operational impacts likely at receptors along eastern side of site
- Effects considered Imperceptible to not significant.
- Traffic movements will be negligible in the context of existing road traffic volumes and cumulative impacts will not arise.

9.7.8. Assessment and Conclusion

9.7.9. Having regard to the foregoing and noting the distance of the nearest noise sensitive locations from the site, I tend to agree with the view set out in the EIAR that the proposal will not give rise to ground borne vibration during construction and/or operation which will impacts significantly upon sensitive receptors.

9.7.10. I find the methodology used to be robust, comprehensive and a reasonable consideration of the matters pertinent to Noise impacts in the context of the EIA Directives.

9.7.11. In terms of construction noise I am satisfied impacts can be addressed through mitigation measures proposed, best practise measures generally provided for in a CEMP and through conditions.

9.7.12. In terms of potential operational phase noise such impacts are primarily associated with the operation of the wind turbines themselves. These can be mitigated as proposed through curtailment software, follow on surveys and suitable planning conditions.

9.7.13. Overall, I am satisfied that impacts predicted to arise regarding noise can generally be avoided, managed and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Noise & Vibration.

9.8. Traffic and Transport

9.8.1. Although not specifically listed in Article 3 of the EIA Directive 2014/52/EU, matters covered in this heading are considered pertinent under many of the environmental factors listed in Article 3 and discussed above. Traffic and Transport matters are

specifically addressed in Chapter 5 of the EIAR and the Board will note the Appeal includes a response to concerns raised by the Councils Area Engineer Report but did not form a basis for their refusal. The response is titled 'Response Report' prepared by Keohane Geological & Environmental Consultancy and will be considered for the purpose of this assessment.

- 9.8.2. The methodology used includes adoption of the guidance Transport Infrastructure Irelands (TII)²⁹ Guidelines for Traffic and Transport Assessments 2014 and includes a desk based review of the road network with turbine component delivery likely through Ringaskiddy port, a review of Road Safety Authority collision data on relevant roads, TII traffic counts in the area and an assessment of the impacts upon local roads. A 'Preliminary Traffic Management Plan' is included in Appendix 6-1 of the EIAR.
- 9.8.3. The EIAR discusses the characteristics of the proposal including the obvious logistical difficulties transporting turbine components to the site such as necessary road network improvements, oversized loads, construction material requirements and employee traffic.
- 9.8.4. During construction the following impacts are identified-
- Increase in local traffic including HGVs from workers, deliveries and on-lookers
 - Transport of approximately 95 oversized loads
 - Delivery of cranes- approx. 35 loads
 - Modifications to roads to accommodate wide sweeps, including removal of excavation material
 - Maintenance of local hedgerow etc.
- 9.8.5. Table 6.1 sets out estimates for construction traffic movements. The greatest impact is considered to be associated with pouring of foundations with deliveries from local batching plants with delivery via local roads to the R586 and then the N71 to the L8456.

²⁹ The EIAR refers to this as the National Roads Authority (NRA) as it as at the time of publication.

9.8.6. Oversized loads include the turbine components dimensions of which are detailed in Table 6-2 and the two cranes needed for turbine erection with up to 35 vehicles needed for delivery of the crane. 95 oversized HGV loads are estimated to the site. Three Route options from Ringaskiddy are proposed with each including the use of the N28 and N 71 national roads to 2km west of Bandon at the N71 and L-2019 junction. The options are set out on page 147 of the EIAR with option 1 most likely used for tower sections given that it is the shortest route to the site. The blades are likely to be delivered through option 2B as it requires the fewest route modifications/upgrades. The EIAR then discusses road modification works including hedgerow maintenance (Appendix 10-1) and blade delivery methods rear steer trailers and blade lifting trailers.

9.8.7. During operation the following impacts are identified-

- Regular maintenance usually 48 hours per year or approximately 6 visits to the site per turbine (42) i.e. approx. one visit to site per week. Include for fault repair it is likely there will be a 2-man maintenance team on site 2 days per week on average.
- Occasional ESB Network visits to sites.

9.8.8. There are no Cumulative impacts predicted during construction stage other than possible interaction with the M28 Road Scheme.

9.8.9. The EIAR discusses Decommissioning phase impacts which are considered similar to construction stage. However it ultimately depends on the restoration programme as with concrete foundations left in situ would avoid 470 HGV loads.

9.8.10. Residual impacts are detailed as brief disruption to local road users with upgrades to the local road between the N71 and site entrance providing a long term positive effect.

9.8.11. A number of mitigation measures are proposed including-

- Traffic control measures, engage specialist contractor, liaison with relevant authorities to organise deliveries, a trial run to be carried out using a telescopic trailer to confirm route.
- Acquisition of permits and Garda escort

- Oversized loads delivered during off peak hours
- On site parking for construction traffic
- Dedicated routes for local concrete deliveries
- A construction phase traffic management plan (draft submitted in Appendix 10-1)

9.8.12. The Planning Departments Area Engineers Report (04/05/23) highlighted concerns relating to the proposal from Ballydehob to the application site including ground levels, surface materials, undesirable parking, turning manoeuvres, possible road works outside the site boundary, route of underground grid connection, nature of road proposed, inconsistencies or uncertainties within the CEMP and the EIAR chapter 6 and 8³⁰ and associated appendices. Road safety concerns particularly relating to the L-4586 are raised.

9.8.13. There is also a submission on file from Transport Infrastructure Ireland (TII) (13/04/23) raising significant concerns relating to use of the N28, N40 and N71 that need to be addressed prior to a decision on the application and if works are required it is necessary to comply with TII requirements and should be subject to a Road Safety Audit. The TII consider an assessment of the national road network and its ability to accommodate the proposed loading is critical before a decision to permit should be made.

9.8.14. In their Appeal the applicants seek to address the issues raised by the Area Engineer. They consider the issues raised as three distinct areas-

- N71 junction at Ballydehob
- N71 and L-8456 junction at Shronagree and
- The local access road L-8456

9.8.15. In terms of the N71 junction at Ballydehob they refer to section 6.5.2 of the EIAR which deals with Construction Phase Impacts. This details how trial runs will be carried out to confirm the suitability of the three possible routes proposed with this the most likely. It also discusses the possible vehicle options and provides a swept path analysis drawing for the blade lifting trailer which shows the movement of the

³⁰ Soils Geology and Hydrology

trailer through the junction without oversailing a property on the south of the N71. The Appeal also details TII complaint Bollards (or fencing) will be installed with the area only openable for delivery of oversized loads.

- 9.8.16. Similar concerns in relation to the N71 and L-8456 junction at Shronagree are also addressed with the applicants detailing the trailer to be used will be capable of a 3.1m ground clearance providing ample vertical clearance at the junction. Again a trial run will be carried out to determine the most suitable trailer and a swept path analysis drawing has been submitted. The applicants indicate their agreement to surface dress the widened area at the junction as per the Area Engineer recommendations with TII compliant bollards or fencing installed.
- 9.8.17. The applicants detail a 'firebreak' exists running along the southern and western side of the L-8456 and is shown on a drawing submitted with the Appeal. They acknowledge this as the 'bog track' referenced in the Area Engineers Report. The application proposes a level platform along the firebreak for the installation of the grid connection cabling. In places this will be level with the L-8456 and used as laybys and to improve the road bend. These are shown within the red line of the drawings submitted with the appeal and the original application drawings. The cabling will not interfere with the public road with the exception of a crossing near the proposed substation. The Appeal clearly states the proposal does not provide for the upgrade of the road other than the widening of the bend. They do expect maintenance of the road will be required after the construction phase and have no objection to the imposition of a condition requiring payment of a bond to the Council.
- 9.8.18. **Assessment and Conclusion**
- 9.8.19. I am satisfied the issues raised in the Area Engineers Report have been reasonably addressed in the First Party Appeal and can also be further addressed through suitable planning conditions to include application of a Bond in relation to public roads.
- 9.8.20. I note the concerns raised by TII and it is unfortunate the Applicants have not taken the opportunity to address these in their appeal. However I am satisfied the separate licensing and permitting arrangements exist outside of the planning process that deal with these concerns. Furthermore, section 34(13) of the Act details that a person

shall not be entitled solely by reason of a permission to carry out any development. Should the Board decide to grant permission, the developer will still have to be certain they have all the legal entitlements necessary including licences, permits and or consents to execute the grant of permission and these should include appropriate planning conditions.

9.8.21. Overall, it is clear that the greatest potential for negative impacts on traffic and transport arises during the construction phase, since there will be minimal traffic generated during the operational phase. These have generally been identified in the EIAR.

9.8.22. I am satisfied the impacts are generally construction management related issues that can be effectively mitigated through a comprehensive Construction Traffic Management Plan, suitable planning conditions and the mitigation measure as proposed in the EIAR e.g.-

- A Construction Traffic Management Plan shall be submitted for the agreement of the planning authority prior to commencement of development, to include:
 - The final route for all HGV and oversized load traffic associated with the proposed development including any necessary road warning signage and/or road opening/closing licences shall be agreed with the Planning Authority and TII.
 - The final location of proposed passing bays and extent of works (including consents) affecting the L-8456 and the N71 shall be identified to the satisfaction of the planning authority.
 - Protocols and monitoring measures shall be put in place to ensure that HGV and over size load traffic travelling to and from the site is suitably controlled so as to minimise the likelihood of HGVs meeting head-on on the L-8456 or conflict with other vehicles on the final turbine delivery route.
 - A pre-construction and post-construction survey of the public roads utilised during the construction phase shall be undertaken. The extent, specification and timing of the survey shall be agreed with the planning authority. Any damage to the road, drainage, boundaries or associated

features of the public road shall be rectified at the developer's expense to the satisfaction of the planning authority.

- Communications and complaints protocols to ensure that local residents are aware of the construction programme, haul routes, traffic control measures and to provide a dedicated liaison person and contact details for complaints or queries.
- Appointment of a dedicated Traffic Management Co-ordinator whose role shall include implementation and monitoring of the Traffic Management Plan, acting as a point of contact for the planning authority, other relevant bodies and members of the public in relation to traffic and transportation matters.
- Provision of a wheel wash facility within the site and measures to prevent soiling of public roads, including the covering of loads and the use of road sweepers, as required.
- A condition specifying development operating hours with appropriate derogation for large component deliveries to the site to be agreed with the Planning Authority.
- A condition requiring the payment of a bond to ensure the satisfactory reinstatement of public roads following completion of the construction phase to be agreed with the Planning Authority.
- A decommissioning plan to be agreed with the planning authority which may include for turbine foundations to remain in situ.

9.8.23. I do not consider there to be significant operational impacts.

9.8.24. The potential for significant adverse impacts on traffic and transport can be avoided, managed and/or mitigated by measures that form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on traffic and transportation.

9.9. Water (Hydrology)

- 9.9.1. Hydrology (surface water) is addressed in Chapter 7 of the EIAR. The methodology is discussed in section 7.1.4 and includes a review of the proposed development and its potential impacts to hydrology and surface water quality, consultation with interested agencies including the IFI and OPW, a desk based assessment of surface water quality, flows and drainage patterns with sensitive receptors identified, a field survey with a focus on streams and river crossings, review of the biodiversity chapter of the EIAR with findings and conclusions used to establish the importance, quality and sensitivity of the receiving waters and to modify the site layout as required.
- 9.9.2. The EIAR sets out direct correspondence with the IFI and their advice which included specific concerns relating to potential for impacts arising from peat slippage.
- 9.9.3. Section 7.2 discusses the receiving environment and identifies the site within two hydrometric areas (20- Bandon-Ilen and 21- Dunmanus-Bantry-Kenmare). The site is in the upper catchment of four rivers (see Figure 7-1³¹)- the Bawnaknockane, Leamawaddra and Coomnagoragh and the Four Mile Water. Bawnaknockane flows on the western side to Roaringwater Bay at Ballydehob and SAC. Leamawaddra drains more centrally through the site and discharging to Roaringwater Bay. The Coomnagoragh river drains north and eastwards to form the Owennashingaun River which then joins the Ilen with final discharge to Roaringwater Bay. A number of streams drain the northern side flowing into the Four Mile Water which flows westwards to Dunmanus Bay.
- 9.9.4. The EIAR details the main surface water features of the site are shown on Figure 7-2³² of the EIAR and many of which are detailed as man-made drains. A number of drains were observed during my inspection of the site and surrounding areas. Sub-catchments and the location of each proposed turbine are shown in Figure 7-3³³
- 9.9.5. Based on data from EPA monitoring points in the area (Figure 7-1), the EIAR details that the water quality in the streams and rivers draining the site has good to high status indicating they are unpolluted which aligns with the river waterbody WFD

³¹ Page 188

³² I have not been able to locate Figure 7-2 within the EIAR before me. I acknowledge that Figure 7-4 on page 191 appears to show the main surface water features of the site.

³³ Page 190

status 2013-18 for the four rivers discussed above. Water sampling was undertaken with results displayed in Table 7-4.

- 9.9.6. The EIAR then discusses Peatland Hydrology. It details the site is blanket peatland, relying on precipitation as the only water and nutrient input source and that drainage at the site is largely unconstrained by topography. It discusses blanket bog degradation and identifies causes including drainage, afforestation, peat cutting and road construction which have all occurred at the application site. The EIAR details that the man made drains have altered the natural peatland hydrology at the site with rainfall transmitted off the hill side more quickly and lowering off the water table in the peatland providing greater storage capacity.
- 9.9.7. Section 7.2.5 of the EIAR looks at Flood Risk and details the site itself is not at risk of flooding but does have flat areas where surface water lodging occurs. In terms of an initial flood risk assessment flooding is not an issue upgradient or at the site. Some drains will need crossing and can be culverted. There are no reported floodings incidents down gradient of the site in the Bawnaknockane and Leamawaddra stream catchments but incidents are recorded along the lower reaches of the Ilen and Four Mile Waters.
- 9.9.8. Mitigation measures are proposed to reduce water runoff and maintain current water storage capacity. Overall the amount of runoff going down gradient of the site will increase by an imperceptible amount and is considered insignificant and therefore a detailed flood risk assessment is not considered necessary.
- 9.9.9. The characteristics of the proposal that could potentially have an impact on surface water quality and hydrology are set out in section 7.3 and includes intrusive site investigations such as trial pit excavation and drilling, drain crossing, construction of access roads, felling trees and foundation excavations etc.
- 9.9.10. The identified Impacts during construction stage are detailed are set out in section 7.4.1-
- Deterioration of surface water quality from silt, concrete and/or hydrocarbons
 - Potential increase in volume and rates of runoff to the streams draining the site and then leaving the site
 - Changes to preferred drainage pathways such as cable trenches

- Installation of culverts to drains and streams
- Increased erosion down stream
- Indirect impacts including-
 - deterioration of aquatic habitats
 - potential for increased flooding downstream
 - impacts to users of surface waters from drinking water supply down stream
 - Changes in runoff characteristics could affect peatland hydrology

Table 7.5 sets out the criteria used to evaluate and describe the potential impacts.

9.9.11. The direct impacts during operational stage include-

- Effects of culverts on drainage regime

9.9.12. The construction, operational and decommissioning effects and impacts identified are broken down further and discussed in more specific detail relating to 'Surface Water Quality' and 'Surface Water Run off Volumes and Rates' in sections 7.4.2 and 7.4.3 of the EIAR. The EIAR discusses Cumulative Impacts and the existing Ballybane Windfarm. No significant cumulative impacts are predicted.

9.9.13. Mitigation measures are set out in section 7.5 and include specifically addressing the requirements of the IFI. The measures proposed for Preconstruction investigation, constructions stage and operational stage are set out in great detail in sections 7.5.1-7.5.4 and I do not consider it necessary to repeat these here. I have read them in full and consider them robust comprehensive and generally typical for such proposals in this upland and peatland environment. Monitoring measures are also detailed in section 7.6.

9.9.14. Overall the EIAR concludes that on balance the wind farm can be constructed and operated with no significant impact on the surface water environment.

9.9.15. **Assessment and Conclusion**

9.9.16. I consider that the greatest potential for significant impacts on the water (Hydrology) arises from the potential for pollution to local water courses and drains including

suspended solids, oils, cement, chemicals etc. to be released into watercourses during the construction phase.

- 9.9.17. The EIAR sets out a range of mitigation measures and pollution prevention measures during construction. The measures are generally typical for such proposals and include many of the requirements that would be expected in a detailed Construction and Environmental Management Plan (CEMP) including appointment of Environmental/Ecological Clerk of Works (ECoW). Design measures are incorporated such as siting turbines at least 50m from streams draining the site and use of 1.7km of existing tracks and firebreaks on site for access arrangements. Best practise construction measures will be employed to minimise sediment laden run off and pollutants etc. Release of cement to water courses will be prohibited with pours occurring only in contained areas (see Plate 2-1), employment of settlement ponds lined with terram (geosynthetic) and stone filler to remove cement fines yet allow waters percolate through.
- 9.9.18. In terms of Flooding I share the applicants view that there is no risk upgradient, the risk at the site is negligible and would be isolated to local pooling that can be managed and impacts as a result of the development downstream are unlikely and would be imperceptible.
- 9.9.19. The applicant has proposed an appropriately comprehensive range of mitigation measures to address the three main areas of adverse impacts concerns- decrease in water quality, potential for increased run off and flooding during both construction and to a lesser extent operations. Subject to the implementation of these measures and appropriate planning conditions including for a CEMP with a water monitoring regime to be as detailed in section 7.6 of the EIAR to be agreed. The potential impacts of the proposed development on water (Hydrology) can be adequately mitigated and that the proposed development will not have a significant residual impact in this regard.
- 9.9.20. Overall I am satisfied that the potential for significant adverse impacts on water can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on water.

9.10. Soils, Geology and Hydrogeology

- 9.10.1. Soils, Geology and Hydrogeology are accessed in Chapter 8 of the EIAR. It identifies and describes the unconsolidated deposits and bedrock geology underlying the site. The extent depth and condition of peat deposits is assessed to determine the existing peat landslide risk at the site and includes a peat landslide risk assessment³⁴.
- 9.10.2. The methodology used is set out in section 8.1.4 and included reference to relevant policies, regulations and guidelines, a review of the proposal and its design, consultation with interested bodies, a desk based assessment, a field survey to map peat depth and conditions across the site including slope etc. with findings used to modify the site layout.
- 9.10.3. Measurements of peat depth, undrained sheer strength of the peat, unconfined compressive strength of the bedrock and visual descriptions of the soil, peat rock, topography, drainage and ground conditions were all recorded and observed across the site. Peat Probe survey positions are shown in Figure 8.6-8.9³⁵, in more detail in the map with Appendix 8.2 and ground conditions at proposed turbine and substation location area are set out in Table 8-4³⁶. Peat strength is set out in Table 8.5. Rock strength is detailed as moderately strong to strong. I note the Wind Energy Guidelines of 2006 require *“a detailed evaluation of the nature of the peat, its geotechnical properties and the associated risk of instability and habitat loss or disturbance during construction and operation of the wind energy development, is to be carried out where the depth of peat is in excess of 50cm.”* A ‘Peat Landslide Risk Assessment is included within the EIAR.
- 9.10.4. In terms of Hydrogeology/groundwater the site is underlain by an aquifer classed as poor generally to the south and an aquifer classed as locally important (see Figure 8.3³⁷). Aquifer vulnerability is identified as extreme (figure 8.4³⁸). Due to the low permeability of the peat and rocky outcrops it is interpreted that most of the rainfall on the site results in surface water run-off.

³⁴ Page 210

³⁵ Page 229-232

³⁶ Page 202

³⁷ Page 226

³⁸ Page 227

9.10.5. The EIAR details there are no records of slope failure within the wind farm site. It refers to landslide susceptibility mapping carried out by the GSI with the Shronagree site ranging from 'Low to High' with most the application site mapped as 'moderately high' as shown on Figure 8.5. Reference is made to minor cracking observed on the site near the location of turbine 5 where hill fires have occurred in recent years.

9.10.6. The importance of the site in terms of soils and geology is rated as low with soil quality poor.

9.10.7. The characteristics of the proposed development that could impacts upon soil, geology and hydrogeology are described in section 8.3 and include-

- Preconstruction site investigation works
- Construction of access roads and transport route upgrades,
- Rock, soil, peat etc excavation for roads and foundations
- Disposal and reuse of spoil.
- Construction of hardstanding's and turbine assemblage areas
- Cabling trenches between turbines and for grid connection
- Felling of some commercial forestry leading to possible soil compaction and erosion and
- Installation of ground water well at the substation to be used during operation stage.

9.10.8. No significant impacts are predicted during the preconstruction stage.

9.10.9. The main impacts during construction are set out in greater detail in section 8.4.4 of the EIAR. The main focus of this section is 'Peat Stability' with peat landslides having medium term profound negative impacts on the environment. The EIAR lists six factors that could influence the failure of slopes during the construction of wind farms i.e.-

- (i) the nature of the peat including degradation or excessive machinery cutting
- (ii) interference with site drainage affecting the hydrological regime
- (iii) stockpiling of material on peat
- (iv) inappropriate disposal of water following dewatering

- (v) road excavations removing support for upslope peat
- (vi) triggering events such as traffic movements during construction or blasting of the site.

9.10.10. In terms of the application site the EIAR does not consider the above influences likely because-

- (i) Evidence of sausage cutting (machinery) of peat was not observed with only hand cutting and the hopper method carried out at the site.
- (ii) The natural drainage of the site has already occurred with manmade drains in situ due to forestry peat harvesting and land improvement.
- (iii) There is only a thin veneer of peat within most of the development footprint with only a short section of floating road proposed
- (iv) As experienced at the nearby Ballybane wind farm dewatering for foundations is not considered likely
- (v) Peat is generally thin at the site and where peat is deep it is contained between rock ridges
- (vi) Blasting is unlikely and if required micro-blasting would be used.

9.10.11. The EIAR also identifies other causes including naturally occurring causes of bog bursts in blanket bogs which tend to be more frequent in areas and times of high rainfall. The causes are attributed to prolonged periods of drought followed by heavy rainfall events. Earthquakes are considered a cause with multiple recorded in Ireland each year but usually with low magnitudes less than 2.5 on the Richter scale.

9.10.12. The EIAR looks at a recent peat landslide from a wind farm in County Donegal in November of 2020 and compare the trigger and ground conditions to the application site. That slippage occurred during the construction of floating road with the cause possibly initiated by the static loading from trees and more likely the dynamic loading from machinery movements on the logs. The EIAR describes the ground conditions and details that they do not occur at the subject appeal site i.e. extensive areas of deep peat do not occur other than in small, isolated areas in contained and trapped by bedrock ridges. These areas are largely avoided by design. This application only proposes a short section of floating road at turbine 3

which is to be used for ecological mitigation. Otherwise floating roads are not required as deep areas of peat are avoided in the road layout design.

9.10.13. The volume of peat proposed for excavation is estimated at approx. 27,430 m³ or 34,290 m³ with 25% bulking applied compared to 247,075 m³ including a bulking factor of 25%.

9.10.14. The 'Peat Landslide Risk Assessment is then presented in the EIAR. For the purpose of assigning a likelihood of a construction related peat landslide it divides the site into two broad zones (see figure 8.6- 4 drawings) i.e. deep peat typically 2m up to 5.5m and the remaining areas. Deep peat is indicated as small, isolated pockets where slopes are less than 2°. Shallow peat areas are typically less than 0.5m and up to 1.5m with slopes generally between 5 and 10°. A factor of safety is also applied based on an equation representing shear resistance/shear force³⁹. The likelihood of a construction related landslide in both zones is ranked low and unlikely to occur based on the criteria used in the EIAR- see tables 8-9 and 8-10.

9.10.15. The EIAR then evaluates the adverse consequences of such impacts and identifies the financial cost of a clean up from €50k to €100k as less than 1% of project cost. In terms of environmental impact it details a very low impact to European SAC with impacts to streams and rivers draining the site as very low.

9.10.16. The EIAR identifies the risk of rock instability or rock toppling as negligible as areas of steep rocky slopes are avoided by design.

9.10.17. In terms of road construction approx. 4.4 km will be required to serve the site with 1.7 indicated as upgrades of existing tracks or firebreaks. Such roads will employ conventional methods with a short section of floating road proposed for biodiversity reasons. Table 8-14 details approx. 9,750 m³ of extracted peat is proposed. Table 8-15 details approx. 17,680 m³ of extracted peat is proposed for the construction of turbine foundations and hardstanding giving a total estimated volume of peat to be excavated as 27,430³. It is proposed to reuse this to restore and landscape along roads and around slopes of hardstanding with excess peat taken to peat regeneration areas within the site.

³⁹ Page 211.

- 9.10.18. The EIAR estimates 80,000 tonnes of rock will be required for roads and hardstands. The EIAR proposes winning rock from the site for road and hardstand construction. It proposes using blasting⁴⁰ and road breaking. The use of aggregate imports from local quarries is also detailed and highlighted as a slight positive impact.
- 9.10.19. Removal of peat and subsoil exposes underlying rock to sources of contamination and pollution. Groundwater vulnerability can be increased. A risk is also identified from foul unmanaged foul effluent at the site compound during construction.
- 9.10.20. Other construction impacts include erosion of peat during discharge of water during dewatering of foundations.
- 9.10.21. No specific operational impacts to soil, geology and hydrogeology are identified. Minor impacts from wind farm maintenance traffic or roads maintenance could occur but are considered localised imperceptible and temporary. Possible impacts from grid transformers and cooling could be moderate but again temporary. The EIAR details the substation will have welfare facilities for operational workers and untreated foul effluent will need to be treated as it presents a contamination risk. Water supply will primarily be from rainwater harvesting with a backup supply from groundwater.
- 9.10.22. In terms of decommissioning the EIAR details it may be possible to reverse or reduce the impacts of construction by covering developed areas with locally sourced peat.
- 9.10.23. Proposed Mitigation measures are set out in section 8.5 of the EIAR. The measures proposed for pre-construction ground investigation, construction phase, operational phase and decommissioning are set out in great detail in sections 8.5.1-8.5.4 and I do not consider it necessary to repeat these here. I have read them in full and consider them robust comprehensive and generally typical for such proposals in this upland and peatland environment. Monitoring measures are also detailed in section 8.6.

⁴⁰ This appears contrary to earlier EIAR proposals (see section 9.10.10). This should be addressed by condition if a grant of permission is forthcoming.

9.10.24. **Assessment and Conclusion**

9.10.25. Chapter 8 of the EIAR sets out a comprehensive and robust consideration of matters pertinent to soils, geology and hydrogeology in the context of environmental impacts from the proposed wind farm development.

9.10.26. In particular it includes a thorough underlying ground and groundwater investigation, with a detailed evaluation of the nature of the peat, its geotechnical properties and the associated risk of instability during construction and operation of in accordance with the requirements of Appendix 4 of the Wind Energy Development Guidelines 2006. Based on the information submitted the applicant has demonstrated an informed understanding of the receiving environment in the context of the proposed development. The presence of both thin layers of peat and isolated but constrained areas of deeper peat were identified with the overall site layout accounting for same.

9.10.27. Risks and concerns relating to land slippage and slope instability are always a significant concern for windfarms in uplands and peatland areas. I note concerns raised by the Council's Ecology Officer include extent of peatland habitat to be impacted has been underestimated as it didn't include for consideration of construction compounds, parking and turbine assembly areas etc. The Planning Authority did not seek to refuse permission on this basis.

9.10.28. In their appeal the Applicants contend the extent of peatland habitat to be impacted has not been underestimated with the Fehily Timoney (FT) 'Ecology Response Report' (ERR) confirming the construction compound, associated parking, turbine assembly area and trackway widening have been captured in the peatland habitat loss calculations.

9.10.29. I have reviewed the ERR and the response to the Councils Ecology Officer concern on page 4. It refers to Chapter 10 of the EIAR and Tables 10-47 and 10-48⁴¹ and accompanying text which summarises the habitat loss which would result from the proposed development. In particular I note the EIAR does state-

"The construction of access roads, temporary compound, on-site substation, foundations and hardstands as well as the excavation of cable trenches will

⁴¹ Pages 365 and 366.

result in a degree of habitat damage and loss. The habitat loss will be the total area covered by the access tracks (new sections and upgrading of existing tracks) plus the footprint associated with each of the 7 proposed turbines (foundations, hardstands, and associated felling buffers) and all other wind farm infrastructure.

The footprint of the proposed development including felling buffers will be approximately 8.1ha or 4.89% of the total area.....

9.10.30. I am satisfied the extent of the peatland habitat to be impacted has been considered and the total estimated volume of peat to be excavated of 27,430³ would appear to account for construction compounds, parking areas and turbine assembly areas etc.

9.10.31. Having reviewed the information submitted by the applicant, including the geotechnical investigation reports, and having inspected the site, it appears that there is very limited extents and depths of peat present within the proposed site save for those identified constrained pockets (Figures 8.6-8.9) and which the design and layout of the proposal seeks to avoid. I also acknowledge the sites existing conditions with some commercial forestry use and evidence of significant man-made drainage in place. Given the lack of significant peat deposits and based on the information submitted by the applicants, I do not consider it likely that the site is at significant risk of major peat slippage or bog slides.

9.10.32. The nature of the proposed construction works and associated heavy machinery and materials gives rise to the potential for soil compaction, contamination with fuels, oils, chemicals etc. and erosion of soil due to surface water management. This also has the potential to impact on groundwater.

9.10.33. The EIAR generally proposes to mitigate these potential impacts which I am satisfied can be generally addressed through the measures proposed and compliance with a Construction Environmental Management Plan (CEMP) which should include surface water management measures, fuel/oil storage and spill management measures, refuelling protocols, retention of excavated overburden on-site, marking out of works corridors to minimise soil compaction and comprehensive drainage proposals. A suitably detailed and comprehensive range of mitigation

measures has been proposed to ensure no contamination or erosion impacts or contamination of groundwater will arise as a result of the proposed development.

9.10.34. Overall the EIAR sets out detailed and comprehensive mitigation measures and the application has been designed to avoid deep areas of peat. Subject to these measures and the submission, agreement and implementation of a comprehensive CEMP to include requirements for no blasting of rock (unless agreed), avoidance of excavations/earthworks during heavy rainfall events and backfilling of excavations as soon as possible and pollution control measures etc, it would appear to me that the proposed development is not likely to result in a significantly increased risk of landslides, slope instability or groundwater pollution.

9.10.35. I have considered all the information on file in relation to 'Soils, Geology and Hydrogeology' and the relevant contents of the file including the EIAR. I am satisfied that the potential for significant adverse impacts can be reasonably avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable planning conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on land and soil.

9.11. Archaeology, Architecture & Cultural Heritage

9.11.1. Archaeology, Architectural and Cultural Heritage are addressed in Chapter 9 of the EIAR. Section 9.1.2 of the EIAR details a study area within a 2.5 km offset of the proposed development site boundary was chosen with an examination of the broader landscape beyond the 2.5km study area assessed for visual impact.

9.11.2. The methodology used is set out in section 9.1.3 and included reference to relevant legislation and guidelines, a desktop study of the site and wider area, a walkover survey of all proposed development areas the site, grid connection and associated road infrastructure including the areas of turbine delivery routes where groundworks will be required.

9.11.3. The EIAR details there are no recorded monuments within the site and the closest known archaeological monument is a Cairn (CO131-048) situated on the summit of a hill c 210m to the northeast of turbine T3 with a connecting road between Turbine 2 and 2 c. 120m from the cairn. The EIAR details the cairn is incorrectly located on

both the RMP Map and is actually c.170m further to the west (See Figure 9-1). Section 9.2.2 describes the cairn located at the summit of the hill at 294m OD. It details a modern wooden bench and rectangular stone memorial have been placed at the site with extensive provided south across Roaring Water Bay and to Bantry Bay. Photographs of the cairn are provided with the EIAR in Appendix 9.1- Plates 14 and 15.

- 9.11.4. The EIAR details there are no protected structures listed in the Cork County Development Plan 2022-28 (CDP) or listed on the NIAH within the proposed development site or within a larger 2.5km study area. The EIAR details there are no Architectural Conservation Areas' within the study Area with the closest being Ballydehob village 7km south of the main site and Bantry 6km to the north.
- 9.11.5. The EIAR details forty recorded archaeological monuments within 2.5km of the site as shown in Figure 9-2 and Table 9-1 with a chronological account of the archaeological and cultural heritage of the area set out from the Mesolithic Period to the Iron Age to the Medieval Period to the present with peat or turf cutting evident reflecting part of the more recent cultural heritage of the area. Such evidence is detailed as non-mechanised turf cutting visible in 2011-13 aerial photography.
- 9.11.6. The walkover survey (section 9.2.4) of the site identified no potential archaeological or cultural heritage features but did detail that some parts of the site were inaccessible. Turbine Delivery Route works along the N71 were identified in Ballydehob village c.70m east of a bridge that is identified in the NIAH (20832013) and c.70m from the designated Ballydehob ACA. It also details possible works to the N71/R593 junction in Skibbereen which is c. 170m to the west of one of the ACA's around Skibbereen. I have not been able to identify these works in this application. I consider the extent of these works would not be prejudicial to this application as they may require planning permission separately.
- 9.11.7. Section 9.3.2 deals with Visual Impact and discusses the impact to the identified cairn. It also focuses on a large number of monuments within the 2.5km site area and others outside that have recorded solar or lunar alignment. The results of the assessment for monuments within the study area are set out in Table 9.3 with alignment impacts identified for two standing stones. The results for monuments outside of 2.5km (but within 5km) are set out in Table 9.4 with alignment impacts

identified for 9 monuments (4 standing stones, three stone circles and 2 anomalous stone groups⁴². Given the distance the impacts are considered slight negative.

9.11.8. During construction the following impacts are identified-

- Large scale ground reduction could impact unknown potential subsurface archaeological material
- Road works near Ballydehob could unearth unknown subsurface archaeological material. The same is identified and applies to the N71/R593 near Skibbereen. Again these works do not appear to form part of this planning application and may require a separate grant of permission.

9.11.9. During operation the following impacts are identified-

- Visual Impact to archaeological setting of RMP CO131-048 with proposed turbine 3 located 210m to the south of the monument. The impact is described as moderate negative on the setting of the cairn.
- Visual impacts upon two identified standing stone monuments in the 2.5km study area i.e. solar lunar alignment and described as moderate negative
- Visual impacts to 10 monuments outside of study area. Impact described as slight negative.

9.11.10. Residual Impacts are discussed in section 9.5 which details if unknown archaeological features are identified during ground reduction they will be preserved in situ or by record. A slight to moderate visual impact on the setting of the archaeological and cultural heritage landscape for the lifetime of the wind farm is stated.

9.11.11. Mitigation measures are discussed in section 9.4. The most significant of these are-

- licensed archaeological monitoring to be undertaken within the proposed development area of the turbines, hardstanding, substation, construction compound grid connections and access roads.

⁴² I note Table 9.4 identifies a 10th monument CO118-047 in Trawlebane 5.4km NE of Turbine 1 that is not discussed in the EIAR text. Given the distance I would not consider the visual impact upon alignment to be substantial.

- monitoring will occur at the three sites along the turbine development routes.
- Preservation in situ or by record.
- Turbines will be constructed with materials coloured in tones that match the landscape.

9.11.12. **Assessment and Conclusion**

9.11.13. The Board are reminded that the Planning Authority's Archaeological Officer's Report (04/05/23) recommends the omission of Turbine 3 based on the monument being a probable bronze age burial site, its hilltop location and the visual impact of the proposed development upon the Cairn CO131-048 which is located c. 17.5 of the northern boundary of the application site. This matter is not addressed in the Landscape and Visual Impacts chapter of the EIAR⁴³ nor is it specifically addressed in the first party appeal. I also note the matter is highlighted in the Councils SEP report it does not form part of the Council's refusal reasons.

9.11.14. The EIAR is lacking in its consideration of the visual impact of the proposed development upon the setting of Recorded Monument- Cairn CO131-048 located in close proximity of the northern boundary of the main application site. I acknowledge the discrepancy in the monument location as identified in the EIAR however it is detailed that turbine 3 will be located c. 210m downslope and southwards from the cairn.

9.11.15. The Cairn is described in the NMS Historic Viewer⁴⁴ as-

On level platform atop NE-SW ridge. Circular area (19.5m N-S; 19m E-W) defined by scatter of large rectangular stones (L c. 1m; 0.5m x 0.15m).

Two photographs (Plates 14 and 15) are provided in Appendix 9.1 of the EIAR.

9.11.16. Based on the information on file and from the NMS it is clear to be that this monument is a feature of significant archaeological sensitivity in the context of the proposed development. In my opinion the visual impact of the proposal upon this

⁴³ The Board are advised 'Visual Impact' is addressed in Chapter 9 Archaeology, Architecture & Cultural Heritage section 9.3.2 in which turbine No. 3 is considered to have a moderate negative impact on the setting of the cairn. It also considers T1,2,5 and 6 will have a slight negative impact on the setting of the cairn.

⁴⁴

<https://heritagedata.maps.arcgis.com/apps/webappviewer/index.html?id=0c9eb9575b544081b0d296436d8f60f8>

monument has not been given adequate consideration either in Chapter 9 of the EIAR or in the Landscape and Visual Impact Assessment as per Chapter 3 of the EIAR.

- 9.11.17. Based on the content of the Councils Archaeological Officer's Report (04/05/23) it is difficult for me to disagree, especially noting the Applicant has not addressed this in their appeal. I would tend to consider the level of visual intrusion arising from turbine 3 is likely so significant it would warrant its omission should the Board decide to grant permission. Should the Board agree that Turbine 3 should be omitted they may wish to consider if it is a 'New Issue'.
- 9.11.18. Given the lack of recorded cultural heritage features within and in the immediate vicinity of the wind farm site (save the recorded Cairn), I generally concur with the conclusions of the EIAR and consider significant impacts unlikely at the main site area or within or near the sites identified on the Turbine Delivery Route where roadworks is proposed. In particular the works in close proximity to the Ballydehob ACA will not have significant or adverse impacts upon its setting.
- 9.11.19. Having considered the above in relation to archaeology, architectural and cultural heritage and the relevant contents of the file including the EIAR. I am satisfied subject to the omission of turbine 3, that the potential for significant adverse impacts on archaeology, architectural and cultural heritage can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on archaeology, architectural and cultural heritage.
- 9.12. **Biodiversity (with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC)**
- 9.12.1. Biodiversity is addressed in Chapter 10 of the EIAR. An Appropriate Assessment Screening Report and Natura Impact Statement have also been submitted with the application in Appendix 10 of the EIAR. I address the issue of Appropriate Assessment separately in Section 10 of this report.
- 9.12.2. The site is not located within any designated nature conservation area.

9.12.3. The methodology employed for this section of the EIAR is set out in section 10.2 and includes-

- A review of relevant guidance
- A review of the legislative context
- Consultations with a list of bodies⁴⁵ including the NPWS, IFI, EPA etc.
 - Of note reference is made to online consultation with Cork County Council in which the Ecology Office advised the project should not proceed as it is located on lands mapped as intact peatland.
- Desktop Review
 - including NPWS mapping and records from the National Biodiversity Centre Website (www.nbdc.ie)
- Field Study including-
 - Habitats at the site and turbine delivery route (TDR) in accordance with Fossitt 2000.
 - A Mammal Survey
 - A 2020 Bat Survey (See EIAR Appendix 10- Appropriate Assessment and its Appendix B). Appendix C- Raw data used for Ecobat Tool
 - Avifauna Studies- Bird Report in Appendix C to NIS, Appendix 10-2 sets out Bird Survey Schedule Details for 2019/21 and Appendix 10-4- sets out 2020-21 Surveys.
 - Aquatic Ecology Studies- Aquatic Ecological Assessment in Appendix D
 - Marsh Fritillary (Butterfly) Survey- larval web and habitat suitability survey- Appendix 10-5
 - Botanical surveys (relevé recordings)- Appendix 10-3
 - Other fauna

⁴⁵ See page 269 of EIAR.

- Appendix F provides mapping showing Trial Camera Locations, bat activity Survey Transects and Static Detector Locations, Barn Owl Survey Area and Habitat Loss areas.
- A Habitat and Species Management Plan- Appendix G

9.12.4. Section 10.3 provides a thorough description of the 'existing environment', including existing habitats at the wind farm site including grid connection route. I consider this description consistent with my observations during my site inspection. This section also details a desk top survey of habitats and rare flora was carried out at seven locations where works are proposed along the TDR with no listed or threatened flora recorded. These provide a reasonable consideration of the three TDR options.

9.12.5. Section 10.3.3 details that extensive surveying and results found no rare or protected flora species were recorded within the wind farm site. Section 10.3.4 details two invasive species were recorded within the main site with eight recorded along the TDR. These are summarised in Table 10.21 and 10.22.

9.12.6. Section 10.3.5 deals with *Rare or Protected Mammals*. Records from the NDBC and NPWS show nine species have been recorded within 10 km of the main wind farm site with none along the TDR. These are set out in Table 10-23. Five species of invasive mammals were recorded within 10km of the site with none along the TDR- see Table 10-24.

Evidence of four terrestrial mammals were recorded in the wider study area and during the dedicated mammal survey see Table 10.25. Otter footprints were recorded at an aquatic survey site at the Coomnagoragh River c. 1.9km downstream. Irish hare scat was recorded near proposed Turbine 3. A Red fox was sighted during surveys near Turbine 5 with scat recorded near Turbine 3. Sika deer prints were recorded to the west of the site. While not recorded Irish stoat and hedgehog are also likely to utilise the study area.

9.12.7. Section 10.3.7 considers *Bats* with historical records summarised in Table 10.26. Known roost records within 30km and 10km of the site are detailed in Table 10.27 and 10.28.

The Lesser Horseshoe Bat is a qualifying interest of the Glengariff Harbour and Woodlands SAC (000090) located c.13.5km north west of the main wind farm site.

There are no national designated sites for bats within 10km of the site. The Castletownshend pNHA (001547) is located 4.5km south of the TDR but no works are proposed near this location with the closest at 6.5km.

The results of three Bat Activity Surveys carried out at the wind farm site are presented in Tables 10-30 – 10-32. Bat Activity Survey Tracts are presented in Figure 3.1, EIAR Appendix 10 (Appropriate Assessment Appendix B). A Static Bat Survey was also carried out with a unit located in proximity to proposed turbine locations- see Figure 3.2 of EIAR Appendix 10- Appendix B with results summarised in Table 10.33 and three survey periods presented in Tables 10-34 to 10-36. Table 10.37 provides an overall summary showing which bats identified during the desk top studies were actually recorded within the wind farm site during the surveys. All 9 including the Lesser Horseshoe Bat were recorded by the static detector survey but this should be taken in the context of 5 recordings out of a total of 18,274 as per Table 4-8 Appendix 10 of the EIAR- Appendix B.

9.12.8. In terms of *Birds*, examination of NBDC records indicated 44 rare or protected birds were recorded historically within 10km of the site. See Table 10-38. Flight activity Surveys or Vantage Point Surveys focussed on a 450m buffer around proposed turbines to ensure compliance with Scottish Natural Heritage 2017 Guidance (SNH) and to create the study area known as the 'flight activity survey area'. This is shown in Appendix 10 of the EIAR, Appendix C⁴⁶ (Bird Report) Figure 2⁴⁷ with results detailed in Table 1 of this Appendix and generally summarised on page 337-340 of the EIAR. Recorded flight path mapping is then presented in Appendix 10, Appendix C.

Hinterland Surveys were also undertaken within a 10km radius of the main wind farm site to establish the presence of wintering wetland water bird species such as swans and geese, hen harrier winter roosts and breeding target species including raptors. Species recorded are detailed in Table 10-39. Recorded flight path mapping for winter and summer is also presented in the Appendix.

⁴⁶ The Board should note two Appendix C's are side by side with the former relating to the Bat Survey.

Breeding Surveys identified 24 such species and are presented in Table 10-40. Other surveys included winter walkover, breeding wader and Barn Owl. These are discussed on page 344.

9.12.9. An analysis of *Aquatic Ecology* is carried out in section 10.3.10 of the EIAR and Appropriate Assessment Appendix 10 to the EIAR- Appendix D- Aquatic Ecological Impact Assessment Report. It provides a baseline assessment including fisheries and biological water quality as well as protected aquatic species and habitat in the vicinity of proposal. The survey focused on aquatic habitats with fisheries potential, including salmonid and lamprey habitat, white-clawed crayfish, otter, macro-invertebrates, macrophytes, aquatic invasive species, and fish of conservation value which may use the watercourses in the vicinity of the proposed development. It included consideration of Biological Water Quality and Invasive Species. The survey sites were located on numerous watercourses within the Four Mile Water, Ilan and Bawnknockane river sub-catchments and are identified in Table 2.1 and Figure 2.1 of Appendix D and included watercourses within the main wind farm site.

It is noted that many of these watercourses share downstream hydrological connectivity with the Roaringwater Bay and Islands SAC (site code: 000101) to the south of the study area.

A general review of each survey site is presented on pages 347 to 351 of the EIAR with Table 10-42 providing a summary of same.

A fisheries assessment report is included as Appendix A to the Aquatic Ecological Impact Assessment Report which in summary details-

- Salmonid- brown trout were recorded but no Atlantic Salmon were recorded.
- Lamprey- no lamprey recorded despite one survey site offering suitable habitat. The majority of sites not physically suitable given upland eroding nature.
- European Eel- recorded from two sites with single adults each. In general majority of sites not considered suitable habitat.

Macro-invertebrate Biological Water Quality Q sample results are included as Appendix B to the Aquatic Ecological Impact Assessment Report in which the

condition at time of surveying for each survey site and riverine site is set out with the Water Framework Directive (WFD) status set out.

9.12.10. *Other Fauna*- Surveys of the wind farm site identified 72 Marsh Fritillary (Butterfly) larval webs. Three areas contained highly suitable habitat for the species surrounded by less optimal habitat. Approx 3% of the wind farm site contained habitat considered 'good condition' for Marsh Fritillary.

9.12.11. Section 10.3.12 discusses '*Habitat Evaluation*'. They are predominantly described as degraded wet heath (30.9%), wet heath mosaics, cutover bog existing roads and scrub. Conifer plantations are also identified providing 38.6% of the study area. Habitats are evaluated in accordance with NRA 2009 Guidance and predominantly considered of Local Importance- Higher Value or Lower Value⁴⁸ with a summary set out in Table 10-43. One County importance is identified- 'Poor fen and flush'.

9.12.12. An *Evaluation of Non-Avian Flora* is then set out and summarised in Table 10-45 also in accordance with the NRA 2009 'Ecology Guidelines' including for determining value. An Evaluation of Avifauna is then presented in Section 10-46 also in accordance with the 2009 and CIEEM 2018 Guidelines.

9.12.13. **Potential Impacts**

9.12.14. Section 10.4 of the EIAR provides an 'Impact Assessment'. The following impacts identified during Construction Stage include-

- Possible impacts to European Site due to hydrological connectivity to Roaringwater Bay and Islands SAC which is also a pNHA (000101)- increased siltation, nutrient release, contaminated runoff, spread of Invasive Species etc. See also section 10 of this report.
- No impacts predicted for all other pNHA's
- Detailed habitat loss as per Table 10.47 and 10.48 including-
 - Conifer plantation 38.6% of total ecology study area.
 - Cutover bog 10.4% of total habitat type lost

⁴⁸ Section 3.3.1 of NRA guidance.

- Wet heath 30.9% of total ecology study area.
- 281m of drainage ditches
- Footprint of the proposal will be approx. 8.1ha or 4.89% of total area.
- 2.3ha of conifer plantation or 3.6% of wooded habitats will be felled (based on worst case scenario turbine type 2 blade lengths 66.5). Conifer plantation is an artificial habitat of recent origin but is also the most abundant habitat type within the wind farm.
- Wet Heath is second most abundant habitat type, area of loss will be 6.4% or 3.3ha by new tracks, substation hardstands and turning splays etc. resulting in long term slightly negative impact in local context
- Loss of a number of other habitat types are discussed on pages 367 to 369 and are generally considered ranging between long term slightly negative impacts to imperceptible impacts in local context
- Loss of Drainage ditches are considered a short term imperceptible negative impact in local context
- Turbine Delivery Route (TDR)- General trimming of bushes, vegetation and maintenance and hedgerow cutting etc. at detailed locations. Impact to habitats generally considered short term/temporary imperceptible reversible negative impact in the local context.
- Spread of invasive species identified near turbine 5 from the site within and outside the site. This is considered long term, irreversible significant negative impact in the local context
- Risk of conveyance of silt or contaminants towards the Bawnknockane river via the Derrycagoon watercourse crossing the grid connection. Impact would be short term reversible slight negative in the local context.
- Incorrectly managed blocking of drains for peat restoration could lead to peat washing into local drains and watercourses downstream causing pollution effects.
- Correctly managed blocking of drains would contribute to restoration of degraded bog/wet heath- positive effect on water quality of local catchment.

- The scope of negative impacts on wet heath (including mosaics) is considered long term irreversible not-significant negative impact in the local context.
- Permanent loss of approx. 8.1ha or 4.89% of habitats within the wind farm site, Impacts considered short term imperceptible, negative reversible in the local context.
- Mammals (excluding bats)-
 - Badger- No setts or activity recorded in wind farm site, but recent records of badger in the area are noted. Unlikely the species could be directly affected. No direct impacts. If badgers did move into proximity of the wind farm site in the intervening period with setts near the works a long term significant irreversible negative impact is cited.
 - Otters- No otters recorded during surveys. No direct impact expected. Indirect impacts including contaminated water courses could affect food chain e.g. salmonids etc. Short term significant impacts
- Bats-
 - Due to the distance of nearest recorded bat roost from the closest element of the proposed infrastructure and lack of suitable habitat no direct or indirect impacts expected to Lesser horseshoe bat.
 - Human activity during construction may disturb bats including-
 - Temporary reduction in insect biomass from vegetation clearance
 - Disturbance
 - Loss of insect prey due to tree trimming which may reduce the amount of available food for bats.
 - No roosts were recorded within main site including grid connection routes. No commuting routes will be severed. Impacts to bats will be temporary slight to moderate, reversible negative impact in the local context.
 - Roads along TDR are subject to intensive trimming and therefore no impacts to bats arise.

- Avifauna-
 - Two likely significant impacts are detailed-
 - Habitat loss or deterioration
 - Disturbance or displacement
 - In terms of habitat loss or deterioration-
 - Works along the TDR are considered short term, moderate reversible negative impact in a local context.
 - Impacts to Passerines are not expected as the area of nesting/foraging habitat lost will be negligible. It is considered that the proposed impact of habitat loss will be a long-term imperceptible, reversible negative impact in the local context.
 - Table 10-49 summarises impacts to Birds of prey and Waders/waterfowl. Notwithstanding the 'Very High', 'High' and other sensitivities of detailed bird impacts are generally considered not significant, slight and imperceptible. No significant impacts identified.
 - In terms of Disturbance or displacement-
 - Table 10-50 details such impacts. Notwithstanding the 'Very High', 'High' and other sensitivities of detailed bird impacts are generally considered not significant, slight and imperceptible. No significant impacts identified.
- Aquatic Species-
 - Primarily risks from water pollution, siltation, hydrocarbons, concrete and or tree felling etc and impacts to watercourses including those downstream with fish etc.
 - See also section 7 Water of EIAR (9.9 of this assessment)
 - Tree felling impacts (Turbine 7) considered not significant negative due to distance to Derrycagoon.

- Impacts from turbine and track construction etc generally relate to water quality and spread of invasive species as discussed in section 7 of EIAR. Impacts detailed as significant negative
- Impacts from turbine delivery along the TDR are discussed in Chapter 6 of EIAR (Section 9.8 of this assessment)
- Site drainage/surface water runoff impacts considered imperceptible. Impacts to aquatic ecology considered slight negative.
- Impacts from underground grid connection works considered moderate negative due to crossing of Derrycagoon Stream and its downstream connectivity to Bawnaknockane and Roaringwater Bay SAC.
- Impacts upon habitat loss considered negative imperceptible.
- The EIAR discusses a possible worst case scenario of peat slippage. This is addressed in Chapter 8 of EIAR and considered low risk. (Section 9.10 of this assessment). Significant negative impact.
- Table 10-51 summarises the impacts detailed.
- Other fauna-
 - This section discusses other species including the common Frog, Smooth Newt, Marsh Fritillary and Kerry Slug which can be directly affected through habitat loss. This discusses certain scenarios and details-
 - A long term significant impact to Marsh Fritillary
 - A long term significant impact for Kerry Slug
 - Any impact on water quality could be significant. Impacting on amphibian breeding habitat during breeding periods would be short term significant frog and newts etc.

9.12.15. The EIAR details that the operational stage will have lower potential for impacts than the construction stage. The main impacts will be associated with rotation of blades, human activity such as service vehicles and hardstanding runoff. Section 10.4.3 of the EIAR identifies Operational Stage impacts which can be summarised as follows-

- Potential impacts to European Site from run off from hardstand areas and hydrological connectivity. See also submitted AASR, NIS and section 10 of this report.
- No impacts to other SAC's, SPAs and NHA/pNHA etc.
- Mammals- imperceptible
- Bats- potential impacts include death through collision with blades and barotrauma (change of atmospheric pressure). The impacts are predicted to be slight to moderate from turbines and imperceptible for grid connection.
- Birds- the main risks are-
 - collision with mortality and
 - A collision risk appraisal was carried out of 13 species identified within the flight activity survey area and are of conservation concern. It determined-
 - Collision risk to Passerines not considered likely
 - Risk to non-passerines is detailed in Table 10-61 and generally finds notwithstanding bird sensitivities of 'Very High', 'High' etc.- the likelihood of impact to be long term imperceptible and negative for all bird types.
 - Displacement and Disturbance-
 - Displacement of birds identified not considered significant given the limited habitat available and the availability of such habitat in the greater area.
 - Barrier Effect for movement/avoidance-
 - These are outlined in Table 10-62, with magnitude of energy expenditure considered and are generally considered imperceptible and slight with no significant impact identified for the birds considered.
- Aquatic Species and Habitats-

- Changes to surface water run off rates considered imperceptible to slight.
- Decommissioning Impacts generally considered similar to the construction stage impacts but at a reduced scale.
- Cumulative Impacts are considered in section 10.5 of the EIAR.
 - Table 10.64 details existing or proposed wind farms within 20 km of the main wind farm site.
 - Other permitted commercial/industrial developments within 20km are detailed in table 10-65. While potential exists for cumulative impacts such proposals are subject to their own environmental controls. There are no significant impacts identified during construction.
 - Forestry- there is potential for cumulative impacts on water quality in local watercourses. The risk would increase during winter months or times of heavy rain. The risk is unlikely as commercial tree growth is not ready for harvesting. Impact not considered significant
 - Impacts from farming considered similar to above.
 - Peat cutting has not occurred at the site for at least 10 years and will not occur. Impacts considered imperceptible.
 - Section 10.5.5 considers cumulative impacts during construction on designated sites, habitats and flora, avifauna, mammals, bats, aquatic ecology and other taxa. No new significant impacts are identified.
 - Similarly section 10.5.6 considers cumulative impacts during operation (including barrier effect to avifauna). No new significant impacts are identified.

9.12.16. **Mitigation Measures**

9.12.17. Mitigation measures are provided in Section 10.6 of the EIAR. In addition to construction phase, operational phase and decommissioning phase measures, the EIAR sets out various 'mitigation by avoidance and design measures' including:

- Hardstanding areas kept to the minimum size necessary to minimise land take of habitats and flora.
- Site design/layout deliberately avoided direct impacts on designated sites.
- All cabling can be placed underground to reduce collision risk to birds over the lifetime of the wind farm.
- Use of existing firebreaks for grid connection route with upgrades to tracks. Extension of existing culvert over Derrycagoon stream.
- Sufficient separation distances to local watercourses.
- Nine drainage ditch crossings via new access tracks, drains culverted under roads. Works will involve IFI consultation.
- Peat restoration proposals
- Site layout modified to avoid impacts to Marsh Fritillary habitat identified during survey.

9.12.18. The proposed construction phase mitigation measures include:

- Project Ecologist/Ecological Clerk of Works (ECoW) with appropriate experience and expertise to be given the authority to stop works, will be employed for the duration of the construction phase to ensure that all the environmental mitigation measures are implemented.
- Works area will be kept to the minimum necessary to minimise disturbance to habitats and flora.
- No disturbance to habitats or flora outside the proposed development area will occur.
- All works and temporary storage of material restricted to immediate footprint of the development wholly within the site boundary.
- Designated access points will be established within the site with construction traffic restricted to these locations.
- Management of the spread of non-native invasive species with comprehensive detailed measures for prevention, containment, treatment and eradication at the site and TDR.

- Mammals-
 - Ecologist supervision of vegetation, scrub and hedgerow removal areas prior to and during construction as appropriate to identify any site-specific issues in relation to wildlife not currently present on site e.g. badger setts, so as to allow appropriate mitigation measures to be put in place.
 - Construction operations will take place predominantly during daylight hours to minimise disturbances.
 - Where night works are necessary, the project ecologist/ECOW shall limit them to sections of the site which avoid sensitive features
 - Badgers-
 - A pre-construction mammal survey will be undertaken. In the event that a Badger sett is encountered then NPWS will be informed and NRA Guidelines for the Treatment of Badgers Prior To the Construction of National Road Schemes will be followed.
 - Consultation with NPWS and seeking of a derogation/disturbance licence to implement mitigation measures prior to construction, if necessary.
 - Controlled destruction of Badger setts within the footprint of the proposed infrastructure under ecological supervision and temporary blocking of setts within tree felling buffers and in close proximity to the development during construction phase.
 - No hard-blocking or sett exclusions will be undertaken during the Badger breeding season (December-June inclusive).
 - Construction of an artificial sett if necessary.
 - Submission of report to the NPWS detailing evacuation procedures, sett excavation and destruction, and any other relevant issues.

- If setts are discovered all works within 30m of the sett shall cease including vegetation clearance, 50m if during breeding season and sett is active. NPWS shall be contacted and a derogation/disturbance licence sought.
 - An activity survey will be carried out to determine if sett has potential for use.
 - In the event that a Badger is found injured. NPWS and ISPCA shall be contacted and potentially a vet capable of treating the species.
- Bats
 - Specified buffer zones shall be established around any treeline, hedgerow, woodland feature into which no part of the turbine should intrude, in accordance with SNH Guidance.
 - Ecologist/ECOW will supervise areas where vegetation, scrub and hedgerow removal. In the event that an issue arises, the NPWS will be informed and the relevant guidelines will be implemented as appropriate (e.g. NRA guidelines).
 - Construction operations during daylight where possible
 - Treelines and mature trees located immediately adjacent to the line of proposed haul roads will be avoided and retained intact. Any trees and treelines along approach roads and site access tracks will be retained unless felling is unavoidable.
 - Specific measures detailed for-
 - removal of deciduous trees
 - retention of trees
 - lighting and
 - preconstruction surveys
- Avifauna

- Removal of vegetation and scrub including along TDR outside of the bird breeding season (March 1st to August 31st inclusive).
- Construction during daylight hours to minimise disturbances to roosting birds, or active nocturnal bird species.
- Where night-time works are required, they will be supervised by the project ecologist/ECOW. Detailed in CEMP.
- Toolbox talks with construction staff on disturbance to key species.
- Vegetation removal along TDR containing mature trees suitable for nesting barn owls will be surveyed prior to construction for occupancy. If present minimum protection zones will be adhered to.
- Tree Felling
 - Subject to tree felling licence (2.3 ha) from forest service.
 - Construction methodology will follow specifications set out in the Standards for Felling and Restoration (2019), Forest Service Forestry and Water Quality Guidelines (2000) and Forest Harvesting and Environmental Guidelines (2000).
 - Before any felling commences on site all personnel, particularly machine operators, will be made aware of the following and will have copies of relevant documentation, including:
 - The surface water management plan, the CEMP and any contingency plans.
 - Environmental issues relating to this project and the site of the proposed development.
 - The outer perimeter of all buffer and exclusion zones.
 - All health & safety issues relating to the site.
 - The harvester (if used) represents the first point of contact between machinery and the ground and therefore the layout of the extraction racks is critical. The layout of extraction racks or routes will be designed to:

- Avoid streams or other watercourses. Be as short as possible.
 - Avoid any areas of poor crop or bare areas.
 - Generally, extract to access tracks with the extraction racks laid out at right angles to the road to prevent water flowing down wheel ruts.
- Given the sensitivity of aquatic ecological receptors downstream in the Bawnaknockane River (salmonids, otter and connectivity to Roaringwater Bay and Islands SAC), native grass species will be sown post-harvest (if needed) to aid sediment filtration and nutrient absorption.
 - Machine operations will not take place in the 48-hour period before predicated heavy rainfall, during heavy rainfall or in the 48- hour period following heavy rainfall (DAFM, 2018).
 - Removal of branch lop-and-top and other debris (brash) from felling areas within 20m of forestry drains (i.e., up-slope of active pathways to larger downstream watercourses) will reduce nutrient seepage immediately post-felling and in the proceeding years after felling has occurred.
 - Felling will be conducted to accommodate infrastructure and will be limited to the criteria set out in Chapter 2 of the EIAR (Project Description).
- Aquatic Ecology
 - Construction phase mitigation for water at the site as per section 7.5 of the EIAR (see section 9.9 of this report). This generally involves the preservation of water quality and includes detailed measures for site drainage, silt attenuation, prevention of run off erosion from vulnerable areas and consequent sediment release.
 - Water quality protection as detailed in CEMP including IFI recommendations (Peat Slippage Measures) to be implemented for the site and TDR to be implemented.

- In the unlikely event of peat slippage occurring and emergency response procedure will be implemented.
- Other Fauna
 - Marsh Fritillary
 - A preconstruction survey will be undertaken to reconfirm the findings of the EIAR and to map the larval webs of marsh fritillary within the wind farm site.
 - If webs are found in the footprint of the proposed new track and junction/turning splay, they will be translocated to existing suitable habitat (see Appendix 10-5).
 - This work will be supervised by a qualified ECOW.
 - Works on the proposed new track near T6 will avoid effects on the nearby marsh fritillary cluster by using fencing on the northern side of the track to prevent accidental damage to the cluster from construction vehicles.
 - Habitat enhancement in the form of grazing by suitable species (e.g. Dexter cattle) to reduce the sward height of purple moor grass will be used to improve habitat quality for marsh fritillary throughout the site.
 - Appropriate guidance will be followed to reduce the dominance of Molinia. These measures will include where appropriate, a combination of extensive grazing regimes, water table restoration, reducing burning, and considering the role of scrub and natural woodland in the landscape.
 - Kerry Slug
 - A pre-construction survey will be undertaken within the wind farm site to map its extent.
 - If Kerry slug is found in the footprint of the wind farm infrastructure, a licence application will be made to NPWS for

trapping and translocation prior to construction. This will be supervised by a qualified EcoW.

- Similar on-going monitoring of suitable habitat within works areas will continue throughout the construction phase. Such monitoring will be undertaken during periods of wet weather when slugs are most active and feeding on the surface and therefore at greater risk of impacts by movement of machinery.

- Other

- In the event that construction is required to proceed during the breeding seasons of common frog and smooth newt, translocation will be undertaken where active breeding ponds/drains are within the development footprint.
- Protection of existing hydrological conditions where breeding ponds/drains are adjacent to or within the zone of influence.
- In the event that the hydrology of existing breeding areas within the zone of influence cannot be maintained, translocation to suitable receptor sites will be used.
- Amphibian fencing will be erected to prevent re-entry to areas which have been evacuated and any areas which could be occupied by amphibians during the construction period.

9.12.19. The proposed Operational Phase mitigation measures include:

- Implement water quality, soil, geology and hydrogeology mitigation measures (Chapter 7 & 8 of EIAR, section 9.9 * 9.10 of this assessment) in addition to NIS.
- Invasive species-
 - Wheel washes draining to silt traps at entrance to be implemented to prevent spread of invasive species.
 - Location of invasive species to be surveyed annually until two consecutive years with no records.

- To prevent spread implement detailed measures to remove and control etc.
- Drainage from Aquatic Ecology
 - hardstanding as per Chapter 7 of EIAR measures
 - Maintenance of the drainage system
 - Inspections of the erosion and sediment control measures on site for the first year following construction and annually thereafter.
 - Bunding of transformers to over 110% of the volume of oil within them.
- Avifauna
 - A post-construction monitoring programme to be implemented to confirm efficacy of mitigation measures. This is proposed during years 1, 2, 3, 5, 10 and 15 with submission of results to the competent authority and NPWS to include:
 1. Fatality Monitoring to include initial carcass removal trials, turbine searches for fatalities and calibration of recorded fatalities against known predator removal rates to provide an estimate of overall fatality rates.
 2. Flight Activity Survey during the summer and winter months to include both Vantage Point and hinterland surveys to record any barrier effect for target species and changes in flight heights of key receptors post-construction.
 3. Monthly Wildfowl Census during the winter period to assess displacement levels, if any, of wildfowl post-construction and to assess overall habitat usage changes within the vicinity of the wind farm.
 4. Breeding Bird Survey (moorland breeding bird and Common Bird Census) to be repeated yearly between early April to early July to assess any displacement effects such as those recorded on breeding birds. Overall density of breeding birds to be annually recorded.
 5. Breeding Wader Survey to be repeated yearly April – May – June.
- Bats

- Turbines will operate in a manner which restricts the rotation of the blades as far as is practicably possible below the manufacturer's specified cut-in speed. This is usually achieved by feathering the blades during low wind speeds; the angle of the blades is rotated to present the slimmest profile possible towards the wind, ensuring they do not rotate or 'idle' when not generating power.
- The feathering or curtailment of blades will be implemented when levels of bat activity are high.
- In the first-year post-construction, a study will be undertaken to investigate patterns of bat activity at the Shronagree wind farm site temporally, spatially and in response to environmental conditions. This will involve deploying static detectors at turbine locations, conducting monthly fatality surveys and collecting wind speed and temperature data at nacelle height.
- The results will be used to identify statistical relationships between weather conditions/turbine locations/times of day/season and peak bat activity. This will enable a set of criteria to be developed to predict high levels of bat activity. A software module will be programmed into the SCADA system controlling the turbines to curtail or feather turbines when certain environmental criteria are met. Monthly fatality monitoring will also be conducted in year 2 post-construction (as part of the bird monitoring programme) to confirm whether the strategy is effective. If no bat fatalities are recorded in year 2, then no additional bat monitoring will be required, following agreement with NPWS.
- Buffer zones
 - The vegetation-free buffer zones around the identified turbines will be managed and maintained during the operational life of the development.
 - Due to mitigation by design, turbines are proposed to be sited at a suitable separation distance from trees, and trees or vegetation are to be removed to ensure a woodland-free buffer zone.

- The immediate surroundings of individual turbines will be managed and maintained so that they do not attract insects (i.e. the concentration of insects in the wind turbine vicinity will be reduced as much as possible, but not such that insect abundancies affected elsewhere on the site).
- This will be achieved through physical management of habitats without the use of toxic substances e.g. removing any scrub or trees that may grow in the buffer zones.
- Mitigation Measures will be monitored during years 1, 2, 3, 5, 10 and 15 years post construction and in consultation with NPWS.
- Bat Fatality Monitoring. The scheme will be monitored for bat fatalities during years 1, 2, 3, 5, 10 and 15 post construction (requirement for years 3, 5, 10 and 15 subject to consultation with NPWS). An assessment of bat mortality will essentially follow the primary components of the bird mortality programme.

9.12.20. With regard to the decommissioning phase, it is stated that the same mitigation measures will apply as for the construction phase.

9.12.21. **Habitats and Species Management Plan Appendix G**

9.12.22. Appendix 10, Appendix G of the EIAR includes a 'Habitats and Species Management Plan' which provides a number of enhancement measures designed to improve the biodiversity value of the site. This should be considered in association with Chapter 10 of the EIAR as well as the Planning Authority first refusal reason (see sections 9.12.25 and section 11.0 of this assessment).

9.12.23. The proposed enhancement measures include-

- Bog restoration through damming of drains around and through cutover bog and wet heath. This will retain water within these areas and create favourable conditions for peat forming plant communities which can over time regenerate the bog. This is presented in Figure 2.1 and 2.2 of Appendix G
- Agricultural Practises-
 - Grazing Management

- Wet Heath is most frequently found throughout the site but is identified as in poor condition and dominated by grass. This is suggestive of overgrazing. Non sheep grazers such as cattle, donkey or horses are identified as preferred stock for the site with Irish Cattle such as Dexter having advantages.
- Surveys to determine conservation condition and establishment of new wet heath are required during first 3 years post remediation to determine the effectiveness of the grazing regime and to indicate if adjustments are required. Fencing will be required to keep stock in targeted areas.
- Measures to protect Marsh Fritillary from overgrazing from sheep etc are detailed.
- 64.44ha are proposed within grazing management area with two livestock units considered acceptable.
- Land Management
 - Key part of plan is to maintain existing soil conditions and diversity of native flora species within the site.
 - Application of fertilisers and lime should not be carried out at the site.
 - Ploughing, reseeding (with grass) application of herbicides or importation of soil would change the species composition of grassland and reduce ecological value.
 - Avoidance of intensive agricultural practice is required to avoid permanent loss of the wet heath habitat.
 - Burning of vegetation will cease during lifetime of wind farm.
- Wildlife Pond- See figure 2.1 and 2.2.
 - These will be created within the footprints of the settlement ponds at turbine locations following construction.
 - Created to facilitate the establishment of wetland vegetation and allow wildlife to access the pond.

- An optimal habitat will be created for spawning frogs and aquatic insects.
- Monitoring of habitats created and species enhancement measures will be checked annually for first three years and in year 5, 10 and 20 following construction.
- A status report will be prepared to identify necessary actions to ensure the plans success which will be implemented on foot of report findings.
- A final assessment of conditions and success of plan will be undertaken in year 29.

9.12.24. **Residual Impacts**

Residual impacts on biodiversity are addressed in Section 10.7 of the EIAR and tabulated in Table 10-69. This section details the proposal has taken ecology of the existing environment into consideration. Provided all the mitigation measures are implemented in full, no significant residual impacts are expected from the proposed development.

9.12.25. **Assessment and Conclusion**

9.12.26. The Planning Authority's Ecology Officer raised biodiversity concerns most notably the proposed development would be likely to have a permanent significant negative effect on habitats of high ecological value. This concern and contravention of Objective BE 15-2 of the CDP form the basis for the first refusal reason. This and the applicants appeal response will be considered in this section.

Habitat Loss and Refusal Reason 1

9.12.27. The Council's Ecology Officer considers the combined total loss of wetland/peatland habitats on site being approximately 70% (c. 5 hectares) of the habitats to be impacted with the extent of impacted peatland has been underestimated as it doesn't appear to account for construction compounds, hardstanding etc. It details the proposed relocation of replanted forestry has not been identified which in turn could result in further loss of high value habitat. The loss of habitat due to land take for the development is also raised. The provision of a wind farm on under pressure peatland would only exacerbate the problem and lead

to a further loss and deterioration of same. It would impede peatland protection and restoration nationwide.

9.12.28. The Officers report also details deficiencies in information regarding faunal species including-

- Avian fauna- the information in the NIS is based solely on winter season surveys and breeding season surveys from 2019 and 2020 with surveys undertaken in 2020/21 not factored into the assessment. Concerns highlighted regarding out-of-date nature and lifespan of reports with Annex 1 species breeding within 3km of site and within hinterland survey area known yet not recorded by applicants.
- The absence of a dedicated survey of the site for Kerry Slug
- An alternative route avoiding areas Marsh Fritillary has not been provided despite been detailed in the EIAR.

9.12.29. The Applicants in their appeal have submitted an 'Ecology Response Report' prepared by Fehily Timoney Environmental Consultants. This confirms that Relevé Surveys⁴⁹ were undertaken at the site in accordance with NPWS guidance. The results showed wet heath at the site was not Annex I type. The habitat has been degraded likely due to land use activities including peat extraction and rough grazing. Existing acid oligotrophic pools are considered artificial due to peat excavation. Only 2.1% of this will be lost. Enhancement measures are proposed including grazing management, peat restoration and wildlife ponds ⁵⁰.

9.12.30. Regarding concerns over the extent of peatland habitat to be impacted and likely impacts of same the 'Ecology Response Report' confirms the construction compound, associated parking, turbine assembly areas and any required widening of existing trackway have all been captured in the habitat loss calculations with reference to Tables 10.47 and 10.48 of the EIAR detailed. The report highlights drainage exists at the site and a do-nothing scenario would likely reduce the likelihood of bog restoration. A peat restoration proposal and grazing management is provided for in the Habitats and Species Management Plan which will enhance the

⁴⁹ See EIAR Appendix 10-3

⁵⁰ These are discussed in more detail in the Habitats and Species Management Plan (EIAR Appendix 10-Appendix G)

degraded wet heath elsewhere onsite and there will be an overall net gain in habitat value in the long term within the site to offset the initial loss identified.

- 9.12.31. The 'Ecology Response Report' details a tree felling licence will be required to develop the site and will include provision of relevant replant lands to be planted in lieu. This will be equivalent to the area being cleared. The location of this is discussed in section 14.0 of this report.
- 9.12.32. The report details that with sheep grazing the current land management practise and in the absence of legal incentives to enhance or restore species and habitats on site, human intervention is required to increase the value of habitats and to change existing land use practises. Again, the Habitats and Species Management Plan is proposed to address this.
- 9.12.33. In terms of the Kerry Slug the 'Ecology Response Report' details that while a dedicated survey was not completed a habitat suitability survey was undertaken and found the species was considered present at the site. Impacts are considered in the EIAR sections 10.4.2-10.4.4 with mitigation measures outlined in section 10.6 including the requirement for licences for trapping and translocation.
- 9.12.34. Marsh Fritillary concerns are also addressed in the 'Ecology Response Report' with results of surveys detailed in Appendix 10-6 and section 10.3.10⁵¹ of the EIAR. A comprehensive explanation of revised route option to avoid larval webs is then set out with implementation of mitigation measures necessary ensuring no residual effects and impacts would not be significant.
- 9.12.35. Having considered the above and in the absence of a report from the Planning Authority on the information submitted with the Appeal, I am satisfied the concerns of the Ecology Officer have been adequately addressed in the 'Ecology Response Report', the EIAR and its associated appendices. In this regard, subject to the mitigation measures proposed and the implementation of the Habitats and Species Management Plan, I can only conclude the proposed development would not lead to a permanent significant negative effect on habitats of high ecological value most notably wet heath and wet heath mosaics. The overall proposal would retain water on site through damming of drains, provide for peatland bog restoration,

⁵¹ These are likely typing errors- Appendix 10-5 and section 10.3.11 Page 453.

create favourable conditions for associated plant communities and would reduce release of contaminants to downstream water courses.

- 9.12.36. Overall, the proposal should provide for biodiversity net gain and would be in accordance with Objective BE 15-2 of the CDP which seeks inter alia to-

...Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This includespeatland and other wetland habitats....."

Birds

- 9.12.37. The Planning Authority's Ecology Officer raised some concerns in relation to the extent of Bird Surveys submitted.

- 9.12.38. The Ecology Response Report addresses the avian fauna and the outdated survey concerns. It confirms that two full year bird surveys have been undertaken at the site covering 2 winter and 2 summer seasons with a full account of the methodology provided in section 10.2.5 of the EIAR⁵². This date is within the recommended five-year window as per SNH Guidance. The report details observations of Chough were identified during both surveys and outside of the turbine envelope with operational impacts not expected. A post construction monitoring programme is to be implemented.

- 9.12.39. In conclusion and noting the distance of the site from the nearest SPAs, I find that the EIAR and Ecology Response Report (submitted with the appeal) demonstrates an acceptable consideration of relevant bird species, including the provision of two survey over two yearly periods of appropriate seasons and within an acceptable recent timeframe. The surveys identify bird occurrences within the site and the wider hinterland area in which the EIAR states the vast majority of species were recorded outside a 450m site buffer. The EIAR includes adequate consideration of displacement/disturbance and barrier effects as well as collision risk modelling with negligible results predicted. It has outlined a suitably comprehensive range of avifauna mitigation and monitoring measures (1, 2, 3, 5, 10 and 15 years post construction reporting to competent authority and NPWS) to reduce the potential impacts on birds. I am satisfied that, subject to the implementation of the

⁵² Pages 276-277 suggests one season only). The Board are referred to Appendix 10-2 which sets out Survey Schedule Details for 2019/20 and Appendix 10-4 provides the 2020/21 Bird Survey.

proposed mitigation measures and the monitoring programme, the proposed development will not have a significant negative residual impact on birds.

Mammals

9.12.40. The Planning Authority have raised no concerns in relation to Mammals. A mammal survey is detailed within the EIAR with evidence of four mammal species recorded- Otter, Irish Hare, Red Fox and Sika Deer (see section 10.3.5 and 10.3.5.6). The EIAR identifies potential direct and indirect significant impacts, prior to mitigation, on mammals including pre-emptively for Badgers and Otters with no setts or holts recorded on the sites.

9.12.41. Mitigation measures include the ecological supervision of vegetation removal, and pre-construction mammal surveys etc. With regard to Badger, a suite of mitigation measures are proposed, in addition to the general mitigation measures, including compliance with the 'NRA Guidelines for the Treatment of Badgers Prior to the Construction of National Road Schemes', the obtaining of a derogation/disturbance licence from the NPWS if required, temporary hard blocking of setts in felling areas and in close proximity to proposed infrastructure and the implementation of buffer zones as required. The EIAR commits to taking no actions to exclude Badgers from active setts during the breeding season (December - June inclusive).

9.12.42. I consider that the proposed mitigation and monitoring proposals for mammals are comprehensive and subject to compliance with these measures, I am satisfied that the proposed development is not likely to have significant residual adverse impacts on these mammal species.

Bats

9.12.43. The Planning Authority have raised no concerns in relation to Bats. I consider that the EIAR demonstrates an adequate understanding of the bat species and potential for roosts present within the site and the wider area. It has outlined a suitably comprehensive range of mitigation and monitoring measures to reduce the potential impacts on bats. I am satisfied that, subject to the implementation of the proposed mitigation measures and the monitoring programme, the proposed development will not have a significant negative residual impact on bats.

Aquatic Ecology

9.12.44. The potential for significant impacts on aquatic ecology is primarily associated with the construction phase and relates to potential water pollution and contamination with siltation, hydrocarbons, concrete or resulting from tree felling etc. Potential impacts are also identified for the turbine delivery route works and grid connection within the main site. No potential significant impacts are identified in the operational or decommissioning phases.

9.12.45. Inland Fisheries Ireland (IFI) did make an observation to this application in which concerns were raised over potential negative impact on fisheries, including escape of suspended solids and pollutants to waters impacting water quality and fisheries habitat in the context of Water Framework Directive requirements and impediment or prevention of fish passage. It sought a number of typical conditions in this regard to include for grid connection.

9.12.46. The applicants clearly indicate in their application that they consulted with the IFI and seek to address their concerns in the mitigation measures proposed which includes for further consultation with the IFI.

9.12.47. A range of typical mitigation measures are proposed including those identified in section 9.9 (Water Hydrology) of this assessment and the CEMP (Appendix 10, Appendix E of NIS). The measures generally include proposals to address run-off erosion during turbine base and access track construction, site drainage, peat slippage etc. No significant residual impacts are anticipated.

9.12.48. I consider that the proposed mitigation and monitoring proposals for aquatic ecology as outlined in the Biodiversity and the Water chapters of the EIAR as well as the NIS (see section 10 of this report) and including consultation with the IFI, are suitably detailed and comprehensive to address identified impacts. Subject to implementation of the identified measures, I am satisfied that the proposed development is not likely to result in significant residual adverse impacts on aquatic ecology.

Invasive Species

9.12.49. Two invasive species were observed within the main wind farm site, 'Rhododendron Ponticum' and 'Monbretia'. A number of other such species were

recorded along the Turbine Delivery Route. The EIAR sets out mitigation measures for the control and eradication of these species. This includes a pre-construction survey to establish if the species have spread and the ongoing treatment of the species for as long as they persist within the site during the operational phase. The CEMP also provides for such measures including a Method Statement for Biosecurity. The EIAR also acknowledges the potential water-borne route for spreading these species.

- 9.12.50. Overall, I am satisfied that the measures outlined in the EIAR is consistent with standard good practice measures for the control and eradication of non-native invasive species and, once implemented in full, will adequately avoid or control the spread of the identified species.

Other Biodiversity Related Issues

- 9.12.51. The EIAR proposes to appoint a Project Ecologist/Ecological Clerk of Works (EcoW) with appropriate experience and expertise and will be given the authority to stop works. They will be employed for the duration of the construction phase to ensure that all the environmental mitigation measures are implemented (I note this is also included as NIS mitigation).

Conclusion

- 9.12.52. I have considered all of the written submissions made in relation to biodiversity and the relevant contents of the file including the EIAR. In particular, I have thoroughly considered the report of the Councils Ecology Officer and the Applicants first party appeal response on the matters raised which have formed the basis of Cork County Council's first refusal reason.
- 9.12.53. I am satisfied that the potential for significant adverse impacts on biodiversity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures, implementation of the Habitats and Species Management Plan and through suitable planning conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on biodiversity and would not be contrary to Objective BE 15-2 of the Cork County Development Plan 2022-2028.

9.13. Air, Climate and Climate Change

- 9.13.1. Air, Climate and Climate Change is set out in Chapter 11 of the EIAR. The methodology employed is set out in section 11.2 and includes use of data from the EPA and Met Eireann. Wind speed and direction data was also available from the nearby Ballybane wind farm. Reference is made to a number of relevant Policy Documents and Guidelines.
- 9.13.2. An assessment of the local climate is detailed in section 11.3 with data from a station at Cork Airport set out in Table 11-1. Three nearby rainfall gauge stations are also detailed in Drimoleague, Bantry and Skibbereen with summary information for those and Cork Airport set out in Table 11.2. This section concludes the higher elevation of the site suggests annual rainfall of between approximately 180 and 385mm per annum. Data from SEAI wind speed atlas indicates mean wind speeds between approximately 8.2m/sec and 8.6m/sec at a height of 75m above ground which is in accordance with the wind speed data recorded at Ballybane Wind Farm.
- 9.13.3. The EIAR details the EPA's Air Quality Index for Health (AQIH) shows that Shronagree is located in Zone D (i.e. outside of large urban areas) and with an index score of 3 on a scale of 1- 10 where 1 being 'Good' quality and 10 being 'Very Poor'.
- 9.13.4. Section 11.4 discusses the characteristics of the proposed development that could potentially impact on air and climate change. These are detailed as-
- Turbine Manufacture,
 - Deliveries of turbines and other materials
 - Construction and
 - Site clearance of trees (2.3 ha) and peat i.e. carbon sequesters.
- 9.13.5. The impacts identified during construction are set out in section 11.5.2 and include-
- Emissions associated with extraction and processing of raw materials used in the manufacture of turbines and other material. The EIAR details that emissions intensity of wind farms is 8 to 20g CO²/kWh. This is an indirect permanent significant impact occurring elsewhere.
 - Emissions associated with the construction stage such as manufacture and use of concrete which will have an indirect permanent imperceptible positive

impact at local authorised quarries, dust emissions from vehicles which will have a slight temporary intermittent localised negative impact

- Exhaust emissions from transport and plant with imperceptible short term local negative impacts.
- Excavation of approx. 27,430m³ of peat including possible release of carbon. Due to the sites current condition where drainage for land improvement, turf cutting and forestry have occurred this is considered a not significant permanent localised negative impact which could be reversed following site decommissioning.
- Removal of 2.3 ha of trees would have an imperceptible permanent negative impact.

9.13.6. The impacts identified during operation are set out in section 11.5.3 and include-

- The proposal will displace fossil fuel electricity generation with a number of detailed environmental, economic and social benefits
- The projected output of 30MW of electricity will result in significant net saving in emissions.
- Overall the proposal will have an indirect long-term positive effect on climate.

9.13.7. The impacts relevant to the Decommissioning stage are detailed as similar to those for the operation stage in terms of exhaust fumes and dust emissions. In terms of Cumulative Impacts a combined output of electricity from windfarms operational and permitted will be c. 80 MW. The proposal will increase capacity by c. 38%. This is a significant positive long-term impact.

9.13.8. Mitigation Measures are set out in section 11.6. In terms of the construction phase these generally comprise best practice construction methods. The use of Ground Granulated Blastfurnace Slag cement with lower carbon dioxide emission compared to Portland cement is noted. The measures also detail replacement planting of trees removed during construction but to instead provide permanent woodland rather than commercial forestry.

9.13.9. In terms of the operation phase the proposal does not generate atmospheric emissions. No mitigation measures are proposed for the operational phase, given

that a positive impact is predicted. Mitigation measures during the decommissioning phase will be similar to the construction phase.

- 9.13.10. While the excavation of peat will release carbon if the peat decomposes a carbon calculation submitted with the EIAR Appendix 11-1 demonstrates the proposal will be carbon neutral after 1 year.

9.13.11. **Assessment and Conclusion**

- 9.13.12. The main potential for significant effects will arise during the construction stage associated with the generation of dust and other emissions at the site or indirectly enroute to the site. The construction stage will also involve the operation of plant and machinery that will generate exhaust emissions. Subject to the mitigation measures proposed in the EIAR, which generally comprise best practice methods and measures for such proposals, I am satisfied that no significant adverse effects on air quality and climate are likely to arise during the construction phase. During the operational phase there will be a positive residual impact on air quality and climate due to the displacing of fossil fuel energy generation and the associated displacement of CO² and other greenhouse gas emissions. I see no reason why air quality in the area would not remain as expected and typical of a rural environment with a low level of pollutants save for short term periods associated construction. Such impacts would not be considered significant in this context.

- 9.13.13. I have considered all of the content on file and in the EIAR in relation to air, climate and climate change. Overall I generally accept the conclusions reached in the EIAR that the impacts on air quality and climate associated with the proposed development on its own, or in combination with other existing, permitted or proposed developments are not likely to be significant, can be mitigated by the measures outlined in the EIAR and will contribute to Irelands goal and targets for climate action. I am satisfied that the potential for significant adverse impacts on air and climate can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on air and climate.

9.14. Land

- 9.14.1. Considerations relating to Land are set out in Chapter 12 of the EIAR. The Board should also consider this in the context of section 9.10 of this report. The methodology employed is set out in section 12.2 and includes a desk based review of the land uses in the vicinity of the site, on site windscreen and walkover surveys and review of other chapters of the EIAR for relevant interactions.
- 9.14.2. A study area of c. 160 ha of upland terrain was detailed. The principal soil found at the site is detailed as peaty podzols underlain by mostly granite and sandstone. The use range for such soil types is detailed as very limited, not suitable for tillage or intensive grasslands and confined mainly to sheep grazing amenity and some forestry.
- 9.14.3. The main impacts identified during the construction stage include-
- Approx. 6.3ha of land take for development purposes or 4% of the land bank. The impact is described as imperceptible long term negative.
 - C 0.5ha of forestry and c1.8ha for turbulence will be felled i.e. 2.3 ha of commercial forestry will be removed
 - Slight short term negative reversible impact upon walkers who will not be permitted into the site.
- 9.14.4. The main impacts identified during the operation stage include-
- Wind farm use will facilitate a significant long-term positive impact of land use diversification.
 - No evidence to suggest wind farms deter tourism. It is likely more walkers may use the site with improved access. It was note that some walkers reported feeling unwell after walking through the Ballybane windfarm.
- 9.14.5. At decommissioning stage impacts would largely be reversed with site restoration at some locations subject to final restoration proposals. Some roads retained for forestry use with the substation and grid connection possible retained for the local distribution network. No cumulative impacts on land use are envisaged.
- 9.14.6. Mitigation Measures are set out in section 12.6 and include-

- Use and upgrade of existing tracks and firebreaks through the site as much as possible.
- Replacement of at least c. 2.3ha of felled forestry land with native broad-leaved trees
- Natural re-vegetate corridors adjacent to roads
- Site roads will generally be unfenced and will provide a walking route with barriers preventing unauthorised access into the site.

9.14.7. **Assessment and Conclusion**

9.14.8. On the basis of the information before the Board and noting the associated and relevant contents of section 9.10 of this assessment, overall mitigation measures proposed and subject to planning conditions, there is no reason to believe that the proposed development would result in a significant impact on land.

9.14.9. I have considered all of the content and relevant information of the file including the EIAR in relation to land. I am satisfied that the potential for significant adverse impacts on land can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on land.

9.15. **Material assets**

9.15.1. Considerations relating to Material Assets are set out in Chapter 13 of the EIAR.

Board should also consider section 9.11 of this report in the context of the EU Directive requirements. The Methodology used included a desk based assessment and a windscreen survey. Assets identified include electricity infrastructure, roads, utilities, telecommunications and forestry much of which are also considered in other sections of the EIAR and this report.

9.15.2. Most notably the EIAR refers to the existing 38kV transmission overhead powerlines that traverse the western side of the site. The EIAR details this connects Bantry and Ballydehob substations. A 20kV powerline also runs in close proximity to the 38 kV

lines before turning west. The 38kV line is shown in Figures 2-1 & 2-2⁵³ of the Non-Technical Summary.

9.15.3. No mains water supply or sewer are identified in the immediate area with private wells and on site wastewater treatment used by existing dwellings. A number of telecommunication infrastructure are identified in the general area and the Board are advised that an existing mast is located just off the L-8456 public road.

9.15.4. The EIAR details the nature and location of the site is in an area suitable for wind farm development as it is exposed, upland and with good, predicted wind speeds.

9.15.5. The main impacts identified during the construction stage include-

- Possible electromagnetic emissions from power tools that could interfere with communications systems

9.15.6. The main impacts identified during the operation stage include-

- Possible electromagnetic interference from turbines
- Possible signal scattering
- Possible signal obstruction
- Need for grid connection application and subsequent strengthening of the local network.
- Sustainable indigenous and secure use of a local resource slowing down depletion of fossil fuels and is an alternative power source.
- Use of a material asset i.e. wind strength

9.15.7. At decommissioning stage impacts it is likely the substation would remain and become part of the electricity grid infrastructure. The wind resource would no longer be harnessed. While acknowledging the Ballybane Wind Farm no cumulative impacts are envisaged.

9.15.8. Mitigation Measures are set out in section 13.5 and include-

- Siting of turbines to ensure no interference with telecommunications networks

⁵³ Pages 3&4

- The RTE standard protocol will be signed committing the developer to installing infrastructure to rectify and interference.

9.15.9. **Assessment and Conclusion**

9.15.10. In terms of some the Material Assets identified in the EIAR I am satisfied they are addressed in other sections of the EIAR including Chapter 6 for roads, chapter 8 for natural resources and Chapter 12 for land use.

9.15.11. With regard to telecommunications it is clear that the EIAR clearly details consultations with the various telecommunications service operators, and I note that no observations were received from any of these operators. Based on compliance with best practise and European standards as detailed in the EIAR I consider it unlikely that the proposed development would result in any significant electromagnetic or other interference with telecommunications infrastructure and services.

9.15.12. With regard to aviation, I note that the IAA's submission on the 19/04/23 raises no major concerns subject to typical conditions. The EIAR details aviation lighting is normally required to the turbines. I recommend a suitable condition in this regard.

9.15.13. I note the application does not propose any connections to public water or wastewater supplies. In their submission dated 24/04/23 Uisce Eireann raises no concerns and suggest addition of typical conditions.

9.15.14. I consider there will be a positive residual impact on electricity supply as a result of the operation of the proposed development. Given the scale and nature of the proposed development, no significant cumulative impacts on material assets are likely to occur. Overall I agree with the EIAR conclusion that impacts are generally positive and consider no significant adverse impacts on material assets are likely.

9.15.15. Having considered all of the above in relation to material assets and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on material assets can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable planning conditions. I am therefore satisfied that the proposed

development would not have any unacceptable direct, indirect or cumulative impacts on material assets.

9.16. The Interaction between the Above Factors

- 9.16.1. The interaction of the foregoing is detailed in Chapter 14 of the EIAR. Table 14-1 sets out an Interaction Matrix which colour codes the extent of impacts from 'No Significant Interaction', 'Positive Interacting Impact', 'Negative Interacting Impact' and 'Neutral Interacting Impact'. It also includes for both the construction and operational stages of the Development. The impacts are further described in section 14.1.
- 9.16.2. No significant residual impacts associated with the interactions of environmental factors are identified.
- 9.16.3. Having regard to the nature of the proposed development, the receiving environment and the foregoing chapters of the EIAR, I am satisfied that the summary of the potential for interactions between environmental factors is reasonable for this section of the EIAR.

9.17. Mitigation and Monitoring Measures

- 9.17.1. All of the proposed mitigation and monitoring measures for each environmental factor at construction and operational stages are outlined individually in each Chapter of the EIAR and generally summarised in each section of this assessment.

9.18. Reasoned Conclusion

- 9.18.1. Overall, the submitted EIAR and Appendix represents a thorough, comprehensive and detailed consideration of most of the matters pertinent to Environmental Impact Assessment.
- 9.18.2. However in terms of requirements of the EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, I find the EIAR unpersuasive in terms of its consideration of alternatives i.e. reliance on commercial sensitivities and lands available to the applicant, especially within the context of the majority of the sites

location within an area designated by the statutory County Development Plan as 'Normally Discouraged' for commercial wind farm developments.

- 9.18.3. I also have reservations in relation to Article 3(2) of the EIA Directive which includes a requirement to identify, describe and assess in an appropriate manner *“the expected effects derived from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned”* within the EIA.
- 9.18.4. In this regard the submitted EIAR does not provide a dedicated chapter to risks from major accidents or disasters nor have I identified detailed consideration of such matters throughout the EIAR. I accept risk from earthquakes is given some consideration in Chapter 9 and flooding is not likely at the site or downstream as detailed in Chapter 7. However, I also note that the application and EIAR does identify the presence of existing firebreaks near and within the site as well as reference to a fire in recent years with evidence identified near turbine 5 in Chapter 10. There is no consideration of this risk which can only be perceived as higher than normal if it has occurred in recent years. I would also have expected some consideration of turbine collapse, extreme weather events and all their subsequent interactions within the EIAR.
- 9.18.5. Notwithstanding the above, I am not convinced these matters are fatal to the determination of this application having particular regard to the wider considerations of this assessment. Should the Board be minded to grant planning permission, it could address concerns over expected effects derived from the vulnerability of the project to risks of major accidents and/or disasters through an appropriate planning condition for example the submission of a revised emergency response plan⁵⁴ in advance of any works commencing at the site.
- 9.18.6. Notwithstanding the above, having regard to the examination of environmental information contained in this assessment, and in particular to the EIAR and supplementary information provided by the Applicant in the Appeal, and the submissions from the Planning Authority and all the Observers in the course of the application and appeal, it is considered that the main significant effects of the proposed development on the environment are as follows-

⁵⁴ The Board are advised an Emergency Response Plan is provided as part of the CEMP in Appendix E i.e. section 8. This prepares for dealing with effects of a pollution incident.

- Construction stage effects on-
 - The 'Landscape'- Visual impacts upon a designated 'High Value Landscape'
 - 'Archaeological Heritage' of the area most notably the visual impact of the proposed development during construction stage upon the setting of recorded monument Cairn CO131-048 with particular regard to the proximity of proposed turbine 03.
 - 'Population and Human Health' and 'Air' and 'Climate' as a result of dust, noise, traffic, and such emissions etc and shadow flicker
 - 'Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC' and 'Water' as a result of adverse pollutants from contaminated sources, leaks and spills, silt and sediment, noise disturbance etc.
- Operational stage effects on-
 - The 'Landscape'- Visual impacts upon a designated 'High Value Landscape'
 - 'Archaeological Heritage' of the area most notably the visual impact of the proposed development during operational stage upon the setting of recorded monument Cairn CO131-048 located in close proximity to Turbine 03 on to the northern side of the site boundary.

9.18.7. The EIAR provides a number of mitigation measures to address the impacts identified throughout the EIAR.

9.18.8. In terms of 'Population and Human Health', 'Air' and 'Climate' I am generally satisfied that these effects would be appropriately mitigated through the Construction Environmental Management Plan, a Construction and Demolition Waste Management Plan, suitable planning conditions and the application of other best practice construction management measures, which would not result in any unacceptable residual effects.

9.18.9. In terms of Biodiversity these effects would be approximately mitigated through the measures set out in the submitted EIAR, the NIS and the Construction

Environmental Management Plan, suitable planning conditions such as a Construction and Demolition Waste Management Plan and the application of other best practice construction management measures. The implementation of the submitted 'Habitats and Species Management Plan' would contribute to an overall biodiversity net gain and enhancement of existing habitats and peat restoration etc to more than compensate for any loss attributable to the proposed land take. As such the proposal would not result in any unacceptable residual effects.

9.18.10. However, I consider the potential for significant visual impacts and adverse effects upon the Landscape i.e. the 'High Value Landscape' and archaeological heritage is one that cannot be avoided, managed and/or mitigated by measures that form part of the proposed scheme, or through suitable planning conditions. The mitigation measures identified in the EIAR in terms of the landscape are not considered actual/appropriate mitigation measures in this regard which in reality given the size, scale and nature of wind turbines such as those proposed cannot be mitigated in this context.

9.18.11. Furthermore based on the report of Cork County Council's Archaeological Officer and in the absence of detailed consideration of the visual impact during construction and operation in Chapter 3 (Landscape), the associated 'Landscape and Visual Impact Assessment' booklet and within Chapter 9 (Archaeology....) of the EIAR, I am not convinced the proposed development would not have adverse or negative effects that could be appropriately mitigated and in the absence of same I can only consider it is likely the proposal would result in a significant adverse visual impact and residual effects.

9.18.12. I therefore can only conclude that the proposed development would have unacceptable landscape and visual impacts upon the designated high value landscape and upon the setting of a feature of significant archaeological heritage that cannot be mitigated against to an acceptable level in this context and the proposed development should therefore be **refused**.

10.0 Appropriate Assessment

10.1.1. Introduction

a) The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site.

10.1.2. Compliance with Article 6(3) of the EU Habitats Directive

a) The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

b) The application was accompanied by a Stage 1 Appropriate Assessment Screening Report (AASR) and a Stage 2 Natura Impact Statement (NIS) prepared by Fehily Timoney (FT) dated October 2022. These documents are located within Appendix 10.1 of the EIAR.

c) The Boards attention is also drawn to the Applicants First Party Appeal which includes a report from FT dated May 2023 which generally addresses some biodiversity issues raised in Cork County Councils Ecology Report which are relevant to Appropriate Assessment.

d) Appendix 10-1 generally starts by providing a detailed description of the project including the turbines, internal access roads, hardstanding, temporary site facilities, the wind farm site entrance, grid connection, turbine delivery

route, water course crossings, the substation, electrical cabling, temporary stockpiles, tree felling, the metrological mast etc.

- e) The Ecological Assessment Methodology is set out in section 3 of the AA and inter alia includes- consultations with NPWS, IFI, CCC, a desk top study, field assessments, bird surveys, mammal surveys, bat surveys, Marsh Fritillary (Butterfly) surveys as well as recording of other fauna, habitats and flora etc. A number of watercourses are identified considered in the assessment (Table 7).
- f) A detailed description of the existing ecological environment is set out in Section 4 which includes the grid connection route and the three options provided for the turbine delivery route (see also appendix A). This section generally sets out the results of the surveys undertaken.

10.1.3. Stage 1 – Screening

- a) The applicant's Stage 1 AASR is set out in Section 5 of the AA document in Appendix 10.1. It is generally prepared in line with current best practice guidance. It identifies twenty European Sites within 15km of the proposed development site as well as the Turbine Delivery Route (TDR)- 15 SAC's and 5 SPA's. Figure 8 shows hydrological connectivity to European Sites.
- b) The 20 identified sites and their features of interest are summarised in Table 11 which also concludes on connectivity to the proposed development based on the Source-Pathway-Receptor framework. The following are considered connected-
 - Roaringwater Bay and islands SAC (000101)
 - Glengariff Harbour and Woodland SAC (000090)
 - Bandon River SAC (002171) (proximity to TDR)
 - Galley Head to Duneen Point SPA (004190) (proximity to TDR)
 - Courtmacsherry Bay SPA (004219) (proximity to TDR)
 - Sheeps Head to Toe Head SPA (004156) (proximity to TDR)
 - Sevens Head SPA (004191) (proximity to TDR)
- c) The AASR concludes that-

“.....There is the possibility that there could be negative effects on the Roaringwater Bay and Islands cSAC as a result of indirect effects from the

proposed development. In the absence of mitigation measures (which have not been considered at this screening stage), likely significant effects on the qualifying interests of the Roaringwater Bay and Islands CSAC cannot be excluded on the basis of objective scientific information. A Stage 2 Appropriate Assessment (Natura Impact Statement) of the potential impact on the Roaringwater Bay and Islands CSAC will therefore be required.....

.....No pathways for significant effects on any other European sites below, were identified. Thus, it can be concluded beyond reasonable scientific doubt, in view of best scientific knowledge and on the basis of objective information, that the proposed project (wind farm site, grid connection and TDR) individually or in combination with other plans and projects, will have no likely significant effect on any other European sites included those listed below:

- *Lough Hyne Nature Reserve and Environs CSAC (000097)*
- *Sheep's Head CSAC (000102)*
- *Dunbeacon Shingle SAC (002280)*
- *Reen Point Shingle SAC (002281)*
- *Glengarriff Harbour and Woodland SAC (000090)*
- *Bandon River SAC (002171)*
- *Clonakilty Bay SAC (000091)*
- *Clonakilty Bay SPA (004081)*
- *Myross Wood SAC (001070)*
- *Kilkeran Lake and Castlefreke Dunes SAC (001061)*
- *Castletownshend SAC (001547)*
- *Galley Head to Duneen Point SPA (004190)*
- *Courtmacsherry Estuary CSAC (001230)*
- *Courtmacsherry Bay SPA (004219)*
- *Sheep's Head to Toe Head SPA (004156)*
- *Seven Heads SPA (004191)*

- *Caha Mountains cSAC (000093)*
- *Derryclogher (Knockboy) Bog CSAC (001873)*
- *The Gearagh SAC (000108).*

Therefore, these sites have been 'Screened Out' at Stage One of the AA process.

- d) 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.
- e) Having reviewed the documents, submissions and all other information on file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

10.1.4. The Proposed Development and Receiving Environment

- a) The applicant provides a comprehensive description of the project including the TDR options in section 1.3 (pages 6 -17) and associated Figures 1, 2 and 3 of the introductory section in advance of the main AASR screening report. In summary, the development comprises-
 - 7 wind turbines described as wind energy converters (WEC) with blade tip heights of up to a maximum of 150 metres (assessment based on two options- 126m with 86m hub and 133m with 83m hub with final selection dependent on competitive tender process but will not exceed the detailed envelope).
 - On site grid connection via existing 38kV overhead power line that runs through the site
 - On site-substation building
 - 92m high meteorological mast and
 - Turbine Delivery Route (TDR) from Ringaskiddy Port to 2 km west of Bandon where 3 options are then provided and considered (See

Appendix A- TDR Report prepared by Denis O'Sullivan & Associates Consulting Engineers (DOSA).

- A Construction Environmental Management Plan (CEMP) is located in Appendix E.
- b) A comprehensive description of the site is provided in section 4 (preceding main AASR). The site itself is described as located between 200m and 270m OD with landcover classified as peat bog and transitional woodland scrub (CORINE). A tributary of the Bawnaknockane stream, the Derrycarhoon flows through the southwestern part of the wind farm site and the Leamawaddra stream flows from outside the east of the wind farm site, both discharging into Roaringwater Bay. Two tributaries of the Coomnagoragh River flow through the eastern corner of the site flows, eventually discharging to the Ilen River and later to the east of Roaringwater Bay. A tributary to the Four Mile (Water) River flows from outside the north of the wind farm site and eventually discharges to Dunmanus Bay. Section 4 then further details the Hydrometric areas (20 and 21) and the influence or impact of drainage from the site and proposed development including TDR to the Bandon-Ilen Catchment and the Dunmanus-Bantry-Kenmare catchment. Section 4.3 discusses water quality with further detail provided in Appendix 4.
- c) The remainder of section 4 discusses-
- Aquatic Surveys (See also Appendix D), requested from NPWS for 10km grid square of and adjoining the site (V93, V94, W03 and W04). Records for rare and protected species were identified but it is stated most did not overlap directly with the site.
 - Fish Surveys (See also Appendix D), only European Eel and Brown Trout identified
 - Designated Salmonid Waters (only one designated salmonoid waters located in the Argideeen River c. 25km and not within the catchment of the site,
 - Avian Survey Results, use of SNH guidance 2017 of 500m radius circle around turbine locations- 'flight activity survey area', relevant results identified in Table 9. See also Appendix C.

- Bat Survey Results, Appendix B. Three bat surveys undertaken recorded 3335 bat passes, the static detector surveys deployed over three rounds identified nine species of bat. Lesser Horseshow bats were recorded but in low numbers.
 - Habitat Survey Results see figure 6, no Annex 1 habitats recorded nor rare or protected flora. See Habitats and Species Management Plan in Appendix G.
 - Invasive Plant Survey Results- two recorded on the main site see figure 6, eight species recorded along the TDR. All are detailed in Table 10. A Method Statement: Biosecurity is provided in Attachment 5 of the CEMP.
- d) Taking account of the characteristics of the proposed development in terms of its location and the scale of works and the TDR options, hydrological connectivity to European Sites, the issues considered for examination in terms of potential effects on European sites during both construction and or operational stages of the Wind Farm and the TDR are comprehensively set out in Table 12 of the AASR. These include-
- Potential for siltation and other pollutants (e.g. concrete pours, fuels spills etc) to of Roaringwater Bay and Islands SAC
 - Potential for eutrophication from contaminated run off entering Roaringwater Bay and Islands SAC
 - Potential for peat slides to release peat into watercourses draining to Roaringwater Bay and Islands SAC
 - Possible production of methane from peat on site
 - Potential for invasive/biohazards to Roaringwater Bay and Islands SAC via drain culverts and works along the TDR
 - Works at four locations along the TDR
 - Disturbance to Otters using the Bawnaknockane for foraging.

10.1.5. European Sites

- a) Having reviewed the submitted AASR and having had specific regard to the location of the site, and the nature and scale of the proposed development, I

consider the following designated European sites as set out in Table 1 to be within the zone of influence of the application site-

Table 1-

European Site	List of Qualifying interest /Special Conservation Interest	Distance from proposed development (m)	Connections (source, pathway receptor)	Considered further in screening Y/N
Roaringwater Bay and islands SAC (000101)	<ul style="list-style-type: none"> • 1160 Large shallow inlets and bays • 1170 Reefs • 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts • 1351 Harbour porpoise <i>Phocoena phocoena</i> • 1355 Otter <i>Lutra lutra</i> • 1364 Grey seal <i>Halichoerus grypus</i> • 4030 European dry heaths • 8330 Submerged or partly submerged sea caves 	<p>c. 6.5km south of main wind farm site.</p> <p>c. 200m south of proposed works to N71 at Ballydehob</p>	Hydrological connectivity- to SAC	Yes

b) Conservation Objectives-

- 000101 SAC- Available to view at-
https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000101.pdf
- European Union Habitats (Roaringwater Bay and Islands Special Area of Conservation 000101) Regulations 2021 (Statutory Instrument S.I. No. 470 of 2021)- Available to view at-
<https://www.irishstatutebook.ie/eli/2021/si/470/made/en/pdf>

- c) I have considered other European Sites in the wider area including the 19 others as identified in the AASR. I note commentary in the AASR in relation to the Lesser Horseshoe Bat which was recorded at the site in very low numbers and the extent of its core sustenance zone of 2.5km and distance to the Glengarriff Harbour and Woodland SAC of c 13.5 km. I have also considered similar commentary regarding protected birds some of which were observed at or near the site as per the submitted bird survey, in the context of the large distances between the proposal including TDR and a number of identified SPA's.
- d) I am satisfied that these other European sites can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal sites including TDR's, absence of pathways and the extent of hydrological connectivity and marine waters.

10.1.6. Identification of likely effects

- a) The project is not directly connected to or necessary to the management of any European site. The proposed development is therefore, examined in relation to any possible interaction with the identified European site to assess whether it may give rise to significant effects on in view of the conservation objectives for that site.
- b) I have reviewed the conservation objectives series for the SAC, Table 12 of the AASR and section 5.4.2 of the AASR. These identify the Qualifying Interests within the identified European Sites as well as how the proposed development and TDR route has the potential to significantly impact upon the SAC.
- c) Based on the source-pathway-receptor model and taking account of the characteristics of the proposed development and TDR in terms of its nature, location and the scale of works, the sites proximity to European sites and having regard to the NIS carried out for the County Development Plan 2022-28 and implications for this site and TDR, the following issues are considered for examination in terms of likely effects-

- Potential for siltation and other pollutants (e.g. concrete pours, fuels spills etc) at the application sites
- Potential for eutrophication from contaminated run off
- Potential for peat slides to release peat into watercourses and subsequently downstream
- Possible production of methane from peat on site
- Potential for spread of invasive/biohazards and associated impacts at the site and along the TDR e.g. Rhododendron⁵⁵ and Montbretia⁵⁶ have been identified at the main site
- Potential for impacts from works at four identified locations along the TDR
- Disturbance to Otters using the Bawnaknockane for foraging near Ballydehob.
- Cumulative impact including with other plans and projects in the area

10.1.6.1. Roaringwater Bay and islands SAC (000101) Impacts

Having particular regard to the above and section 5.4.2 of the AASR these can generally be summarised as follows-

- Direct Impacts-
 - *Construction Stage-*
 - The site is not located within the SAC and is sufficiently distant considering the works proposed.
 - *Operational Stage-*
 - The site is not located within the SAC and is sufficiently distant considering the nature of use proposed.
- Indirect Impacts (noting the hydrological connectivity from the site, the part of the site located near Ballydehob and the overall proximity of the site to the SAC)-
 - *Construction Stage-*

⁵⁵ <https://assets.gov.ie/79136/2403570f-4730-47ed-96fe-c5a96e966f2c.pdf>

⁵⁶ <https://assets.gov.ie/79142/011f8e2f-e313-40f4-903d-0f928ad5ab98.pdf>

- Risk of silt, suspended solids, contaminants, pollutants, nutrients, emissions etc. and runoff draining from site to SAC- potential negative impact e.g. affecting spawning sites of salmonoids which are prey species for otter, other protected aquatic species. Such risk possible from all works and related activities on site
 - Potential risk of peat slippage into watercourses draining to SAC including from proposed blocking of onsite drains
 - Increase risk of run off through flood event in poor weather or poor management of pumped water etc.
 - Nutrient run off increases risk of eutrophication of watercourses lowering capacity of streams to support fish and aquatic fauna etc.
 - Potential risk of spreading Invasive Species from the main wind farm site. Rhododendron has the potential to smother watercourses (see footnote 43) and could negatively impact hydrological regimes and connectivity to the SAC.
 - Potential risk of spreading Invasive Species along the TDR and from works at the N71 to facilitate the TDR especially noting the proximity of the TDR to the SAC c.200m at Ballydehob.
 - Potential risk of disturbance and displacement to otter, grey seal and harbour porpoise noting the proximity of the site and works along the N71 near Ballydehob c.200m- See maps 6 and 7 of the Conservation Objectives⁵⁷.
- *Operational Stage-*
 - The potential for disturbance, displacement, collision or barrier effects for protected birds recorded at the site during the bird surveys i.e. chough, peregrine and golden plover is not considered likely given the small numbers recorded with habitats used by these species widespread in the surrounding region.
 - Negative impacts to Lesser Horseshoe Bats are also excluded given small numbers recorded at site, their core substance zone

⁵⁷ https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000101.pdf

and distance to Glengarriff Harbour SAC and lack of connectivity to same.

- Potential risk of wastewater emissions to surface waters from services provided in the substation building
- Potential for pollutants and contaminants discharging to surface waters and onto the SAC from operational activities at the site including maintenance and service vehicles etc.
- Potential risk of spreading identified Invasive Species by human related and maintenance activities etc.

10.1.6.2. In-combination Impacts

- a) The applicants AASR details these as plans or projects that are completed, approved but uncompleted or proposed. They indicate they completed planning searches of the Council website focusing on major projects within 20km of the proposed development for a seven year period prior to 14/03/2022. Searches included a review of the IWEA webpage⁵⁸.
- b) Pages 84-90 of the AASR considers other wind farms existing and permitted in the wider area, more local land uses, recreational pressure, factories and other businesses, large housing developments, solar farms and plans including the County Development Plan and the National Biodiversity Action Plan. In terms of in-combination impacts it generally finds the connectivity between such sites and the distances involved, including to the SAC are so large that significant in-combination impacts are unlikely in this context.
- c) I have considered these in full and carried out a review of more recent planning applications in the area to include the time that has passed since the NIS was prepared. I have not identified any other large scale applications that would contribute to significant in-combination effects with the proposed development on the identified European Site.

10.1.7. Mitigation Measures

⁵⁸ Irish Wind Energy Association (www.iwea.ie)

- a) No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

10.1.8. Screening Determination Conclusion

- a) The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.
- b) The submitted AASR appears to me to have been carried out with a large degree caution given the large separation distances involved especially from the main wind farm site where any siltation or pollutants in discharge to the SAC would be minimal and most likely sufficiently diluted and dispersed by marine waters within the SAC.
- c) Having carried out Screening for Appropriate Assessment of the project and having regard to the extent of the development and the proximity of part of the site at the N71 near Ballydehob which is located c. 200m from the SAC and based on a precautionary approach, it has been concluded that the project individually (or in combination with other plans or projects) could potentially have significant effects on the following European Site-
 - Roaringwater Bay and islands SAC (000101)in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment to include mitigation measures is therefore required.

10.1.9. Stage 2 – Appropriate Assessment

- a) Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded that the proposed development individually or in-combination with other plans or projects will not have a significant effect on the following European sites-
 - the Roaringwater Bay and islands SAC (000101)
- b) The NIS is prepared by Fehily Timoney (FT) dated October 2022 and is located within Appendix 10.1 of the EIAR i.e. section 6. It examines and assesses likely effects of the proposed development on the European Site listed above.

- c) Section 6.1 describes the potential significant effects of the proposed development.
- d) The NIS concludes that-

“For the reasons set out in detail in this NIS, in the light of the best scientific knowledge in the field, all aspects of the proposed development which, by itself, or in combination with other plans or projects, which may affect the relevant European Site(s) have been considered.

The NIS contains information which the competent authority, may consider in making its own complete, precise and definitive findings and conclusions and upon which it is capable of determining that all reasonable scientific doubt has been removed as to the effects of the proposed project on the integrity of the relevant European site(s). In the light of the conclusions of the assessment which it shall conduct on the implications for the European site(s) concerned, the competent authority is enabled to ascertain that the proposed project will not adversely affect the integrity of any of the European site(s) concerned.”

- e) I have reviewed the documents on file. I am satisfied that they provide robust, and comprehensive information in respect of the baseline conditions at the main windfarm site and the overall proposal including the turbine delivery route. Potential impacts have been identified in my view with an abundance of caution and the information provided allows for a reasonable assessment of any adverse effects of the development, on the conservation objectives of the identified European site alone, or in combination with other plans and projects.

10.1.10. Appropriate Assessment of implications of the proposed development

10.1.10.1. Introduction

- a) The following is a summary of the objective scientific assessment of the implications of the proposed development on the qualifying interest features of the above identified European site having regard to the best scientific knowledge in the field. Having considered the submitted NIS I am satisfied all

aspects of the project which could result in significant effects have been adequately considered and mitigation measures designed to avoid or reduce such adverse effects have been evaluated and reasonably proposed.

b) The following guidance has also been considered in the context of the submitted NIS and this assessment.

- OPR Practice Note PN01 (2021), Appropriate Assessment Screening for Development Management
- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service, Dublin.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC]
- www.npws.ie

10.1.10.2. European Sites

a) The following sites are subject to Appropriate Assessment:

- the Roaringwater Bay and islands SAC (000101)

b) Table 1 of this assessment the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites (See section 10.1.5).

c) The sites Conservation Objectives and Qualifying Interests/Special Conservation Interests are set out in section 6.3 of the NIS i.e.-

- 1160 Large shallow inlets and bays
- 1170 Reefs
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts

- 1351 Harbour porpoise *Phocoena phocoena*
- 1355 Otter *Lutra lutra*
- 1364 Grey seal *Halichoerus grypus*
- 4030 European dry heaths
- 8330 Submerged or partly submerged sea caves

d) A detailed analysis of the relevant attributes and targets for the site and assessment of same is then set out in section 6.4 and Table 17 of the NIS.

10.1.10.3. Main Aspects

a) Having considered all of the above and noting the contents of the NIS⁵⁹ and section 10.1.6.1 of this report, I am satisfied the main aspects of the proposed development that could adversely affect the conservation objectives of the identified European site occur during the construction stage. These are-

1. Impacts of contaminated surface water discharges and/or increased uncontrolled surface water run-off to local watercourses from the site and onto the SAC during construction e.g. silt-laden runoff, hydrocarbons, cement based products, peat nutrients leading to eutrophication etc. This impact could have adverse implications for the following protected species and habitats and summarised as follows-
 - Otter-
 - potential deterioration in water quality which in turn could result in reduction of abundance of prey.
 - Possible disturbance considering proximity of works at N71 near Ballydehob, to the Bawnaknockane river and the SAC c.200m. Conservation objective details Otters

⁵⁹ The Board should note the submitted NIS has not identified the proximity of part of the site at the N71 just east of Ballydehob, the works proposed therein and the proximity of those works to the Roaringwater Bay and islands SAC (000101) designated site at c.200m including the nearby river Bawnaknockane. While the extent of such impacts may not be significant in the absence of information to the contrary it is considered appropriate to include them here.

need lying up areas throughout their territory where they are secure from disturbance.

- Harbour Porpoise-
 - Possible disturbance considering proximity of works at N71 near Ballydehob, marine waters and the SAC c.200m. The designated Conservation Objective requires human activities should occur at levels that do not adversely affect the harbour porpoise community at the site.
- Grey seal
 - Possible disturbance considering proximity of works at N71 near Ballydehob, marine waters and the SAC. The designated Conservation Objective requires human activities should occur at levels that do not adversely affect the harbour porpoise community at the site.

2. Impacts of Disturbance. This impact could have adverse implications as follows-

- Otter-
 - Possible disturbance considering proximity of works at N71 near Ballydehob, to the Bawnaknockane river and the SAC c.200m. Conservation objective details Otters need lying up areas throughout their territory where they are secure from disturbance.
- Harbour Porpoise-
 - Possible disturbance considering proximity of works at N71 near Ballydehob, marine waters and the SAC c.200m. The designated Conservation Objective requires human activities should occur at levels that do not adversely affect the harbour porpoise community at the site.
- Grey seal

- Possible disturbance considering proximity of works at N71 near Ballydehob, marine waters and the SAC. The designated Conservation Objective requires human activities should occur at levels that do not adversely affect the harbour porpoise community at the site.
- 3. Impacts of Non-native Invasive Species- These have been recorded on the main wind farm site and along the Turbine Delivery Route. These impacts could have adverse implications as follows-
 - Vegetated sea cliffs of the Atlantic and Baltic coasts
 - Potential impact from invasive species entering watercourses and travelling downstream negatively affecting zonation, height, composition etc. of sea cliffs
 - European dry cliffs
 - Potential impact from invasive species entering watercourses and travelling downstream negatively affecting vegetation cover, structure and composition.
- b) In terms of the operational phase and considering the nature of the proposed development, the qualifying interests and conservation objectives of the identified European Sites, and the separation distances, I consider that the proposed development when operational would not be likely to adversely affect the integrity of the European Sites in light of its conservation objectives. There is, however, a very low potential for pollutant run-off from human and wind farm service related activity to result in a deterioration in water quality. The extent of this low risk is unlikely to be significant.

10.1.10.4. Mitigation Measures

- a) Section 6.7 of the NIS discusses how mitigation was incorporated into the overall design proposal to include recommendations arising from consultations with IFI. Such design measures include-
 - keep on site hardstanding to a minimum,

- to minimise land take of habitats and flora, use of existing firebreaks where possible for grid connection
- undergrounding of cabling to avoid bird collision risks
- crossing of nine drainage ditches with access tracks with works to be done in consultation with the IFI.

b) Table 18 of the NIS details specific proposed mitigation measures to avoid any significant impacts to the SAC, which could potentially arise from the proposed development in the absence of such measures. The measures proposed are detailed as-

1. Appointment of an Ecological Clerk of Works (ECoW)
2. Implementation of Construction and Environment Management Plan (CEMP)- See Appendix E.
3. Appointment of an Environmental Manager
4. Silt Traps and silt fencing measures
5. Settlement Ponds
6. Zoning in case of Peat Slip
7. Communication and Consultation with IFI.
8. Containment, Treatment and Eradication of Invasive Species prior to construction. Dedicated Biosecurity Plan (See CEMP- A Method Statement: Biosecurity). Specific measures detailed for each species.
9. Substation- Wastewater holding tank to be a sealed storage tank, tankered off site and disposed to an authorised treatment plant
10. Water Monitoring at established baseline sampling points (Appendix D).
11. Habitats or Flora- No disturbance to habitats or flora outside the proposed project area with all works restricted to immediate footprint of the development site.
12. Toolbox talk
13. Plant inspection and Maintenance

14. Pollution Incident Control Response including Emergency Response Plan (see Appendix E)
15. A buffer zone of 50m will be maintained from all streams with exception of road upgrades.
16. Tree Felling
 - i. Schedule-subject to licence
 - ii. Felling schedule to be away from aquatic zones, additional silt fencing erected along banks of watercourses where trees to be felled.
 - iii. Felling and timber extraction to avoid creating conduits for surface water flows
 - iv. Grass seeds to be sown post-harvest to aid sediment filtration and nutrient absorption
 - v. Machine operations to avoid heavy rainfall etc
 - vi. Removal of debris to avoid nutrient seepage
17. Turbine Delivery works location- clearance of hedgerows and trees etc as per above
18. Road Construction- constructed with aggregate and not hard paved reducing run off.
19. Wind Farm Drainage- no interference with natural watercourses, new drains to be shallow to minimise subsoil disturbance, interceptor drains to be provided, SUD grassed swales will be used etc.
20. Wheel wash facilities at site entrance with self-contained water tanks to be filled regularly.
21. A number of best practise measures for-
 - i. Concrete
 - ii. Manage hydrocarbons
 - iii. Refuelling
 - iv. Spill Control

- v. Welfare Utilities
- vi. Contaminated materials

22. Minor watercourse crossings, duct installations etc

23. Standing water during excavations with high content of suspended solids etc. Pumped into site drainage system (but not directly) to settlement ponds, constructed in advance of excavations.

24. Dewatering of foundations- if required. Temporary settlement ponds, diffuse flows distributed by level spreaders with no direct discharge to watercourses.

25. Emergency Response Plan, See CEMP Appendix E

26. Peat Management including-

- i. Avoid stockpiling
- ii. Reuse for restoration and landscaping
- iii. Monitoring during road construction
- iv. Blocking of drains proposed for peat restoration in accordance with NPWS Guidance.

27. Inspections-

- i. Quarterly for erosion and sediment control on site for first year and annually thereafter

28. Settlement Ponds as per surface water management plan- see Appendix 10, Appendix E CEMP section 5.3.

29. All construction phase mitigation will be implemented during decommissioning.

- c) I consider that the proposed mitigation measures outlined in the NIS generally comprise relatively standard best practice measures for such development project types and for construction works in the vicinity of watercourses. I consider that the proposed measures, as well as the detailed construction methodology and further management plans contained within the CEMP (NIS Appendix E) are suitably detailed to remove any lack of clarity regarding

potential adverse effects and that they are capable of being successfully implemented. I note that it is also proposed to appoint both an Ecological Clerk of Works and an Environmental Manager to ensure that the mitigation measures and best practice measures are fully implemented as well as communication and consultation with the IFI.

10.1.10.5. In-combination Effects

- a) Having considered all the information above, section 10.1.10.5 and noting the NIS detailed need for mitigation measures, I am satisfied that no significant adverse in-combination effects from other plans or projects will arise to the detriment of the SAC.

10.1.10.6. Integrity Test

- a) Having considered the submitted AASR and NIS and following this Appropriate Assessment including consideration of the proposed mitigation measures, I am able to ascertain with confidence that the proposed development would not adversely affect the integrity of the Roaringwater Bay and islands SAC (000101) in view of the Conservation Objectives for this site.
- b) This conclusion has been based on a reasonable assessment of the implications of the proposal alone and in combination with other plans and projects.

10.1.11. Conclusion

- a) I note concerns raised by observers to the appeal including that the first party Appeal Response report submitted is inconsistent with the legal obligations under the habitat directives. In the absence of any specific information detailing such inconsistencies I am satisfied the submitted AASR and NIS provide a more than reasonable basis for consideration of these matters.
- b) The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate

Assessment of the project, it was concluded that it may have a significant effect on the Roaringwater Bay and islands SAC (000101)

- c) Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that sites in light of its conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site No. 000101, or any other European site, in view of the site's Conservation Objectives.
- d) This conclusion is based on a full and detailed assessment of all aspects of the proposed development including proposed mitigation measures in relation to the Conservation Objectives of the European sites and an assessment of likely in-combination effects with other plans and projects. No reasonable scientific doubt remains as to the absence of adverse effects on the integrity of the European Sites.

11.0 The Planning Authority's first refusal reason

- 11.1.1. The Planning Authority first refusal reason considers the proposed development would be likely to have a permanent significant negative effect on habitats of high ecological value on site and therefore the granting of permission for this development would contravene materially a development objective indicated in the Cork County Development Plan 2022, Objective BE 15-2.
- 11.1.2. The basis for this reason appears to be based on the Council Ecology Officer's report in which concerns were raised in relation to significant effects on habitats of high ecological value.
- 11.1.3. The Applicants have sought to address the concerns raised in their appeal including the submission of an Ecology Response Report prepared by Fehily Timoney.
- 11.1.4. I have considered the matters raised by the Ecology Officer, the contents of the submitted EIAR and the Ecology Response Report in section 9.12 of this report. Having regard to these and the comprehensive EIAR mitigation measures proposed, I consider that subject to planning conditions including implementation of the

proposed 'Habitats and Species Management Plan' the first refusal reason has been adequately addressed and the proposal would not be contrary to Objective BE 15-2 of the County Development Plan 2022-28.

12.0 The Planning Authority's second refusal reason

12.1. Introduction

12.1.1. The Planning Authority's second refusal reason is primarily based on the fact that the majority of the site and proposed development is located within an area designated in the Cork County Development Plan's (CDP) Wind Energy Strategy (WES) as 'Normally Discouraged for wind farm development'. The Board are referred to Figure 13.2 page 297 of the CDP.

12.1.2. The refusal reason quotes CDP Policy Objective ET 13-8 which states that-

"Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments) and only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered"

12.1.3. The reason is further justified by the CDP Landscape Character Assessment where the site is designation within an area defined as 'Rugged Ridge Peninsula' with a Landscape Value of Very High, a Landscape Sensitivity of Very High and a Landscape Importance of 'National'.

12.1.4. The reason then refers to the following CDP Policy Objectives- GI 14-9, GI 14-12, GI 14-13 and GI 14-14 which in summary seek to protect the visual and scenic amenities of County Cork's built and natural environment and preserve the character of all important views and prospects including those obtainable from scenic routes.

12.1.5. The reason then specifically refers to the 'West Cork Peninsulas' and CDP Policy Objective 10-5 which they summarise as seeking to protect and conserve those natural, built and cultural heritage features that form the resources on which the County's tourist industry is based including areas of important landscape, coastal scenery, and areas of important wildlife interest.

12.1.6. In summary, the Planning Authority conclude the proposed wind farm development in an area where such proposals are normally discouraged would provide a highly intrusive visually domineering form of development in this 'high value landscape' which would contravene materially the stated objectives of CDP, would interfere with the character of the landscape and would seriously injure the visual and scenic amenities of the area.

12.2. The Appeal

12.2.1. The First Party Appeal accepts the sites location as predominantly within an area designated as 'Normally Discouraged' as per the WES of the CDP 2022-2028. The Applicants however, put forward a comprehensive response to the second refusal reason that can be summarised as follows-

- that the Councils straight refusal does not reflect national policies in relation to the urgent climate crisis,
- that the WES Map as set out in the CDP is limited by outdated and arbitrarily delineated boundaries which do not reflect the urgency of the climate crisis,
- that the site straddles an area where wind farms are acceptable in principle and normally discouraged
- that CDP Objective ET 13-8 makes provision for the proposed development in exceptional circumstances and such circumstances prevail in this case due to the Climate Emergency and as no significant ecological, landscape, amenity, recreational and settlement impact will arise.

12.3. Planning Policy Framework

12.3.1. The National Planning Framework (NPF) published in 2018 is the Government's high-level strategic national plan for shaping the future growth and development of Ireland out to the year 2040. The legislative basis for this is set out in Chapter IIA of the Planning and Development Act 2000 as amended (PDA). Section 20B of the Act provides objectives for the NPF of which paragraph (a) states-

"to establish a broad national plan for the Government in relation to the strategic planning and sustainable development of urban and rural areas"

12.3.2. Section 20C of the Act details matters to be addressed in the NPF with subsection (2) paragraphs (b) (d) and (e) detailing-

- national infrastructure priorities regrading energy,
- the conservation of the environment and amenities including the landscape and
- the promotion of measures to reduce anthropogenic greenhouse gas emissions and to address the necessity of adaptation to climate change.

12.3.3. In the context of the subject application, I refer the Board to National Policy Objective 55 of the NPF which states and seeks to-

“Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.”

It is clear planning policy that only ‘appropriate locations’ should be promoted for renewable energy use.

12.3.4. Section 10 of the PDA sets out legal provisions for the contents of a Development Plan. Section 10 (2) requires the plan to includes objectives. Section 10 (2) (e) requires an objective for-

“the preservation of the character of the landscape where, and to the extent that, in the opinion of the planning authority, the proper planning and sustainable development of the area requires it, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest”

12.3.5. The current Cork CDP came into effect on 6th of June 2022. The CDP and its associated Wind Energy Strategy was clearly prepared with due regard to current national and regional planning policy. It was also subject to evaluation by the Office of the Planning Regulator (OPR) for compliance with same policies.

12.3.6. I have considered the Appellant’s explanation of the CDP policy formulation and their assertions and criticisms of outdated and arbitrarily delineated boundaries which do not reflect the urgency of the climate crisis. I acknowledge their clear frustrations in relation to this policy formulation and subsequent location of the majority of the site

in an area designated as “Normally Discouraged” and the other sensitivities attributed including Landscape Character Assessment of ‘Rugged Ridge Peninsula’ with a Landscape Value of ‘Very High’, a Landscape Sensitivity of ‘Very High’ and a Landscape Importance of ‘National’.

12.3.7. Section 10 (2) (e) of the Act is clear, it is ‘*the opinion of the Planning Authority*’ that determines this objective. The Council have developed their Wind Energy Strategy as part of the CDP process and this should not be undermined. In my opinion, it is not within the remit of the Board to consider the adequacy or reasons behind policy formulation. The fact of the matter is the elected members of Cork Council have carried out their democratically elected and reserved function by making the 2022-2028 CDP. They have designated the majority of the application site as located within an area ‘Normally Discouraged’ for Wind Farm developments and this has been subject to statutory oversight by the OPR.

12.4. **Material Contravention**

12.4.1. The Planning Authority have refused the development considering it would materially contravene a number of stated objectives i.e.-

- ET 13-8 (Wind Energy, normally discouraged)
- GI 14-9, GI 14-12, GI 14-13 and GI 14-14 (general protection of the visual and scenic amenities of the natural environment and designated scenic views)
- TO 10-5 (tourism, to protect and conserve those natural features that form the resources on which the County’s tourist industry is based including areas of important landscape interest)

12.4.2. Unfortunately, the refusal reason given is rather general and it is not very clear which objective is materially contravened. It is therefore necessary to consider each objective in turn and first form a view if there is a material contravention of the stated objective.

12.4.2.1. **Objective ET 13-8**

- a) Objective ET13-8 is titled ‘Normally Discouraged’ and states that wind energy developments “will be discouraged” as these areas are considered sensitive

to adverse impacts of wind farms. Section 13.6.8 of the CDP details such sensitivities arise from ecological, landscape, amenity, recreational and settlement considerations.

- b) The wording of Policy ET13-8 i.e. '*normally discouraged*' clearly does not provide a blanket prohibition. However the text goes on to state that "*Only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered.*"
- c) Therefore, before any exceptional circumstance can be considered such as that put forward by the Applicant i.e. the Climate Emergency, the Board must first be satisfied that adverse impacts arising from ecological, landscape, amenity, recreational and settlement considerations do not occur.
- d) Having regard to section 9.5 of this assessment and my overall conclusion on same, I consider adverse impacts on the designated landscape would occur if the proposed development was permitted and constructed. Therefore exceptional circumstances cannot be considered and the proposed development **would materially contravene** CDP Objective ET13-8.

12.4.2.2. Objectives GI 14-9, GI 14-12, GI 14-13 and GI 14-14

- a) Having regard to section 9.5 of this assessment and my overall conclusion on same, I consider the proposed development **would materially contravene objective GI 14-9** 'a' and 'd' which seeks inter alia to-

a. Protect the visual and scenic amenities of County Cork's built and natural environment.....

d. Protect skylines and ridgelines from development.

- b) Objective 14-12 seeks to-

Preserve the character of all important views and prospects, particularly....., views of unspoilt mountains, upland....landscapes,.... and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

Having regard to section 9.5 of this assessment and my overall conclusion on same the proposed development **would materially contravene Objective GI**

14-12 as the proposed development would not preserve the character of all important views and prospects including unspoilt mountains, and upland landscapes in this 'High Value Landscape'.

c) Objective GI 14-13 states-

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan.

Having regard to section 9.5 of this assessment and my overall conclusion on same, I consider the proposed development **would materially contravene objective GI 14-13** with specific regard to views and prospects obtainable from scenic routes S30, S90, S92, S93 and S108.

d) In terms of Objective GI 14-14 the applicants have submitted an EIAR with a comprehensive Landscape and Visual Impact Assessment. I have reached a different conclusion to the Applicant in terms of the impacts identified and the extent of such impacts the proposal certainly contravenes this objective. However, I am not convinced the proposal represents a material contravention of this objective.

12.4.2.3. Other Relevant Objective GI 14-10

a) I also refer the Board to Objective GI 14-10 Draft Landscape Strategy which states-

“Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.”

b) Having regard to section 9.5 of this assessment and my overall conclusion on same, I consider permitting the proposed development **would materially contravene Objective GI 14-10** as the proposed development would not

minimise the visual impact of the development, in this area designated as 'High Value Landscape'.

- c) As contravention of this objective did not form part of the Planning Authority's refusal reason the Board may wish to consider if this is a 'New Issue' and if the views of the party should be sought. However, I am satisfied this objective comfortably fits into landscape and visual impact considerations and in particular objective ET 13-8 that forms the basis of the Planning Authority's decision and accordingly is not a new issue for me.

12.4.2.4. Objective TO 10-5

- a) This objective explicitly seeks to

"Protect and conserve those natural.....features that form the resources on which the County's tourist industry is based. These features will include areas of important landscape....."

- b) Section 14.8.8 of the CDP states-

"Landscape Character Types which have a very high.....landscape value and.....very high landscape sensitivity and are of.....national importance are considered to be our most valuable landscapes and therefore are designated as High Value Landscapes (HVL)...."

- c) Therefore to permit a development such as the proposed wind farm which is normally discouraged in 'High Value Landscapes' would not protect and conserve a natural and important landscape. Accordingly, the proposal **would materially contravene** Objective TO 10-5.

12.4.2.5. Conclusion

- a) Having considered the above I am satisfied the proposed development materially contravenes Objectives ET 13-8, GI 14-9, GI 14-10, GI 14-12, GI 14-13, and TO 10-5.
- b) The Board are reminded that section 37 (2) (b) of the Act provides that where the Planning Authority have refused on the grounds of material contravention

of the development plan, permission can only be granted if the Board considers-

- i. the proposal of strategic or national importance,*
 - ii. there are conflicting objectives in the development plan or the objectives are not clearly stated,*
 - iii. permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - iv. having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*
- c) I accept the proposed development could be considered of strategic or national importance given the current Climate Emergency. However the Board will note that National Policy Objective 55 of the NPF seeks to promote renewable energy use and generation at “**appropriate locations**”. It is clear the site is not an appropriate location as per the Wind Energy Strategy of the County Development Plan 2022-2028 and there are no conflicting objectives in this regard.
- d) I also note the provisions of section 37 (2) (b) (iii) and (iv). I have considered the proposal against the criteria listed therein. However as the CDP and WES were prepared with due regard to current national and regional climate action and planning policy including section 28 guidance and was subject to evaluation by the Office of the Planning Regulator for compliance with said policy, I see no reason why the Board should feel obliged or obligated to use its powers under section 37 (2) (b).
- e) The site is located in designated Landscape Character Area titled ‘Rugged Ridge Peninsulas’ which has a very high landscape value and very high landscape sensitivity and is of national importance. Section 14.8.8 considers such areas to be amongst Corks most valuable landscapes and therefore is

designated as High Value Landscapes (HVL). The application site is not considered an appropriate location for the proposed development and accordingly, I can only recommend that permission is **refused** as the proposed development would materially contravenes Objectives ET 13-8 (where no exceptional circumstance are considered applicable due to the proposals adverse impacts on the Landscape), Objectives GI 14-9, GI 14-10, GI 14-12, GI 14-13, and TO 10-5 of the Cork County Development Plan 2022-2028 and would be contrary to National Policy Objective 55 of the National Planning Framework which seeks to promote renewable energy use and generation at “appropriate locations”.

13.0 The third party appeal

- 13.1.1. One third party appeal was received on this application. It detailed the Appellants generally agreement with the Planning Authority’s refusal and the reasons therein but further considered the application should have been refused for another reason as the Council have no authority to make any decision on the application as it is invalid by virtue of non-compliance with the requirements of Directive 2001/42/EC (the Strategic Environmental Assessment (SEA) Directive). This position seems contradictory to some extent as it seems the Appellant is seeking the application to be declared invalid yet requires an additional refusal reason to the decision.
- 13.1.2. The Appellant’s grounds of appeal go on to cite a decision of the Court of Justice of the European Union (CJEU) under 24/19 in Belgium as relevant to the Council’s jurisdiction to permit the subject development. In summary this judgement appears to have annulled a development consent on the basis that decision was pursuant to a 2006 Belgian Circular that had not been subject to SEA and accordingly Directive 2001/42/EC.
- 13.1.3. More specifically and in the context of the subject appeal, the grounds argue the Irish Policy Framework for wind farms based on the 2010 National Renewable Energy Action Plan (N-Reap) and subsequently the National Energy and Climate Plan 2021-2030 (NECP) as well as the 2006 Ministerial Guidelines on Wind Energy Development, all constitute plans or programmes within the meaning of Directive 2001/42/EC and have been adopted without carrying out a Strategic Environmental

Assessment (SEA). Consequently the proposed application should fall similar to CJEU 24/19.

13.1.4. The Applicants have responded to the third party appeal challenging the considerations of the third party Appellant. They include a 'Legal Opinion' from Mr. Oisín Collins Senior Counsel which considers the third party Appellants submission as 'misconceived'.

13.1.5. I have read this 'Opinion' in full. This 'Opinion' generally summarises the findings pertinent to CJEU 24/19 which found the 2006 Circular-

“while not exhaustive, was prescribing certain standard and matters that would be binding on the competent authorities ultimately determining the development consent applications. It was in those circumstances that the Circular was found to require SEA and, in the absence of same, development consents granted bound by the terms of same were also invalid.”

13.1.6. The 'Opinion' then refers to a recent CJEU level judgement (9/22 and Irish Court judgement Kerins Vs ABP on whether a Masterplan for a development required SEA and draws parallels to the considerations here i.e. whether or not the 'plans' cited by the Appellant are in fact binding on the Board as a matter of Irish Law. In terms of the NREAP and NECP, Mr. Collins describes this as high level and generic and does not prescribe any matters binding on the Board. The 2006 Wind Energy Guidelines are described as just that 'Guidelines'. The Board is obliged to have regard to them but no more as per section 28 of the Planning and Development Act 2000 (as amended).

13.1.7. The third party Appellant has also submitted an observation to the first party appeal. This observation does not specifically address the Applicants response to the third party appeal.

13.1.8. Having considered the above and all of the relevant information on file it is my understanding that the application of SEA of the NREAP, the NECP and the Wind Energy Guidelines is not a mandatory requirement of Directive 2001/42/EC and therefore the Council and An Bord Pleanála do have the appropriate jurisdiction to decide on this planning application. My understanding generally aligns with 'Legal Opinion' as put forward by the Applicants. However, I also understand an actual determination on this matter is one for the Courts and I would suggest that the

development management process is not the appropriate forum to determine otherwise.

- 13.1.9. In conclusion I recommend the Board reject the third party ground of appeal and decide upon the application accordingly.

14.0 Other Matters-

14.1. Archaeological Setting

- 14.1.1. The Planning Authority's County Archaeologist report (04/05/23) recommended turbine 3 should not be permitted due to the proximity of a recorded monument and the visual impact upon same. This matter did not form part of the Councils refusal reasons.
- 14.1.2. I have given this consideration under section 9.11 of this report. In the absence of a comprehensive assessment of the visual impact of turbine 3 upon the recorded monument and its setting within the EIAR or the appeal, it is likely the level of visual intrusion arising would be so significant, it would warrant omission of the turbine from any grant of permission. Should the Board be minded to grant permission and omit the turbine they may wish to consider if it is a 'New Issue'.
- 14.1.3. Notwithstanding the above and having regard to the substantive matters forming my overall recommendation to refuse I am satisfied this matter does not need to be pursued through the refusal reason.

14.2. Procedural issue relating to first party appeal submission.

- 14.2.1. The application requires felling of c. 2.3ha of existing conifer plantation to facilitate the proposed development. The application proposes 2.5ha of broadleaf planting in lieu however the location of same is not identified within the submitted application documents.
- 14.2.2. In response to concerns raised by the Planning Authority Ecology Officer the Applicant seeks to address this issue in their appeal. They highlight the additional 2.5 hectares are located on low-value habitat lands immediately adjacent to the site as per drawing 5499-1069 submitted with the appeal.

- 14.2.3. This drawing identifies the area of proposed replacement planting to the north of and outside of the application site. It also includes for lands under the control of a new landowner Mr Eugene Murnane who was not identified as part of the original application landowners. A letter from Mr Murnane is submitted with the appeal and indicates consent to include these lands and the inclusion of a condition in a decision requiring planting on these lands by the Board. The Applicant details in their appeal that these lands are under their control and accordingly the Board may impose a condition in accordance with section 34(1) and 34(4)(a) of the Acts.
- 14.2.4. The Board will note the original drawings for this application do not identify these lands in blue as per article 22 (2) (b) (ii) of the Planning and Development Regulations 2001-23 (as amended). The drawings submitted with the appeal also do not show this land in blue.
- 14.2.5. The Board may wish to consider the validity of the application in this regard. I note the third party appellant nor the observers to the file have raised any concerns in this regard.

15.0 Recommendation

- 15.1. I recommend that permission is refused for the following reason-

16.0 Reasons and Considerations

1. The National Planning Framework (2018) National Policy Objective 55 seeks to promote renewable energy use and generation at *appropriate locations* within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050. The majority of the site of the proposed development including six no. wind turbines, site substation, associated grid connection infrastructure, meteorological mast, site entrance, associated on-site access roads, lies within an area designated-
 - 'Normally Discouraged' for wind farm development as per Figure 13.3 Wind Energy Strategy Map
 - 'High Value Landscape' area as designated in Figure 14-2 – High Value Landscapes and

- as detailed in the Landscape Character Assessment of County Cork i.e. identified as ‘Rugged Ridge Peninsulas’ landscape character type with a ‘Very High’ landscape value, ‘Very High’ landscape sensitivity and of ‘National’ landscape importance.

in the County Development Plan 2022-28. Policy Objective ET 13-8 of the County Development Plan states that-

“Commercial wind energy developments will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments) and only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered”.

The Board considers the location of the majority of the proposed development at this location would be contrary to the provisions of NPO 55 of the National Planning Framework as the majority of the proposed site is not an ‘appropriate location’ having regard to the provisions of the Wind Energy Strategy of the Cork County Development Plan 2022-28.

The Board, having regard to ‘County Development Plan Objective ET 13-8: ‘Normally Discouraged’ also considers the proposed development would have adverse impacts on the landscape and accordingly the ‘exceptional circumstances’ provided for within the objective cannot apply. Therefore, the proposed development is considered to materially contravene policy objective ET 13-8 of the County Development Plan.

Furthermore, the Board also considers the proposed development would have significant visual and landscape impacts from stretches of designated scenic routes towards the application site most notably S30, S90, S92, S93 and S108 that have very special views and prospects identified in Volume 2 Chapter 5 of the County Development Plan. Accordingly, the proposed development would materially contravene County Development Plan Objectives GI 14-13 Scenic Routes.

The proposed development would also materially contravene Objectives-

- GI 14-9 which seeks to protect visual and scenic amenities of County Corks natural environment and to protect skylines and ridgelines from development.
- GI 14-10 which seeks to ensure that the management of development throughout the County will have regard for the value of the landscape as recognised in the Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes
- GI 14-12 which seeks to preserve the character of all important views and prospects, particularly views of unspoilt mountains and upland landscapes,
- TO 10.5 which seeks to protect and conserve those natural features that form the resources on which the County's tourist industry is based include areas of important landscape

and would be contrary to-

- GI 14-14 which requires the appropriateness of the design, site layout, and landscaping of the proposed development to be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.

Having regard to the height, scale and location of 6 no. turbines (T02, T03, T04, T05, T06 and T07) within an area identified as being 'normally discouraged' for wind farm development, the highly prominent skyline nature of the wind turbines and siting on an elevated ridgeline, the high level of visibility of the proposed turbines over an expansive area and the prominent nature of the proposed turbines and visibility from designated scenic routes, it is considered that the proposed development would constitute a highly visually obtrusive development at an inappropriate location that would unacceptably interfere with the character of the designated 'High Value Landscape' of which there are stated objectives to preserve. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Adrian Ormsby
Planning Inspector

8th of March 2024