

File With _____

SECTION 131 FORM

Appeal NO: ABP - 305972 - 19

Defer Re O/H



TO: SEO

Having considered the contents of the submission dated 22/01/2020 received fromApplicant

I recommend that section 131 of the Planning and Development Act, 2000

be not be invoked at this stage for the following reason(s): No new material issuesE.O.: slate delayDate: 03/02/2020

To EO: _____

BP23 to issueSection 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORMAppeal No: ABP-305972-19M S. CarletonPlease treat correspondence received on 22/01/2020 as follows:

- | | |
|--|--|
| 1. Update database with new agent for Applicant/Appellant _____
2. Acknowledge with BP <u>23</u>
3. Keep copy of Board's Letter ☐ | 1. RETURN TO SENDER with BP _____
2. Keep Envelope: ☐
3. Keep Copy of Board's letter ☐ |
|--|--|

Amendments/Comments

Applicant's response to ISI notice sent 18/12/2019. LID# 23/01/2020. ON TIME

4. Attach to file

- | | |
|---|---|
| (a) R/S ☐ | (d) Screening ☐ |
| (b) GIS Processing ☐ | (e) Inspectorate ☐ |
| (c) Processing ☐ | |

*File beside my desk.*RETURN TO EO ☐

	Plans Date Stamped ☐
	Date Stamped Filled in ☐
EO: <i>Mark Vialby</i>	AA: <i>Jennifer Carleton</i>
Date: <i>23/01/2020</i>	Date: <i>27.1.2020</i>

Niamh Thornton

Mark.

From: Bord
Sent: Wednesday 22 January 2020 17:45
To: procbordemail
Cc: Mark Kiely
Subject: FW: An Bord Pleanála Ref: ABP-305972-19 - Construction of 6 Turbine Wind Farm, including Sub-Station, Internal Roads and Borrow Pits at Coore West, Shanavogh East, Shanavogh West, Co. Clare
Attachments: ABP Submission 220120.pdf

From: Howard Williams <howard.williams@inisenv.ie>
Sent: Wednesday 22 January 2020 17:43
To: Bord <bord@pleanala.ie>
Cc: Chris Cullen <chris.cullen@inisenv.ie>
Subject: An Bord Pleanála Ref: ABP-305972-19 - Construction of 6 Turbine Wind Farm, including Sub-Station, Internal Roads and Borrow Pits at Coore West, Shanavogh East, Shanavogh West, Co. Clare

Dear Sir,

I am retracting our letter dated 15th January and submitting the attached letter in its stead. Please confirm receipt of this email submission and its attachment.

Kind regards

Howard

--
Howard Williams BSc CEnv MCIEEM CBiol MRSB MIFM

Chief Executive Officer

Chartered Environmentalist
Chartered Biologist

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l: <http://ie.linkedin.com/pub/howard-williams/37/84a/503>

f: <https://www.facebook.com/pages/Inis-Environmental/200487403442763?ref=hl>
t: @inisenvironment

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Before printing, think about the environment.



22 January, 2020.

In effect, the Court required that the key requirement of a sustainable appropriate assessment must involve the identification of all aspects of the development project which might affect the protected site in the light of its conservation objectives and in particular the identification of precise and definite findings and conclusions which can lead to a determination that no reasonable scientific doubt remains as to the absence of the identified potential detrimental effects.

The Court went on to state at paragraph 13.2 that there must, before a valid appropriate assessment can be said to have been conducted, be a precise identification of the potential risks and importantly, precise scientific findings to allay any fear of those risks coming to pass.

The Court limited its decision to this issue and in respect of the other issues raised at paragraph 14.4 reversed the Judgment of the High Court.

Accordingly, in circumstances where the only criticism is an identification precise and definite findings and conclusions that no scientific doubt remains as to the absence of identified potential detrimental effects on the European sites that any consideration of the application should now be required to focus on, particularly in circumstances where the Supreme Court upheld the approach and findings and methodology employed by the Bord in respect of the consideration of all other matters.

Accordingly, in considering the remitted application the Bord has before it a detailed analysis of the European sites that have the potential, however remote, to be affected by the proposed development and these sites are identified in the Natura Impact Statement submitted with and accompanying the application which was subsequently the subject matter of a comprehensive submission for further information which provided additional data in that regard.

The documentation identifies that within a 15 km radius of the study area there were identified a number of European sites, including the Mid-Clare Coast SPA site code 004182, the Carrowmore Point to Spanish Point and Islands SAC site code 001021, the Carrowmore Dunes SAC site code 002250, the Inagh River Estuary SAC site code 00036, the Lower River Shannon SAC site code 002165 and the Cliffs of Moher SPA site code 004005.

No part of the proposed development site is located within a Natura 2000 Site and the closest Natura 2000 Site to the site of the proposed development, which is the Mid-Clare Coast SPA and the Carrowmore Point to Spanish Point and Islands SAC are located over 6 km to the west of the site. All of the other European sites are located in excess of 10 km from the site.

The Mid-Clare Coast SPA site code 004182 extends along the County Clare coastline in a south to south-westerly direction from Spanish Point to just west of Doonbeg Bay along a distance of 14 km. It comprises mainland shoreline, a series of rocky reefs and open marine water and experiences some of the most severe conditions of exposure in Ireland. The site is of ornithological importance for the range of breeding and wintering birds with Storm Petrels being long known to breed on Mutton Island. Other bird species include the Cormorant, Ringed Plover, Sanderling, Purple Sandpiper, Dunlin, Turnstone, and Barnacle Goose, as well as some areas of wetlands which are part of the feeding habitat.

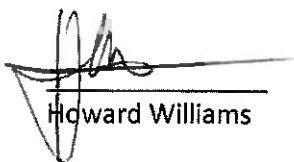
The Natura Impact Statement identifies and describes this area and identifies any potential impact that the development has in respect of the conservation objectives of this site. It concluded that by virtue of the nature and extent of the development, the distance of the development from the site, the nature of the European site itself, which is highly exposed coastal area, that the proposed development will have no impact on the conservation objectives of the site and forms the basis upon which the Bord can conclude to the standard required in the Judgment of the Supreme Court, that is can provide an identification of precise and definitive findings and conclusions which ground a determination that there is no reasonable scientific doubt as to the absence of identified potential detrimental effects on this area. Indeed, it is difficult to identify even potential risks in respect of this or other sites relative to the proposed development, given the nature of the development and its distance from the European Site and the nature of these sites themselves, but there remains no doubt in respect of the absence of potential detrimental effects on these areas.

The Carrowmore Point to Spanish Point and Islands SAC extends along the Clare coastline from Spanish Point to Carrowmore Point and comprises a strip of coastline with several offshore islands and rocks and open marine water between the Islands and the mainland. The conservation objectives for the special area of conservation is to maintain and/or restore the favourable conservation condition of the Annex 2 Habitats for which the SAC has been selected and of qualifying interests, including coastal lagoons, reefs, perennial vegetation of stony banks and petrifying springs with tufa formation. Again the Natura Impact Statement identifies the potential impacts that might arise from the development relative to this site and concludes, by virtue again of the nature and extent of the development, which comprises a relatively small site of 6 structures together with some incidental and ancillary development, that the proposed development will have no impact on this area and contains precise and definitive findings and conclusions which can lead to and ground a determination that no reasonable scientific doubt remains as to the absence of identified potential detrimental effects on this area equally. Again it is difficult to see any basis which a finding other than that contained in the Natura Impact Statement could be arrived at and indeed the Supreme Court Decision deals more with form as opposed to substance and concentrates on the language used, which identifies the findings made and therefore it is submitted that the exercise required is simply an analysis and transposition of the findings made relative to the impact of the development proposed on these sites.

The other sites, that is Carrowmore Dunes, is located over 10½ km south west of the site, the Inagh River Estuary SAC is located over 12½ km north of the site, with the Lower River Shannon SAC located 14 km south/south east and the Cliffs of Moher Special Protection Area located 14.5 km north west of the site. Notwithstanding the nature of the development and the remoteness of the site from all these areas, a full scientific analysis has been carried out and confirms to a standard which ground a conclusion that no reasonable scientific doubt remains as to the absence of any potential detrimental effects on these areas. Accordingly, in the light of the findings contained in the Natura Impact Statement, as supplemented and confirmed by the further information and as confirmed by the overall analysis that has been conducted by the Bord in respect of the Environmental Impact Assessment and the consideration of the application and equally important, in the light of no evidence to the contrary that could even raise a doubt or that is capable of raising a doubt, it is submitted that the Bord has, entirely within the documentation lodged, the basis upon which to conclude to a standard well beyond that which is required in the Supreme Court Judgment the matters that are now required to be addressed.

Of course, in the event that the Bord have any concerns, or if there is any issue in respect of which further information might be required, or if the Bord consider that there is any inadequacy or any issue that requires further investigation, the Applicant is more than happy to deal with these matters, but it is difficult to see how in any circumstances any such requirement would arise and we would respectfully submit therefore that on the basis of the evidence already submitted, that the Bord should proceed and apply the only scientific evidence that is available to it which demonstrates beyond all doubt that the proposed development will have no adverse impact on the conservation objective of any of the European sites and that the test required therefore under Council Directive 9243 EU has been complied with in full.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Howard Williams', is written over a horizontal line. The signature is stylized with a large initial 'H' and 'W'.

Chief Executive Officer

