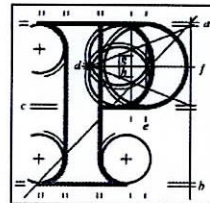


Our Case Number: ABP-316212-23



**An
Bord
Pleanála**

~Development Applications Unit
Government Offices
Newtown Road
Wexford
Co. Wexford
Y35 AP90

Date: 06 June 2023

Re: Proposed development of 26 wind turbines and associated works
at the Ballivor Bog Group, County Meath and County Westmeath

Dear Sir / Madam,

An Bord Pleanála has received your submission in relation to the above mentioned proposed development and will take it into consideration in its determination of the matter.

The Board will revert to you in due course in respect of this matter.

Please be advised that copies of all submissions / observations received in relation to the application will be made available for public inspection at the offices of the local authority and at the offices of An Bord Pleanála when they have been processed by the Board.

More detailed information in relation to strategic infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in the meantime please contact the undersigned officer of the Board. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Niamh Thornton
Executive Officer
Direct Line: 01-8737247

PA09

Tel	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Niamh Thornton

From: SIDS
Sent: Tuesday 6 June 2023 08:48
To: Niamh Thornton
Subject: FW: ABP-316212-23
Attachments: SID-ME-01-2023 - Ballivor Windfarm - ABP-316212-23.pdf

From: Diarmuid Buttimer (Housing) <Diarmuid.Buttimer@npws.gov.ie>
Sent: Friday 2 June 2023 16:55
To: Bord <bord@pleanala.ie>; SIDS <sids@pleanala.ie>
Subject: ABP-316212-23

A Chara,

Please find attached Heritage Related recommendations for the above mentioned SID.

Regards
Diarmuid

Diarmuid Buttimer
Executive Officer

An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta
Department of Housing, Local Government and Heritage
Aonad na nIarratas ar Fhorbairt
Development Applications Unit
Oifigí an Rialtais
Government Offices
Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90
Newtown Road, Wexford, County Wexford, Y35 AP90

—
Diarmuid.Buttimer@npws.gov.ie
Manager.DAU@npws.gov.ie



ABP Ref: ABP-316212-23
Our Ref: SID-ME-01-2023

2 June 2023

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Via email to bord@pleanala.ie ; sids@pleanala.ie

SID Application: Bord na Mona Powergen Ltd: 26-no. wind turbine wind farm: Ballivor Co. Meath and Westmeath

A chara

I refer to Strategic Infrastructure Development correspondence received in connection with the above. Outlined below are heritage-related observations/recommendations of the Department under the stated headings co-ordinated by the Development Applications Unit.

Archaeology

It is noted that the EIAR submitted as part of the planning application includes a desk-based Archaeological Impact Assessment (AIA) which was carried out in relation to the proposed development by Tobar Archaeological Services (EIAR Chapter 12; date 23 March 2023). The Department has reviewed the EIAR and is broadly in agreement with the findings in relation to Archaeology and Cultural Heritage as set out therein.

However, issues of particular concern remain unresolved in relation to:

- 1) ***Indirect impacts to the setting of certain National Monuments and sites subject to Preservation Orders within 10km of proposed development:*** Chapter 12 of the EIAR states that all National Monuments or sites subject to a Preservation Order within 10km of the proposed development site (PDS) were incorporated within the scope of the AIA (see Section 12.2.5 and Table 12.1). However three sites meeting these criteria appear to have been omitted from the assessment:
 - a. ***Tlachtga/Hill of Ward*** (National Monument No 150)
 - b. ***Tower House at Causetown (Lune By)*** (Preservation Order No 176/1945)
 - c. ***Barrow at Rathwire Upper*** (Preservation Order No 18/1977)



- 2) ***Cumulative impacts to the setting of certain National Monuments and sites subject to Preservation Orders within 10km proposed development:*** Due to their exclusion from the AIA the potential Cumulative Impact of this proposed development to the aforementioned sites listed under Point 1 has not been evaluated.

The main enclosure located at the summit of the Hill of Ward (RMP ME030-001—) is a National Monument in the Guardianship of the Minister and thus subject to statutory protection under Section 14 of the National Monuments (Amendment) Act 1930-2014. This site has rich historical and mythological associations—generally referred to as Tlachtga in historic sources—and is considered to be one the royal centres of Meath. It is an important focal site in the landscape, as has been confirmed in recent years by the identification of an extensive relict landscape surrounding the monument through the use of modern non-intrusive investigation techniques. This has been recognised in the *Meath County Development Plan 2021-2027* as the panoramic view from the Hill of Ward has been designated as a Protected View (No 52).

Hill of Ward/Tlachtga is located c. 9.5km to the northeast of the PDS, so should have been included within the remit of the archaeological assessment carried out based on the methodology outlined at Section 12.2.5 and Table 12.1. However, this is not the case; no reference is made to the monuments at the Hill of Ward in Chapter 12 nor is the potential indirect effects of the proposed development (impacts to setting) evaluated. Chapter 13 of the EIAR does recognise the potential vulnerability to impacts from the proposed development of the protected view at the Hill of Ward (as established in the Meath County Development Plan). However, this was not directly assessed; the photomontage for VP1 which was considered to be representative and used to assess the likely impact of the proposed development (see Table 13.14) is located c.4.5km to the west of the Hill of Ward and at a lower elevation (70-80m OD at VP1 versus 110-119m OD at the Hill of Ward). This contrasts to the more rigorous approach taken within Chapters 12 and 13 of the EIAR to assess the effects of this proposed development to other similar receptors, notably: Trim Castle, Frewin Hill and the Hill of Tara. A detailed assessment of any potential impacts to Trim Castle and Frewin Hill is included in Section 12.3.1.2 of the EIAR and potential impacts to setting were assessed by way of photomontages at each vulnerable receptor (specifically VP2, VP8 and VP19).

There are also two sites subject to Preservation Orders located within 10km of the PDS—a tower house at Causetown (Lune By) (RMP ME029-010—; PO no. 176/1945) and a barrow at Rathwire Upper (RMP WM020-123—; PO no. 18/1977). Both these sites are also subject to statutory protection under Section 14 of the National Monuments (Amendment) Act 1930-2014. While the tower house at Causetown is included in Chapter 12 in the consideration of Recorded Monuments (RMP sites) within 5km of the scheme, the fact that this particular site



is also subject to a preservation order is not addressed in the assessment. The barrow at Rathwire Upper was completely excluded from the assessment.

Any EIA must be must be informed by an adequate characterisation and understanding of the baseline archaeological and cultural heritage environment. The methodologies used to establish this baseline must be applied equally and consistently. Any divergences to include or exclude specific receptors must be clearly justified. Where there are significant omissions of vulnerable receptors from the characterisation of the baseline environment then there is potential that the certain likely impacts or effects of a proposed development might not be identified.

If Further Information is being requested by the Board, it may be beneficial to consider including clarification of the aforementioned points as part of the request.

Notwithstanding this, the Department of Housing, Local Government and Heritage advises that the following should be included as a condition of any grant of permission. Note these recommended conditions align with Sample Conditions C3, C5 and C6 as set out in *OPR Practice Note PN03: Planning Conditions* (October 2022), with appropriate site-specific additions/adaptations based on the particular characteristics of this development and informed by the findings of the EIAR.

Archaeological Requirements:

1. All mitigation measures in relation to archaeology and cultural heritage as set out in Chapter 12 of the EIAR (Tobar Archaeological Services; date 23 March 2023) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this Order.
2. The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance within the wind farm site and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the Department, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance and/or construction works.
 - a. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (archaeological excavation) and/or monitoring may be required.
 - b. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the Department, shall be complied with by the developer.



- c. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority.
3. The Construction Environment Management Plan (CEMP) shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in Chapter 12 of the EIAR and by any subsequent archaeological investigations associated with the project. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.
4. The planning authority and the Department shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

Nature Conservation

Having considered the documentation supporting the present application, and particularly the Natura Impact Statement (NIS) and Environmental Impact Assessment Report (EIAR), the Department notes that the site of the large scale development proposed is an area of cut-over raised bog straddling the boundary between Counties Meath and Westmeath to the west of Ballivor, and that the applicant has commissioned a range of surveys of flora, fauna and habitats occurring both within this site and the wider potential zone of influence of the development in order to undertake assessment of the development's possible effects on the natural environment. In general it is considered these surveys have been sufficiently comprehensive that they have allowed an accurate evaluation of the likely effects of the proposed development on the elements of flora, fauna and habitats surveyed, and therefore have facilitated the drawing up where necessary of effective measures to mitigate any adverse effects identified. But in the cases of certain faunal elements it is considered additional survey work will be required to enable full evaluation of the effects of the proposed development on them. Also, while the Department accepts the Appropriate Assessment (AA) as set out in the NIS of the potential effects of the proposed windfarm on Qualifying Interests (QIs) for the European sites within the zone of influence of the proposed development, namely the River Boyne and River Blackwater Special Area of Conservation (SAC) and the River Boyne and River Blackwater Special Protection Area (SPA), it does not accept the EIAR's assessment of the significance from a nature conservation perspective of certain impacts of the proposed development on fauna and habitats identified in the latter document.



In addition clarification of some of the measures proposed to mitigate the potential effects of the windfarm would appear necessary. The Department's concerns relate to the following:

1. Absence of Any Assessment of the Potential Effects of the Proposed Windfarm on Night Migrating Birds

In response to a letter from the applicant's ecological consultants, MKO, requesting suggestions as to the scope of the content to be included in the EIAR to be drawn up in relation proposed development of the Ballivor windfarm and survey methods to be used to compile such information, this Department replied in a letter of the 26.6.2020. In the Department's letter it was stated the EIAR should adequately address the potential impacts of the proposed development to local and international bird migration over the development site and particularly its impacts on night migrants. In this regard it was recommended that technological methods such as radar should be used to establish the extent of night migration over the windfarm site. Unfortunately however, while a number of methods have been used to survey bird usage of the proposed development site and its environs on behalf of the applicant, including extensive vantage point surveys, breeding and wintering surveys, and targeted surveys of particular species, such as raptors, barn owl and woodcock, the surveys for the latter species being focussed around dusk, no attempt to survey nocturnal migration over the development site appears to have been attempted and such migration is not addressed in the EIAR.

Many passerine bird species migrate at night, including redwing, fieldfare and other thrush species, warblers and finch species, while wildfowl such as whooper swan and Greenland white-fronted goose migrate by night as well as by day. Whooper swans were recorded moving through the development site during the day time bird surveys and frequent stretches of the Boyne to the east of Ballivor in winter, while the Greenland white-fronted goose, for which Ireland is the main wintering area, are known to migrate north and south over the country from their principal winter site on the Wexford Slobs but not to use any defined routes, and these various species could therefore possibly be vulnerable to increased mortalities due to collisions with turbines in such a large windfarm as that proposed.

To rule out the possibility of the Ballivor windfarm having significant effects on night migrants including passerine species, whooper swan and Greenland white-fronted goose, this Department therefore recommends the applicant should be requested to submit as Further Information (FI) radar surveys of nocturnal migration over the development site in order to establish the extent of such movements and allow estimation of the collision risk to the species involved and determine whether mitigation may be required to minimise the mortality rates from collisions.

2. Loss of An Area of Oak-Ash-Hazel Woodland



A 0.26 ha area of Oak-ash-hazel woodland (WN2) occurring on a mineral island in Corranstown bog is proposed to be removed to allow the excavation of a borrow pit (total area 5.27 ha) which is to be used to source material to construct the access road network to be laid across the cut-over bog to provide access to the windfarm turbines. Such native woodland developed on mineral soils is a relatively rare habitat in the Ballivor area and in Ireland as a whole, and in such bog island situations is usually of a high biodiversity value. This vegetation type is distinct from the birch dominated woodland developed on cut-over bog which is relatively abundant at Ballivor and some of which is also to be lost to the proposed development.

The Department recommends that in order to preserve woodland biodiversity any planning permission eventually granted in response to the present application should include as a condition that this area of oak-ash-hazel woodland developed on mineral soil should be retained, its boundary with the borrow pit to be agreed with the planning authority before development commences.

3. Seasonal timing of Vegetation Clearance

The EIAR is somewhat unclear with regard to the timing of proposed clearance of vegetation to facilitate the project, stating that such work will start outside the bird breeding season and that all removal of woody vegetation will be undertaken in accordance with Section 40 of the Wildlife Act 1978 as amended. But the Wildlife Act, 1976 to 2022 permits the destruction of vegetation for development purposes during the nesting season. Furthermore in focussing on woody vegetation the EIAR does not take account of the possible effects of the removal of peatland vegetation which is important nesting habitat for the Irish red listed meadow pipit and skylark amber listed as a species of conservation concern.

It is therefore recommended that a condition of any eventual grant of permission for the proposed windfarm project should be that any removal of vegetation required to facilitate it should take place outside the bird breeding season from March to August inclusive in order to avoid the destruction of bird nests, eggs and nestlings.

4. Badger Surveys and Mitigation

It is noted that only two badger setts were identified during badger surveys of the development site and adjacent areas. This is a surprisingly low number given the scale of the development site and it would be expected more setts would have been discovered especially around the perimeter of the site.

The Department recommends that it should be a condition of the granting of any permission for the proposed project that a resurvey of the site for badgers should be undertaken by a mammal specialist and the results submitted to the planning authority before the commencement of any development on site; the survey report to incorporate mitigation measures to avoid any injury to badgers as a result of the proposed development including site avoidance, or where unavoidable, the exclusion of badgers from setts.



5. In Chapter of the EIAR 'Hydrology and Hydrogeology', section 9.5.7.5 titled 'Cumulative Effects with Regards to the Proposed Decommissioning and Rehabilitation Plans for the Ballivor Bog Group' maintains that the "*overall footprint of the Proposed Development is <2% of the total area of the Ballivor Bog Group (2, 419 ha)*". However, this estimate fails to take account of that the hydrology of a much larger area of the bog complex will be affected by the development of the windfarm turbines, associated roads and other infrastructure across the entire bog group. The areas available for rehabilitation as bogland habitats and function to sequester Carbon in line with the Peatland Climate Action Scheme (PCAS) for the Ballivor Bog Group may consequently be constrained.

In the light of the above it is recommended that the applicant should be requested to supply details of the measures which will be taken to maintain peat water levels in the areas of the Ballivor Bog group where bog rehabilitation is planned throughout both the development and operational phases of the windfarm.

You are requested to send any further communications to the Development Applications Unit (DAU) at manager.dau@npws.gov.ie, or to the address below.

Is mise le meas,

A handwritten signature in black ink, appearing to read 'Diarmuid Buttimer', enclosed within a circular, scribbled border.

Diarmuid Buttimer
Development Applications Unit
Administration