Our Case Number: ABP-316212-23

Planning Authority Reference Number:

An Bord Pleanála

DRB Community CLG
c/o Noleen Kennedy
Grangemore
Raharney
Co. Westmeath

Date: 14 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 observation or submission in relation to the case mentioned above and will take it into consideration in its determination of the matter. Please accept this letter as a receipt for the fee of €50 that you have paid.

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.

For further information on this case please access our website at www.pleanala.ie and input the 6-digit case number into the search box. This number is shown on the top of this letter (for example: 303000).

Yours faithfully,

Niamh Thornton
Executive Officer
Direct Line: 01-8737247

BL50A

Teil	**Tel**	(01) 858 8100
Glao Áitiúil	**LoCall**	1890 275 175
Facs	**Fax**	(01) 872 2684
Láithreán Gréasáin	**Website**	www.pleanala.ie
Ríomhphost	**Email**	bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Submission to: An Bord Pleanála, 64 Marlborough St, Dublin 1

Person making the submission: Noeleen Kennedy, Grangemore, Raharney, Co. Westmeath.

Submission made on behalf of: DRB Community CLG

Planning observation date: June 2nd 2023.

Submission Case reference: PA25M.316212 **Submission Date:** Apr 5th 2023

Planning Application: Wind Farm Development including 26 turbines and all associated works

Proposed location: Ballivor Bog Group, County Meath and County Westmeath

Planning Applicant: Bord na Móna Powergen LTD.

Planning application assessed vs the following criteria:

1. The implications of the proposed development for proper planning and sustainable development;
2. The likely effects on the environment of the proposed development;
3. The likely significant effects of the proposed development on a European site, if carried out.

Subject Matter of this submission (14 pages in total + 1 Attachment) and related observations:

(1) In the Cover Letter to ABP, Appendix II, Landowner Consent, page 9 and dated March 23rd 2023, the Applicant includes a letter from Bord na Mona stating that "we are the freehold and beneficial owners of the lands delineated by the red line on the map (Drawing no. BnM-re-bwf-lc-01) attached hereto." It proceeds to "consent to Bord na Mona Powergen Ltd. to include our lands as described above in a planning application." However a search of the publicly available information on land ownership in the LandRegistry shows that there are several tracts of land which are not currently owned by Bord na Mona and for which consent of usage is not evident in the application. At the time of this submission, the following privately & legally held land in the following Folio within the footprint of the proposed windfarm, are illustrative examples of the above e.g. Folio number MH25596; MH17154; MH23188; MH5079F; MH17154; MH9835; MH19987F; MH9040; MH10310; MH8829; MH21660F; MH17162; MH17164; MH14379; MH14373; MH14375; MH18971F; MH18945; MH11057F; MH22384; MH21512F; MH17144; MH17967; MH16535F; MH17575; MH17148; MH18380; MH17154; MH17158; MH17157; MH16553.

The Inspector must request that Bord na Mona clarifies in a map and associated table, the areas within the delineated red area for which it is not the legal owner at time of application and amends their planning application accordingly.

This submission contends that it is a waste of the Inspector and ABP reviewers, the Board (of ABP) as well as taxpayer's money, to complete a detailed assessment of this planning application in the knowledge that tracts of land within the proposed windfarm footprint may never be legally owned by, nor possibly ever consented for use to, Bord na Mona or its subsidiaries, for the development of an Industrial Windfarm.

(2) Bord na Mona (majority landowner of the Ballivor Bog Group) has applied to An Bord Pleanala on a number of occasions over recent years for Substitute Consent; it seeks/will seek to regularise the planning status of the historic peat extraction activity on those lands. It has been unsuccessful to date, whether having withdrawn the application, been declared as an invalid application or granted (May 2020) and consequently quashed (May 2021) by the High Court. Can this current application be accepted for consideration when the entire land site on which it is based is subject to planning regulatory assessment?

(3) Visual Impact: near (residential amenity) and far (archeologically important landmarks). Figure 13.5 of the EIAR clearly shows the pre-dominance of areas of both High Sensitivity and High Amenity within the surrounding area. This submission contends that the impact of the proposed development with respect to proper planning and sustainable development, is unacceptably negative, especially given the cumulative impact of consented neighbouring Bracklyn Windfarm i.e. total of 35 turbines and 3 x windmast; The visual impact will be experienced both day and night, the latter being the night sky pollution associated with the 38 intensively lit red warning lights. Overall the daytime view of 105 rotating blades (cumulative 35 turbines) from scenic vantage points is at an unacceptable density level.

(4) The Applicant states that it adheres to the 2006 Wind Energy Development Guidelines. This is not always the case e.g. with regards to the topography of the area which is almost entirely flat, the windfarm will utterly dominate the landscape. Per EIAR Chapter 1, section 1.1, the site is 9km north to south and 6km east to west and comprises of 1,70 Hectares and with a total rise/fall of 9m i.e. as planar a landscape as can be found in Ireland. The inspector will conclude the surround rural residential landscape is predominantly flat, with the exception of some small glacial hills and eskers.
Pg. 45 of the 2006 WEDG, Section 6.8 - Height: "Turbine height is critical in landscapes of relatively small scale, or comprising features and structures such as houses, and must be carefully considered so as to achieve visual balance and not to visually dominate." The area of this proposed development is very clearly a landscape of relatively small scale. Furthermore, the Wind Energy Development Guidelines latest draft of December 2019, although not yet formally in place, does represent the consolidated view of 1000's of submissions over several years and includes the following in relation to Landscape Character Assessment:

"Landscape character is the distinct, recognisable and consistent pattern of elements that occur in a particular landscape and how these are perceived.

The sensitivity of a landscape is a measure of its ability to accommodate change or intervention, without suffering unacceptable effects to its character. Differing landscapes, based on their sensitivity, have the capacity to absorb different levels of development."

Taking all of the above into consideration, this submissions requests that the planning Inspector have due regard to the proposed development scale and impact on resident's amenities and associated human activities. This is not a sparsely populated area.

(5) Impact on Biodiversity: ABP Inspector and the Board must satisfy themselves that what is presented in objective and sound e.g. presence of the Curlew as documented in the EIAR, but lack of nesting sites. In relation to bird kills as a result of the proposed and installed windfarm, the Inspector must objectively assess the models used and the projected bird kill data proposed e.g. Appendix 7.6, Table 3, predicts that an average of 1 Whooper swan per year will be killed by collision with a turbine. Observed flightpaths of the Whooper swans during vantage point surveys alone, show the considerable flight activity through the full site; Ref Appendix 7-4, Figure 7.1.8 (between pages 62 & 63 of pdf); what is clearly evident is that the Whooper swans fly in straight lines, due to their general size and related wing structure. Given that this diagram only represents

flights observed during surveys, then the actual number of flights through by this species per year must be assumed to be considerably more. A conclusion of 1 bird collision per year based on the model used, suggests that the model is flawed. The inspector must satisfy himself / herself with regards to what a truly objective model would indicate (and based on actual monitoring data by an independent body of a similar windfarm in an area with high and nationally significant populations of Whooper Swans.)

(6) This submission objects in strongest terms to the destruction and loss of habitats as described through the EIAR, including tracts of Poor Fen and of Ancient woodland at Clondalee More (Oak & Hazel, a unique landscape feature of the area). The ancient woodland contains plant species which are indicators of such centuries old established woodland e.g. wood anemone, lords and ladies, bluebell, wood sorrel, and pignut. Wood anemone is considered above all as an indicator of long continuity of woodland on the site. It is likely that woodland on the southern edge of Ballivor Bog, and close to the proposed Turbine no. 8, is very ancient given that it was located on an island in the bog as indicated in the 1840s OS maps. To lose such an historically important habitat in part or in full is entirely unacceptable. ABP must consider this in the strongest terms possible.

Photographs from the ancient woodland at Clondalee More

(7) EIAR Chapter 6 – Biodiversity, identifies the presence of the Marsh Fritillary, Ireland's only insect requiring legal protection; under the Habitats Directive, it's an Annex II species and hence requires SAC Designation. The species is not referenced in the Non-Technical Summary document (Biodiversity section); in section 6.6.2.1.6, the EIAR suggest that "No suitable habitat for Marsh Fritillary was identified within the construction footprint". It is the contention of this submission that the EIAR survey was ineffective in its purpose, as evidence now exists of the breeding habitat of the species in the area of proposed turbines T13-T14-T15-T16. A significant number of the butterflies were witnessed on May 29th 2023, both male and female, as well as live Larval presence on Devil's Bit Scabious and Chrysalsis from previous breeding season. In addition, ca. 5 insects (Marsh Fritillary) were identified within the area enclosed by planned turbines T1 – T11 – T12.
During the localised walkover of ground within the areas of planned turbines T13 – T14, other species such as the Dingy Skipper butterfly were observed, which is known to be local and scarce in Ireland.
It is not referenced in Section 6.6.2.1.7 "Other Species" of the EIAR suggesting that further species may have been missed, in favour of a low risk environmental assessment.

A field study has been recently commissioned by the local area community group and completed by an independent expert on the Marsh Fritillary species, the findings and conclusions of which are reported in accompanying **Appendix 1** of this submission. It will be obvious to the reviewer that the EIAR study is incomplete and appears misleading in favour of a low risk to biodiversity conclusion. This is entirely unacceptable in an area of rich biodiversity.

The inspector must satisfy himself / herself that all surveys have been thorough, in order to safeguard biodiversity of this area and most especially must consider the impact on a Habitat's Directive Annex II species for which no legal protection has yet been given across Ireland and for which an SAC designation will be pursued in the Ballivor Bog Group area (multiple townlands).

(8) EIAR Section 10 – Climate and Air: the assessment of Carbon impact and payback, as outlined in Appendix 10-1, lacks clarity and comprehension e.g. the referenced "Appendix 10-1 BALLIVOR WIND FARM CARBON CALCULATIONS" quotes a figure of 14.28 Kg Co2/MWh as the "Lifecycle Emissions" of the windfarm using 4.5MW turbines. There is no clarity provided with regards to the inputs to this calculation, which should include the fabrication of the turbines to the site, manufacturing of all concrete and cabling, production of stone and sand, steel construction of all foundations, substation build, carpark and roads build; all transport of the above to be similarly included. It is not clear why the "lifecycle emissions" are calculated as being lower for a larger output rated turbine i.e. 12.41 Kg Co2/MWh for a 6.5WM turbine.

The Carbon payback assessment is based on a Peat Disturbance of 11.97ha. This is at odds with the "total development footprint of 32.4Ha", as referenced in Chapter 8 – Land, Soils and Geology. Section 8.5.7.1

In addition, there are discrepancies in Capacity factors used in the Application; these are used to forecast the potential energy output of the windfarm; Appendix 10-1 uses a capacity factor of 31.7% whereas section 4.3.1.6 uses 28.7%.
It is the contention of this submission that the calculations presented and consequently the justification for this industrial energy development cannot be trusted at face value and the Inspector must seek objective clarity.

(9) The EIAR Non-Technical Summary pg vii has regard to the Westmeath County Development Plan, Section 1023 and quotes that the "River Deel lowlands, as having a low capacity for wind". This is the area of the proposed development and further supports the basis for the development of alternative renewable energy solutions which are appropriate for the area. The applicant must consider suitability to the environment ahead of maximisation of output and financial return.

(10) Roads and Traffic: can the roads retain their integrity as a result of up to 90,000 HGVs using over a 2 year period e.g. R156 east and west of main site entrance; The inspector must assess carefully as well as the impact on schools traffic during peak times, including child safety.

(11) The Applicant states in the EIAR Non-Technical Summary Wind Energy Development Guidelines Section that "Until new Guidelines are published the relevant guidelines remain those published in 2006. Notwithstanding this, however, where possible the Draft Wind Energy Guidelines have been used to inform the design of the Proposed Development."
In the EIAR Non-Tech Summary section, pg xv, the applicant states: "The closest dwelling, currently unoccupied, is 815m from the nearest proposed turbine". Chapter 1, page 11 states that "a significant minimum separation distance from the nearest house of 815 metres has been achieved." Chapter 5, section 5.3.1 states: "The closest dwelling to the proposed Ballivor Wind Farm is located approximately 815m from the nearest proposed turbine (T17), i.e., greater than the recommended setback distance (i.e. 800m, 4 times the tip height of 200m), as per the Draft Revised

Wind Energy Development Guidelines December 2019 which has more onerous setback requirements in comparison to the current adopted 2006 Wind Energy Guidelines." This figure is repeated many times throughout the document and is clearly an effort to portray the applicant in a responsible light i.e. adhering to the direction of the draft 2019 Wind Energy Guidelines.

However the 2019 Draft guidelines direct that a "setback distance for visual amenity purposes of 4 times the tip height should apply between a turbine and the nearest point of the curtilage of any residential property in the vicinity of the proposed development".

Taking all of the above into account and based on coordinates of the proposed turbines provided and using the House numbers as designated in the Shadow Flicker studies, it is clear that the above claims on separation distance are inaccurate and untrue e.g. Ref. Turbine T3 (665983, 752965) vs House 180; Ref. Turbine T14 (663474, 757496) vs House no. 83. Separation distances <800m in each case. Turbine T7 (665928, 751694) is similarly <800m from the curtilage of the nearest home.

The inspector must ensure that an independent separation distance measurement be conducted between proposed turbine locations and residential property curtilages, such that 2019 Guidelines can be met if and when implemented.

(12) In addition to inaccuracies as described through some of the above points, others have been observed, demonstrating a rushed approach to EIAR development and a lack of respect for the planning process e.g. Table 5-10 of the EIAR on Potential Cumulative Shadow Flicker Impact, lists Turbines "T86 – T93". The many inaccuracies casts an air of doubt on all data presented and consequently requires full review, amendments as necessary and confirmation of accuracy.

(13) Photomontage inaccuracies e.g. the panoramic view from the Tower of Lloyd is designated as a view of national significance and as listed in the Meath County Development Plan. The panoramic view from Sliabh na Callaigh (Loughcrew) is deemed of National significance and as listed in the Meath County Development Plan. The archaeological heritage of the hill predates Newgrange by some 500years. Furthermore in the County Meath Development plan, the closest 360° protected view to the proposed windfarm is the Hill of Ward, close to Athboy. No photomontage has been generated to represent this viewpoint. Also note that in the Westmeath County Dev plan, the only 360° protected National viewpoint is the Hill of Uisneach, a site of highly significant historical importance, for which the Photomontage of the current application is entirely missing. The view from the ancient site of Uisneach to Tara is missing, a view which in practical terms will be completely compromised for decades to come. This unacceptable. Note that both Tara and Uisneach are candidate sites for UNESCO World Heritage status.

(14) Community consultation has been poor. While there was an open consultation evening organised at 3 locations in Q1 2020, no further in-person efforts were made by BnM despite the many open windows during Covid and the extensive period since then. A letter outlining key concerns of the communities impacted was sent to Bord na Mona April 2021. While a response was received, it did not address any of the points raised and was effectively a PR-derived effort rather than a respectful engagement with the community. An industrial energy development of this magnitude in a rural residential area, deserves respectful engagement from the developer with the community and not an arrogant walkover approach as is evident here. See attached letters (**Appendix 2**) sent to Bord na Mona Powergen and received response (17th June 2021). There was no public meeting held in Killyon, despite being a directly impacted parish. The number and density of turbine placement from 1st publication of maps in 2020 to second publication date of Autumn 2021, in the southern area of the Windfarm (Ballivor Bog: Grangemore / Clonycavan / Derryconnor / Clondalee More / Riverdale) has never been explained. All households within visual sight of this increased turbine density deserve an explanation of this additional impact.

(15) There is no obvious, rational or explanatory basis for information sharing from Bord na Mona Powergen to homes within 2km of turbines. There are 100's & 100's of homes beyond the arbitrary 2km zone which will be impacted in amenity by 200m Turbines and in particular where the cumulative impact of the combined Bracklyn & Bord ns Mona windfarms is taken into account. The ABP Inspector must assess the basis for this nominal communication boundary imposed by the developer. Noise and visual impact does not stop at a nominal 2km boundary.

(16) The Non-Technical summary does not make reference to the specific bird species as observed through the various summary methodologies.

(17) Shadow Flicker described in the application as an "indoor phenomenon" in 5.2.2.1.1. the general meaning of a phenomenon is "a fact or situation that is observed to exist or happen, especially one whose cause or explanation is in question."
Applicant must substantiate (a) why Shadow Flicker is a "phenomenon" and (b) why indoor only? Shadow Flicker occurs anywhere that direct sunlight is interrupted by an obscuring object in a repetitive way and hence impacts also on a person's outdoor amenity area. The impact on a person's property in general, within all owned boundaries, must be thoroughly evaluated and objectively by the developer.

(18) Windfarm construction hours. Key points noted from Planning application:

4.1.4.1.1 Stage 1 Site prep and groundworks.

- 89,789 loads delivered to site by Heavy goods vehicles, including Concrete delivered for turbine foundations over a 12 hour period per day. Proposed construction shift of 7am to 7pm, 5 days per week and 7am to approx. 1pm Saturday.

14.1.5.1 Traffic effect during construction.

- 133% increase in traffic on the R161 Trim - Doolistown road.
- R154 road traffic will be at 164% capacity for 484 days.

14.1.9.5 Cumulative effects.

- Possibility of overlap in construction phase with Bracklyn windfarm.

14.1.6 Traffic management of large deliveries.

- It may be appropriate to operate local diversions.

14.1.9.6 Mitigation measures.

- Temporary road closures where required.

Overall the impact on a rural residential community of the above is considered to be substantial. This submission proposes a start of construction activities at 8:30am each day i.e. approximate end of the peak morning traffic hours in the area (i.e. people commuting to work) and to cease each evening at 5pm, to ensure that residents can enjoy the amenity of the area to which all are accustomed.

(19) Chapter 3: Consideration of Reasonable Alternatives: the planning application has not considered the alternative of developing wind energy offshore, where considerably less impact to flora, fauna and residential amenity would occur. The developer may contend that it is focused only on lands under its possession, however a thorough assessment of reasonable alternatives must include offshore wind development vs on shore at the currently proposed location.

(20) EIAR Section 8.3.4 Peat Soils and subsoils. Peat depths across the Ballivor bog group of 0.4 to 5.7m, with a typical average of 2.0m. The carbon storage potential through rewetting and rewilding of the Ballivor Bog Group under the upcoming EU Nature Restoration Law requires in-depth consideration; further drying out of the bogs in addition to the introduction of enormous quantities (as detailed in the EIAR) of concrete, stone, sand and electrical cabling to the bogs seems wholly inappropriate in the context of climate protection. The EIAR makes reference to 717,291 m^3 of stone being required. The longterm net negative carbon impact of siting a windfarm offshore cannot be of the same magnitude as that which is likely in the Ballivor bog group. An Bord Pleanala must assess fully as part of its evaluation of the consent application.

For reference, the Ballivor Bog Group peat depths, as mapped in 1810 are given in the Bog Commissions maps of 1809 – 1814 (at www.bordnamonalivinghistory.ie, filter by Province and scroll to "Meath & Westmeath"). Via the Ballivor Bog Group Grid pattern, one can see that e.g. Ballivor bog ranges from 20 – 30feet (6 – 9m) in depth. More than half that depth remains today, as clarified by Bord na Mona; in addition, Bord na Mona included Ballivor Bog as a suitable bog for rewetting in the successful funding application under PCAS (Peatlands Climate Action Scheme) and Bord na Mona's large scale peatlands restoration project, towards enhancing biodiversity, "protect the storage of 100 million tonnes of CO2 emissions" etc. (gov.ie/en/publications/136a7-bord-na-mona-bog-rehabilitations-scheme/#; funding of €108m to Bord na Mona was approved in 2020, among which Ballivor, Bracklin & Carranstown Bogs were included in scope).

The Carranstown and Bracklin West bogs are now undergoing rewetting. Lisclougher West Bog is proposed for rewetting, although it is not known to have ever been used for commercial peat harvesting i.e. it may not actually need rewetting; may not need rehabilitation. However, via this application, it is clearly evident that Ballivor Bog, which was been deemed suitable for rewetting in 2020 and consequently a significant carbon store, is instead now proposed for further destruction and disruption through the development of a 10-turbine section of the windfarm. Taking the 3 bogs sectors planned for rewetting (Carranstown, Bracklyn West, Lisclougher West), these represent just 25% of the total Ballivor Bog area of >4250acres. It is contended by this submission that the application is negligent through the apparent failure to rehabilitate sufficient portion of the Ballivor Bog group, instead opting to add very significant quantities of stone, sand, steel and concrete in the ground.

> Reference peer scientific journal Nature.com/articles/s41598-023-30752-3, article (2023) titled "The extent of windfarm infrastructure on recognised European blanket bogs", which opens with the statement that "Peatland environments are the Earth's largest terrestrial carbon store and have the potential to act as carbon sinks. However the development of windfarms is affecting their morphology, hydrology, ground-level climate conditions, carbon functions and vegetation, and long term consequences still need to be assessed."
>
> At the very least, Ballivor bog should be immediately descoped from this planning proposal.

(21) 7.2.2 references that on a precautionary basis a 25km zone of influence was used to identify wind farm developments in the wider area. It advised that there were no wind energy developments within 25km of the proposed development. This is incorrect as Table 7-3 lists Cloncreen and

Cloncant which are both located within 25km of the Proposed Development Site and are not referenced throughout when assessments are being carried out.

(22) 9.3.12 Groundwater Body status- The draft 3rd Cycle Boyne Catchment Report states that the Athboy GWB is "at risk" of not meeting its WFD objectives, and is under significant pressure from agricultural activities (EPA, 2021). This needs to further reviewed by APB to ensure no flooding occurs as a result of the proposed windfarm development.

(23) 9.3.6 Flood risk assessment at substation has shown that this area is particularly sensitive to flooding. Primary Controls for flooding depends on expansion of the bog in Carranstown West Bog which would need to fill with pluvial flood water before the substation site can flood. Mitigation is to increase and provide elevation at the substation site. This needs to further reviewed by APB to ensure no flooding occurs in particular to the houses in the area near to the substation such as Grangemore and Clonycavan and that there will be no effects on wells in these areas.

(24) Development Applications Unit NPWS email dated the 07.05.20 states that the only cumulative impacts which will be considered are those with other wind farms within 20km of the proposed site and they advised that this would not adequately assess the potential impacts on wide ranging species especially those in migration such as geese and swans. Also cumulative effects should include more than just multiple wind farm effects. The cumulative effects of the Proposed Development with other types of projects should be considered. The indirect effects of the demands for resources to supply and build the development and the impacts these may have elsewhere should be assessed. This is also raised in reference 7.2.2 where there are two windfarms within 25km Cloncreen and Cloncant which are not considered in the NIS.

(25) In scoping opinions from Government Departments the proposal mentions copies of responses received from the HSE, department of Agriculture food and marine and Failte Ireland. These are not included in the submission.

(26) Archaeology & Cultural Heritage – Chapter 12. The archaeological protected structures are identified on a map and in a table but not individually assessed for impact in the EIAR e.g. the Narrow Gauge Railway which is identified as a protected structure in the Westmeath County Dev Plan, Ref RPS 021/008; NIH 15402102.

(27) SEA (Strategic Environmental Assessment) analysis: Has the SEA Directive Directive 2001/42/EC been complied with? It provides that Programs / Plans / Projects should be conducted as a whole and not in isolation.

(28) DRB Community CLG adopts the points made by EcoAdvocacy in their submission to PA25M.316212, which cover the following general areas:

- Substitute Consent in relation to commercial peat harvesting of the Ballivor Bog Group.
- Sustainability of the proposed project.
- The cumulative effects of the proposed development in addition to the 2022 consented Brackyln 9-turbine windfarm.

- Consideration of Ireland's only insect requiring legal protection under the Habitat's Directive, the Marsh Fritillary Butterfly.

(29) DRB Community CLG adopts the points made by EHP Services in the submission by Delvin Raharney Ballivor Wind Action Group to PA25M.316212, which cover the following general areas:

1. Introduction.

- General summary of Group's position and concerns.

2. Natura Impact Statement.

- Highlighting discrepancies in the information, assessment and resulting conclusions of the NIS for example:

  a. Omitting SPAs, SACs and pNHAs downstream from River Boyne and River Blackwater SPA and SAC.
  b. Proposing as mitigation that more detailed Otter and Kingfisher surveys be carried out after permission has been granted.
  c. Failing to specify what exclusion procedures may be implemented if Otter and/or Kingfisher found close to the application site.

- Highlighting omission of pre-existing site restoration and rewetting obligations under peat extraction license in the 'Do-Nothing Scenario' and general narrowness of assessment in this section of the NIS.
- Highlighting omission of fire risk potential as an established environmental effect on site and greater continued environmental risk as a consequence of avoiding rewetting within the application site.
- Highlighting inadequacies of 'in-combination' effects with other plans and projects.
- Highlighting where the proposed development is contrary to Meath and Westmeath County Development Plan policies.

3. Environment and Ecology.

- NIS fails to fully consider the inter-connectivity of other designated conservation areas in terms of how they are used by multiple protected species for foraging, nesting and/or breeding.
- NIS also fails to consider how the introduction of 26no. rotating turbines may disrupt and interfere with the life cycles of certain protected species.
- With reference to Jesmond Harding report highlight EIAR's lack of thorough survey and analysis of proposal's impact upon Annex II Marsh Fritillary butterfly and unreliability of subsequent conclusions reached.
- Argue that rewetting of peripheral bogs increases the potential of such areas being used by protected structures and associated value to general biodiversity and adjoining conservation areas.
- Highlight shortcomings of mathematical model used in Collision Risk Assessment report and unreliability of conclusions drawn from same.
- Arguing the most appropriate future use of the application site is rewetting and use as a carbon sink and public educational and recreational facility as opposed to the continued economic exploitation of the site and associated potential environmental impacts.
- Highlighting where the proposed development is contrary to Meath and Westmeath County Development Plan policies.

4. **Archaeology.**
   - Highlighting the cursory / incomplete picture of unknown archaeological potential within the construction footprint.
   - Highlighting the inadequacies and non-specificity of proposed mitigation measures.
   - Highlighting where the proposed development is contrary to Meath and Westmeath County Development Plan policies.

5. **Landscape and Visual Impact Assessment.**
   - Contesting the conclusions reach in LVIA that development proposal will have a low to moderate impact upon historically and culturally important ancient landscape.
   - Highlighting inadequacies of submitted photomontages.
   - Highlighting instances of omitted perspectives of equal importance to other historic locations, viewpoints and protected perspectives.
   - Highlighting where the proposed development is contrary to Meath and Westmeath County Development Plan policies.

6. **Impact on Protected Structures.**
   - Highlighting the lack of consideration of how the proposed development will be viewed from and therefore impact upon the special interests of surrounding protected structures.
   - Highlighting lack of specific information pertaining to how the proposed development will impact the protected single gauge Bord na Mona railway line through the application site.
   - Highlighting where the proposed development is contrary to the Architectural Heritage Protection Guidelines (2011) and Meath and Westmeath County Development Plan policies.

7. **Impact on Road Safety and Traffic Generation.**
   - Argue that extremely high volume of HGV traffic will have a greater impact upon the surrounding road network than has been presented and assessed in EIAR.
   - Highlight specific location of substandard carriageway and points of potential conflict with schools along delivery routes.

8. **Concluding Remarks.**
   - Summary of main concerns and objections to development proposal.

EHP Services, Tony Eubanks, MA(Hons), MSc(Hons) – MRTPI; Town and Environmental Planning Specialists.

(30) In addition to the above mentioned submissions as referenced in points 28 & 29, we are aware of additional submission by Friends of the Irish Environment, Peter Sweetman & Associates, Val Martin as well as numerous other submissions & reports which raise concerns through a multitude of observations, and we hereby adopt all of these submissions as part of our submission. ALSO TO BE INCLUDED AND ADOPTED ARE SUBMISSIONS BY ECO ADVOCACY CLG / EHP SERVICES C/O TONY EUBANKS

Submission coordinated & prepared by: Daryl Kennedy Date: 2nd June 2023

Daryl Kennedy

Appendix 1 Expert report focusing on the presence of breeding Marsh Fritillary butterflies at the sites of proposed Turbines. Prepared by Jesmond Harding for ~~Delvin Raharney Ballivor Wind Action Group, as commissioned by~~ DRB Community CLG.

See attached.

Appendix 2 Correspondence between Community group and Bord na Mona Powergen

Ballivor Windfarm Development

Bord na Mona

Newbridge, Co. Kildare

Delvin-Raharney-Ballivor Wind Action Group

April 2021

Dear Niall, we write in relation to the proposed Ballivor Windfarm and to express our significant concerns and ongoing anxiety in relation to same.

The concerns and causes of anxiety can be characterised as follows:

1. Direct intrusion on the rights of local residents to enjoy the amenities and local environment, as we have become accustomed to enjoying for decades.
2. The proposed WEDG, in open consultation and development since early 2013: although with some provisions towards protecting residents from the negative impacts of industrial windfarms, as captured in the Dec 2019 draft, they fall a long way short and are overly in favour of the industrial wind developer. The Setback distances and noise limits do not meet resident's expectations with respect to turbines at approx. 200m tip height.
3. Community Consultation: we would very much like to hear Bord na Mona's definition and / or understanding of what "consultation" means as a practical interaction between Developer and Community. We have not seen any meaningful output from BnM, resulting from any consultation to date.
4. Bord na Mona has made no effort whatsoever to communicate and consult with the local community on alternative uses of the BnM Ballivor-Raharney-Delvin land tract. We see this as both lazy and cowardly on behalf of your company and would expect a lot more from a semi-state company such as BnM; the voices of local people should, and must, be heard and incorporated in development plans for the lands.
5. Bord na Mona has shown no interest in developing meaningful long term jobs in the area, despite having earned very significant sums of money from the area over the past 70 years, approx. Short term jobs associated with construction of a windfarm are not considered meaningful in the context of a windfarm in potential existence up to 2050!
6. The local population has an age profile higher than typical suburban areas, and this is alarmingly evident in our local school new enrolment numbers. The Industrialisation of the area with enormous turbines will do nothing to make our area attractive as an area in which new families will establish their homes and lives.
7. We are aware of approaches by BnM and / or its agents to landowners neighbouring the proposed Raharney section of the windfarm, seeking to increase the windfarm footprint beyond the BnM lands. This is very disturbing for the community on many levels. Given that BnM owns ca. 1000 hectares of land in the area, why would it need yet more (& in private ownership) land to develop industrial windfarms?
8. Bord na Mona has done nothing to justify and communicate the basis of the proposed windfarm development; it is not sufficient to indicate that it is in response to the Government's climate action plan as that contains many flaws in our view, with respect to emissions reduction strategy e.g. imbalance of renewable energy mix, roadmap towards same and all in the face of what

appears to be the out-of-control increase in super energy users, in the form Data Centres. The community expects a thorough and compelling carbon cost-benefit study to be communicated.

9. Bord na Mona has done nothing to regularly update impacted communities with planning timelines (application, review and approval estimates) and leaves the community feeling completely outside the planning process.
10. While the negative impact on property values is a concern, it is a lower priority than those listed above.

We hope that you will take the above concerns as seriously as we feel them and will respond accordingly.

Yours sincerely,

Daryl Kennedy, Group PRO.

Michelle Farrelly, Group Secretary

Bord na Móna

Bord na Móna
Main Street
Newbridge
Co. Kildare
17th June 2021

Daryl Kennedy/Michelle Farrelly
Delvin-Raharney-Ballivor Wind Action Group

Dear Mr. Kennedy/Ms. Farrelly,

Thank you for your letter received via email on 24th April, the content of which I have reviewed with the Ballivor Wind Farm Project Team. The letter primarily outlines issues relating to communications and local engagement by Bord na Móna around the company's proposed Ballivor Wind Farm development. It also refers to a number of key concerns that you have outlined on behalf of the group you represent.

At the outset, I want to assure you that Bord na Móna is fully committed to maintaining the best possible relationship with its neighbours and to addressing concerns raised by those living in the vicinity of the proposed Wind Farm as far as is possible.

By way of contextualising the company's communications and engagement approach to infrastructure projects such as the proposed Ballivor Wind Farm I must, in the first instance, point out that we have a plan for the ongoing development of Bord na Móna to become a major supplier of renewable energy. As part of its Brown to Green Strategy, the company is implementing an extensive peatland rehabilitation programme and expanding its new low carbon operations and resource recovery. A key objective of this strategy involves using the land to continue to underpin Ireland's energy independence by developing green, sustainable energy sources to assist with Ireland's commitment to generate 70% renewable electricity by 2030.

With regard to the location of these renewable energy projects, Bord na Móna endeavours through its site selection process to minimise the potential impacts associated with these developments, where possible. Whereas investment in any such project must stand up to rigorous commercial and financial scrutiny, as a responsible developer of infrastructure projects Bord na Móna is also conscious of the societal aspect of all its activities. In this regard the company is fully committed to working with local communities to ensure, in the first instance, that they are aware of the company's plans for a particular project and thereafter to engage on a two-way basis in relation to concerns expressed around the project and also to outline and explore potential benefits from the proposed development.

Whereas we are continuing with the preparation for the submission of a planning application for the proposed Ballivor Wind Farm, please be assured of Bord na Móna's sincere commitment to continuing our communications and engagement effort with the local communities and to improving this where possible. The ongoing Covid-19 pandemic has presented unprecedented challenges to us in how we can engage with the local community at this stage of a project. However, we will continue to make every effort to continue to engage with you about the proposed development as it progresses through the pre-planning phase. We will communicate key project updates with you as they occur. It is envisaged that a final layout will be distributed to residents and community groups in late Summer in advance of a planning application being submitted in late 2021.

In the meantime, we would like to extend our best wishes to you during these challenging times and hope you stay safe and well and adhere to all Government guidance.

Yours sincerely,

Paddy Rowland
Key Stakeholder Manager

REPORT ON THE LEPIDOPTERA SURVEYED ON MAY 25 AND 29 2023 IN BALLIVOR BOG GROUP, COUNTY MEATH, COUNTY WESTMEATH AND RESPONSE TO ON PROPOSED BALLIVOR WIND FARM DEVELOPMENT ENVIRONMENTAL IMPACT ASSESSMENT REPORT BY JESMOND HARDING

Marsh Fritillary

TABLE OF CONTENTS

TABLE OF FIGURES

1.1 INTRODUCTION

Jesmond Harding was requested by Vincent Cunningham on behalf of ~~The Delvin Raharney Ballivor Wind Action Group~~ DRB Community CLG to survey areas of the Ballivor Bog Group in May 2023. Arising from the time constraints that applied, the survey was carried out on two dates, 25 May 2023 and 29 May 2023.

Jesmond Harding is the author of two books, "Discovering Irish Butterflies & their Habitats" published in 2008 and "The Irish Butterfly Book" published in 2021 He has had articles published in various periodicals including the Irish Naturalists' Journal, Peatland News (Irish Peatland Conservation Council), Wings (BirdWatch Ireland) and the online nature magazine Wildlife Extra. He featured in the third series of "Living the Wildlife" (episode 2) and "The Burren: Heart of Stone" (episode 1). He was part of the expert group that drew up the red list for Irish butterflies in 2010. He is a member of the Irish Peatland Conservation Council, Burrenbeo Trust, and a founding member of Butterfly Conservation Ireland. He is Conservation Officer for Butterfly Conservation Ireland. Jesmond gives talks on butterflies and advises on habitat creation and management. He is involved with several Lepidoptera recording programmes. He is a member of the coordination committee for the Butterfly Atlas Project 2017-2021, and works with the Burrenbeo Trust to manage limestone habitats. Jesmond manages Butterfly Conservation Ireland's website and Butterfly Conservation Ireland's reserve at Lullybeg, County Kildare.

The area contains bare peat, partly vegetated peat, raised bog, cutover bog, poor fen, wet and dry heath, grassland of various types, scrub and semi-natural woodland. The vegetated areas are rich in invertebrates. It is expected that the scrub and woodland areas are rich in moth species. According to Waring, Townsend and Lewington (2017) birch and willows which occur extensively on the site, supports c.96 larger moth species and 121 larger moth species respectively while 67 larger moth species are supported by oak, which occurs on an area in the southern part of the Ballivor Bog Group. These figures do not include the micro-moths supported by these native trees. It is likely that the Ballivor Bog Group holds hundreds of moth species, adding to the importance of the ecosystem for birds and other species. Based on the site survey observations, the following butterflies are known or expected or suspected to occur on the bog: Dingy Skipper, Cryptic Wood White, Large White, Small White, Green-veined White, Orange-tip, Small Copper, Common Blue, Green Hairstreak, Purple Hairstreak, Red Admiral, Painted Lady, Small Tortoiseshell, Peacock, Comma, Silver-washed Fritillary, Dark Green Fritillary, Marsh Fritillary, Speckled Wood, Wall Brown, Small Heath, Large Heath.

It is expected that most or all these butterfly species would be recorded over their flight period April-September. Some of these species are no longer represented in the surrounding farmed landscape arising from modern intensification practices, making the bogs a refugia for biodiversity.

1.2 SURVEY METHODOLOGY

A walkover survey was carried out on areas of grassland identified following a general visual survey of areas of Clondalee More, Bracklin, Grangemore and Coolronan Bridge. The surveys were conducted during the Marsh Fritillary flight period, during warm, sunny weather with light breezes. The maximum temperature in the area reached c.18 Celsius and 20 Celsius on 25 and 29 May respectively.

Following visual identification of potential habitat for the Marsh Fritillary, the areas were searched for habitat types that typically support Marsh Fritillary populations on peat soils, particularly dry-humid acid grassland and wet grassland on areas of revegetated cutover bog. The presence and density of the breeding plant, Devil's-bit Scabious was assessed where it occurs, and key nectar sources for the adult, such as Tormentil, Lousewort and Common Bird's-foot-trefoil were identified. Adults were searched for and counts were made where found.

1.3 RESULTS

The results are expressed under headings for various parts of the site and a sample grid reference is given. These references can be found in the Appendix.

3.1 Site 1. Sample reference: N 63626 57282 Bracklin, County Westmeath.

This area holds a confirmed breeding site. Grassland sloping to the west and east with a range of sward heights, grading in places to raised bog, bare peat and scrub is found here. Marsh Fritillary adults (18), eggs and a pupa were found. The area of suitable habitat in this area extends c. 300 metres along the rail track to the south.

Other butterfly species found were Dingy Skipper 2 (ranked Near Threatened on the Red List of Irish Butterflies), Cryptic Wood White, Orange-tip and Common Blue.

Moth species: Narrow-bordered Bee Hawkmoth, Burnet Companion moth, Mother Shipton moth.

Notable plants: Devil's-bit Scabious, Common Bird's-foot-trefoil, Common Milkwort, Common Knapweed, Heath-spotted Orchid, Tormentil, Purple Moor-grass, Adder's-tongue Fern, rarely recorded in Ireland.

Figure 1 Marsh Fritillary habitat on Site 1.

Figure 2 Marsh Fritillary female found in Site 1.

Figure 3 Marsh Fritillary ova found in Site 1.

Figure 4 Marsh Fritillary pupa found in Site 1

3.2 Site 2. N 63296 57122 Bracklin, County Westmeath.

This is an area of rail track containing a species-rich sward holding similar plant species to those found on Site 1 . The track runs in an east-west direction which ensures it receives direct sunlight for much of the day which is essential for the Marsh Fritillary. Marsh Fritillary adults (2) Cryptic Wood White 2, Dingy Skipper 1, Narrow-bordered Bee Hawkmoth 1 were observed on the grassland adjacent to the rail track.

Figure 5 Narrow-bordered Bee Hawkmoth breeding on Devil's-bit Scabious in Site 2. This moth is commonly found in Marsh Fritillary breeding sites.

3.3 Site 3. N 64551 53675 Grangemore, County Westmeath.

This site contains a mosaic of scrub, grassland and bog. Marsh Fritillary 2, Green Hairstreak 1, Common Blue 2 were recorded here.

Figure 6 Marsh Fritillary male in Site 3.

Figure 7 Grassland containing the Marsh Fritillary breeding plant adjoining Site 3. The vegetated rail tracks are likely in use as dispersal routes by the Marsh Fritillary and may be used for breeding.

3.4. N 64442 57800 Coolronan Bridge, Meath.

This site contains bare peat, raised bog, wet grassland and scrub. Potential habitat for the Marsh Fritillary exists on this site. Marsh Fritillary 1, Dingy Skipper 1, Cryptic Wood White 2, Common Blue 3 were recorded here.

Figure 8 Marsh Fritillary habitat in Site 4.

4 CONCLUSIONS

The time constraint imposed by the need to produce this report for 30 May 2023 did not allow for a thorough walkover study of the site. However, locating the Marsh Fritillary in four locations is likely to be significant in terms of its use of the Balivor Bog Group and will have implications for any proposed development of the area for wind turbines.

The Marsh Fritillary occurs on a wide range of grassland habitats. These include limestone grassland, grassy heaths, humid grassland on cutover bogs, the grassy, heathy margins of intact bogs, fens, eskers, wet meadows, marshes, woodland clearings, fixed sand dunes and machair grassland. The Marsh Fritillary thrives on grassland that contains at least a 25% density of the larval foodplant Devil's-bit Scabious with the plants growing close together. The grassland that is favoured has a sward height of 12-25cm but while some swards are taller and even quite rank, all will be open with the foodplants unshaded. The grassland must have a tussock-like structure, flowers and usually some light cattle or horse grazing or mechanical disturbance to maintain the habitat.

Its status on the Red List of Irish Butterflies 2010 is Vulnerable because a population reduction greater than 30% has been observed based on a decline in area of occupancy and decline in habitat quality. IBMS data indicates that its population trend over the period 2008-2020 was 'Unknown' (Judge and Lysaght 2021). The report prepared by the Republic of Ireland for the EU, The Status of Protected Habitats and Species in Ireland 2019 states: "The Overall Status of the species is Inadequate but improving. There has been genuine spread into areas where there have not been previous records." "Inadequate" means the species status is not at "Favourable" status.

The Marsh Fritillary is declining throughout Europe, including Britain and Ireland, and is placed on the Annex II list under the EU Habitats Directive 1992. This requires the member governments of the EU to designate SACs (Special Areas of Conservation) for this species.

Furthermore, Article 3 of the EIA Directive states that an EIAR must 'describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors: [...] (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC". Annex IV, point 4 of the EIA Directive requires a "description of the factors specified in Article 3(1) likely to be significantly affected by the project: [...] biodiversity (for example fauna and flora)"

As a species listed under Directive 92/43/EEC this assessment must be carried out. However, in the context of the following information, this author queries whether this was carried out effectively and whether the conclusion not to assess it as a Key Ecological Receptor is correct.

There is also some concern arising from the findings of the EIAR concerning the species.

At 6.6.2.1.6 the EIAR states:

Marsh Fritillary The desk study undertaken above identified records for marsh fritillary from the Proposed Development Site but outside of the construction footprint. Adult marsh fritillary were identified during the multidisciplinary walkover survey of the Proposed Development Site in April 2020.

Response: It is unlikely that the Marsh Fritillary adults were seen in April 2020. There are no other known records of the species flying during April. The earliest known flight records in recent years are from 8 May. Furthermore, the restrictions arising from emergency health legislation passed in March 2020 on non-essential travel and allowing only workers in essential services to travel raises queries about the survey date.

At 6.6.2.1.6 the EIAR states:

No suitable habitat for marsh fritillary was identified within the construction footprint of the Proposed Development during the multi-disciplinary walkover surveys of the Proposed Development Site. While small areas of suitable habitat were identified within the Proposed Development Site boundary, these were located outside the construction footprint, along existing railway tracks. No marsh fritillary larval webs were recorded within these areas during dedicated larval web surveys undertaken in September 2020, 2021 and 2022.

Response: Site 1 described at 3.1 lies within the construction footprint of the proposed development. Evidence of breeding was found here: a pupa and freshly laid eggs: see Fig 3 and Fig 4 above.

At 6.6.2.1.6 the EIAR states:

Arising from this assessment, the EIAR concludes that the Marsh Fritillary is not included as a Key Ecological Receptor. "Key Ecological Receptor" (KER) is defined as a species or habitat occurring within the zone of influence of the Proposed Development upon which likely significant effects are anticipated.

Response: The discovery of breeding on Site 1 requires a review of the decision not to include the Marsh Fritillary as a *Key Ecological Receptor.*

At 6.7.1 on page 90 the EIAR states: "The cutover habitats within the site, particularly grassland and heath, would provide suitable habitat for a range of invertebrates including the Annex II species marsh fritillary, where abundant devil's bit scabious is present."

Response: The Marsh Fritillary has a metapopulation structure over much of Ireland, meaning that it has core populations with outlying colonies that are lost during the periodic declines which are characteristic of this butterfly's ecology, and which are then re-occupied during periods of expansion. The recent warm, dry weather has favoured the species, allowing it to breed and occupy nearby habitat. This means that the Marsh Fritillary's large colonies and corridors and outlying areas must be preserved, which involves protecting the landscape. Without a network of suitable habitats, isolation of populations causes extinction for this mainly sedentary, short-lived species. The widescale loss of habitat in the farmed landscape increases the relative importance of unfarmed peatlands for the Marsh Fritillary and a range of other species. The development of suitable habitat referenced at 6.7.1 provides the potential for the long-term viability of the Marsh Fritillary in the Meath/Westmeath area.

Finally, there are many areas throughout the bog where wet heath and raised bog remnants exist. Re-wetting, not drainage and peat removal required for the proposed turbines, would assist habitat maintenance and development for the Large Heath butterfly, ranked Vulnerable on the Irish and European Red Lists, as well as enabling habitat restoration, carbon sequestration and water quality improvement. Many of these wet acid bog areas contain Hare's-tail Cottongrass *Eriophorum vaginatum*, the breeding plant of the Large Heath, a plant indicative of a high water table. The decline of wet bog habitat has greatly driven the decline of the bog specialist. An opportunity exist to support bog dependent species and repair some damage.

Jesmond Harding May 30 2023

REFERENCES

Emergency Measures in the Public Interest (Covid-19) Act 2020 .Available at : https://data.oireachtas.ie/ie/oireachtas/bill/2020/4/eng/ver_a/b04a20dpdf-as-passed-by-de.pdf (Accessed 30 May 2023)

Harding, J. (2021) The Irish Butterfly Book Privately Published, Maynooth.

Judge, M and Lysaght, L. (2021) 'Butterfly populations still declining', The Irish Butterfly Monitoring Scheme Newsletter, Issue 13.

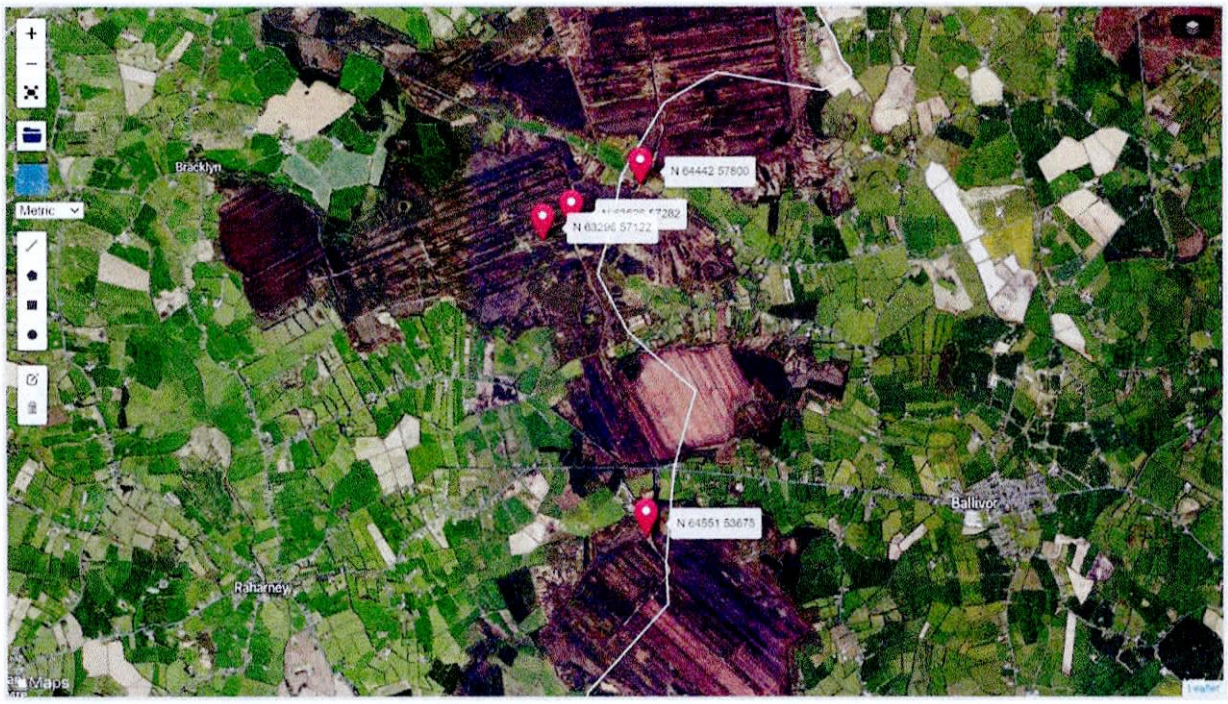
National Parks & Wildlife Service, 2019. The Status of EU Protected Habitats and Species in Ireland. Volume 1: Summary Overview. Volume 1: Summary Overview. [online] National Parks & Wildlife Service, page 52. Available at: <https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2019_Vol1_Summary_Article17.pdf> (Accessed 30 May 2023).

Proposed Ballivor Wind Farm Development Environmental Impact Assessment Report - Chapter 6 Biodiversity EIAR – 09.03.2023 - 191137

Regan, E.C., Nelson, B., Aldwell, B., Bertrand, C., Bond, K., Harding, J., Nash, D., Nixon, D., & Wilson, C.J. (2010) Ireland Red List No. 4 – Butterflies. National Parks and Wildlife Service, Department of the Environment, Heritage and Local Government, Ireland.

Waring P., Townsend M., & Lewington R (2017) *Field Guide to the Moths of Great Britain and Ireland* Bloomsbury Publishing, London.

APPENDIX



Map showing locations referred to in the text.