



An
Bord
Pleanála

Memorandum ABP-317265-23

To:	The Board
Cc.	Stephen Kay, ADP
From:	Una O'Neill, SPI
Re:	ABP-317265-23
Date:	27.02.24

1.0 Site Location and Description

- 1.1. This proposed development of a wind farm is located within an agricultural, upland and forested area of Co. Waterford, at the border with County Tipperary. The site is 463 ha in area, and comprises a mix of agricultural sheep and cattle grazing, farmland (managed pasture and open mountain heath), private commercial forestry and residential properties.
- 1.2. The proposed development is located along the foothills of the Knockmealdown Mountains, with the site situated across the eastern and southern extents of Broemountain (429m AOD) and Knocknasheega Hill (428m AOD) on sloping lands and Dyrick Hill (285m AOD) is within the southern central portion of the site. The site is 12.9km northwest of Dungarvan, 43 km west of Waterford City, and 55km northeast of Cork City. The nearest settlement of size is the rural village of Tooraneena, which is situated east of the River Finisk and just under 3km east of the nearest turbine. Other nearby settlements include the villages of Ballynaguilkee 0.8km southeast and Curradoon 0.8km east.
- 1.3. Proposed Development
 - 1.3.1. The Project will consist of the following main components:
 - Erection of 12 no. 6.0-7.2 MW wind turbines (Note* this is the current output available for turbines of this size. It is possible that with improvements in technology, the output may increase at the time of construction) with an overall ground tip height of 185m. The candidate wind turbines will have a 162m rotor diameter and a hub height of 104m.
 - Construction of Crane Hardstand areas and Turbine Foundations.
 - Construction of new internal site Access Tracks and upgrade of existing site roads, to include passing bays and all associated drainage.
 - Construction of a new wind farm site entrance with access onto the R671 regional road in the townlands of Lickoran.
 - Improvement of existing site entrance with access onto local roads in the townlands of Broemountain.

- Improvements and temporary modifications to existing public road infrastructure to facilitate delivery of abnormal loads and turbine delivery.
- Construction of one Temporary Construction Compound with associated temporary site offices, parking area and security fencing.
- Development of on-site Borrow Pit.
- Installation of one Permanent Meteorological Mast with an overall height of 104m.
- Development of a site drainage network.
- Construction of one permanent 110 kV Substation.
- All associated Wind Farm Internal Cabling connecting the wind turbines to the wind farm substation.
- All works associated with the connection of the wind farm to the national electricity grid, which will be via 110 kV underground cable connection approximately 16km in length to the existing Dungarvan 110 kV Substation.
- Upgrade works on the Turbine Delivery Route from Waterford Port.
- Ancillary forestry felling to facilitate construction and operation of the Development.

- 1.3.2. A 15-year planning permission is sought and it is stated the windfarm will have a 40-year operational life from the date of commissioning.
- 1.3.3. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS), various technical appendices and letters of consent from landowners.

2.0 Planning History

ABP-312434-22 – The proposed development constitutes Strategic Infrastructure Development as defined by section 2(1) of the Planning and Development Act 2000, as amended by section 6 of the Planning and Development (Strategic Infrastructure) Act 2006, and a planning application should be made directly to the Board under Section 37E.

Current Appeal on portion of lands:

ABP-316060-23 - Change of use of building from a dwelling house, to office accommodation together with all ancillary site works and services.

- Permission Refused by WCC on following grounds: No justification for the proposed office in this remote rural area; would undermine the function of serviced settlements and contrary to the policies and objectives of the development plan; fails to demonstrate capacity of septic tank and percolation area; intensification of existing substandard access arrangements would give rise to traffic hazard.

3.0 Local Policy

3.1.1. Waterford County Development Plan 2022

Chapter 6 – Utilities Infrastructure, Energy and Communication

Section 6.6 Renewable Energy -

Table 6.3 sets out the Renewable Energy Targets 2030 for the county. The target for on shore wind energy is 211.20 MW. With 97.72MW either operational or permitted but as yet undeveloped there is a shortfall of 113.48MW. The targets as detailed are considered to be minimum targets.

Policy Objective UTL 13 – Renewal Energy

It is the policy of Waterford City and County Council to promote and facilitate a culture of adopting energy efficiency/ renewable energy technologies and energy conservation...As such, renewable energy developments may require support from such sources in times of high energy demand. This will be achieved by:

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- Supporting the delivery of renewable energy to achieve the targets identified in Table 6.3 of the Development Plan.
- Facilitating and encouraging, where appropriate, proposals for renewable energy generation, transmission and distribution and ancillary support infrastructure facilities including the necessary infrastructure required for the development of offshore renewable energy developments developed fully in

accordance with the Waterford Renewable Energy Strategy, the wind energy designation map (Appendix 2 of the RES), the Waterford Landscape and Seascape Character Assessment undertaken to inform this Development Plan, and the National Wind Energy Guidelines, or any subsequent update/ review of these.

- The Wind Energy Designation Map and the Landscape and Seascape Character Assessment Map identify different landscape character areas and associated landscape sensitivities.....

Renewable Energy Strategy 2016 – 2030 for Waterford: Appendix 7 of the Development Plan

Appendix 2 of the Strategy notes three wind designation areas – preferred areas, areas open to consideration and no go areas/exclusion areas.

- The application site is within an area designated as an Exclusion Zone.

Landscape and Seascape Character Assessment: Appendix 8 of the Development Plan

- As per Map A8.1, the application site straddles the uplands and foothills landscape character types.
- As per Map A8.3, the application site appears to be primarily within an area considered to be 'Most Sensitive', with a portion of the site appearing to be within a 'High Sensitive' area and area of site where infrastructure elements appear to be located is within a 'Low Sensitivity' area.

4.0 Submissions – Prescribed Bodies

4.1. Tipperary County Council

- 4.1.1. Tipperary County Council has reviewed the proposed application and notes the following:

- Procedural Issue - the application was inappropriately circulated to the civic offices in Clonmel and not to the County Council offices.

- Principle Concern – While not within the administrative area of Tipperary County Council, the proposal has the potential to have a significant visual impact on areas of Tipperary that are deemed to be vulnerable landscapes and areas of amenity value.
- Character Area – application site adjoins area in Tipperary which is an uplands area in the Knockmealdown Mountain Mosaic which is identified as a sensitive area and a primary amenity area. The development plan notes that the Knockmealdown Mountain Mosaic is of low compatibility with a multiple turbine scheme.
- Waterford City and County Development Plan 2022-2028 shows that the part of the Knockmealdown Mountains within Waterford County Councils administrative area is unsuitable for wind energy proposals.
- Renewable Energy Strategy – Area of the Knockmealdown Mountain Mosaic is identified on Map 11 Wind Energy Policy Areas of the Tipperary County Development Plan 2022 as being ‘Unsuitable for Wind Energy Development’.
- Roads – Aggregate suppliers in Tipperary are noted to be proposed to supply the scheme. The impact on the roads network in Tipperary should be assessed.

4.2. Department of Housing Local Government and Heritage – Development Applications Unit

- 4.2.1. The submission of the department relates to ‘Nature Conservation’ and ‘Archaeology’. The following is a summary of their submission.

Nature Conservation:

- No issue with turbines 1-6.
- Significant concerns in relation to turbines 8-13 and associated infrastructure.
- Broemountain is the eastern extent of the larger upland habitat of the Knockmealdown mountain range, in largely undisturbed areas which contain habitats of conservation interest and provide habitat to species of high conservation concern. It is not designated as a conservation area but contains significant expanses of Dry Heath (4030) which is listed in Annex 1 of the Habitats Directive and is assessed in submitted EIAR as of national importance.
- National status of Dry Heath is ‘Bad’.

- Footprint of development would remove 3.5ha of Dry Heath habitat with additional removal of associated linked habitats. Loss is rated in EIAR as significant, permanent, negative at the local scale, with potential to result in impacts at national/international scale.
- Mitigation is proposed via restoration habitat, but changes in management could also achieve this without the permanent removal of existing quality habitat.
- Presence of supporting habitat of Nardus acid grassland indicated an area of ecological value.
- The elevated open exposed nature of Broemountain provides mosaic of upland habitats and species which are nationally declining and forms a significant block of habitat on the eastern extent of the larger Knockmealdown area which is important for a range of open country species. Scale is important in conserving these species and it is important that they can range over large undisturbed areas and alternate between species of habitat which for various reasons, eg burning, forestry works etc, may become temporarily unsuitable but will at a later stage be used again.
- Habitats and species supported which are listed Annex I of the Birds Directive include Hen Harrier, Golden Plover, and Merlin. Other high (red list) conservation species present include Meadow Pipit, Kestrel, and Snipe in addition to medium conservation concern (amber list) birds of Skylark. Previously extinct Annex I species reintroduced and recorded in this area include White-Tailed Eagle and Red Kite, with its likely that these birds would make future sporadic use of this upland habitat. The proposal would remove or degrade potential habitat for these species.
- Southern RSES, RPO 1 refers to requirement for environmentally sustainable development that has no adverse effects on the integrity of European sites and no net loss of biodiversity. The proposed project would in the Department's view cause a net loss of biodiversity.
- Habitat on Broemountain is of good quality for hen harriers, which were recorded breeding there in 2019, producing 4/5 chicks annually. Overall habitat is suitable for foraging and nesting. Broemountain represents the eastern extent of a larger hen harrier unit, where in 2015 five breeding harrier pairs nested, which constitutes between 3.2 and 4.8% of the national population. The area is not a designated SPA

but meets the criteria for such an area, as it is used regularly by 1% or more of the all-Ireland population of a species in Annex I of the Birds Directive.

- The 2015 hen harrier survey indicated use of the Broemountain, within the area of the application site, by a breeding pair, in addition to one pair being within 0.5km of the site and one being within 3km of the site. While the EIAR did not find birds nesting in this area, the Department believe (Alan Mee, pers. Obs.) that there were present up to 2019 and if the habitat remains suitable, they could nest there again.
- The EIAR hinterland surveys record two sightings of hen harriers carrying prey. This is strongly indicative of an active nest. The EIAR does not elaborate on this and the information was not followed up on to establish where the nests might be.
- The Department does not accept findings of EIAR that harrier habitat on the site is highly degraded and 'deemed unlikely to be suitable for breeding' or that it is suboptimal for foraging, and does not accept the findings that only 11.17 ha of suitable habitat will be lost. The EIAR has not included the nearby young pre-thicket forestry plantation which is also suitable breeding and foraging habitat supporting the adjoining open habitat. THE department is aware that hen harrier nested in young forestry at the Broemountain site in 2016 and a nearby site (0.5km) in 2019 and both pairs regularly forages over pre-thicket forestry as well as heather moorland and grass moorland at the site (A. Mee, pers. Obs.)
- ECJ has found in case C-378/98 'that areas which have not been classified as SPAs but should have been so classified continue to fall under the regime governed by the first sentence of Article 4(4) of the Birds Directive.
- Appendix 7.1 of the Ornithology Report does not provide start or end times for the vantage point watches, which is important information in evaluating potential breeding. Table 2.5 sets out breeding bird transects using CBS based methods, which were carried out well outside acceptable survey dates for passerines, raptors or breeding waders and are not likely to accurately reflect the breeding bird community. Only one season of data for 2022 is provided which is not sufficient for a project of this scale.
- Collision risk, direct removal of habitat for infrastructure, and displacement of species caused by wind turbines are all issues arising. In the Broemountain area the suitable harrier and golden plover habitat occurs in a long narrow band of c. 400m

width and given the turbine layout, the Department believes this entire band of habitat is likely to become unsuitable or at best severely compromised.

Displacement from humans and not just the turbines will also be an issue in this currently largely undisturbed area. Habitat displacement from turbines likely to occur for hen harrier at 200-300m with reduced usage up to 500m. Human related disturbance for hen harrier considered to be 300-750m and for golden plover at 200-500m, with the upper limit of the disturbance buffer recommended for use. Issue is acknowledged in EIAR. The Department consider that if the development goes ahead it is likely the area habitat suitable for hen harrier and golden plover will become unusable and this eastern portion of the Knockmealdown habitat complex will be lost, with such impacts likely to be further increased if proposals for the Knocknashane area (Scart Mountain Wind Farm) also proceed.

- Overall combined predicted impact of the various conclusions (direct loss, collision risk and indirect loss) under the Percival evaluations has not been considered and the calculations of indirect loss do not accept a significant avoidance zones around turbines. The Department considers the assessment significantly underestimates the zone of influence and overall likely impact of the proposed Broemountain development.
- In-combination effects for a wind farm development on the neighbouring site should be considered in terms of impact on the upland open habitats and on birds. Bird usage data from the other wind farm will be available to inform this application. The two sites together form a larger ecological unit. An overall ecological assessment needs to be considered to avoid long term very significant and cumulative impacts.

Archaeology

Broadly in agreement with findings of Archaeological Impact Assessment submitted, however issues arise and remain unresolved in relation to:

- Indirect impacts to the settings of certain sites subject to Preservation Orders within 10km of the proposed development. EIAR states national monuments within 10km have been considered, but two sites omitted from the assessment, namely Church and Graveyard at Clashganny East, Co. Tipperary (preservation order no.

4/1997) and Archaeological Complex at Courmaraglinmountain, Co. Wexford (preservation order no. 4/1996).

- Cumulative impacts to the setting of certain sites subject to preservation orders within 10km of the proposed development. The cumulative impact of the above sites not considered in the assessment.
- Further Information may be beneficial to address issues raised.

4.3. Department of Defence

- Conditions recommended in relation to turbines being illuminated and obstacle lighting requirements.

4.4. An Taisce

- The site is in an area classed as an exclusion zone for wind development in the Waterford City and County Development Plan 2022-2028. The proposal is not sufficiently justified and is a material contravention of the development plan.
- The area of the Tipperary bordering the site is also classed as unsuitable for new wind energy development, as per the Renewable Energy Strategy (Map 11) of the Tipperary Development Plan 2022-2028.
- Plans for a 16 turbine windfarm directly adjacent the subject site (scartmountainwindfarm.ie) indicates extensive surveying is ongoing and identifies provisional turbine locations. The potential cumulative impacts in combination with the subject proposal should be fully assessed for purposes of EIA and AA. The two projects are proposing a total of 28 turbines.
- AA and Kelly judgement – precautionary principle applies and there should be no reasonable scientific doubt.
- Hen harrier have been observed on the site. This is a highly threatened species under Annex I of the Habitats Directive. While site is not within an SPA, under Article 4 of the Birds Directive member states are required to strive to avoid pollution or deterioration of habitats of interest in areas outside specifically identified protection areas. It must be determined that the subject proposal will not adversely impact Hen Harrier, including in-combination with the Scart mountain wind farm proposal, which is currently in pre-planning.

4.5. Coillte

- Section 5.13 of the 2006 Windfarm Guidelines recommends a distance of not less than two rotor blades from adjoining property boundaries. Clarification from the Department (Circular Letter PD 6/06, 6th September 2006) notes this is equivalent to two rotor diameters. Turbines should therefore be at least 324m from the Coillte Boundary and this is not the case for T1, T9, T10, T11, T12 and T13.
- Coillte notes that no agreement is in place to allow the location of turbines within two rotor diameters of the Coillte property boundary.

4.6. Failte Ireland

- Wind energy strategies ensure that the development of renewable energy infrastructure such as wind farms is plan led and can be located to avoid or minimise disproportionate negative impacts on other land uses, including tourism related uses and the receiving environment.
- Tourism and impact on tourism is addressed in Chapter 5 Population and Human Health of the EIAR. Despite the location of the proposed development on the boundary with County Tipperary, tourist-related policies and objectives as set out in Chapter 9 of the Tipperary County Development Plan 2022-2028 are not referenced or discussed.
- There is a lack of detail on the location, nature and sensitivity of the tourist attractions/amenities potentially impacted by the proposed development and no mapping is provided of the tourist attractions/amenities or tourism characteristics in the area.
- It is also noted that other tourism-related publications, including 'The Waterford City and County Council Tourism Statement of Strategy and Work Plan 2017 – 2022' or the 'Rural Waterford Visitor Experience Development Plan 2021-2023' are not referenced.
- The assessment appears to rely solely on the landscape and visual assessment presented in Chapter 11 of the EIAR, with no detailed assessment of the likely impact, if any, on the tourist attractions, their tourist resources and their sensitivities.
- The Board is asked to consider the description of the baseline tourism environment; the tourist-related policies and objectives of the Waterford City and

County Development Plan 2022-2028; the tourist-related policies and objectives as set out in Chapter 9 of the Tipperary County Development Plan 2022-2028; the objectives of other local and regional tourist development publications; and the likely impact of the proposed development on local tourist attractions in County Waterford and County Tipperary.

4.7. Transport Infrastructure Ireland

- Issues in relation to the turbine haul route and the grid connection to the Dungarvan 110kV substation, which would impact the strategic national road network.
- The haul routes is identified in section 2.5.4 of the EIAR. Section 14.3.1 and Appendix 14.1 comprise detailed analysis of the haul route. Sections of the national road are being traversed. Consultation with parties involved is needed to ascertain any operational requirements and to ensure the strategic function of the national road network is maintained.
- Mitigation measures identified by the applicant should be included as conditions.
- Damage shall be rectified by the development to TII standards and agreed with the Road Authority.
- While 'oversized' loads are addressed in the EIAR, no details are submitted in relation to abnormal 'weight' loads. Consultation and road permit from the local authority may be required.
- Section 2.2 of the EIAR relates to the grid connection. Issues are raised with the laying of high voltage electricity cabling in the national road reservation.
- EIAR does not consider in detail the impact on traffic flows, delays etc of traffic management measures to facilitate construction in the N72.
- Significant lack of co-ordination in grid connection proposals in the vicinity. There is a permission for a grid connection routing along this section of the N72 granted under ABP ref PL93.311670.
- TII has not confirmed acceptance of proposed HDD crossing in the vicinity of Kildangan Bridge, which is a TII structure.

- Recommendation for an alternative grid connection routing that avoids national roads and associated structures in the interests of safeguarding investment in and levels of safety on the strategic national road network in accordance with official policy.

4.8. Uisce Eireann

- There are a number of points where proposed underground cabling will cross over and below Uisce Eireann's assets.
- No objection to cross under assets provided applicant ensures protection of Uisce Eireann's assets, in compliance with their standard codes and practices.
- Any proposal to cross above assets requires clear and detailed information to provide evidence that no impact will arise, with appropriate and adequate mitigation measures. Further Clarification is required in this regard..

5.0 Submissions - Third Party Observations

Two observers have sought to have an oral hearing. The submissions are summarised as follows:

- The applicant's submission comprises a number of inaccuracies (detailed in the submission). In light of this, it is requested that an Oral Hearing be held.
- Extent of error, inconsistency, and omission across the applicant's documentation, such that the Board has no adequate basis to make an assessment of the planning merits, EIA or AA.
- The documentation contains inaccuracies. For example, the LVIA in Chapter 11 references the Cork CDP.
- Community only given seven weeks to consider the application.
- Lack of public consultation.
- The formal proceedings lack fairness and equality.
- OH requested to allow people to explain their experiences and frustrations with the process.
- Strategic policy for wind farms is lacking.

- This is one of the largest wind farms in the country, with an output of 74MW quoted, delivered by 12 turbines, with an output of 6.0-7.2 MW and with an overall ground tip height of 185m.
- The turbines are unprecedently high and located in a 3 dimensional landscape, vulnerable and scenic, close to SACs and home to various species protected by the European Habitat Directive.
- Proposal is a material contravention of the Renewable Energy Strategy of the development plan, and of the landscape and visual impact provisions of the development plan.
- Cannot reasonably conclude that proposal will not affect the integrity of any European site, specifically the Blackwater River SAC and Dungarvan Bay SAC.
- No cumulative assessment with Scart mountain wind farm proposal.
- EIAR fails to adequately consider issues of autism, fire risk and Bisphenol, landslide, noise, cultural heritage, impact on telecommunications, and shadow flicker, such that the Board has no adequate basis to make an assessment of the EIA.
- Proposal is contrary to proper procedures and principle of planning; conflicts with EU law and policy; conflicts with various local and regional policies; would set an undesirable precedent for proposed developments of this kind in the area as on principle indeed in the whole Republic of Ireland.
- The Boards decision to make this an SID should be invalidated on basis of lack of consultation with the development plan; the location, which ignores the content of the development plan in relation to landscape sensitivity; failure to assess impact on Tipperary; and competence of the Board.
- Letters of consent are missing from the applicants website.
- Prescribed bodies - no letter was sent to the prescribed body of the HSA.
- Requirements of the Board in relation to drawings being legible – the overall site layout plan when opened is illegible.

- There are precedents against wind farms in the Knockmealdown mountains – refs D122720; D206203; PL 93.245211.
- WEDG 2006 are invalid and incompatible with Directive 2001/42/EC, and do not provide for a 'health based limit value' in terms of noise as per WHO. Review of the guidelines is flawed as it excludes the impact of wind turbine noise on health.
- WEDG 2006 conflicts with the constitution of Ireland and the European Convention on Human Rights.
- The proposal is in an area that lists many species under the EU Habitats Directive, specifically the Hen Harrier.
- Adjoining proposal for a windfarm on Scart Mountain equates to project splitting.
- Contrary to tourism policies in South Tipperary and West Waterford.
- Health and safety in relation to construction and operation and issue with sulphur hexafluoride. No mitigation in terms of fire.
- Development is linked to a spurious appeal under ABP 316060-23. Tenant of this house, which is in the middle of the development, is still occupying the dwelling.
- GSI classify the area in the landscape susceptibility classification as being moderately high and high, with risks of landslides.

6.0 Need for Oral Hearing

As noted above, two observers sought to have an Oral Hearing.

Having regard to:

- The information provided by the applicant including the EIAR, NIS and associated documentation, and
- The submissions received to date from prescribed bodies and observers

I do not consider that the issues arising would warrant the holding of an oral hearing and I submit that the documentation on file can be readily assessed by way of the written submissions. I would also submit that the convening of a hearing would not be likely to elicit new information that would assist in the understanding or proper assessment of the proposed development.

I therefore recommend that the oral hearing is not held in this instance.



Una O'Neill

Senior Planning Inspector

27.02.24

Noted & agreed
Stephen Kay
4.3.2024