

## Ellen Moss

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**From:** SIDS  
**Sent:** Thursday 3 August 2023 14:07  
**To:** peter sweetman  
**Subject:** ABP-317265-23 - Acknowledgement Letter  
**Attachments:** ABP-317265-23 - Acknowledgement Letter - Wild Ireland Defence CLG (Peter Sweetman).pdf

Dear Mr Sweetman,

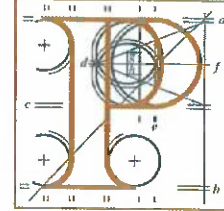
I have been asked by An Bord Pleanála to refer to your submission dated 31st July 2023.

Please find attached Acknowledgement letter in relation to same.

Kind regards,  
Ashling Doherty

**Our Case Number:** ABP-317265-23

**Your Reference:** Wild Ireland Defence CLG



An  
Bord  
Pleanála

Peter Sweetman  
PO Box 13611  
Bantry  
Co. Cork

**Date:** 03 August 2023

**Re:** Construction of Dyrrick Hill Windfarm comprising 12 no. wind turbines and related works.  
Townlands of Ballymacmague North, Ballymacmague South, Ballynaguilkee Lower, Ballynaguilkee Upper, Broemountain, Carrigaun (Mansfield) and others, Co. Waterford.

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above mentioned proposed development 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.

The Board will revert to you in due course with regard to the 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](http://www.pleanala.ie).

If you have any queries in the meantime, please contact the undersigned officer of the Board or email [sids@pleanala.ie](mailto:sids@pleanala.ie) quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,

Ashling Doherty  
Executive Officer  
Direct Line: 01-8737160

PA04

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## SUBMISSION BY PETER SWEETMAN AND ON BEHALF OF WILD IRELAND DEFENCE CLG

### PA93.317265 DYRICK HILL WIND FARM LIMITED

The test for Appropriate Assessment is set out by the Courts of Justice of the European Union in Case 258/11 at 44.

*“So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.”*

It is our submission that it is not possible for An Bord Pleanála to grant permission for this development as the mitigation measures proposed are neither complete, precise, or definitive.

Here are our comments on some of the mitigation measures proposed. The original statements in the Natura Impact Statement are in Black and our comments are in red.

#### MITIGATION MEASURES

The mitigation measures required to safeguard European Site qualifying features of interest from adverse effects have been identified in Section 5 above and relate to mitigating the potential for the proposed development to result in perturbations to water quality and downstream effects to qualifying feature receptors. Whilst the examination of the potential impacts posed by the proposed development to the conservation objectives of special conservation interests (see Table 6.3) did not identify the potential for lighting emissions from proposed turbines to adversely affect specific conservation objectives, the potential for lighting effects to birds has been identified in Sections

6.2 and 6.3 above. As such mitigation measures are also outlined for the operation phase of the proposed wind farm site with respect to the lighting design to be provided.

Targeted mitigation measures are provided to safeguard against the potential adverse effects to the Annex 1 habitats and the Annex 2 species identified as requiring mitigation in Table 5.3 above. The measures to be implemented to protect the water quality, in stream and coastal habitats and associated fauna populations downstream of the proposed development and within European Sites are outlined in the following sub-sections. These measures shall be implemented by the contractor appointed for the construction and decommissioning phase, in consultation with the appointed Ecological Clerk of Works (ECOW) so that the sensitive receptors of these European Sites are safeguarded and pathways connecting the project site to these receptors are eliminated as potential impact pathways.

The Ecological Clerk of Works (ECoW) will be appointed to supervise the works and to ensure that all biodiversity receptors are protected during the construction and decommissioning phase. The ECoW will be appointed to ensure that habitat restoration and enhancement activities are implemented as planned, and to advise on any environmental or ecological aspect of the works. The ECoW will inspect habitat and ditches/water courses during the construction phase and during habitat restoration works and will be in charge of water quality monitoring throughout the construction phase. The ECoW will be the first point of contact with the Planning Authority, namely Waterford County Council, for all matters relating to ecology and biodiversity.

The above is not a mitigation measure.

All operation phase mitigation measures will be required to be implemented by site management during the operation phase of the proposed development. A project ecologist will be appointed for the operation phase to supervise the ongoing implementation, management and monitoring of peatland habitat management and enhancement measures. These measures are set out in DyricHill Wind Farm Habitat Management Plan (provided as part of the EIAR) and will be implemented throughout the lifetime of the proposed wind farm.

The fact that these measures these measures are set out in DyricHill Wind Farm Habitat Management Plan (provided as part of the Environmental Impact Assessment Report) shows that theses measures (in the Natura Impact Statement) are not complete as per the decision of the Courts of Justice of the European Union.

#### WIND FARM SITE EARTHWORKS

Mitigation measures to avoid the potential for adverse impacts arising from earthworks and management of spoil will comprise:

Management of excavated material will adhere to the measures related to the management of temporary stockpiles as set out in Section 6.2 below.

Why are the not here, is it to confuse?

No permanent or semi-permanent stockpiles will remain on the Site during the construction, decommissioning or operational phase of the Development. Any surplus spoil remaining at the end of the construction phase will be taken off site and disposed of at a licence waste facility.

What is semi-permanent?

Construction activities will not be carried out during periods of sustained heavy rainfall events<sup>9</sup>, or directly after such events. This will allow sufficient time for work areas to drain excessive surface water loading and discharge rates to be reduced.

This is unclear.

Following heavy rainfall events, and before construction works recommence, the Site will be inspected to confirm that conditions are suitable for construction activities to recommence.

What does suitable for construction actually mean?

An emergency response plan (ERP) has been prepared as part of the CEMP and SWMP for the project, both of which are provided under separate cover as part of the planning application documentation associated with the EIAR. All measures outlined in the ERP will be implemented throughout the construction phase of the project.

CEMP and SWMP if they are relevant to the Appropriate Assessment then that makes the Natura Impact Statement incomplete.

Sediment fencing will be erected along proximal and paralleling areas of watercourses, such as along the Lisleagh Stream and Aughkilladoon Stream and other first order tributaries occurring within the proposed wind farm site, channels and drains spanned by the works to reduce the potential for sediment laden run-off to reach sensitive receptors.

This is incomplete, there are no designs of the Sediment fencing and no drawings of the positions of the Sediment fencing.

No direct flow paths between stockpiles and watercourses will be permitted at the Site.

What does this involve as mitigation?

Excavated material will be backfilled and transported to the spoil storage area as soon as is reasonably practicable to prevent long duration storage at the Site which increases the risk of adverse effects on aquatic environments.

Who defines what as is reasonably practicable is?

All mitigation measures related to surface water quality will be implemented before excavation works commence.

That is not a mitigation measure.

#### TEMPORARY STOCKPILE MANAGEMENT FOR WIND FARM SITE WORKS

Whenever possible, soil and rock will be re-used on the Site immediately, thereby reducing the need for double handling, which will also reduce the requirement to stockpile soils. Generally excavated rock will be used immediately for Site Access Track construction. Whenever possible stockpiles will be avoided. Where stockpiling is required it will be stored in the designated temporary spoil stockpile area located to the east of the proposed turbine T9. This location for stockpiling has been selected due to its location on relatively flat ground that is well buffered (in excess of 100m) from any surrounding watercourses or drains and the presence of low value habitats in the form of intensively managed improved agricultural grassland.

Whenever possible, generally excavated, whenever possible, where stockpiling is required, Whenever possible,

The use of these the terms proves that the mitigation measures proposed does not fulfil the requirement of the Courts of Justice of the European Union. Which we repeat the here. *must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.*"



## EXCAVATION REQUIREMENTS FOR THE PROPOSED GRID CONNECTION ROUTE

The following mitigation measures will be implemented during excavations for the proposed grid connection route:

An Ecological Clerk of Works (ECoW) will be onsite in order to lessen environmental disruption and ensure site integrity is maintained. The ECoW will also be responsible for routine environmental monitoring and report writing.

The presence of ECoW is not a mitigation measure.

Environmental monitoring and report writing is not mitigation.

Excavated material will be temporarily stockpiled adjacent to the section of trench, with appropriate material used as backfill.

Excess/unsuitable material will be immediately removed and disposed of at a licenced waste disposal facility.

Neither of these measures are clear and concise

Appropriate siltation measures, as per the measures set out in the subsequent sections below will be put in place prior to excavations.

Who decided what is appropriate?

## EXCAVATION DEWATERING REQUIREMENTS FOR THE WIND FARM SITE

The following mitigation measures will be implemented for dewatering activities at the wind farm site:

Areas of subsoil to be excavated will be drained ahead of excavation works. This will reduce the volumes of water encountered during excavation works and will therefore reduce the volume of water that is required to be dewatered whilst excavations are being carried out.

If they are drained why will they need to be dewatered?

A program of water quality monitoring will be implemented during the construction phase which is outlined in detail in CEMP presented in the appendices to the EIAR (Jennings O'Donovan, 2023) in Appendix 2.1.

There is no Appendix 2.1 to this Natura Impact Statement and outlined is not complete.

Any discharges of sediment treated water will meet the requirements of the Surface Water Regulations 2009, as amended.

Is this enough to comply with the Habitats Directive we have no knowledge that there has been an Appropriate Assessment of it.

## WATERCOURSE CROSSINGS

At the wind farm site, one new watercourse crossing will be constructed. The required crossing will be a crossing of a small stream that are headwaters of the Finisk River: the location of the proposed crossing and proposed designs are mapped on Figure 9.7 in Volume III of the Dyrrick Hill Wind Farm EIAR (Jennings O'Donovan, 2023). The following measures provide for the

planning and consideration of this watercourse as part of the overall approach to watercourse crossing to ensure potential impacts are adequately mitigated.

Volume III of the Dyrick Hill Wind Farm EIAR (Jennings O'Donovan, 2023) is not part of this Natura Impact Statement.

A confirmatory assessment in terms of bridge or culvert design will be carried out that will have cognisance to the crossing location including the characteristics of water flow at both locations. The proposed crossing location will be situated relatively near the headwaters of this small stream. As a result, bridge or culvert specification and construction are envisaged to be of relatively low significance in terms of expected flow and culvert diameter. As per details set out above the following design measures have been implemented for the watercourse crossing to ensure any potential impacts of the proposed watercourse crossing are minimised:

'will be carried out' as it has not been carried out it cannot be assessed.

'relatively near' is that one centimeter or is it one kilometer?

The design of the proposed crossing and a method statement for the proposed construction will be agreed in advance with Inland Fisheries Ireland (IFI).

This proves once again the proposal is not complete

The responsibilities of Inland Fisheries Ireland (IFI) extend to the protection the fisheries not the protection of the Blackwater River (Cork/Waterford) SAC (002170).

To mitigate against the potential risk of accidental leaks or spillages from plant and equipment the following measures will be implemented: Multiple spill kits will be maintained on the Site at all times within the cabs of vehicles and placed strategically at environmentally sensitive locations across the Site.

'It is absolutely impossible for the multiple spill kits to mitigate against accidental leaks or spillages.

### ***Grid Connection Route***

There are no actual mitigation measures proposed in this section.

### **HORIZONTAL DIRECTIONAL DRILLING**

The drilling fluids will be constantly monitored, any changes required to the mix will be performed on site by a specialised HDD Contractor upon consultation with the drilling fluid supplier and Environmental Clerk of Works.

'constantly monitored' monitoring is not mitigation, it does not prevent it only discloses breaches.

The Environmental Clerk of Works cannot be authorised to change to any mitigation measure.

Mud testing equipment will be available at all times during drilling operations to monitor key mud parameters.

For what purpose?

## RELEASE & TRANSPORT OF SUSPENDED SOLIDS

**None of the measures proposed will be of any assistance to An Bord Pleanála in coming to a decision to grant permission as per the requirements of the Courts of Justice of the European Union.**

*So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."*

## RELEASE OF HYDROCARBONS

Refueling of vehicles will be carried out off site to the greatest practical extent.

**This is not precise. What does greatest practical extent mean?**

The designated refueling area will contain the following attributes and mitigation measures as a minimum requirement.

**It does not exist, there is no design and no map of it so it cannot be assessed.**

The designated refueling area will be bunded to 110% volume capacity of fuels stored at the Site.

**How will it be bunded?**

A detailed spill response plan is provided as part of the CEMP

**The CMEP is not part of this Natura Impact Statement.**

## RELEASE OF CEMENTITIOUS MATERIALS

The procurement, transport and use of any cement or concrete will be planned fully in advance and supervised by appropriately qualified personnel at all times.

**'planned fully in advance' they are no planned so the cannot be assessed all the following measures are not relevant.**

## HAUL ROUTE WIDENING

All mitigation measures set out in Section 6.7 to 6.9 above with respect to the control of suspended solids, hydrocarbons and cementitious materials will be implemented in full, wherever applicable, during the construction works associated with the widening of the haul route at the three no. locations

**There is no Section 6.7 to 6.9 above and what does wherever applicable mean?**

Management of spoil arising at the widening locations will be undertaken in accordance with the approach to spoil management set out for the wind farm site (Section 6.7.1 & 6.2) and grid connection route (Section 6.5), as applicable to the widening location.

**There is no (Section 6.7.1 & 6.2) and grid connection route (Section 6.5), in this Natura Impact Statement**



## WATER QUALITY MONITORING

Monitoring is not a mitigation measure,

The proposed watercourse crossings discussed in **Section Error! Reference source not found.** will be monitored daily during construction and during each Site visit during the operational phase. The water course crossings will be monitored in terms of their impacts (if any) on the receiving watercourses and in terms of their structural integrity to identify any signs of erosion or potential for sediment release.

This section explains the quality of the Natura Impact Statement as submitted.

## AVOIDANCE OF DISTURBANCE TO SPECIAL CONSERVATION INTEREST BIRD SPECIES

A buffer area of 500m will be established around areas that have been identified as being relied upon by wintering populations of golden plover or any other special conservation interest bird species of this SPA. This 500m buffer distance is in line with the maximum buffer distance set out by Goodship & Furness (2022) for golden plover.

**We have sort of mitigation for Golden Plover in the suggested distances set out by Goodship & Furness (2022). The contents of this document and its modus have not had an Appropriate Assessment as required under the Habitats Directive. As Scotland is no longer a member of the European Union its opinions have little relevance to the implementation of the Directive.**

In addition to the above we state that the  
The Qualifying Interests of the Blackwater Estuary SPA  
Wigeon (*Anas penelope*) [A050]  
Golden Plover (*Pluvialis apricaria*) [A140]  
Lapwing (*Vanellus vanellus*) [A142]  
Dunlin (*Calidris alpina*) [A149]  
Black-tailed Godwit (*Limosa limosa*) [A156]  
Bar-tailed Godwit (*Limosa lapponica*) [A157]  
Curlew (*Numenius arquata*) [A160]  
Redshank (*Tringa totanus*) [A162]  
Wetland and Waterbirds [A999]

### Qualifying Interests for Dungarvan Harbour SPA

Great Crested Grebe (*Podiceps cristatus*) [A005]  
Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]  
Shelduck (*Tadorna tadorna*) [A048]  
Red-breasted Merganser (*Mergus serrator*) [A069]  
Oystercatcher (*Haematopus ostralegus*) [A130]  
Golden Plover (*Pluvialis apricaria*) [A140]  
Grey Plover (*Pluvialis squatarola*) [A141]  
Lapwing (*Vanellus vanellus*) [A142]  
Knot (*Calidris canutus*) [A143]

Dunlin (*Calidris alpina*) [A149]  
Black-tailed Godwit (*Limosa limosa*) [A156]  
Bar-tailed Godwit (*Limosa lapponica*) [A157]  
Curlew (*Numenius arquata*) [A160]  
Redshank (*Tringa totanus*) [A162]  
Turnstone (*Arenaria interpres*) [A169]  
Wetland and Waterbirds [A999]

We note that the only Bird mentioned in the Mitigation measures is the Golden Plover tee others are ignored.

The otter is a species which has special protection in the Directive and id also a qualifying interest of the Blackwater Rive, SAC.

Otters were screened as follows.

*Lutra lutra* (Otter) [1355] hydrological pathway, noise pathway, visual pathway

There are no mitigation measures for the otter in the Natura Impact Statement.



**Peter Sweetman PO Box 13611 Bantry Co Cork**

and of behalf of Wild Ireland Defence CLG North Allihies Beara Co. Cork

PLEASE RESPOND **ONLY** BY EMAIL TO [sweetmanplanning@gmail.com](mailto:sweetmanplanning@gmail.com)