

File With

S. Moran

SECTION 131 FORM

Appeal No

ABP— 318689-23

Defer Re O/H

☐

Having considered the contents of the submission dated/received 16/1/24
 from Tom and Norma Shanahan I recommend that section 131 of the Planning
 and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

No new issues

Section 131 not to be invoked at this stage.

☒

Section 131 to be invoked — allow 2/4 weeks for reply.

☐

Signed

Daniel J Conno

Date

20/1/24

EO

Signed

Date

SEO/SAO

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

Task No

Allow 2/3/4 weeks

BP

Signed

Date

EO

Signed

Date

AA

last day for obs: 18/1/24

Tasks:

- ✓ BP40 to issue to observer
- ✓ Enclose Receipt.
- ✓ update Case Narrative

* LDG-069335-24

16/01/24
- D.C.

Handwritten signature and initials



An
Bord
Pleanála

Planning Appeal Online Observation

Online Reference
NPA-OBS-003057

Online Observation Details

Contact Name
Tom Shanahan

Lodgement Date
16/01/2024 08:43:17

Case Number / Description
318689

Payment Details

Payment Method
Online Payment

Cardholder Name
Thomas Shanahan

PMT-053898-24
Payment Amount
€50.00

Processing Section

S.131 Consideration Required

☒ Yes — See attached 131 Form

☐ N/A — Invalid

Signed

Laura Gaddy Lawlor
EO

Date

18/1/24

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG—

Reason for Refund

Documents Returned to Observer

☐ Yes ☐ No

Request Emailed to Senior Executive Officer for Approval

☐ Yes ☐ No

Signed

Date

Finance Section

Payment Reference

ch_3OZ8ErB1CW0EN5FC1sku3SPs

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date

Tom & Norma Shanahan
Carrig
Birr
Co. Tipperary.
R42 H672

16th January, 2023.

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.
D01 V902.

Re: **Obervation on Appeal submitted to An Bord Pleanála; An BP Ref: 318689-23**
-Tipperary County Council Planning Reference No. 236073
-The proposed Construction of a 7 Turbine Wind Farm, electrical sub-station, ancillary works, and associated grid connection, near Carrig, Birr Co. Tipperary.

Dear Bord Pleanála,

We refer to the First Applicant appeal against the Tipperary County Council decision of 16/11/2023 to refuse planning Permission for the above proposed development. We confirm that we made a submission on this planning application within the statutory 5-week period from date of lodgement and attach herewith acknowledgement and receipt of said submission.

We set out hereunder our observation on the First Applicant Appeal with some background documentation appended to the end of the submission.

1. Refusal Reason 1-Planning Policy

Our initial submission and this observation are made because the proposed development is situated in and surrounded by an Area deemed unsuitable for Wind Energy Development under the Tipperary County Development Plan 2022-2028, adopted in July 2022.

The Planning Rationale put forward by the developer is contending that the Tipperary County Development Plan and its Wind Energy Targets are deficient and contradictory without acknowledging that the County is the leading **inland wind energy** provider in the Country. Working Paper No. 16 from the Climate Change Advisory Council: '*Reviewing Local Authority Renewable Energy Strategies*' (May 2023-Ref. Appendix 1 and 2 below) outlines how Tipperary (and Offaly) have already delivered and planned more wind energy than any other inland County, with only some Coastal Counties exceeding both these Counties.

National Targets do not and cannot have a corresponding **County Target unless each County is assessed on the basis of a single national spatial assessment**. Equally, the suitability of a site under environmental or physical assessment cannot be determined under policy alone, and the local authorisation of development on an unsuitable site should not be justified to

meet National Policy. The developer's rationale would also prioritise development over conservation policy and regulation and result in the degradation of a very significant ornithological habitat (and we would argue other habitats) and a significant peat body.

The analysis put forward in the appeal does not address National Capacity for on shore wind energy before seeking to justify the contravention of the Tipperary County Development Plan for a relatively small gain of wind energy.

This rationale cannot be accepted without a **national assessment** of lands and areas suitable for wind energy and it is concerning that conservation objectives would be compromised in this regard. It seriously challenges the principles of Sustainable Development which is the foundation of Planning Policy under the National Planning Framework, through the Regional Spatial and Economic Strategies and implemented through County Development Plans.

The sustainable development of Wind Energy Nationally will be compromised and National Policy discredited if individual County Development Plans are contravened for particular developments. It would be much more sustainable and lead to better outcomes nationally if County Development Plans are adopted within a reasonably uniform framework of guidelines applied across the whole country.

It is our understanding that the contravention of a Development Plan typically involves a change to a zoning allocation but is not used to justify development on a site that is clearly unsuitable on Environmental grounds for that development.

It is also noted that the Tipperary Planners Report on the planning application refers to an overstatement (in the applicant's Planning Policy Rationale Report) of the planning restrictions applicable to wind energy opportunities in the County. (Page 75 of Planners Report) The tone and language of the appeal is one of

The key issues for us are that:

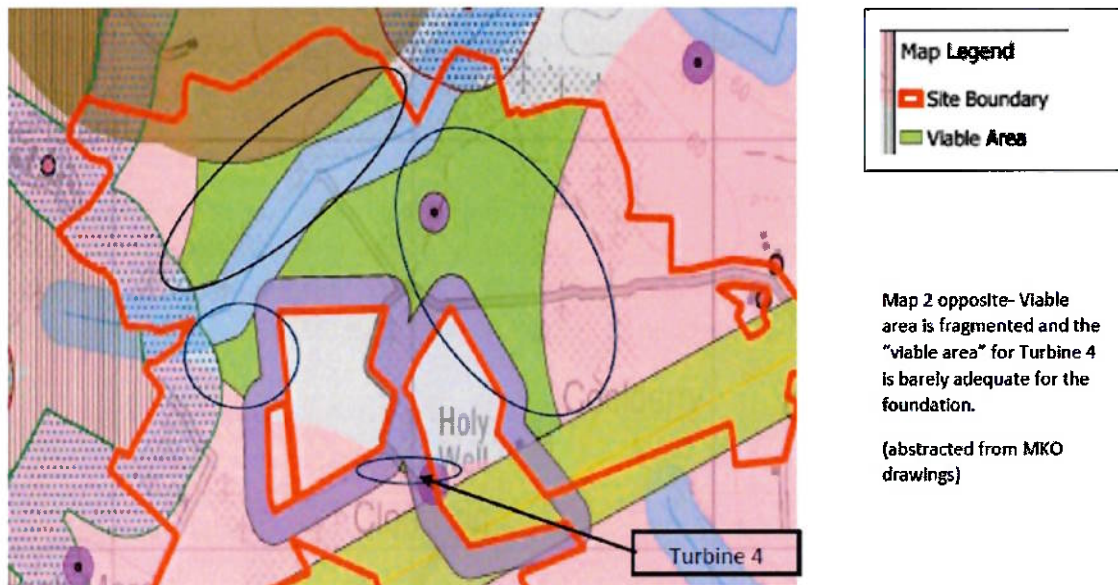
- (i) The rationale put forward by the developer poses a serious challenge to the integrity and validity of the Local Planning Process, and to the sustainable integration and application of National Policy at a local Level.
- (ii) The site is unsuitable for wind energy development on several grounds and the development would severely impact significant ornithological habitats and peat body integrity, and arguably other habitat types.

2. Refusal reason 2-Ornithology/Environmental/Site Suitability

The appeal by the developer does not offer sufficient evidence to contradict or mitigate against the likelihood of Environmental risks, and particularly in relation to protected ornithological species. The potential impacts of development on ornithology, peat body

integrity and ecology generally, reinforce the County Development Plan designation of the area as being unsuitable for Wind Energy Development.

The developer had reduced the initial study area prior to submitting the planning application on ornithological grounds. The constraints mapping by the developer (below) clearly shows that the viable area is actually the sum of four individual viable areas and demonstrates further how unsuitable the site is, and how difficult it is to situate turbines



More detailed submissions on the ornithological impacts of the proposed development, based on recordings and studies over a long period have been made by others and we do not repeat such information here. We submit that the appeal does not include any new material to suggest that anything other than the precautionary principle should apply and permission be refused for this development. These relate to Annex 1 species including the Whooper Swan and Curlew. These submissions are evidence based and supported by further comments from the DAU:

"The potential to impact on wildfowl movements in the area is also of concern. For these nature conservation reasons the Department considers this a poor choice of location for such a development."

"The physical and ecological nature of the site also makes it a likely ecological link between designated sites and it offers significant potential for future ecological connection and restoration in addition to carbon storage"

The appeal by the developer does not offer sufficient evidence to contradict or mitigate against the likelihood of these risks. The potential impacts of development on ornithology, peat body integrity and ecology generally, reinforce the County Development Plan designation of the area as being unsuitable for Wind Energy Development.

While the developer contends that "The Proposed Development layout makes maximum use of the existing access roads and tracks within the site, thereby minimising the extent of proposed new roads required," the reality is that all existing tracks and roads are doubled in width with a consequential destruction of habitat, hedgerows and peat removal. It is also questionable how the existing public roads can remain undisturbed on minimal foundations while the widened portion in parallel will have structurally designed foundations.

In Summary

The appellant has sought to use National Wind Energy targets to defend constructing a development on a site that is within an area defined as being unsuitable for wind energy development under the 2022-2028 Tipperary County Development Plan, and the previous Tipperary CDP. The site is clearly unsuitable for such development on Environmental Grounds. The rationale put forward challenges best practice Environmental Protection and Environmental Law, and if authorised would seriously compromise the integrity of the Planning Process .

Yours faithfully



Norma Shanahan



Tom Shanahan

Attachments:

1. Summary Information abstracted from Working Paper No. 16 from the Climate Change Advisory Council: Reviewing Local Authority Renewable Energy Strategies' (May 2023)
2. Working Paper No. 16 from the Climate Change Advisory Council: Reviewing Local Authority Renewable Energy Strategies' (May 2023)
3. Receipt for & Acknowledgement of Submission from Tipperary County Council

Appendix 1.

Abstraction of Data from Working Paper No. 16 from the Climate Change Advisory Council: Reviewing Local Authority Renewable Energy Strategies' (May 2023)

Renewable Energy Targets

The County Development Plan Section 10.4- Renewable Energy Targets outlines that Tipperary relative to other Counties is already a leading producer of wind energy already producing (wind generated) **"enough electricity to power three times the number of homes of the county"**.

A review of statistics from sources listed below demonstrates that Tipperary currently produces and has authorised more wind energy than any other inland County, with only Coastal Counties Kerry, Donegal and Cork producing more wind energy and Galway producing a similar amount.

- (1) Working Paper No. 16 from the Climate Change Advisory Council: Reviewing Local Authority Renewable Energy Strategies' (May 2023)

Table A4 from the CCAC study is reproduced here for information:

A.4 Wind energy shares by county

Wind Energy Installed [23]											Population Share* (MW)		Area Share* (MW)			
Population				Area (km²)		Current (MW)		Planned (MW)		Total (MW)		Δ**		Δ**		
Carlow	61,931	1%	898	1%	8	0%	22	1%	30	0%	109	-101	111	-103		
Cavan	81,201	2%	1,932	3%	136	3%	27	2%	163	3%	143	-6	239	-103		
Clare	127,419	2%	3,442	5%	217	5%	15	1%	232	4%	224	-7	427	-209		
Cork County	358,898	7%	7,281	10%	686	16%	34	2%	720	12%	630	56	903	-217		
Cork City	222,333	4%	1,123	2%	0	0%	0	0%	0	0%	391	-391	139	-139		
Donegal	166,321	3%	4,860	7%	452	11%	237	13%	689	11%	292	160	602	-150		
Dublin City	588,233	11%	118	0%	0	0%	0	0%	0	0%	1,033	-1,033	15	-14		
Dún Laoghaire-Rathdown	233,457	5%	127	0%	0	0%	0	0%	0	0%	410	-410	16	-16		
Fingal	329,218	6%	453	1%	1	0%	0	0%	1	0%	578	-577	56	-55		
Galway City	83,456	2%	1,572	2%	0	0%	0	0%	0	0%	147	-147	195	-195		
Galway County	192,995	4%	6,100	8%	348	8%	110	6%	458	7%	339	9	756	-408		
Kerry	155,258	3%	4,735	7%	711	17%	1	0%	712	12%	273	439	587	125		
Kildare	246,977	5%	1,694	2%	0	0%	60	3%	60	1%	434	-434	210	-210		
Kilkenny	103,685	2%	2,072	3%	52	1%	29	2%	80	1%	182	-131	257	-205		
Laois	91,657	2%	1,720	2%	61	1%	95	5%	155	3%	161	-100	213	-153		
Letcher	35,087	1%	1,589	2%	93	2%	0	0%	93	2%	62	31	197	-104		
Limerick	205,444	4%	2,760	4%	239	6%	0	0%	239	4%	361	-122	342	-103		
Louth	139,100	3%	832	1%	7	0%	210	12%	217	4%	244	-237	103	-96		
Longford	46,634	1%	1,091	2%	0	0%	0	0%	0	0%	82	-82	135	-135		
Mayo	137,231	3%	5,588	8%	271	6%	279	15%	551	9%	241	30	693	-421		
Meath	220,296	4%	2,335	3%	10	0%	0	0%	10	0%	387	-377	289	-280		
Monaghan	64,832	1%	1,296	2%	26	1%	82	5%	108	2%	114	-88	161	-134		
Offaly	82,668	2%	1,990	3%	93	2%	354	20%	448	7%	145	-52	247	-153		
Roscommon	69,995	1%	2,548	4%	111	3%	5	0%	116	2%	123	-12	316	-204		
Sligo	69,819	1%	1,838	3%	96	2%	0	0%	96	2%	123	-27	228	-132		
South Dublin	299,793	6%	223	0%	0	0%	0	0%	0	0%	527	-527	28	-28		
Tipperary	167,661	3%	4,304	6%	350	8%	85	5%	435	7%	295	56	534	-183		
Waterford	127,085	2%	1,859	3%	60	1%	34	2%	94	2%	223	-164	230	-171		
Westmeath	95,840	2%	1,825	3%	0	0%	88	5%	88	1%	168	-168	226	-226		
Wexford	163,527	3%	2,365	3%	182	4%	0	0%	182	3%	287	-105	293	-111		
Wicklow	155,485	3%	2,033	3%	93	2%	40	2%	133	2%	273	-180	252	-159		
5,123,536					72,603		4,303		1,807		6,110					

*CAP2023 target of 9 GW split by population and area. **Difference in MW versus current install capacity

Notwithstanding that these figures are based on a review of County Development Plans and are regularly changing as new wind farms are constructed and further wind farms are authorised, the figures show that Tipperary in relative terms produces/plans more wind energy relative to other inland counties as measured in terms of population and land area. An analysis of the top ten Counties below illustrates this clearly.

Current + Planned					Current			Planned		
	Current (MW)	Planned (MW)	Total (MW)			Current (MW)			Planned (MW)	
Cork County	686	34	720	1	Kerry	711	1	Offaly	354	1
Kerry	711	1	712	2	Cork County	686	2	Mayo	279	2
Donegal	452	237	689	3	Donegal	452	3	Donegal	237	3
Mayo	271	279	551	4	Tipperary	350	4	Louth	210	4
Galway County	348	110	458	5	Galway County	348	5	Galway County	110	5
Offaly	93	354	448	6	Mayo	271	6	Laois	95	6
Tipperary	350	85	435	7	Limerick	239	7	Westmeath	88	7
Limerick	239	0	239	8	Clare	217	8	Tipperary	85	8
Clare	217	15	232	9	Wexford	182	9	Monaghan	82	9
Louth	7	210	217	10	Cavan	136	10	Kildare	60	10

Appendix 2

Climate Change Advisory Council Working Paper N0. 16

<https://www.climatecouncil.ie/councilpublications/councilworkingpaperseries/Working%20Paper%20No.%2016.pdf>



Working Paper No. 16

May 2023

Reviewing Local Authority Renewable Energy Strategies' contribution to Ireland's 2030 Renewable Electricity Targets

Author: Dr Connor McGookin¹

¹MaREI Centre, Environmental Research Institute, University College Cork, Ireland

A working paper commissioned by the Climate Change Advisory Council, Ireland.

Disclaimer: The Climate Change Advisory Council working papers represent un-refereed work-in-progress by researchers who are solely responsible for the content and any views expressed therein. Any comments on these papers will be welcome and should be sent to the author by email connormcgookin@gmail.com

Appendix 3

Receipt for submission to Tipperary County Council on subject Planning Application

PLANNING APPLICATION REFERENCE No: 2360763

A submission/observation in writing, has been received from Tom & Norma Shanahan on 23/10/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,
Tipperary County Council

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Is faoi rún agus chun úsáide an té a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil leis an seoltóir a luaithe is féidir. Ní hionann na tuairimí luaite sa ríomhphost seo agus tuairimí An Gníomhaireacht Bainistíochta Rialtais Áitiúil Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphost seo agus aon comhad atá nasctha leis scuabtha le bogearraí frithviorais chun viorais ríomhaire a aimsiú agus is cosúil go bhfuil siad glan. Bí cinnte an ríomhphost seo a mionscrúdú, mar ní ghlacann An Gníomhaireacht Bainistíochta Rialtais Áitiúil freagracht faoi aon damáiste a dhéanfaí le do chórais ríomhaireachtaí.

From: OnlinePlanning <onlineplanning@planning.localgov.ie>
Date: 23 October 2023 at 20:37:39 IST
To: tompshanahan@gmail.com
Subject: Payment details regarding your submission
Reply-To: OnlinePlanning <onlineplanning@planning.localgov.ie>

Dear Tom & Norma Shanahan,

We have received your payment in regard to submission with Online Reference Number 150000007871.

Please find payment details below:

- Amount: €20.00
- Receipt No.: 1443
- Payment Transaction No.: 16980897954284784
- CRM Transaction No.: 150000007871
- Planning Application Reference No.: 2360763

Paid on: 23 10 2023 08:37pm

Yours faithfully,
Tipperary County Council

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