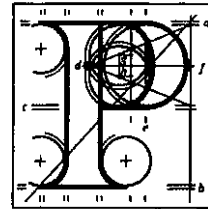


Our Case Number: ABP-316051-23
Planning Authority Reference Number:



**An
Bord
Pleanála**

Nora Fagan
Solicitor
Ballymore
Mullingar
Co. Westmeath

Date: 27 April 2023

Re: Renewable energy development comprising 9 no. wind turbines and associated infrastructure.
Umma More and adjacent townlands, 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,

Kevin McGettigan
Administrative Assistant
Direct Line: 01-8737263

BL50A

Tell
Glaos Áitiúil
Facs
Lálthreán Gréasáin
Ríomhphost

Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

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

Noise Monitoring:

Similarly, the applicants are obliged to comply with CPO 10.147 of the County Plan, when monitoring the noise generated by the development, as follows:

Ensure that proposals for energy development demonstrate that human health has been considered, including those relating to the topics of:

- *Noise (including consistency with the World Health Organization's 2018 Environmental Noise Guidelines for the European Region).*


It is noted that the applicants have failed to present their noise assessments in accordance with the requirement of the WHO Guidelines.

Summary:

The applicants allege that they are satisfying a commitment to renewables contained in the Development Plan. However, notwithstanding this commitment they are obliged to adhere to the proper planning processes to support a development of this scale. I would submit with respect that there are substantial inadequacies/omissions in the documentation which the applicants have lodged in support of their SID application. In addition, they have failed to address other key policies contained within the Westmeath County Development Plan.

On this basis, I would request that this development is not afforded Strategic Infrastructure Status.

Yours faithfully,


Nora Fagan,

Solicitor,

Ballymore,

Mullingar,

Co. Westmeath.

[Redacted signature block]

habitats and wildlife protection requirements being addressed. In the context of this policy, Industrial scale/large-scale energy production projects are defined as follows:

Projects that meet or exceed any of the following criteria:

- Height: over 100m to blade tip, or*
- Scale: More than five turbines, or*
- Output: Having a total output of greater than 5MW. Developments sited on peatlands have the potential to increase overall carbon losses.*

Proposals for such development should demonstrate that the following has been considered:

- Peatland stability; and*
- Carbon emissions balance.*

On this basis the current S.I.D application is in direct contravention with the Current Westmeath County Development Plan 2021-2027.

Campbell v The Minister for Housing, Planning, Community and Local Government v Donegal County Council (2017) affirms the importance of the prescriptive requirements within a County Development Plan notwithstanding national policy.

Set Back Distances:

In the consideration of any planning application Policy Objective 10.143 of the Westmeath County Development Plan obliges Westmeath County Council to provide the following setback distances between the wind turbines and residential dwellings as follows:

CPO 10.143 Provide the following separation distances between wind turbines and residential dwellings:

- 500 metres, where the tip height of the wind turbine blade is greater than 25 metres but does not exceed 50 metres.*
- 1000 metres, where the tip height of the wind turbine blade is greater than 50 metres but does not exceed 100 metres.*
- 1500 metres, where the tip height of the wind turbine blade is greater than 100 metres but does not exceed 150 metres.*
- More than 2000 metres, where the tip height of the wind turbine blade is greater than 150 metres. The proposed turbines will have an overall ground-to-blade tip height of 185 metres, blade rotor diameter of 162 metres and hub height of 104 metres.*

There is no evidence that the applicants have adhered to any of the setback distance requirements which are required by the County Development Plan in their application. While these set back distances may exceed the setback distances suggested in most Windfarm Guidelines, those guidelines do not have a statutory basis. The development plan is a statutory document which is designed to guide the proper planning in the region of the local authority.

A resident living within close proximity to the proposed windfarm made a complaint to the Advertising Standards Authority of Ireland (ASAI) that the applicants were distributing leaflets which contained unsubstantiated claims about the effect of Wind Turbines on human health and property prices. The ASAI accepted the validity of this complaint and indicated that aspects of the leaflets which the applicants had distributed were in breach of Sections 4.1, 4.4, 4.9 and 4.10 of the ASAI Code.

The relevant sections of the ASAI Code are as follows:

4.1 A marketing communication should not mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

4.4 Advertisers should not exploit the credulity, inexperience or lack of knowledge of consumers.

4.9 A marketing communication should not contain claims – whether direct or indirect, expressed or implied – which a consumer would be likely to regard as being objectively true unless the objective truth of the claims can be substantiated.

4.10 Before offering a marketing communication for publication, advertisers should satisfy themselves that they will be able to provide documentary evidence to substantiate all claims that consumers are likely to regard as objective. Relevant evidence should be sent without delay if requested by the ASAI and should be adequate to support both detailed claims and the overall impression created by the marketing communication.

15.2 Environmental claims should not be used without qualification unless advertisers can provide substantiation that their product will cause no environmental damage. Absolute claims should be supported by a high level of substantiation.

Please see correspondence of the ASAI dated the 12th February 2021.

Although the applicants appear to have amended their subsequent leaflets in accordance with the ASAI directions, there is no evidence to show that the applicants placed existing householders or landowners who may have relied upon these original leaflets, which were distributed prior to this date, on notice of the errors in their advertising materials.

Westmeath County Development Plan:

I note that the applicants recite the commitment to supporting renewables in both national and local policies. In addition, the application recites *'the importance of the current Westmeath County Development Plan 2021-2027 (WCDP) which came into effect on the 3rd May 2021 is relevant'* (page 5 of the application).

However, rather remarkably, the application fails to address Policy Objective 10.146 in the County Development Plan as follows:

"To strictly direct large-scale energy production projects, in the form of wind farms, onto cutover cutaway peatlands in the County, subject to environmental, landscape,

assessment of the landscape sensitivity at Uisneach, the applicants fail to supply the landscape sensitivity criteria upon which they are making this assessment.

The proposed turbines will have an overall ground-to-blade tip height of 185 metres, blade rotor diameter of 162 metres and hub height of 104 metres.

Both The Hill of Uisneach and Knockastia, which measure approximately 180 metres in height will be dwarfed by the scale and height of the proposed windfarm turbines. The landscape significance of their cultural intervisibility in the landscape will be irretrievably damaged.

It is noted that although the applicants contend that they have supplied visual and landscape assessments of the effect of the windfarm on these locations, the applicants have supplied limited visual assessments only rather than detailed visual and landscape assessments as required by Policy Objective 13.12 of the County Development Plan.

Wind Capacity:

The applicants accept that Area 7, the region within which the windfarm application is situate, was designated as a Low Wind Capacity area on the Westmeath Wind Capacity Maps attached to the County Development Plan 2014-2020. The applicants then allege that the Office of the Planning Regulator (OPR) sought to upgrade Area 7 to an area of Medium Wind Capacity in the draft County Development Plan 2021-2027.

However please find attached a letter sent by the OPR dated the 22nd January 2021 to Westmeath County Council wherein the Regulator indicates that there was insufficient evidence to upgrade the wind capacity of Area 7 from Low capacity to Medium capacity in the draft plan.

In particular, the letter from the OPR indicates: *"The Office notes that this area is identified as having medium capacity for wind energy in the draft current development plan. There would appear to be insufficient evidence or policy-based rationale for this change."*

On this basis, the designation of Area 7 as an area of low wind capacity has remained in the current County Development Plan 2021-2027. Please see letter dated the 22nd January 2021 attached.

This designation as an area of Low Wind Capacity also corresponds to the most recently available evidence from the National Wind Atlas Maps.

Community Engagement:

The applicants appear to indicate that they commenced their Community Engagement process in April 2021 (Appendix 2-2; Community Engagement Chapter, M.K.O, p.2) However they fail to mention that their Community Engagement process had actually started prior to April 2021.

Ensure that any significant, Industrial and or infrastructural developments (excluding residential; agricultural buildings; tourism; greenway; cultural; educational or community buildings), which would impact upon Uisneach and or its protected views will not be permitted due to the sensitivity of the site.

Footnote: CPO constitutes a 'policy' of the Plan as envisaged under Section 1.1 of the plan

The applicants appear to contend that as the windfarm does not physically affect Uisneach, the proposed windfarm does not contravene this policy. The applicants appeared to have overlooked the final clause of this policy which states "*or its protected views*"

Knockastia:

The applicants indicate that "*There is no visual connectivity between the Hill of Uisneach and any other sites of cultural heritage importance in the direction of the Wind Farm Site, the proposed turbines do not intrude upon or obstruct intervisibility between any heritage sites.*"

However, the applicants then concede that the windfarm will have an effect on Knockastia, which is situate to the west of Uisneach. This contradicts the applicants first assertion that the windfarm will not intrude upon the intervisibility between Uisneach and other sites of cultural importance.

The view from Knockastia is a protected view under the County Development Plan. There is a direct cultural correlation between the Hill of Uisneach and Knockastia. One of the most notable and renowned practices associated with Uisneach, which reflects both the relationship to other sites and the importance of inter visibility, is the lighting of fires at Bealtaine. According to mythology, the first primeval fire seen for the first time over the four provinces of Ireland was lit by a druid Midhe, at Uisneach. The first fires were lit at Bealtaine from Uisneach and once seen, subsequent fires were lit on summits all over the country. This suggests that the visibility of the summit and its commanding views in the landscape certainly played a crucial role in this practice and belief.

"It is probable that similar Bealtine fires were lit on Croghan Hill, in Co. Offaly, on Knockastia and on many other hilltop sites in the surrounding counties" (Sheehan, 1996).

The applicants fail to mention that the excavated cemetery at Coolatoor on the summit of Knockastia has been found to contain upwards of 40 Early/Middle Bronze Age burials, which is more than the high-status cemetery at Grange near to the Royal site of Rathcroghan and more even than the Bronze Age cemetery phase of the Mound of Hostages at Tara (McGuinness, 2014). Knockastia is located approximately 5km southwest of Uisneach and is of a similar height to Uisneach.

The applicants acknowledge that the windfarm will have visual effects, which are deemed to be 'Moderate' from the peak of Knockastia. However, similar to their previous

applicants could have availed of data from other Geographical Information Systems and LiDAR technology to generate the necessary vistas from the 360-degree panoramic view.

It is also noted that the applicants have failed to provide a reverse zone of theoretical visibility for this highly sensitive location, in line with the Wind Energy Guidelines recommendations.

Throughout the application, the applicants acknowledge that:

All turbines of the Proposed Development are likely to be visible from the top of the Hill of Uisneach where open views are permitted to the west (MKO., Chapter 13.8.2).

And

There will be full theoretical visibility from the top of Uisneach and the Catstone (MKO., Chapter 12.91).

However, the applicants then contend that the effect of the windfarm will be “slight/moderate” on Uisneach. The Wind Energy Guidelines 2006 state that ‘*factors that can inform landscape sensitivity to wind energy development, include scenic quality, rarity, uniqueness and natural and cultural heritage considerations.*’ However, the applicants fail to supply the landscape sensitivity criteria upon which they are making this assessment.

The applicants suggest that the tree ridge/vegetation may have a mitigating effect/obscure the view. However, this would not be an acceptable mitigating measure for a site of this national indeed international significance.

Although the applicants confirm that Uisneach has been designated as an area of High Amenity Status in the County Development Plan, they fail to highlight the High Amenity Area Policy Objectives, namely 13.20 to 13.28 contained in the County Development Plan which include inter alia, the following High Amenity Area Policy Objectives:

High Amenity Areas Policy Objectives:

It is a policy objective of Westmeath County Council to:

CPO 13.20 Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

CPO 13.21 Protect and preserve designated High Amenity Areas from inappropriate urban generated housing development or any other development which would be injurious to or detract from the natural amenity of Areas of High Amenity.

(Westmeath County Development Plan, 2021-2027, CPO 13.20 and 13.21)

Uisneach measures approximately 180 metres in height; The proposed turbines with an overall ground-to-blade tip height of 185 metres, blade rotor diameter of 162 metres and hub height of 104 metres will undoubtedly dominate the landscape within which Uisneach is situate.

Similarly, the applicants mention policy 13.7 of the Current County Development Plan which requires Westmeath County Council to:

I note that the Board appear to have been mindful of this important technical point and have directed the applicants to complete a full Environmental Impact Assessment (EIA) which would include both the windfarm and also the onsite substation, associated cabling and the grid connection.

However, I would contend with respect that the EIA which has been submitted in support of this application does not meet the Boards direction nor the substantive criteria which would be expected for an EIA for a development of this scale which spans two different counties.

In addition, I would also submit with respect that the EIA also does not fulfil the criteria as envisaged and set down in *Kelly v An Bord Pleanála* (2014).

Evidence of Grid Connection:

The Applicant contends that the energy to be generated from this proposed development is for the domestic market. However, the Applicant does not have planning permission for either the substation/cabling to the grid nor does the applicant supply any independent evidence available that a connection has been secured to the National Grid. The Commission for Energy Regulation (CER) governs and regulates the grid connections. The Applicant fails to provide any evidence that a connection has been secured. If the Applicant is seriously contending that the energy to be generated from this wind farm is for the domestic grid, these consents/ licences should be available.

Uisneach:

The applicants describe Uisneach as "*a highly sensitive landscape*" (M.K.O., Non-Technical Summary, p.28). However, it is noted that the applicants fail to mention that the entire 360-degree panoramic views from the summit of Uisneach is classified as having 'National Importance' in the Westmeath County Development Plan. This panoramic aspect contributes greatly to the historical interpretation and cultural importance of Uisneach, within the landscape. Furthermore, it must be remembered that Uisneach has been put forward as a potential World Heritage Site and this means not only the site itself but the wider landscape in which it rests and any potential threats to that landscape are major considerations.

The applicants generate **one** rendered wireline view from the summit of the Hill in their visual assessment chapter. The direction of this wireline view from the summit is difficult to discern. The applicants fail to supply 360-degree panoramic images which capture the entire landscape around Uisneach. Instead, the applicants provide photomontages from the summits of Knockastia and Laragh Hill to demonstrate the visual effect of the wind farm on the Hill of Uisneach.

The applicants indicate that they were refused physical access to the site. The inability to physically access Uisneach appears to be used as a justification for the minimal visual and landscape assessment of the effect of the windfarm on Uisneach. However, the

Re: SID Reference Number: 316051 24TH April, 2023.

Dear Sir/Madam,

I refer to the Strategic Infrastructure Status which is sought by Ummamore Development Ltd. for the development of a wind farm in County Westmeath. I note that the applicants contend that this windfarm which will comprise 9 turbines, with a rotor diameter of 162 metres and an overall height of 185 metres (hereinafter called 'the Windfarm') should be afforded strategic infrastructure development status in accordance with section 37A (2)a of the Planning and Development Act, 2000, as amended.

However, I wish to make the following observations:

Implications of European Directive 2011/92/EU:

I am particularly surprised from the outset that the applicants declare in their summary that they will be seeking two separate planning applications for this project. In particular, they indicate:

Due to the nature of the proposed renewable energy development, which will have a potential generating capacity of greater than 50 megawatts (MW) and requires the provision of 110 kV infrastructure which will form part of the national electricity transmission network, two separate planning applications are required. (M.K.O., Non-Technical Summary, p.1)

In *O'Grianna & Ors. v An Bord Pleanála* [2014] IEHC 632 23, the High Court held that a project could not, for planning purposes, lawfully be split into two independent parts – the wind farm and the grid connection.

The second planning application is described as follows:

"The Grid Connection, which will be subject to a separate planning application, includes for a 110kV on-site substation compound (2 no. control buildings with welfare facilities, all associated electrical plant and apparatus, security fencing, underground cabling, wastewater holding tank, site drainage and all ancillary works), a temporary construction compound" (M.K.O., Non-Technical Summary, p.1)

The second application thus refers to works, such as the on-site substation which are within the boundaries of the proposed windfarm. I would submit with respect that I do not see the justification for splitting this planning application in two parts save to avoid an assessment of the overall accumulative impacts of this development on both the community and region.

The division of this planning process into two parts would appear to be project splitting, which contravenes European Directive 2011/92/EU.

Beneath the shadow of Uisneach, Sheehan, J. (1996).

The Prehistoric Burial Mounds and related monuments in County Westmeath, (2014). McGuinness, D. Prepared for Westmeath Co Council.



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

22 January 2021

Administrative Officer,
Forward Planning,
Westmeath County Council,
Civic Offices,
Mount Street,
Mullingar,
Co. Westmeath,
N91 FH4N

**Re: Minor correction regarding OPR submission letter to material alterations to Draft
Westmeath County Development Plan 2021-2027**

A chara,

The Office of the Planning Regulator (the Office) would like to make a minor correction to its submission letter regarding the material alterations to the draft Westmeath County Development Plan 2021- 2027.

The correction relates to a paragraph in section 2 regarding material alteration BOM 36, which proposes to change Map 48 – Wind Capacity.

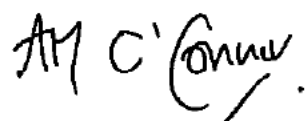
The Office respectfully requests the planning authority to make the following minor correction:

Material alteration BOM 36 proposes to change Map 48 – Wind Capacity to Change Area 7 from medium energy capacity to low wind energy capacity. The Office notes that this area is identified as having medium capacity for wind energy in the **draft current** development plan. There would appear to be **insufficient** ~~no~~ evidence or policy based rationale for this change.

The Office advises that the above minor correction does not alter the substance of the issues raised regarding the planning authority's renewable energy policies in **MA Recommendation 2**.

Please feel free to contact the staff of the Office in the context of your authority's responses to its submission and the above minor correction, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'AM O'Connor'.

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
