



WILD IRELAND DEFENCE CLG

Appeal 323761

REG.NO.	323761
DESCRIPTION	Construction of wind energy development and all associated works
ADDRESS	located within Cloondahamper, Cloonascragh, Elmhill, Cooloo, Lecarrow, Dangan Eighter, Lissavally and Slievegorm, Co.Galway
APPLICANT	Neoen Renewables Ireland Limited

Appeal submission by:

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Date: 09/07/2026

Response to Applicant's Response to Third Party Observations

1. Introduction

- 1.1 This submission is made in response to the Applicant's Response to Third Party Observations. WID acknowledges that the Applicant's response was prepared under procedural constraints imposed by the Commission. In its invitation to respond, the Commission expressly directed that any response "should not contain any additional reports or supplementary reports" and should be confined to the issues raised in the observations received.
- 1.2 WID is concerned that this restriction has implications for the effectiveness and fairness of the planning process. Many of the issues raised by observers concerned alleged deficiencies in the scientific evidence underpinning the EIAR, Natura Impact Statement and other environmental assessments. Where such deficiencies are identified, they can often only be addressed by additional survey work, revised modelling, updated technical assessments or further scientific analysis. By expressly prohibiting the submission of additional reports, the procedure adopted significantly limited the Applicant's ability to remedy any genuine evidential deficiencies identified during public participation.
- 1.3 Equally, if additional scientific information is necessary to enable the Commission to reach lawful conclusions under the Habitats Directive, Birds Directive, Water Framework Directive or EIA Directive, then that information should ordinarily form part of the planning file and be made available for public participation before any decision is taken. A process that neither permits the Applicant to submit additional technical evidence nor affords observers an opportunity to comment upon such information raises concerns regarding the effectiveness of public participation and whether the Commission can ultimately be satisfied that it possesses complete environmental information before determining the application.

- 1.4 Accordingly, this submission is necessarily confined to identifying those deficiencies that remain unresolved on the basis of the documents currently before the Commission. It should not be interpreted as suggesting that those deficiencies are incapable of being addressed, but rather that they have not been addressed within the procedural framework adopted for this consultation.

2. Deficiencies Remaining Following the Applicant's Response

- 2.1. Biodiversity Management and Enhancement Plan (BMEP): Failure to distinguish mitigation from compensation. The Applicant's response relies heavily upon the Biodiversity Management and Enhancement Plan as evidence that biodiversity impacts have been addressed. However, the planning application itself confirms that the BMEP has been prepared "to offset the loss of habitats" and to provide biodiversity enhancement. It includes habitat offsetting, replacement hedgerows, woodland replacement, marsh fritillary habitat enhancement, bog woodland creation and grassland enhancement.
- 2.2 The Applicant has not explained whether these measures are relied upon as mitigation for the purposes of the Appropriate Assessment or whether they are compensation or enhancement measures. That distinction is fundamental under Article 6 of the Habitats Directive. If the integrity of the site can only be maintained through habitat offsetting or enhancement, then the Applicant has not demonstrated that adverse effects have been excluded under Article 6(3). The response does not address this legal issue.

3. Applicant accepts permanent hydrological impacts but does not revisit the ecological conclusions

- 3.1 The Hydrology and Hydrogeology Chapter acknowledges that the proposed floating access road to Turbine T7 will significantly alter the natural drainage characteristics of the bog within a 50-100 metre impact area and concludes that hydrological effects in this area will be negative, significant, direct/indirect and long-term.
- 3.2 Despite this acknowledged significant long-term hydrological impact, the Applicant's response simply concludes that there will be no residual significant impacts on adjacent peatland habitats after mitigation.
- 3.3 The response does not explain how a development can simultaneously cause significant long-term hydrological alteration to an area of bog while concluding that no significant ecological effects arise for peatland habitats dependent upon that hydrology. No additional hydro-ecological assessment has been provided to reconcile these apparently inconsistent conclusions.

4. Reliance upon future habitat enhancement to justify ecological conclusions

- 4.1 Without prejudice to the compensation argument raised at section 2, the planning application repeatedly relies upon future habitat enhancement measures including:
- 18 ha of bog woodland development;
 - 4.45 ha of grassland enhancement;
 - marsh fritillary habitat enhancement;
 - riparian enhancement;
 - fen enhancement;
 - replacement hedgerows;

- monitoring and adaptive management.

4.2 The Applicant's response does not explain whether the conclusion of no adverse ecological effect depends upon the successful implementation of these future measures. If the ecological conclusions depend upon habitat creation or enhancement occurring after consent, then those conclusions are contingent upon future ecological success rather than the existing baseline. The response does not demonstrate that the project would remain acceptable if those enhancement measures do not achieve their intended ecological outcomes.

5. Habitat loss remains acknowledged

5.1 The Biodiversity Chapter confirms permanent losses of several habitats including cutover bog, wet grassland, dry meadow habitats and approximately 3.74 km of linear habitats including hedgerows. The Applicant's response states that replacement planting will result in a net gain of hedgerows and other habitats. However, replacement habitat is not equivalent to the ecological value of mature habitats removed at the commencement of development. The response contains no assessment of:

- temporal habitat loss;
- time required for ecological functionality to develop;
- uncertainty regarding establishment success;
- loss of existing ecological connectivity during the establishment period.

Accordingly, the response does not fully address the ecological consequences of habitat replacement.

6. Marsh Fritillary

6.1 The Applicant accepts that marsh fritillary habitat occurs across the site and proposes safeguarding and enhancement measures. However, the response does not explain why enhancement measures are necessary if the project is predicted to have no significant residual effect. Nor does it explain whether habitat enhancement forms part of the mitigation relied upon for the Appropriate Assessment or simply represents wider biodiversity gain. The continued absence of that distinction leaves uncertainty regarding compliance with Article 6(3).

7. Cumulative assessment remains incomplete

7.1 The NIS states that cumulative assessment of SPAs has been restricted to hydrological effects because no ex-situ effects on SCI species are anticipated. The Applicant's response simply states that cumulative assessment has already been undertaken. However, the response does not explain why cumulative effects have been restricted in this manner, nor does it address the concerns raised regarding cumulative disturbance, habitat fragmentation, collision risk, displacement, ecological connectivity and multiple wind farm interactions. Accordingly, the response does not substantively answer the cumulative ecology issues raised by observers.

8. Hydrological pathways remain compartmentalised

8.1 The peat response states that hydrological and hydrogeological impacts fall outside the scope of the peat assessment and are addressed in Chapter 9. Conversely, Chapter 9 relies upon biodiversity enhancement measures contained within Chapter 6 when discussing ecological effects. The Applicant's response does not provide an integrated assessment explaining how:

- peat excavation;
- floating roads;
- groundwater alteration;
- surface water changes;
- peatland ecology;
- European site conservation objectives

have been assessed collectively. Instead, each discipline relies upon another chapter to address part of the impact pathway.

9. Monitoring is relied upon to demonstrate future success

- 9.1 Chapter 9 states that habitat enhancement measures will be monitored, annual reports prepared and the enhancement plan amended where required to improve effectiveness. This indicates that the ultimate ecological outcome remains uncertain and may require adaptive management after consent. The Applicant's response does not explain how such future adaptive management is consistent with the requirement that the Commission reach its Appropriate Assessment conclusions on the basis of complete, precise and definitive findings before development consent is granted.

10. Failure to demonstrate compliance with the strict protection regime for Annex IV bats

- 10.1 The Applicant's response states that detailed bat surveys have been undertaken, impacts assessed and mitigation measures proposed. However, this does not answer the principal issue raised in submissions. All Irish bat species are protected under Article 12 of the Habitats Directive. The legal test is not whether impacts have been "mitigated", but whether deliberate disturbance, killing or deterioration of breeding or resting places has been excluded. The Applicant's response does not explain:

- whether any commuting corridors will continue to function after construction;
- whether turbine operation will alter established flight lines;
- whether residual collision and barotrauma mortality has been quantified after mitigation;
- whether any derogation under Article 16 would become necessary if mortality cannot be excluded.

The response therefore addresses ecological assessment but not the legal requirements arising from the strict protection regime.

11. Hedgerow replacement is assumed to replace ecological function

- 11.1 The application confirms that approximately 3.74 km of hedgerows and linear habitat will be removed and proposes replacement planting of approximately 4.70 km. The response assumes this replacement removes ecological concern. However it contains no assessment of:

- how long replacement hedgerows will require before functioning as commuting routes;
- whether bats will continue to use the replacement corridors;
- whether mature hedgerow structure can be replaced immediately;
- temporary fragmentation of commuting networks.

- 11.2 For highly mobile Annex IV species, ecological functionality is determined by habitat quality rather than simply habitat length. The hedges are also not the only concern the hedges are a habitat in itself

with multiple species at different trophic levels interacting in a complex ecological web. Simply replanting hedges will not produce a like for like habitat replacement. The full impacts must be assessed.

12. Operational mitigation remains insufficiently defined

12.1 The Applicant refers generally to operational controls and mitigation. However the response does not specify:

- turbine-specific curtailment criteria;
- trigger wind speeds;
- seasonal restrictions;
- adaptive operational thresholds;
- evidence demonstrating predicted mortality following mitigation.

Without these operational parameters the effectiveness of mitigation cannot be independently evaluated.

13. Elmhill House connectivity

13.1 The Applicant specifically identifies "Elmhill House & T8 connectivity" as an issue raised by observers. However the response does not appear to provide any updated connectivity modelling demonstrating continued use of commuting routes following construction. The response therefore confirms the issue was raised but provides no additional scientific evidence addressing it.

14. Ornithology

14.1 Collision modelling remains dependent upon mitigation: The Planning Report states that

"the Collision Risk Assessment concludes that with successful implementation of the mitigation plan, no significant effects of collision risk are anticipated."

The conclusion is expressly conditional upon successful mitigation. The Applicant's response does not explain:

- the residual collision rate after mitigation;
- uncertainty associated with mitigation success;
- consequences if mitigation is only partially successful.

The conclusion therefore remains contingent upon future operational performance rather than demonstrated baseline assessment.

15. Post-consent monitoring

15.1 The Applicant identifies post-consent monitoring as part of the ornithology response. Monitoring may verify predictions but cannot establish whether significant effects exist before consent. The response does not explain how future monitoring complies with the requirement to determine likely significant effects at the decision stage.

16. Species-specific responses remain generic

16.1 The response lists numerous species-specific concerns but largely refers readers back to the original EIAR. It does not provide updated analysis for individual qualifying species explaining why:

- survey criticisms are unfounded;
- flight activity assumptions remain valid;
- cumulative mortality remains insignificant;
- displacement has been quantified.

The response therefore catalogues the issues raised without substantively resolving them.

17. Cumulative collision assessment

17.1 The Applicant states that cumulative assessment has been undertaken. However neither the response nor the planning documents explain:

- how cumulative mortality from neighbouring wind farms has been incorporated;
- whether background mortality assumptions were updated;
- whether cumulative displacement has been modelled;
- how existing operational wind farms influenced carrying capacity.

Given that wind farm impacts are inherently cumulative, this omission remains material.

18. Reliance upon professional judgement

18.1 Throughout the ornithology response, conclusions continue to rely heavily upon professional judgement. Little additional quantitative analysis has been produced responding to:

- observer criticisms;
- revised calculations;
- sensitivity analyses;
- alternative modelling assumptions.

Accordingly the response does not materially increase scientific certainty.

Conclusion:

WID acknowledges that the Applicant's response was prepared within the limitations imposed by the Commission's invitation, which expressly prohibited the submission of additional reports or supplementary technical assessments. As a result, the response largely relies upon references back to the original application documents rather than providing new scientific evidence capable of addressing the substantive concerns raised by observers.

While WID recognises that the Applicant was constrained by that direction, the consequence is that many of the evidential deficiencies identified in submissions remain unresolved. This places the Commission in a difficult position. If the existing documentation is insufficient to enable complete, precise and definitive findings to be reached, those deficiencies cannot be cured by assertion alone, nor can they be remedied by post-consent monitoring, future management plans or operational controls. Equally, if further scientific information is required to reach a lawful decision, procedural fairness and effective public participation require that such information be made available to all parties for consultation before the application is determined.

For the reasons set out in WID's original submission and this response, it is respectfully submitted that the Commission cannot presently be satisfied that the statutory requirements of the Habitats Directive, Birds Directive, Water Framework Directive and EIA Directive have been fully met. The environmental information before the Commission continues to contain unresolved evidential gaps, uncertainties and assumptions which prevent the Commission from reaching the degree of scientific certainty required before development consent may lawfully be granted.

Accordingly, WID respectfully requests that the Commission refuse permission. Without prejudice to that primary submission, if the Commission considers that the identified deficiencies may be capable of resolution, it should require the submission of comprehensive Further Information, including any additional scientific reports necessary to address the outstanding issues, and ensure that such information is subject to full public consultation before any final determination is made. Such an approach would better protect the integrity of the statutory decision-making process, uphold the objectives of effective public participation, and assist the Commission in reaching a legally robust and scientifically informed decision.

Where the Commission concludes that the existing environmental information is sufficient to determine the application, the deficiencies identified in this submission become directly material to the lawfulness of that conclusion. Conversely, if the Commission considers that further scientific evidence is required to resolve those deficiencies, fairness requires that such evidence be obtained through the statutory Further Information process and subjected to public participation before any decision is made

Yours Sincerely

Elizabeth Davidson

On behalf of Wild Ireland Defence CLG