

# **SUBMISSION TO AN COIMISIUN PLEANALA**

**ACP Case Reference: PAX19.324161**

SID Offaly County Council

## **Proposed Development**

*Proposed development of 15 no. wind turbines, a permanent 220kV on-site substation,  
and associated infrastructure*

## **Applicant**

Lemanaghan Wind Farm DAC

## **Submission lodged by**

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Ballykenry, Ardagh, Co Limerick V42 HR83

## **Date of submission**

26<sup>th</sup> May 2026

## 1.A Offaly Councillors reaffirmed the Development Management Standard – WHO 2018 standard for the Protection of Health (April meeting 2026)

At the April Full Council meeting, a motion proposed by Councillor Sean O'Brien, seconded by Councillor Claire Murray and unanimously adopted by the elected members reaffirmed the wind energy development management standards contained within the County Development Plan, including the requirement that wind turbine noise be consistent with the 2018 WHO Environmental Noise Guidelines for the protection of human health.

It appears that the Chief Executive's Report has failed to assess or acknowledge that the proposed Lemanaghan Wind Farm development does not meet this requirement.

It is submitted that this omission constitutes an error on the part of the Executive. The elected members exercised their reserved function in adopting the County Development Plan in 2022, including the applicable development management standards relating to wind energy. These standards form part of the statutory Development Plan and are therefore not merely advisory guidance. In circumstances where a conflict arises, it is submitted that the Development Plan standards adopted by the elected members take precedence over the 2006 Wind Energy Development Guidelines.

Extract from meeting minutes (and attached)

On the proposal of Cllr. S. O'Brien, seconded by Cllr Claire Murray, members discussed and reaffirmed the importance of full adherence to the Development Management Standards set out in the Offaly County Development Plan, particularly those relating to wind turbine noise and compliance with the World Health Organisation 2018 Environmental Noise Guidelines, which are in place to safeguard public health. Members further called on the Chief Executive to ensure that all future reports and submissions to An Coimisiún Pleanála explicitly and clearly state compliance with these standards.

Cllr J. Leahy, Cathaoirleach called on Mr. A. Murray, Director of Services, for a reply. Mr. Murray advised that management had no issue with the original motion, as it restated existing Development Management Standards, and confirmed that compliance with DMS 109 could be explicitly referenced in future reports if required. He noted some reservation regarding the addendum submitted, as it had not been reviewed in advance, and confirmed that all environmental, health and amenity matters raised are already assessed as part of planning applications.

## 1. B Proposed Development: Public Health, Noise Regulation, and Regulatory Oversight

The proposed development constitutes a significant long-term public health intervention within a rural low-background-noise environment. The European Environment Agency’s 2025 environmental noise assessment, together with statements from the European Society of Cardiology, recognise environmental noise exposure as a major and growing public health concern associated with adverse cardiovascular and sleep outcomes. The Environmental Protection Agency (“EPA”), as the State’s national authority for environmental noise, was specifically invited by the Planning Authority to make a submission on the Ballynisky application. In circumstances where Ireland continues to rely upon outdated wind energy noise guidance, this was an entirely reasonable request for expert assistance. The EPA declined to provide substantive advice. In correspondence arising from a complaint made by the undersigned, the EPA did not dispute that it exercises a supervisory role over local authority noise control functions, including “Noise Control (including Planning)”, which forms part of the EPA’s annual local authority performance audit framework. Notwithstanding this supervisory role, the regulatory system has failed to provide an effective response to wind turbine noise complaints. Limerick City and County Council has repeatedly reported wind farm noise complaints to the EPA, yet publicly available EPA records do not demonstrate any regulatory intervention addressing adverse impacts on affected residents. While both local authorities and the EPA have enforcement powers under the EPA Act 1992, there is little evidence these have been used in ways that provide timely, practical relief to affected residents.

Two wind farms, widely known as unauthorised for noise

- Meenwaun Wind Farm, Co Offaly – warning letter issued 15 Feb, 2022, Setback distance 520m
- Mauricetown Wind Farm, Co Limerick – enforcement letter issued 14 June, 2021 Setback distance 320m

As a result, residents have increasingly been forced into expensive and complex legal action. Two private nuisance cases — Ballyduff Wind Farm and Gibbet Hill Wind Farm — illustrate this pattern. A separate issue concerns access to operational SCADA data, which residents need to verify compliance reports and identify potential noise breaches. Attempts to obtain this data through Access to Information on the Environment (AIE) requests have led to protracted legal disputes. Appeals taken to High Court and Supreme Court • Right to Know CLG v Raheenleagh Wind Farm Ltd [2024] IESC 7 • Neilon v Commissioner for Environmental Information (2024/323 MCA) These cases highlighted serious unresolved transparency deficiencies and the absence of an

effective administrative pathway for affected residents seeking environmental information relating to operational turbine noise impacts. On 6 May 2026, the Office of the Commissioner for Environmental Information (“OCEI”) confirmed that the two appeals which ultimately proceeded to the Supreme Court and High Court were later withdrawn. • Neilon v Commissioner for Environmental Information, withdrawn in August 2025 • Right to Know CLG v Raheenleagh Wind Farm Ltd withdrawn in April 2026 This is a disappointing outcome for the affected residents and community groups involved, as the underlying SCADA operational data sought was ultimately not released. However, these cases have nevertheless established an important pathway for other wind farm neighbours seeking access to operational turbine data and environmental information relevant to potential noise impacts and compliance issues. The core problem remains unresolved, there is still no effective, timely mechanism enabling affected residents to access the operational noise and SCADA data they need to protect their health and residential amenity. Recent wind farm noise compliance reports released by Offaly County Council in respect of Cloncreen, Derrinlough, Moanvane and Yellow River further illustrate systemic regulatory concerns. While the reports refer in part to Institute of Acoustics guidance, the assessments appear to rely upon “primary turbine” operational scenarios rather than full wind farm operational conditions, and do not appear to undertake meaningful comparison against representative background noise environments. Serious questions therefore arise regarding the robustness and real-world validity of the compliance methodology being applied. These concerns are particularly relevant in the present case given the proposed turbine scale, proximity to residential receptors, the low existing background noise environment, the reliance upon outdated 2006 Wind Energy Development Guidelines, and the absence of any contemporary national regulatory framework specifically addressing amplitude modulation, low frequency noise, or night-time sleep disturbance. Taken cumulatively, the evidence demonstrates significant regulatory gaps in respect of wind turbine noise assessment, monitoring, enforcement and public health protection in Ireland. In those circumstances, the Commission cannot, on the basis of the present record, be satisfied that the proposed development can be operated without unacceptable risk to the health, sleep, residential amenity and overall well-being of the community in and around Lemanaghan Bog.

## 2. SEA of the Offaly County Development Plan

In November 2023 the OPR published a Review of Offaly County Council under section 31AS of the Planning and Development Act 2000.

The OPR report was critical of the Council’s forward planning function, “In terms of monitoring the significant environmental effects of the implementation of the plan in accordance with the SEA Directive and Development Plan Guidelines, the Council **do**

**not have a process in place.** The Council have highlighted that training in this area and cross-departmental commitment are needed to monitor the significant environmental effects of the implementation of the plan.”

There appears to have been a delay in undertaking the review and publishing of the OPR’s report.

In October 2023, Offaly County Council (OCC) published a CDP Progress Report, as required under SEA Directive article 10 monitoring.

Unfortunately, the report failed to identify adverse wind turbine noise impacts from Meenwaun Wind Farm, multiple complaints were received from the surrounding community. OCC carried out independent noise monitoring at multiple houses adjacent to the wind farm, it was found to be non-compliant with planning conditions. Clearly the setback from the turbines to dwellings was inappropriate.

OCC’s independent noise survey did not include an assessment for nuisance or health impacts.

Three years after the independent noise survey confirmed non-compliance, planning enforcement issued a warning letter to the wind farm Operator & Owner on 15 February 2022.

The HSE received a complaint regarding Meenwaun wind farm, which is a matter of Dail record (PQ).

OCC Two Year Progress Report<sup>1</sup> includes the SEA Directive, Article 10 monitoring for impact to Human Health, it details 4 data sources;

- Internal review: failed to highlight planning enforcement cases; it received many complaints from wind farm neighbours and for one in particular it received detailed monthly complaints.
- Consultations with the HSE and EPA:
  - o It appears the HSE fail to highlight Meenwaun complaint. Also failed to raise concerns which are referenced in the HSE Public Health Group’s submission to the 2019 draft Guidelines (Feb 2020).
  - o EPA failed to highlight the Meenwaun case, it is assumed Meenwaun was reported to the EPA in OCC’s annual environmental audit. EPA failed to raise concerns regarding wind turbine noise which it refers to in it’s report; Assessment of the Environment 2022.
- CSO data: CSO data has no bearing or relevance two years into a CDP
- Internal monitoring of preparation of local land use plans

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<sup>1</sup> [https://www.offaly.ie/app/uploads/Council/Council\\_Services\\_A-Z/Planning\\_Building/Combined-Copy.pdf](https://www.offaly.ie/app/uploads/Council/Council_Services_A-Z/Planning_Building/Combined-Copy.pdf)

The SEA details a target “**No spatial concentrations of health problems arising from environmental factors as a result of implementing the plan**”, is can be no longer in dispute.

On a monthly basis the Stonestown Community report complaints, diaries detailing night wakings and noise intrusion. OCC has received an independent noise survey confirming Cloghan Wind Farm is non-compliant and undertaken its own independent noise survey confirming the same results.

## 3. RED III, EIA Scoping, and the Completeness Procedure

### 3.1 Article 16b(2) RED III

Article 16b(2) of Directive (EU) 2023/2413 (RED III) provides that, where an EIA is required, Member States shall ensure that the competent authority issues a scoping opinion at the request of the developer in order to determine the scope and level of detail of the information to be supplied. The transposition deadline for the relevant elements of RED III into Irish law is 1 July 2024.

However, implementation dates for the mandatory EIA Scoping continues to shift. To date, commencement dates of:

- 1 October 2025;
- 1 May 2026; and
- 1 November 2026 have all been referenced.

However, the Minister and Department have offered no justification for the continued delay. CEPP 1/2025 (attached) detailed a requirement for An Coimisiun Pleanala to inform the applicant of the new requirement. **“It will be important to bring this new mandatory requirement to the attention of applicants during the pre-application consultation stage. An application submitted from 1 October onwards, even where the pre-application process has closed, will be required to undergo mandatory EIA scoping.”** However, reading the correspondence and meeting minutes between applicant and the Commission, the Commission failed to follow the planning circular.

Also, the most recent extension / delay of mandatory EIA Scoping from 1 May to 1 November was issued (CEPP 2/2026) on 30 April 2026. The Commission confirmed to me that no requests were made for an EIA scoping opinion.

It appears the wind industry anticipated the continued delay. Why delay the transposition of an environmental safeguard?

### Conclusion

The first-instance procedure in this case did not include the issue of a formal EIA scoping opinion. The Commission may wish to satisfy itself, before reaching its reasoned conclusion, that the absence of a formal scoping step is consistent with the obligations of the State under RED III and under the EIA Directive.

### 3.2 The Completeness Procedure

The completeness check conducted by the Planning Authority is not a substitute for a substantive validity assessment under section 37 of the PDA 2000 and the EIA Directive. The Department's published completeness checklist applies to applications before the Commission and once created the completeness-check record forms part of the planning file and should be publicly accessible unless specifically exempt.

## 4. Article 5(3)(b) EIA Directive: Inadequate Expertise of the Competent Authority

### 4.1 The Obligation

Article 5(3)(b) of the EIA Directive provides that, in order to ensure the completeness and quality of the Environmental Impact Assessment Report, the competent authority "shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental report". Section 172 of the PDA 2000 and Articles 28 and 213 of the PDR 2001 give domestic effect to this obligation.

The obligation is not satisfied by the bare receipt of an EIAR. It requires the competent authority to demonstrate that it has examined the EIAR with access to the expert disciplines engaged by the proposed development. For a wind energy proposal at this scale and proximity to dwellings, the disciplines reasonably engaged include public health, acoustic engineering with specific competence in low-frequency and amplitude-modulated noise, ornithology, bat ecology, hydrology and hydrogeology, peatland science, and shadow flicker modelling.

### 4.2 Conclusion on Article 5(3)(b)

The Commission cannot lawfully proceed to a reasoned conclusion under Article 8a(1)(b) of the EIA Directive without having or having access to expertise sufficient to examine the EIAR in relation to the matters identified above. I submit that in the absence of government policy since the withdrawal (in Nov 2025) of 2017 HSE Position Paper: Wind Turbines and Public Health, An Coimisiun must satisfy the threshold for sufficient expertise to examine the potential impact of wind turbine noise on Human Health.

*Shamsa Doyle vs An Coimisiun Pleanala (& On Tower Ltd) [2025] IEHC725*, debate on the health impacts of masts has to be dealt with primarily at a general policy level.

The Commission is invited either to refuse permission, or to defer determination and seek further information and expert input from the HSE and the EPA pursuant to its powers under section 132 of the PDA 2000.

## 5. Mitigation and Enforcement: Operational Reality

### 5.1 The Test

Articles 1(2)(g), 5, 8a(1)(b) and Annex IV pt 5 of the EIA Directive require the Commission to take into account, in reaching its reasoned conclusion, the effectiveness of the proposed mitigation measures. Where mitigation depends on future operational compliance, the Commission must consider whether that compliance is, on the evidence, reasonably likely to be achieved.

I respectfully submit the following principle, which is consistent with *Webster and Rollo v Meenacloghspar (Wind) Limited [2024] IEHC 136* and with the requirement of effective public participation under Article 6 of the EIA Directive:

*"Where mitigation relies on future compliance with operational conditions, a documented history of unresolved breaches at an existing operational site under common ownership materially undermines the reliability and effectiveness of those mitigation measures."*

### 5.2 Offaly County Council - Enforcements

OPR Review Nov 2023<sup>2</sup>

"The Council has a screening process for complaints in place. Higher level complaints e.g. of the type specified in section 4 of the Minister's Directive (i.e. large-scale unauthorised development and cases that would have required EIA or AA or where section 261 or 261A of the Act would apply) are dealt with as a priority."

Unfortunately, the reality is Offaly County Council (OCC) does not prioritise complaints against large-scale unauthorised developments.

- Meenwaun Wind Farm, Co Offaly – OCC received many noise complaints regarding Meenwaun wind farm once it began operating in 2018. Offaly County Council failed to receive such complaints appropriately to planning enforcements. Instead the noise complaints were delayed with Environmental Enforcement, non compliance was confirmed in late 2019. It was 15 February 2022 before planning enforcement issued a warning letter.
- Cloghan Wind Farm, Co Offaly – the residents received little or no acknowledgement to their many noise complaints from OCC for two years. Offaly County Council are very aware of a pattern of health complaints experienced by the Stonestown residents and while an independent noise survey was undertaken, the Council continues to fail to act.

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<sup>2</sup> <https://publications.opr.ie/storage/publications/z6l3j0oRDsCMVkdVQaRaDZYAlhDvtTRDNJSKhhtv.pdf>

It is noteworthy that in July 2021 the HSE Environmental Health services undertook a wind turbine noise investigation at the request of Clare County Council – so why, given the continued negative impact to residents health has Offaly County Council failed to act?

### Governance

It is submitted that **a material governance concern** arises where the planning authority responsible for the oversight and enforcement of compliance has systematically failed to do so.

In light of the requirements under EU environmental law, including the principles of effectiveness, equivalence, and procedural fairness, as well as the obligations arising under the Aarhus Convention to ensure effective environmental governance and access to justice.

**It is submitted that a planning history characterised by unresolved or unaddressed enforcement issues is a material consideration that goes directly to the assessment of proper planning and sustainable development.**

### 5.3 Enforcement Trends

From the OPR Review November 2023<sup>3</sup>, figure 13 illustrates the Council’s enforcement output between 2016 and 2021. Whilst the Council’s output since 2016 demonstrates an increasing figure for cases on hand, more recently the number on hand at year end increased by 87% between 2020 and 2021.

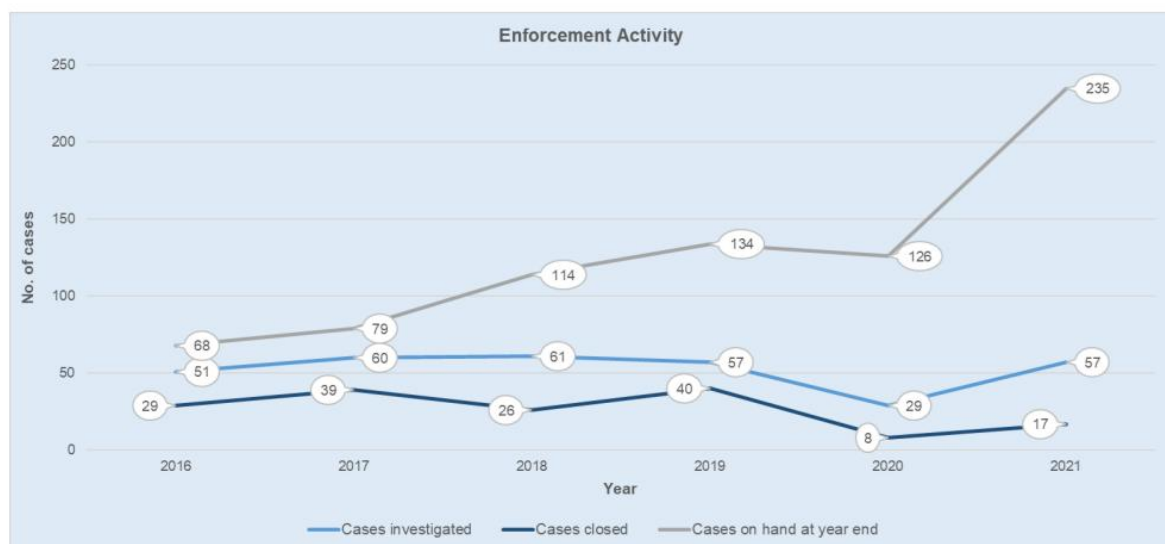


Figure 13: Planning enforcement output<sup>35</sup>

<sup>3</sup> <https://publications.opr.ie/storage/publications/z6l3j0oRDsCMVkdVQaRaDZYAlhDvtTRDNJSKhtv.pdf>

Figure 14 illustrates the percentage of cases closed by the Council that were either closed by dismissing the case 36, by enforcement proceedings or by negotiation. The graph shows that the majority of cases were closed due to enforcement proceedings in 2016 and 2017. In 2018 and 2021 the majority of cases were dismissed due to being minor or trivial in nature, and in 2019 and 2020 the majority of cases were closed due to negotiation.

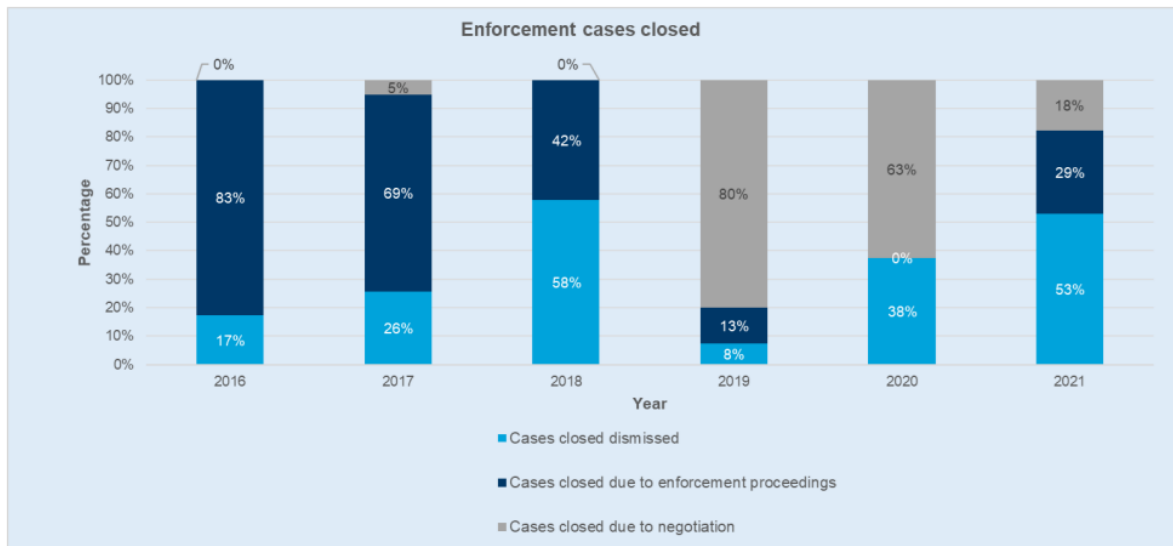


Figure 14: Enforcement cases closed<sup>37</sup>

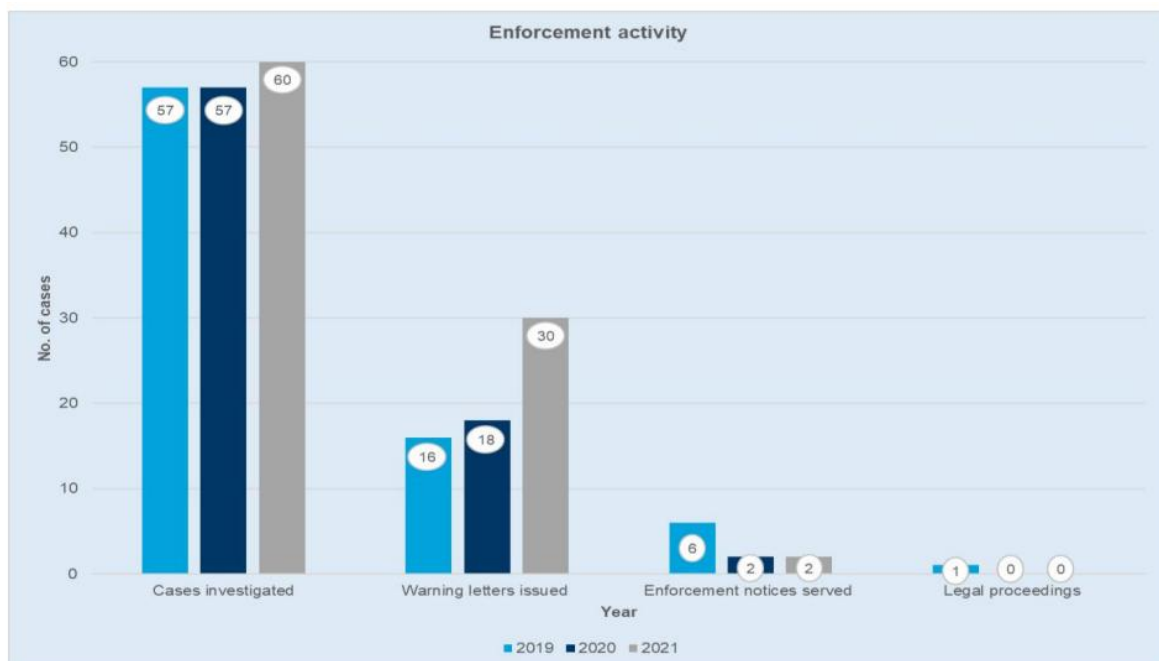


Figure 15: Enforcement activity 2019-2021<sup>39</sup>

## 5.4 The SCADA-to-Receptor Pathway

The Supreme Court has confirmed in Right to Know CLG v Raheenleagh Wind Farm Limited [2024] IESC 7 that operational SCADA data is, in principle, accessible through environmental information procedures. My experience, supported by the OCEI correspondence of 6 May 2026 (Anne Greenalgh) confirming the withdrawal of appeals OCE-112806-S2K0Q9 (Garracummer, withdrawn August 2025) and OCE-93688-H3L3R4 (Raheenleagh, withdrawn April 2026), is that the operator-to-receptor pathway has, in practice, been ineffective. The Commission cannot, on the present evidence, be satisfied that residents adjacent to Lemanaghan Bog will have a workable post-consent route to independent verification of noise compliance.

## 5.5 Implications for the Reasoned Conclusion

On the basis of the above, mitigation in the EIAR is, as a matter of practical operational reality, not capable of being relied on to deliver the predicted residual effect of "**not significant**". The Commission is invited to take that operational reality into account in reaching its reasoned conclusion, and to refuse permission.

# 6. Offaly CDP Renewable Energy Targets have been met

### Directly from chapter 3 of the Offaly CDP

In accordance with the Specific Planning Policy Requirement for the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017), Table 3.1 demonstrates County Offaly's contribution to realising overall national targets (under the Climate Action Plan 2019) on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts) during the Development Plan period. In setting these targets, the Council has had regard to wind farm and solar farm developments, permitted and undeveloped as well as those under construction, which have the potential to be delivered in the plan period. In addition, Table 3.1 sets a target for battery storage for the plan period.

**Table 3.1 Renewable Energy Targets for County Development Plan period**

<b>Wind Energy Target by end of Plan Period: 466.3 MW</b>
<b>Solar Energy Target by end of Plan Period: 145 MW</b>
<b>Battery Storage Target by end of Plan Period: 445 MW</b>

### **As confirmed by Offaly's executive planner**

- Co. Offaly currently has 520MW of operational wind energy developments.
- This has been delivered over a short period of time in the context of such developments nationally, i.e. the first windfarm was energised in 2014.
- 300MW alone has been energised since 2024.
- A further 85MW is permitted and awaiting construction imminently.
- A further 247MW is currently in the planning system (including the current application) - all SID applications to the Commission.
- Combined, the above (inclusive of the requirements to omit a large portion of the turbines within the current application) represents 9% of the entire country's Climate Action Plan / National Planning Framework 2030 wind energy target of 9,000MW.
- Co. Offaly represents 2.3% of the country's landmass.
- An additional c.266MW is in the public domain at the pre-planning stage.

Offaly County Development Plan has already met it's wind target – therefore this planning application that stands on ancient site older than the pyramids cannot be justified by Low Carbon and Climate Law.

9GW is the onshore wind target since the 2023 Climate Action Plan and it continues today. The target is not based in spatial planning, the Joint Oireachtas Committee for Infrastructure recently requested a copy of the RPS Report which confirms the target is not physically possible.

## **7. Additional Grounds for Submission - Health**

### **4. The regulatory vacuum**

On every front the planning system depends upon for protection of human health from wind turbine noise, the relevant authority or guidance is outdated, withdrawn, not adopted, or silent.

#### **4.1 The 2006 WEDG are no longer fit for purpose**

The 2006 Wind Energy Development Guidelines rely substantively on the 1996 UK ETSU-R-97 methodology, drafted for much smaller wind turbines typically located in remote coastal regions with high separation distances from communities. The HSE NEHS in its Clonberne FI response of 21 January 2026 expressly identifies the methodology as outdated. The NEHS quotes ETSU-R-97 itself: the limits adopted are what they are because more protective limits would be "unduly restrictive on development". The

NEHS conclusion: ETSU-R-97 "primarily facilitates development and not health protection". The framework permits noise increases of up to 15 dB(A) above background in low-noise environments, which the NEHS identifies as "likely to be a significant impact".

The Hayes MacKenzie 2011 review for the UK Department of Energy and Climate Change identified that ETSU-R-97 referred to documents that had been superseded (IEC651 replaced by BS EN 61672, BS4142 1990 updated to 1997 version) and recommended that any guidance should "review, or at least acknowledge... the latest WHO guidance on noise limits to prevent sleep disturbance". The UK Government has commissioned this acknowledgement of ETSU-R-97's obsolescence fifteen years ago. The Irish 2006 WEDG, which adopt ETSU-R-97 wholesale, have not been updated since.

The position has hardened in the United Kingdom over the intervening fifteen years. In a joint letter of 2 October 2024 to the Rt Hon Steve Reed MP, Secretary of State for Environment, Food and Rural Affairs, the Chartered Institute of Environmental Health (CIEH) and the Institution of Environmental Sciences (IES) jointly urged the UK Government to pursue the revision of ETSU-R-97, recording the professional consensus among acoustic experts and environmental health practitioners that the 1996 standard is "outdated and unfit for purpose". The letter cited the finding of the House of Lords Science and Technology Committee inquiry that 130,000 healthy life years were lost in the UK in 2018 because of noise pollution. CIEH and IES recommended that the revised guidance be based on "the WHO's systematic reviews of the health effects of environmental noise". The UK Government, having commissioned a Project Report from WSP in September 2023 and contracted Noise Consultants Limited to revise the standard, has accepted the need to replace ETSU-R-97. The Irish 2006 WEDG, which adopt ETSU-R-97 wholesale, have not been similarly progressed.

#### **4.2 The 2017 HSE Public Health Position Paper was withdrawn 2025**

The HSE Public Health Medicine Environment and Health Group Position Paper on Wind Turbines (2017) was the principal national Public Health document on wind turbine noise. It was withdrawn in 2025 as outdated. The HSE Mid West Internal Review of 30 April 2026 confirms:

*"In 2025, the HSE withdrew its previously published public health advice relating to same following concerns that some elements of the position paper were outdated."*

No replacement guidance has been issued. The Internal Review records that the National Health Protection Office (NHPO) is "now planning to review and update the withdrawn advice".

#### **4.3 The 2019 Draft Guidelines have not been adopted**

The Department of Housing published in December 2019 a Draft revised Wind Energy Development Guidelines. The Draft was substantively engaged with by the EPA, LCCC (LCCC Submission 368 / Record 53, February 2020), the HSE NEHS in subsequent applications, and by independent acousticians. The Draft has not been adopted. In *Nagle View Turbine Aware Group v An Bord Pleanála*, the Office of the Planning Regulator confirmed that the Commission may have regard to draft guidelines as part of the evolving scientific context or in "illuminating what amounts to best practice" where existing guidelines are viewed as outdated.

#### **4.4 The most current international standard: NSW Wind Energy Guideline Technical Supplement, November 2024**

The most recent international wind turbine noise standard, published by the NSW Department of Planning, Housing and Infrastructure on 1 November 2024, sets:

*"The predicted equivalent noise level, (LAeq, 10), adjusted for tonality and low-frequency noise, should not exceed 35 dB(A) or the background noise (LA90, 10) by more than 5 dB(A), whichever is greater, at all relevant receivers..."*

NSW 2024 expressly addresses tonality, low-frequency noise, and assessment in residential and protected receiver settings. The 35 dB(A) LAeq base limit is materially more protective than the Irish 2006 WEDG 43 dB(A) L90 night-time limit (which corresponds to approximately 45 dB(A) LAeq). The NSW standard is the most current articulation of international best practice in wind turbine noise health protection.

#### **5. The four established health impacts of environmental noise**

The WHO 2018 framework and the peer-reviewed literature identify four categories of adverse health outcome from environmental noise. The European Society of Cardiology, on publication of the European Environment Agency 2025 noise report, characterised environmental noise as a "medical emergency". The planner's report identifies only one of these four (annoyance) and concludes overall health risk is "imperceptible".

The scale of the public health burden is documented. The UK House of Lords Science and Technology Committee inquiry found that 130,000 healthy life years were lost in the United Kingdom in 2018 because of noise pollution, and that 40 percent of the population remained exposed to harmful noise levels from traffic alone (CIEH-IES joint letter to the UK Secretary of State for Environment, Food and Rural Affairs, 2 October 2024). Environmental noise is not a marginal health consideration. It is one of the leading non-occupational environmental contributors to disease burden in Western European populations.

### **5.1 Annoyance (WHO 2018)**

WHO 2018 identifies annoyance as a primary adverse health outcome and recommends a wind turbine limit of 45 dB Lden (approximately 37 dB LA90). Recent EPA-funded Irish research (Wind Sense, April 2026) demonstrates that significant annoyance can occur at distances beyond 1,500 metres for turbines of 107 to 120 metres tip height. The Ballynisky proposal is 158 metres tip height, materially larger than the Wind Sense study sites.

### **5.2 Sleep disturbance (WHO 2009, 2018)**

The WHO 2009 Night Noise Guidelines for Europe state expressly:

*"While noise-induced sleep disturbance is viewed as a health problem in itself (environmental insomnia), it also leads to further consequences for health and wellbeing... it is recommended that the population should not be exposed to night noise levels greater than 40 dB of Lnight, outside during the part of the night when most people are in bed."*

In Irish measurement terms, the WHO 2009 figure corresponds to approximately 38 dB LA90, which is the figure LCCC adopted in section 11.7.2.1 LDP. The Council's 2023 FOI release records sleep disturbance complaints at all five wind farms in the County for which monitoring was carried out. The Council acoustician's peer-reviewed paper Jennings and Kennedy (2019) documents continuous AM over a 12-hour overnight monitoring window at an Irish wind farm site. Atmospheric stability under nocturnal conditions favours the wind shear phenomenon that produces enhanced AM, making the night-time period the most affected. Sleep disturbance is not addressed as a discrete outcome in the planner's report.

### **5.3 Cardiovascular effects**

Peer-reviewed research (Hansell and colleagues, Imperial College / Leicester) establishes that chronic environmental noise exposure is associated with measurable cardiovascular outcomes (hypertension, ischaemic heart disease) through sleep fragmentation, autonomic activation, and elevated cortisol. The European Society of Cardiology in 2025 characterised environmental noise as a "medical emergency". The pathway is mechanistic and applies to chronic environmental noise above the relevant thresholds; the source category does not break the pathway. Cardiovascular effects are not addressed in the EIAR or planner's report.

#### **5.4 Cognitive impairment in children**

The RANCH study (Stansfeld et al., 2005, The Lancet) and subsequent work on London Heathrow, Amsterdam Schiphol and other airports demonstrate measurable cognitive impairment in children chronically exposed to environmental noise. Cognitive impairment in children is not addressed in the EIAR or planner's report, notwithstanding that Coolcappa National School is identified as a sensitive receptor in the EIAR shadow flicker assessment (section 11 below).

#### **6. The planner's report identifies only annoyance and concludes "imperceptible"**

The LCCC planner's report on the present application, at section 5 (Population and Human Health) on page 32, treats the health analysis as follows:

*"It is recognized that there is potential for increased risk of annoyance at levels below this value but it cannot be determined whether this increase poses a risk to health... The assessment shows that the residual effects are not significant and will not lead to significant effects on any environmental media with the potential to lead to health effects for humans. On this basis, the potential for negative health effects associated with the proposed project is imperceptible."*

Three observations:

**a.** Of the four WHO categories (annoyance, sleep disturbance, cardiovascular, cognitive impairment), the planner's report engages substantively with only one (annoyance), and characterises annoyance below 45 dB Lden as not determinable to pose a risk to health, without addressing the WHO 2018 position.

**b.** Sleep disturbance is omitted, notwithstanding LCCC's own LDP 38 dB(A) night-time sleep protection limit and the 2023 FOI record of sleep disturbance at five wind farms.

c. The conclusion of "imperceptibility" was reached by a planning authority without in-house clinical, epidemiological, or Public Health expertise, in the absence of substantive Public Health input. The Commission cannot rationally treat that conclusion as a competent authority reasoned conclusion on the Article 3 Population and Human Health receptor.

### **7. LCCC acted at development plan level to protect sleep; the planner's assessment of this application does not**

The Limerick Development Plan 2022-2028 at section 11.7.2.1 provides:

*"Any proposed lower fixed noise limit for night-time at noise sensitive properties shall not exceed 38 dB(A) L90 or 5 dB(A) above background noise levels, whichever is the greater."*

The 38 dB(A) figure corresponds to the WHO 2009 sleep protection threshold. The Council acoustician's February 2020 Submission 368 expressly states: the 38 dB limit "will protect sound levels inside bedrooms in line with recommendations in BS8233:2014... below the recommended target internal level of 30 dB(A) Leq through an open window". The Council has acted at statutory plan level to protect sleep.

The 2023 LCCC FOI release records sleep disturbance complaints at all five monitored wind farms in the County. LCCC has documentary knowledge of recurring sleep disturbance at operational wind farms. The Council has, additionally, demonstrated technical capability for health-based noise assessment on road traffic in the Monaleen and Mauricetown reports prepared by the same Council acoustician (see parallel mitigation credibility ground section 4.5).

Notwithstanding all of the above, the planner's report on the present application does not engage with sleep disturbance as a discrete health outcome, does not address the 2023 FOI sleep disturbance knowledge base, does not engage with the Monaleen / Mauricetown health-based methodology, and concludes overall health risk is "imperceptible". The conclusion is at odds with the Council's own development plan policy and its own knowledge base.

### **8. HSE National Environmental Health Service: active engagement on wind farm noise**

The HSE NEHS Clonberne Further Information response of 21 January 2026 is the standard against which the absence of equivalent NEHS engagement on the present appeal should be assessed. The principal NEHS positions, each directly material here:

a. The nature, characteristic and location of wind farm development has changed materially since 1996 ETSU-R-97 and the 2006 WEDG. Modern proposals (Ballynisky at 158 m tip, 90 m hub) are materially larger than the 80 to 100 m hubs the original framework was designed for.

b. Cumulative impacts at approximately 300 Irish operational wind farms differ materially from 1996. The Ballynisky proposal sits in a county with substantial existing development (Kilmeedy, Carrons, Grouse Lodge identified within 5 km in the EIAR).

c. ETSU-R-97 is, in its own terms, a development-facilitation standard not a health-protection standard. The NEHS quotes the standard's own statement that more protective limits would be "unduly restrictive on development".

d. The 10 dB(A) point: noise increases above background of 10 dB(A) are perceived as a doubling of loudness; the WEDG permits increases of up to 15 dB(A) in low-noise environments, which are "likely to be a significant impact".

e. The 2019 Draft Guidelines are "illuminating what amounts to best practice" (Nagle View) and the Commission should consider them notwithstanding non-adoption.

f. The WHO 2018 Guidelines are "primarily an evaluation standard for health protection" and it is "reasonable and rational for the NEHS to consider a standard set by WHO to protect human health from exposure to noise".

Each of these positions applies directly to the present Ballynisky application. None is addressed in the EIAR or planner's report. The Commission should require equivalent substantive NEHS input on Ballynisky before any determination.

### **9. The HSE's continuing role on environmental noise, disclaimed on the present appeal without scientific basis**

The HSE Environmental Health Service has, on documentary record, had an active role in environmental noise assessment in Ireland for over twenty-five years. The National Environmental Health Action Plan 1999 established cross-agency partnerships on environmental health including noise. The 2006 Department of Health Review of

Environmental Health Services identified environmental noise as a continuing service priority. The HSE Environment and Health Review 2013 confirmed noise as a continuing area of HSE engagement. The 2022 HSE Environmental Health short report on internal departmental priorities identified noise as the No. 2 environmental health priority for the service.

Notwithstanding that twenty-five-year continuity, HSE Public Health Mid-West has, on the present appeal, declined to engage on the basis that there is no active national wind turbine guidance. That position is not consistent with the previous and continuing HSE engagement on environmental noise outside the wind turbine category, and there is, on the documentary record, no scientific basis for the claimed limitation. The pathways by which environmental noise affects human health (annoyance, sleep disturbance, cardiovascular activation, cognitive impairment) are mechanistic; they do not break across source categories. A regional Public Health office that engages substantively on aircraft noise (HSE Public Health Area A, Dublin Airport, December 2022, section 10 below) cannot rationally decline to engage on wind turbine noise on the basis that the source category is different.

The proposition that HSE engagement on wind turbine noise has ceased is also empirically contradicted by HSE's own conduct. On 29 July 2020, a Senior Environmental Health Officer of the HSE Environment Operational Unit produced a "Report on Health Implications of Noise from a Clare Wind Farm" at the request of Clare County Council. The HSE did engage. The fact that the Clare 2020 report is, on documentary record, fundamentally flawed (section 12 below) does not establish that HSE has no role; on the contrary, it establishes that HSE has a role, has exercised it, and (in that case) exercised it poorly.

There is, in summary, no scientific or institutional basis for the HSE's present position on this appeal. The HSE's twenty-five-year record of environmental health engagement, its ongoing engagement on aircraft and other source categories, and its own intervention in Clare in 2020, together establish that the HSE does have a role in wind turbine noise health assessment. The current claim of no role reflects a regulatory and institutional vacuum, not a substantive scientific position.

#### **10. The Dublin Airport precedent: HSE Public Health does engage where it chooses to**

On 20 December 2022, HSE Public Health Area A (Cavan, Louth, Meath, Monaghan and North Dublin) made a substantive submission to Fingal County Council on the Proposed Material Alterations to the Draft Fingal County Development Plan 2023-2029 in respect of aircraft noise at Dublin Airport (EHIS Ref. 2833). The submission was authored by Dr Paul Mullane (Specialist in Public Health Medicine MRCP MPH MFPHMI) and

colleagues, and engages substantively with the international evidence on aircraft noise and human health:

*"International evidence is in abundance demonstrating that increased exposure to aircraft noise is associated with an increase in diagnoses of cardiovascular disease, substance misuse / mental health emergencies and insomnia among local residents."*

Dublin Airport demonstrates that HSE Public Health does engage substantively on environmental noise affecting populations when it chooses to do so. The cardiovascular, mental health, and insomnia outcomes identified in the Dublin Airport submission are the same WHO 2018 outcome categories that arise for wind turbine noise at populations exposed above the relevant thresholds. The mechanism is mechanistic; the source category does not break the pathway. The differential engagement (active on Dublin Airport December 2022, declined on Ballynisky April 2026) is on the documentary record.

#### **11. HSE Public Health Mid West: documented refusal to engage on the present appeal**

An affected resident, represented by a file advisor, made a formal Public Health complaint to HSE Public Health concerning wind turbine noise exposure. The complaint proceeded to Internal Review (HSE ref. YSYS-RH-2026-02-0384). The Internal Review letter of 30 April 2026, signed by the Regional Director of Public Health, HSE Mid West, confirms:

*"At present, there is currently no active, official Public Health guidance in relation to wind turbines in Ireland. In 2025, the HSE withdrew its previously published public health advice relating to same following concerns that some elements of the position paper were outdated... I am of the firm view that Public Health needs guidelines in the interim. That is why we will be writing to the HSE National Health Protection Office to prioritise the completion of the new guidance, in addition to producing interim guidance so that we can act in a timely manner where local authorities require our observations on such applications."*

Notwithstanding those confirmations and the Regional Director's "firm view" that interim guidance is needed, HSE Public Health Mid West has not made a substantive submission on the present Ballynisky appeal. The complaint has been referred to the Office of the Ombudsman. The Commission cannot rationally rely on the absence of a HSE Public Health submission as indicative of absence of risk; the absence is documented refusal, reflecting the regulatory vacuum (section 4 above) and a regional inconsistency in HSE Public Health practice.

#### **12. The Clare 2020 EHO report: an HSE engagement that was, on its face, fundamentally flawed**

On 29 July 2020, a Senior Environmental Health Officer of the HSE Environment Operational Unit produced a "Report on Health Implications of Noise from a Clare Wind Farm" at the request of Clare County Council. The report concluded:

*"The setting, and compliance, of an absolute noise exposure level of 43 dB(A) in the consent conditions reasonably protects the complainant from any potential adverse health effects from noise from operation of the turbines. Notwithstanding there might be increased annoyance at this level of noise exposure. The basis for this opinion is the WHO 2018 Guidance on Night Time Noise in the European Region and in particular the section on the health effects from wind turbine noise and the recommendations made."*

The Clare 2020 report is, on documentary record, fundamentally flawed on four grounds:

- a.** The WHO Guidance on which the opinion rests is inaccurately characterised. The WHO 2018 Environmental Noise Guidelines recommend reducing wind turbine noise exposure below 45 dB Lden. The report's suggestion that "the WHO Guidance identifies as night time exposure above 43 dB(A)" is not consistent with the WHO 2018 framework. The WHO sleep protection threshold (WHO 2009) is 40 dB Lnight (approximately 38 dB LA90 in Irish measurement terms); the WHO 2018 wind-turbine limit of 45 dB Lden corresponds to approximately 37 dB LA90. The Irish 43 dB(A) limit is, on the WHO's own evidence base, above the threshold for sleep protection.
- b.** The Department of Housing did not share with the HSE the public consultation submissions to the 2019 Draft Wind Energy Development Guidelines, including the joint submission of thirteen independent acousticians establishing the inaccuracy of the 2006 framework against WHO. The Senior EHO's report was prepared on incomplete material.
- c.** An independent noise compliance report had been submitted to Clare County Council confirming multiple inaccuracies in the developer's noise compliance report at the site. Other wind farm neighbours had registered noise complaints. None of this contextual material is engaged with in the Clare 2020 report.
- d.** The Clare 2020 report dismisses the complainant's position notwithstanding that the complainant's submission attached a letter from the complainant's general practitioner concerning the patient's health. An Environmental Health Officer is not a clinician and is not in a position to dismiss a GP's concerns for the patient's health.

It is respectfully submitted that the Clare 2020 report does not constitute reliable HSE input on wind turbine noise health protection, and that the Commission should not draw any reassurance from its existence. The contrast between the flawed Clare 2020 EHO report and the substantive NEHS Clonberne FI response of 21 January 2026 is itself evidence of the inconsistency of HSE engagement in this area; but the existence of the

Clare 2020 report nonetheless confirms (on the section 9 point above) that HSE does have a role, even if it has on occasion exercised it poorly.

### **13. EPA: substantive 2018-2020 engagement; silence on the present appeal**

The EPA Office of Evidence and Assessment made three substantive submissions to the 2019 Draft Wind Energy Development Guidelines process (2 February 2018 scoping submission; 22 October 2018 rescoping submission; 14 February 2020 final submission). The February 2018 submission expressly welcomed alignment with WHO standards, recommended that consideration be given to "the updated WHO noise guidelines upon their publication", recommended self-monitoring by wind farm operators in addition to regulatory oversight, and indicated EPA willingness to provide "independent noise monitoring of wind farms" under the proposed new regulatory regime. The EPA Act 1992 sections 63, 106 and 108 provide statutory authority for EPA engagement with environmental noise.

The 2019 Draft Guidelines have not been adopted. The EPA-anticipated regulatory regime has not materialised. The EPA does not, in current practice, make submissions on individual wind farm planning applications. No submission has been made on this appeal. The Commission is respectfully invited to note that the EPA's silence does not reflect an EPA position that wind farm noise raises no protective issue; it reflects the regulatory vacuum and the failure of the 2019 Draft Guidelines to be adopted.

### **14. The sensitive receptor: Coolcappa National School**

The EIAR shadow flicker assessment at section 5.4.2.7 identifies the following as sensitive locations: Coolcappa National School, St Kieran's GAA facilities, Coolcappa Community Hall, St Kyran's Church and Graveyard, Kilbradan Graveyard, and Newcastle West Golf Course Clubhouse (NSL84). The planner's report records that there is "one school (Coolcappa National School) located within a 2km radius of the proposed development site". The EIAR noise assessment in Chapter 11 does not classify Coolcappa National School as a noise-sensitive location and does not undertake a site-specific noise assessment for the school. The inconsistency between the noise and shadow flicker treatment of the same receptor is on the face of the EIAR.

The vulnerability of children to environmental noise impacts on cognition (RANCH, Heathrow, Schiphol) is established. The WHO recommended internal classroom noise level for educational settings is 35 dB Leq during teaching hours. No predicted internal classroom levels at Coolcappa have been provided. The HSE NEHS, in its planning practice, treats schools as discrete sensitive receptors. No such treatment has been undertaken on this appeal. The most vulnerable category of noise-exposed receptor in the vicinity of the proposed development is omitted from the assessment.

**[END OF SUBMISSION]**



**Comhairle Chontae Uíbh Fhailí**  
**Offaly County Council**

## **Minutes of Monthly Meeting of Offaly County Council**

Held on 20 April 2026 at 2.00pm, in Áras an Chontae, Charleville Road,  
Tullamore and via Teams

The Meetings Administrator carried out a roll call to confirm attendance.

### **Present**

Cllr. John Leahy, Cathaoirleach

Cllr. Bryant, Ollie	Cllr. Masterson, Aoife
Cllr. Clendennen, Eleanor	Cllr. McDonnell, Fergus
Cllr. Cribbin, Noel	Cllr. Murray, Claire (SF)
Cllr. Egan, Hugh	Cllr. Murray, Shane
Cllr. Feighery, Neil	Cllr. O'Brien, Sean ( R )
Cllr. Harvey, Declan	Cllr. Ormond, Peter
Cllr. Hennessy Kennedy, Audrey	Cllr. Quinn, Liam
Cllr. Maher, Sean	

### **Apologies**

Cllr. Claire Murray Smale  
Cllr. E. Fitzpatrick  
Cllr F. Moran.

### **Suspension of Standing Orders**

Cllr. D. Harvey proposed the suspension of Standing Orders as a mark of respect to Cllr. F Moran on the passing of his mother Eileen Moran (née McLavin). The proposal was seconded by Cllr. O. Bryant. Cllr. Harvey read out a message sent by Cllr. Frank Moran in which he thanked his colleagues and staff in Offaly County Council for their sympathies and support.

### **Officials in Attendance**

Mr. E. Ryan, Chief Executive; Ms. F. Millane, D.O.F.; Ms. A. Dillon, D.O.S.; Mr. B. Lennon, A/D.O.S.; Mr. P. McLoughlin, D.O.S.; Mr. A. Murray D.O.S.; Mr. E. Fennell, Meetings Administrator; Ms. AM. Kelly, AO; Ms. R. Holohan, C.O;

work undertaken over recent months. Members were thanked for their cooperation in advancing all agenda items.

An update was provided on the BDO study on pooling community benefit funds from renewables, noting that while a meeting was due to take place, both management and BDO requested additional time to complete consultations and finalise information. Engagement with elected members is expected shortly.

Cllr. J. Leahy, Cathaoirleach, also referred to the Local Property Tax funds update and advised that work is ongoing to progress the shopfront grant scheme approved through the budget. Correspondence and conference matters were noted and included on the Council agenda.

Finally, members were advised in relation to ongoing work by Management Team on the commercial rates short-fall for Shannonbridge. Management are continuing deliberations and consultations with the Department and are receiving support from the Oireachtas members. An update will be brought back to the CPG and Council in due course.

## 15. Notices of Motion

1. "That Offaly County Council reaffirms the importance of full adherence to the Development Management Standards set out in the Offaly County Development Plan, in particular those relating to wind turbine noise and compliance with the World Health Organisation 2018 Environmental Noise Guidelines, which are in place to safeguard health. The Council further calls on the Chief Executive to ensure that all future reports and submissions to An Coimisiun Pleanála explicitly and clearly state compliance with these standards." **Proposed by Cllr Sean O' Brien**

On the proposal of Cllr. S. O'Brien, seconded by Cllr Claire Murray, members discussed and reaffirmed the importance of full adherence to the Development Management Standards set out in the Offaly County Development Plan, particularly those relating to wind turbine noise and compliance with the World Health Organisation 2018 Environmental Noise Guidelines, which are in place to safeguard public health. Members further called on the Chief Executive to ensure that all future reports and submissions to An Coimisiún Pleanála explicitly and clearly state compliance with these standards.

Cllr J. Leahy, Cathaoirleach called on Mr. A. Murray, Director of Services, for a reply. Mr. Murray advised that management had no issue with the original motion, as it restated existing Development Management Standards, and confirmed that compliance with DMS 109 could be explicitly referenced in future reports if required. He noted some reservation regarding the addendum submitted, as it had not been reviewed in advance, and confirmed that all environmental, health and amenity matters raised are already assessed as part of planning applications.

Cllr J. Leahy, Cathaoirleach, suggested that Cllr. O'Brien engage further with the Mr. A. Murray regarding the addendum to the motion at the earliest opportunity.

Members agreed for a letter to be issued to Minister Darragh O'Brien highlighting these concerns and the need for updated national wind energy guidelines.

2) "That Offaly County Council identifies a funding source for the appointment of a dedicated, full-time and fully resourced Access and Inclusion Officer." **Proposed by Cllr Sean O'Brien**

On the proposal of Cllr. Sean O'Brien, seconded by Cllr Claire Murray, members supported the appointment of a dedicated, full-time and fully resourced Access and Inclusion Officer, noting the Council's statutory obligations under the Disability Act 2005 and EU accessibility regulations. Members acknowledged the wide-ranging role such an officer would play in improving access to buildings, public spaces, digital platforms and services across the county.

In response, Ms. A. Dillon, Director of Services, advised the members as follows:

- The duties of an Access Officer are currently assigned to the Senior Executive Officer, Corporate Services, in collaboration with the Council's Facilities Manager.
- The Council also has a Human Rights & Equality Committee (IHREC) which was established to ensure that the Council complies with its Public Sector Duty requirements including dealing with people with disabilities.
- The Council, over a number of years, has engaged with, and continues to engage with various groups such as Offaly Disability and Equality Network (ODEN) and Inclusion Ireland in an effort to provide a range of accessible services to meet the requirements of people with disabilities and to provide awareness training for Local Authority Staff.
- Recruitment is an Executive function and Departmental sanction and funding is required for all new posts as part of the Council's Strategic Workforce plan which was submitted to the Department in 2025.
- Building Regulations govern the meeting of standards in our Social Housing Capital Programme and concepts such Universal Design are promoted through other Council led initiatives including the Age Friendly Alliance.
- The Council Housing Department also has an interagency Disability Steering Group.

Management welcomed the members' support to identify a funding source, and it was agreed that a letter would be issued to the Minister seeking support for funding this role.

## 16. Comhdhálacha / Conferences

The member noted the Conferences on the Agenda.

## 17. Comhfhreagras / Correspondence

The members noted the Correspondence on the Agenda agreed that a letter be issued to the Minister for Health, Jennifer Carroll MacNeill, and to the HSE CEO, Anne O'Connor, requesting that the refund in relation to hospice care be expedited.



European Union (Planning and Development) (Renewable Energy) Regulations 2025 Circular

Number CEPP 1/2025

15 August 2025

To: Directors of Planning in each local authority

CC: Chief Executives  
Senior Planners  
An Coimisiún Pleanála  
Office of the Planning Regulator  
Directors of Regional Assemblies  
Mayor of Limerick  
Land Development Agency

**European Union (Planning and Development) (Renewable Energy)  
Regulations 2025**

Purpose of Circular

This circular notifies planning authorities, the Commission and other key stakeholders of the transposition of certain articles of the Renewable Energy Directive III (The Directive)<sup>1</sup> into the planning code. The Directive is broad ranging and includes provisions that aim to speed up the permit granting process for renewable energy projects by providing mandatory permit granting timelines for various types of renewable energy projects, as well as provisions concerned with environmental protection Directives and how they are applied to certain renewable energy projects.

The European Union (Planning and Development) (Renewable Energy) Regulations 2025 (S.I. 274 of 2025) have given effect to articles 15e(5), 16, 16b, 16c(2), 16c(3), 16d, 16e and 16f of the Directive, by making amendments to the Planning and Development Act 2000 and the Planning and Development Regulations 2001 to 2025. Those amendments are discussed in detail at Appendix 1.

1. The Renewable Energy Directive III

The Renewable Energy Directive III entered into force on 20 November 2023 and establishes targets for increased renewable energy use in the European Union.

Broadly speaking, the Directive has taken a three-pronged approach to speed up permit granting for renewable energy projects by providing for; an application ‘completeness check’,

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<sup>1</sup> [Directive EU/2023/2413](#)



prescribing mandatory permit granting timelines and including specific provisions which target environmental assessments. All three are discussed below.

### 1.1 Completeness Check under REDIII

In accordance with article 16(2) of the Directive, a competent authority upon receipt of an application, must acknowledge the completeness of the application within 45 days. It is the acknowledgement of completeness of an application, which triggers the start of the permit granting timelines. However, the completeness check does not apply to heat pumps covered by article 16e, therefore, the permit granting timelines for those developments begin on receipt of an application. Article 16(2) also states that where an applicant has not sent all of the information required to process the application, the competent authority should request the applicant to submit a complete application without undue delay.

The Department adopted a simplistic approach to transposition of the ‘completeness check’, staying close to the wording of article 16(2). However, noting that the introduction of a ‘completeness check’ into the development management process, although similar to a validation check, is a new concept, a guidance note on how to conduct a completeness check has been developed in consultation with key stakeholders. This guidance note can be found at Appendix 2.

Article 16(3) of the Directive requires Member States to designate a Single Point of Contact (SPC) whose role is to guide applicants through the permit granting process. The Sustainable Energy Authority of Ireland (SEAI) have been appointed by the Department of Climate, Energy and Environment as the REDIII SPC. Given that SEAI’s role in this regard is to manage overall compliance with the REDIII permit granting timelines, it is crucially important that they are notified by planning authorities and the Commission of when a REDIII planning application has been received.

SEAI SPC contact details for this purpose are set out below:

Tel: 01 808 2278

Email: [spc@seai.ie](mailto:spc@seai.ie)

Website: [Contact | Single Point of Contact for Renewable Energy | SEAI](#)

Additionally, as the completeness check is a new process in the development management system which can result in applications being deemed incomplete, amendments have been made to the site notice form found at Form 1 of Schedule 3 of the 2001 Regulations. These amendments aim to ensure that it is made clear to members of the public that the development advertised is a REDIII application that may be subject to a completeness check.



## 1.2 Mandatory Permit Granting timelines under REDIII

Mandatory permit granting timelines are prescribed in the Directive for various types of renewable energy project as follows:

- 2 years for a renewable energy project with a generating capacity of 150kW or more – article 16b (1). (3 years if off-shore)
- 1 year for repowering of a renewable energy plant or for the installation of a new plant with a generating capacity below 150kW – article 16b (2). (2 years if off-shore)
- 3 months for the installation of solar energy equipment in existing or future artificial structures; and for ground source heat pumps – articles 16d(1) and 16e(1) respectively.
- 1 month for small scale solar energy equipment; and for heat pumps below 50MW – articles 16d (2) and 16e (1) respectively.

It is important to note that the permit granting timelines prescribed by the Directive apply to all permits required for a given renewable energy project. For example, where the timeline is 2 years, this means that planning permission and grid application, including any other relevant permits must be granted within that 2-year period. On that basis, the timelines prescribed in the transposing legislation which apply to planning are shorter than what is prescribed in the Directive.

Additionally, the permit granting timelines cannot be paused because of requests for further information or due to the requirement to carry out an environmental assessment. On that basis, you will see that the timelines prescribed for planning in this regulation are shorter than what the Directive prescribes in order to ensure there is time left for the various other consents that may be required.

Given that the permit granting clock cannot stop while a response to a request for further information is pending, a policy decision has been made to dis-apply further information requests for REDIII developments with a permit granting timeline of either one or three months. These developments are relevant solar energy development, small-scale solar energy equipment developments and both types of heat pumps, provided for at articles 16d and 16e of the Directive.

## 1.3 Environmental Assessment under REDIII

The Directive includes a number of provisions related to environmental assessments under EU law including the EIA and Habitats Directives. For example, article 16f requires that renewable energy plants be presumed as being in the overriding public interest for the purpose of appropriate assessment under the Habitats Directive.



EIA related provisions are as follows:

- Where full EIA or EIA screening is required for grid reinforcement works and repowering, it shall be limited to assessing the potential environmental impact from the change or extension compared to the original project – articles 15e(5) and 16c(2) respectively.
- Repowering of solar installations are provided with an exemption from EIA or EIA screening subject to certain conditions – article 16c(3).
- Installation of solar energy equipment is also provided with an exemption from EIA – article 16d(1).
- Provision of an EIA scoping opinion is mandatory and cannot be extended once provided to an applicant

## 2. Summary of new legislation

### 2.1.1 Overview

A detailed summary of the new legislation is provided at Appendix 1. There are 38 regulations in four Parts as follows:

Part 1 – two regulations as standard including citation and definitions.

Part 2 – includes amendments to the Planning and Development Act 2000 at regulations 3 to 21

Part 3 – includes amendments to the Planning and Development Regulations 2001 to 2025 (PDR) at regulations 22 to 37

Part 4 – includes transitional provisions.

### 2.1.2 S.34H and the deemed decision

Article 16d(2) of the Directive provides that the permit granting procedure for small-scale solar developments shall not exceed one month. The threshold for these developments in the Directive is 100kW, however, by utilising a derogation from this threshold, 11kW has been prescribed as the threshold in the transposing Regulation.

A key aspect of article 16d(2) is that it provides for a ‘deemed decision’ in circumstances where the competent authority has not responded to the applicant within the one month permit granting timeline. This has been transposed by the insertion of a new section 34H at regulation 5 of the transposing S.I.



### 2.1.3 Commencement of the EIAR scoping provisions

Article 16b(2) of the Directive provides that EIA scoping is mandatory. Necessary amendments to the 2000 Act are found at regulations 6, 12, 14 and 18 of the transposing S.I. These provisions do not become operational until the 1 October 2025.

This will mean that any applications for REDIII developments submitted up to the 30 September are not required to have EIA scoping completed. However, from 1 October 2025 this requirement will apply. It will be important to bring this new mandatory requirement to the attention of applicants during the pre-application consultation stage. An application submitted from 1 October onwards, even where the pre-application process has closed, will be required to undergo mandatory EIA scoping.

By way of further explanation, in circumstances whereby the pre-application procedure has already closed for some applicants, if their applications are submitted after the 1 October without an EIA scoping opinion having been provided, those applications would have to be deemed incomplete during the completeness check stage. Where this situation arises applicants will need to be informed that the EIA scoping procedure must be undertaken and the application resubmitted thereafter.

### 2.1.4 Further Information requests

As noted above, the permit granting timelines prescribed by the Directive cannot be paused when a request for further information issues. Given the challenges that this would bring in terms of compliance with permit granting timelines of one and three months at articles 16d and 16e of the Directive, a policy decision has been taken to remove the ability to request further information for developments that need to comply with these shorter permit granting timelines.

Additionally, while it remains possible to request further information for developments with a permit granting timeline of one year or greater, an amendment has been made to article 33 of the 2001 Regulations, to enable a planning authority to specify the period for replying to such a request. Where an applicant does not provide the information within the period specified, the application shall be considered as withdrawn.

### 2.1.5 New Article 26A and 216A

Article 16(2) of the Directive provides for a completeness check discussed at section 1.1 above. A process has been provided for in the transposing regulation to cover circumstances whereby an application is deemed incomplete following the completeness check. This process is set out in a new article 26A for planning authorities and a new article



216A for the Commission. The process essentially mirrors what takes place when an application is deemed invalid.

3. Further information

Any enquiries regarding this circular can be emailed to the Department at [environmentalplanningpolicy@housing.gov.ie](mailto:environmentalplanningpolicy@housing.gov.ie)

**Issued by:**

*Lisa Clifford*

Lisa Clifford  
Principal  
Climate and Environmental Planning Policy



## Appendix 1 – Detailed Summary of the new Legislation

There are 38 regulations in four Parts as follows:

**Part 1** – two regulations as standard including citation and definitions.

**Part 2** – proposes amendments to the 2000 Act and includes regulations 3 to 21, summarised below:

- Regulation 3 amends section 2 of the 2000 Act to insert relevant definitions.
- Regulations 4 and 5 amend section 34 to do the following:
  - Insert a new section 34D that provides for the completeness check provided for at article 16(2) of the Directive, for all developments except heat pumps at article 16e.
  - Insert a new section 34E to provide for the permit granting timeline at article 16b (1) of the Directive, which is 52 weeks for a renewable energy development with an electrical capacity of 150kW or more. This regulation also provides for an extension to the permit granting timeline where an IROPI assessment is required under section 177AA of the 2000 Act.
  - Insert a new section 34F to provide for the permit granting timeline at article 16b (2) of the Directive, which is 30 weeks for a renewable energy development with an electrical capacity below 150kW or for a repowering application. This regulation also provides for an extension to the permit granting timeline where an IROPI assessment is required under section 177AA of the 2000 Act.
  - Insert a new section 34G to provide an 8-week permit granting timeline for relevant solar energy development. This timeline begins from the date of acknowledgement of completeness. This regulation also dis-applies sections 34(8) (b), (c), (ca) and 34(9) of the 2000 Act.
  - Insert a new section 34H which makes various amendments necessary in order to ensure the one month permit granting timeline in article 16d(2) and 16e(1) can be met for small-scale solar developments and small-scale non-ground source heat pumps. This includes the article 16d (2) ‘deemed decision’ for small-scale solar developments.
- Regulations 6 to 9 amend the following sections of the 2000 Act in relation to applications made to the An Coimisiún Pleanála:
  - 37D – to transpose article 16b (2) which provides that EIA scoping is mandatory. To note, as mentioned in the body of this Circular, this provision commences on the 1 October 2025
  - 37E – to ensure a newspaper notice advertising the development makes reference to the completeness check



- To insert a new 37JA and JB to provide for the completeness check and to prescribe mandatory permit granting timelines
- Regulations 10 to 12 amend section 146B of the 2000 Act to do the following:
  - A new section 146BA is inserted by regulation 11 to provide for a completeness check for material alteration applications submitted under section 146B. It also inserts a new section 146BB to set out the relevant timelines for making a decision on such applications
  - Section 146CA is amended by regulation 12 to provide that EIA scoping is mandatory
- Regulations 13 to 15 make various EIA and Habitats Directive related amendments to transpose articles 15e(5), 16b(2), 16c(2) and (3), 16d(1) and 16f, which limit EIA and screening for EIA for certain developments, ensure EIA scoping opinions provided cannot be extended subsequently, provide an exemption from EIA for solar developments, and ensure that renewable energy plants are presumed to be in the overriding public interest for the purpose of appropriate assessment.
- Regulation 16 amends section 251 to dis-apply the provisions in that section which discount holiday periods from decision making timelines.
- Regulations 17 to 21 amend various provisions in Sections 289, 290, 291 and 295, which concern applications to the Commission for development in the maritime area and essentially replicate what is provided for at regulations 6 to 9 detailed above.

**Part 3** – proposes consequential amendments to the Planning and Development Regulations 2001 to 2024 (PDR). This part includes regulations 22 to 37, summarised below:

- Regulation 22 amends article 3 of the 2001 Regulations to insert relevant definitions.
- Regulations 23 to 31 amend various articles of the 2001 Regulations concerning the duration of certain time periods and when those periods commence in relation to the completeness check.
  - Regulation 23 amends article 18 of the 2001 Regulations to ensure that the newspaper notice advertising a proposed development includes reference to the new completeness check where applicable. Additionally, the period for making submissions on a REDIII application with permit granting timeline of one or three months is reduced from 5 to 2 weeks.
  - Regulation 24 amends article 20 of the 2001 Regulations to reduce the period a site notice needs to be erected for, from 5 weeks to 2 weeks for REDIII developments with a one-month permit granting timeline.
  - Regulation 25 amends article 26 of the 2001 Regulations to provide that the acknowledgement, which issues under article 26(2) (a) advises, where applicable, that the completeness check period of 45 days begins on the date of receipt of the application.



- Regulation 26 inserts a new article 26A into the 2001 Regulations providing for the process to be followed if a REDIII application is deemed incomplete during the completeness check. This process essentially mirrors what happens after an application has been deemed invalid.
- Regulation 27 amends article 27 of the 2001 Regulations to provide that the planning authority weekly lists record the fact that an application may be subject to the REDIII completeness check and to note when a notice issues under either section 34D (a) or (b).
- Regulation 28 amends article 29 of the 2001 Regulations to reduce the period for making submissions on REDIII developments with a one-month timeline from 5 weeks to 2 weeks.
- Regulation 29 amends article 30 of the 2001 Regulations to provide the minimum period for making a determination on an application is 3 weeks beginning on the date of acknowledgment of completeness where applicable, 3 weeks from date of receipt for small-scale non-ground source heat pumps and 5 weeks in all other cases.
- Regulation 30 amends article 33 of the 2001 Regulations to provide that the 8 week period for requesting FI begins once a REDIII application is acknowledged as complete, to dis-apply FI requests for REDIII developments with a one or three month permit granting timeline and to provide planning authorities with the ability to set a specific timeline for responding to a request for FI.
- Regulation 31 amends article 34 of the 2001 Regulations to ensure the 8-week period referred to begins from the acknowledgment of completeness where applicable.
- Regulations 32 and 33 amend articles 103 and 109 of the 2001 Regulations regarding EIA screening. This is to transpose articles 15e(5) and 16c(2) of REDIII which require that EIA screening is limited to an assessment of changes or extensions to a proposed project compared to the original for grid reinforcement projects or repowering applications.
- Regulation 34 amends article 216 of the 2001 Regulations to provide that the Commission's weekly lists record the fact that an application may be subject to the REDIII completeness check and to note when a notice issues under section 37JA (b).
- Regulation 35 inserts a new article 216A into the 2001 Regulations providing for the process to be followed by the Commission if a REDIII application is deemed incomplete during the completeness check.
- Regulation 36 inserts a new Part 18A into the 2001 Regulations providing for the process to be followed by the Commission if a REDIII application in the maritime area is deemed incomplete during the completeness check.



- Regulation 37 amends Form 1 Schedule 3 regarding site notices. This is to ensure that the site notice for a REDIII development indicates that it is a REDIII development, which will be subject to a completeness check.

**Part 4** – Regulation 38 includes transitional provisions. These transitional provisions do the following:

- Provide that the amendments made in these Regulations only apply to applications made after the Regulations come into operation , and
- Provide that regulations 6, 12, 14 and 18, which relate to EIA scoping provisions, come into operation on or after 1 October 2025.



## Appendix 2 – Guidance note on conducting the completeness check

### Article 16(2) – Completeness Check

Article 16(2) of REDIII provides that for applications for development outside renewable acceleration areas, the competent authority shall acknowledge the completeness of the application within 45 days. If the applicant has not sent all the information required to process the application, request that the applicant submit a complete application without undue delay.

The date of acknowledgement of the completeness of the application by the competent authority serves as the start of the permit-granting procedure. The European Commission have confirmed that the permit granting timelines prescribed in REDIII cannot be paused if further information (FI) is requested from the applicant. The purpose of the 45-day completeness check is to minimise instances whereby FI will be required. It has also been confirmed that if an application is deemed incomplete, if/when an application is resubmitted the 45-day completeness check process applies again.

### Legislative Provisions:

The transposing Statutory Instrument (S.I.) has inserted new provisions into the planning code to provide for the completeness check process, as follows;

- New section 34D for applications to a planning authority
- New section 37JA for terrestrial SID applications to the Commission
- New section 295A for maritime SID applications to the Commission

The completeness check process is the same under the three provisions referenced above. Essentially, an application can be acknowledged as complete, and if that happens, the assessment of the application continues as normal. If the planning authority or the Commission considers that the application is not complete, they must write to the applicant informing them of this and requesting that they submit a complete application without undue delay.

In circumstances whereby the determination is that the application is not complete, a process has been legislated for which mirrors the process set out in article 26 of the 2001 Regulations which applies to invalid applications. This is set out in a new articles 26A and 216A being inserted into the 2001 Regulations.



### Completeness Check in Practice:

While the amendments to the planning code to transpose REDIII have left open the option to request FI if the development is one with a permit granting timeline of 1 year or greater, in practice it will be very challenging to seek, receive and assess the FI and still determine the application within the strict timeframes. An application that might be technically valid, in terms of the nature and number of documents, information and drawings, etc., but it may nevertheless be incomplete in terms of level of information and evidence necessary to enable the planning authority or the Commission to assess and determine the application. This is particularly so where the application relates to large or complex projects, located in complex environments.

In particular, the application must include any documentation, information or plans and drawings where prescribed under the legislation, including the submission of an EIAR and NIR where appropriate. The application must also include any additional documentation, information or plans and drawings that the planning authority/Commission considers necessary or appropriate to accompany the application to enable it to determine the application. It is therefore critical that the planning authorities and the Commission, along with the applicant use the pre-application stage fully, to determine what is necessary in this regard, and to agree a detailed record or checklist.

It is within the applicant's control to ensure the application is complete in terms of the information submitted with the application, but also in terms of the quality of that information, including of plans and drawings and of the environmental assessments. It is critical that these matters are agreed with planning authorities and the Commission at pre-application stage, and the applicant uses the pre-application process to interrogate such issues in a thorough and in a systematic way. This will enable the identification of all relevant information necessary to accompany the application. It would also be advisable to make the application as soon as feasible following completion of the pre-application stage.

It is essential that the applicant and planning authority/Commission agree at pre-application stage, the necessary:

- Drawings, maps and plans sufficient to describe the proposed project to the detail required to determine the application, including to an appropriate metric scale or scales, and to an appropriate quality. However, the aim of both parties should be to ensure the number of drawings, maps and plans are sufficient, rather than excessive, and each drawing, map or plan should therefore clearly be seen to perform a discrete function.
- The scope of the EIAR. While the planning authority/Commission and the applicant may reasonably decide that each factor of the environment should be addressed by



the EIAR, the focus of EIAR should be on those factors of the environment to which the project is likely to pose a significant risk. The prospective applicant, in discussion, should rely on the Commission, with its experience, to provide clear direction on the focus of the EIAR on the key factors of the environment. In this regard both parties should ensure compliance with the EIA Directive and should have regard to the EPA’s Guidelines on the Content of EIARs.

- The Commission and the applicant should, subject to the carrying out of stage 1 AA (screening) by the applicant, agree the sites to progress to stage 2 AA, in consultation with the NPWS.
- Surveys and data – Matters relating to the surveying of habits and species to inform the environmental assessments should be agreed with the Commission at the earliest possible stage of the pre-application process, in consultation with the NPWS. Matters including the duration of surveys, location of surveys and methodologies, having regard to current and developing best practices. The Commission should be notified of any departure from same, accompanied by justification or reasons for it in writing.
- Policy context – clear justification of the policy context for the proposed development

In addition, the applicant is responsible to ensure that:

- The site boundary and development description fully aligns with the MAC which granted the project access to the planning consent process.
- The application description, details and drawings covers all relevant aspects of the proposed project and all relevant ancillary development.

Inconsistency with the MAC in respect of these matters may result in the application being declared invalid.

Completeness Check – Template Checklist:

Requirement	N/A	Yes	No
<b>Misc</b>			
Correct Fee submitted			
Completed copy of application form			
Is the application in a Gaeltacht Area			
Standalone website provided			
Two hard copies and 8 soft copies received			
<b>Land Ownership</b>			
Interest of applicant in land confirmed,			
if not, written consent of owner submitted			



<b>Design Flexibility</b>			
Was a Design Flexibility Opinion served			
If Yes – Does application comply with the Opinion			
<b>Public Notices</b>			
Is time period and fee for submissions/observations specified			
Reference to REDIII and completeness check where applicable			
Includes standalone website Address			
Are notices in Irish if in Gaeltacht*			
Transboundary environmental effects			
Do COMAH Regulations (Major Accident Hazard Regulations 2015) Apply			
If Design Flex Opinion provided, is this referenced			
Are EIAR and NIS referenced			
<b>Prescribed Bodies</b>			
Have the Prescribed Bodies specified at conclusion of pre-application consultation been Notified			
<b>Planning Statement</b>			
Renewable Energy designation policy statement			
<b>EIAR</b>			
Have EIAR portal requirements been completed			
Are all Appendices included			
Are derogations required/been obtained (biodiversity)			
Does EIAR comply with Article 94 and Schedule 6 of PDR 2000			
NPWS survey, methodology requirements			
Peat Stability/Landslide Susceptibility			
<b>NIS</b>			
Is a screening report included			
Are all appendices referenced included			
<b>DRAWINGS</b>			
Site Location Map			
Site Layout Plan – wayleaves, site notices			
Are the Drawing Scales Appropriate			



**REGISTERED MAIL**

Statkraft Ireland Ltd.,  
Unit C,  
Building 4200,  
Cork Airport Business Park,  
Cork,  
T12D23C

Date: 15<sup>th</sup> February 2022

**Re: Section 152 of the Planning and Development Act 2000.**

**Re: Unauthorised Development at Meenwaun Wind Farm, Banagher, Co. Offaly.**

**Consisting of: Unauthorised development - it is alleged on foot of a complaint to the Planning Authority, that noise levels resulting from the operation of the Meenwaun Wind Farm are in excess of the noise levels permitted, and therefore the development is non-compliant with Planning Condition 9 of the planning permission granted by An Bord Pleanala under Planning Reference; PL 19.244903 (OCC Planning Reference; PL2 15/44).**

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Contd/...





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The above condition does not purport compliance with other conditions of the planning permission

*R. Oswell*

*Administrative Officer*  
*Planning Section*





**REGISTERED MAIL**

Kevin O'Donovan,  
20 Heatherfield,  
Waterfall,  
Co. Cork,  
T12 X2NE

Date: 15<sup>th</sup> February 2022

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*R. Howell*

**Administrative Officer**  
**Planning Section**





**REGISTERED MAIL**

Alan Goggin,  
3 Belview Court,  
Ballydowney,  
Killarney,  
Co. Kerry.

Date: 15<sup>th</sup> February 2022

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*R. L. O'Connell*

**Administrative Officer**  
**Planning Section**





**REGISTERED MAIL**

Donal O'Sullivan,  
1 Poulavone Manor,  
Ballincollig,  
Co. Cork,  
P31 WC58

Date: 15<sup>th</sup> February 2022

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*R. J. O'Sullivan*

*Administrative Officer  
Planning Section*





**REGISTERED MAIL**

Martin Gjerde,  
Vestbrynet 24,  
Oslo,  
Norway,  
1160

Date: 15<sup>th</sup> February 2022

**Re: Section 152 of the Planning and Development Act 2000.**

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*Rhodeswell*

*Administrative Officer*  
*Planning Section*





**REGISTERED MAIL**

Michelle Funes,  
Bjerkelundsveien 83A,  
Bekkestua,  
Norway,  
1357

Date: 15<sup>th</sup> February 2022

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*R. Loxwell*

*Administrative Officer  
Planning Section*

