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An Coimisiún Pleanála,

Re: Observations on Direct Planning Application by Lemanaghan Wind Farm Activity Company –

Case reference: PAX19.324161

Renewable Energy Development in the townlands of Cooldorragh, Kilnagarnagh, Cappalallosset, Tumbleagh, Killaghintober, Castleamstrong, Leabeg, Conafurrisch and Corrabeg, Lemanaghan, Kilnagoolny, Straduff, Lisdermot, Derrica More, Rosfaraghan, Rashinagh, Cor Mor and Cor Ber and Corbane and Ballindown, Co. Offaly.

Dear Sir/Madam,

We write in response to Lemanaghan Wind Farm Activity Company (the applicant) seeking planning permission to construct 15 no. wind turbines and associated works at the Lemanaghan bog Co. Offaly.

This submission is made as a directly affected turbary rights holder within the Lemanaghan Bog application area and local resident living at Eircode N37 V448 and farmer working on the land around that property.

Status as an Affected Turbary Rights Holder

We have **turbary rights** over lands within Lemanaghan Bog and have exercised those rights for **circa 40 years**. See the following appendices:

- Google Image with **Plot 18 O** shown Cathal Scott & Patrick Scott Turbary Rights on this bog
- Bord na Mona Map with Plot 18 O shown Cathal Scott & Patrick Scott Turbary Rights on this bog

The attached maps illustrate the section of the Lemanaghan bog, where we have been cutting turf for the last circa 40 years. We believe this plot to be named 18O on Bord na Mona plans. The Latitude and longitude are **53.3017179, -7.7404009**.

Over this period, we have also **maintained this bog** by cleaning out the drains and levelling as required.

Our **turbary plot lies within the central area of the application lands** and is surrounded by numerous long-established turbary plots held by local rights holders.

Under Irish law, turbary rights are recognised as a profit à prendre — a legal property right affecting land. These rights entitle the holder to enter onto land and take turf for domestic use

and constitute a recognised burden on the land.

These rights permit entry onto land and the taking of turf for domestic fuel and form part of the legal interests affecting lands within the red-line boundary. The proposed development of these wind turbines along with the associated works affect us in the following ways:

1. **Continued Access** to our plot 180 on the Banagher Line to extract turf
2. Continued use and **exercise of our Turbary Rights**
3. Potential flooding of our bog at plot 180, Latitude and longitude is **53.3017179, -7.7404009**

Access to our Turbary Rights Bog

This Development being sought under this planning permission will impact us and all the turbary rights holders on Lemanaghan bog in the following areas

1. Access during the construction period
2. Access permanently after the turbines are constructed

We currently access our bog via the road colloquially known as “*Brouders Road*” accessing this road by the R436 (see image below) via the blue route. When we get to the bog, we come off the road and drive over the peat bog to access the “*low bank*” and over turf spread out (shown in the orange arrow line below).

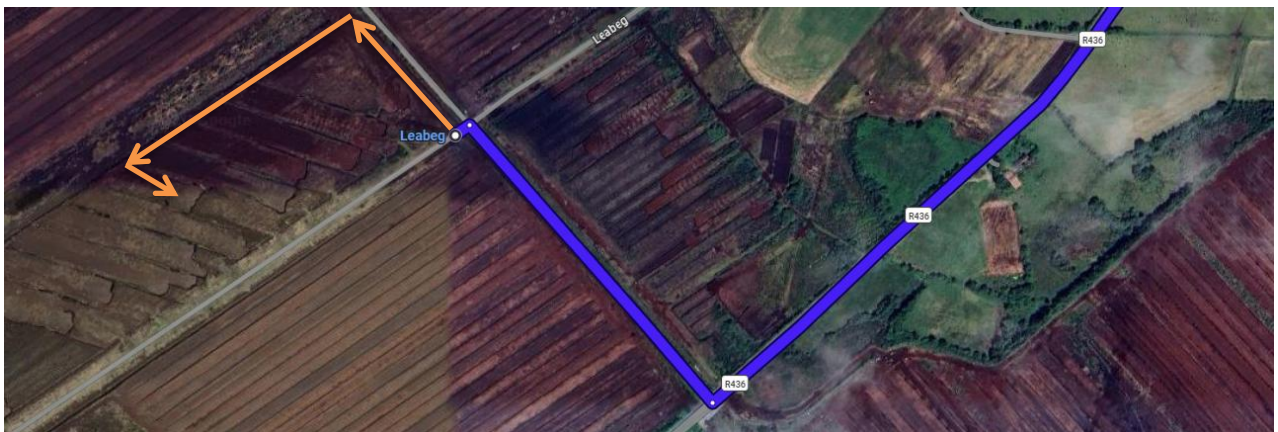


Image 1 - Current Access to our bog

We access the bog for **four** main reasons:

1. **Maintain the bog**, clean drains of slit and debris, level ground for future turf cutting, mend bridges and repair access over the bog – in the winter months **September to March of each year**
2. **Cut the turf** with track machine and spread with a tracked hopper machine in **April / May** each year
3. Lift and **stack the turf** to allow too dry in **May/June** of each year
4. Enter the bog with a tracker and trailer and **bring the dry** turf home (via route above) during **June/July/August** each year

This illustrates that **we need constant** (safe) access to our bog plot 180 throughout the year. This access is the route we were initially instructed to use by Bord na Mona and have been **using it for 40 years**. It is quite open and safe to access the main road at R436 due to the **very clear sight lines** both left and right. This is very important for my tractor and trailer which is slow moving and circa 12/13m long and 2.5/3m wide.

During the construction period the applicant intends to install 2.6m high security gates and fence on “Brouders Road” (see figure below) based on drawing nr. 200804 - 50 named “Site Entrance 2 - R436 / Wind Farm access junction, junction layout with visibility splays”:

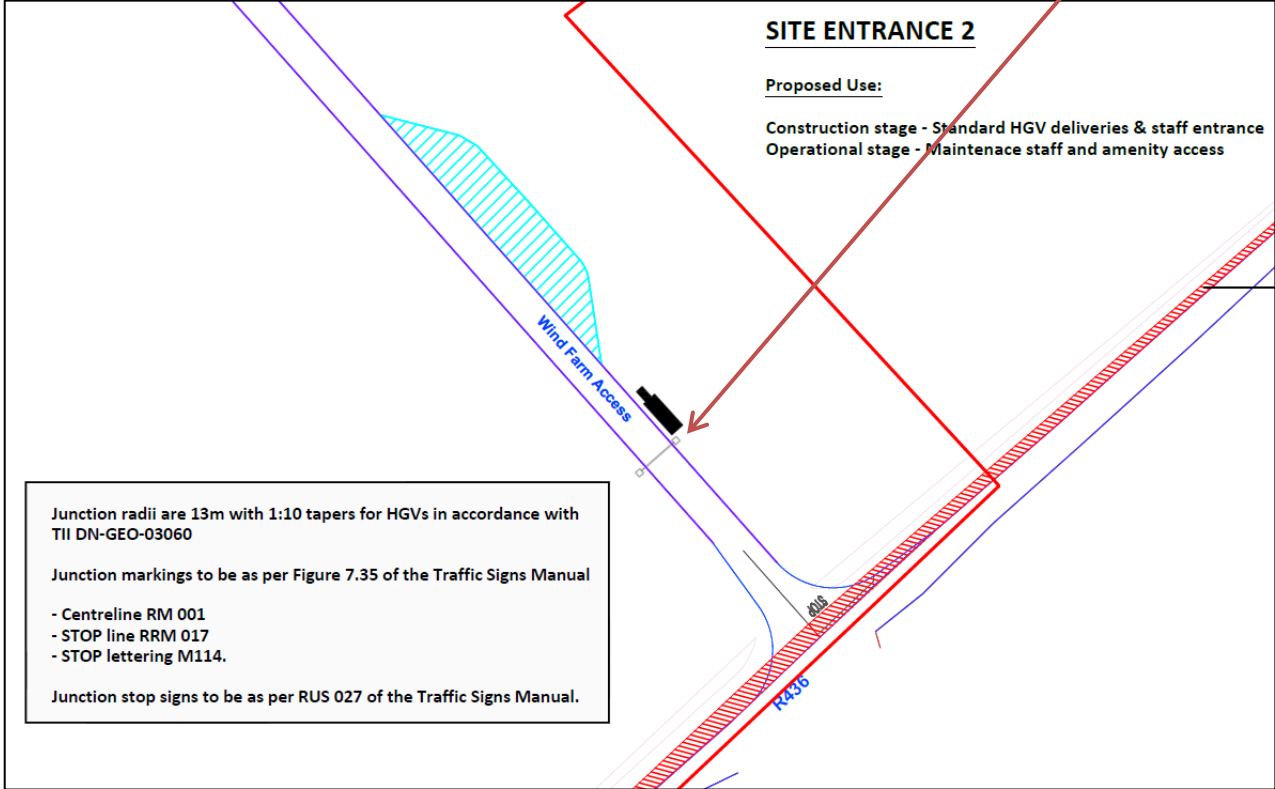


Figure 1 - Drawing 200804 - 50 (showing access blocked with security gate)

This will **block our access** that we have been using for 40 years and will prevent us from exercising our turbary rights during construction. How does the applicant intend to deal with this.

How will **access be granted through the current route** shown in image 2 above on a permanent basis. This is wholly unclear and in **fact turbary rights holders** have been completely **ignored** within this planning application.

There is a route along the “Banagher line” heading southwest and entering the R436 at L30024 (see image below). The sightlines are entirely inadequate, and this would be very **dangerous for road users** with me entering with such a long and wide load. This route would also make my route considerably longer.



Image 2 - Alternative "dangerous access" onto R436



Image 3 - Extract from drawing P20-216-0600-0014 (showing how access is blocked entering my bog plot 180)

The above image 3, is an extract from drawing P20-216-0600-0014 showing the construction of an access road to build Turbine 14 and marked in orange arrows are the only access I have to my low spread bank where I load my turf into trailers. There is no other alternative access, it cannot be accessed from my high bog from the Banagher line as it is too wet.

See image 4 below Drawing nr. P20-216-0600-0016, showing construction of road type A (marked in yellow in image 3). This will completely block my access to my low spread bank and entering bog plot 180. Also, there will be fences around the turbines and my route in orange in image 3 above also passes very close to the turbine nr. 14.

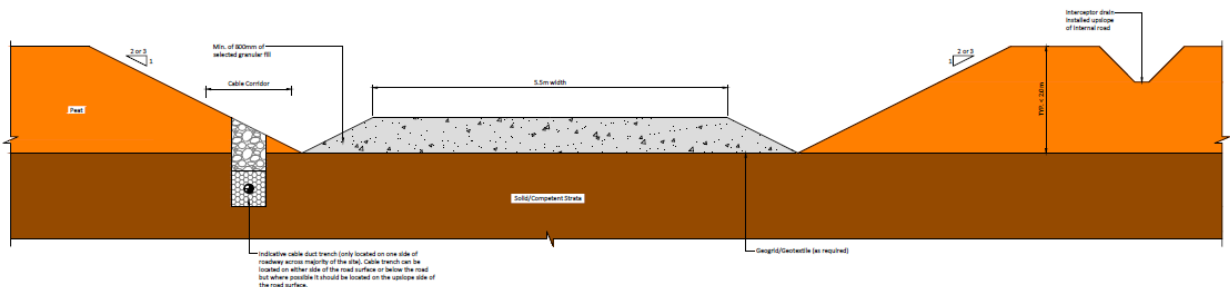


Image 4 - Drawing nr. P20-216-0600-0016, showing construction of road type A (marked in yellow in image 3)

What this information shows is that the applicant has ignored the rights to access for the turbary rights holders on the bog of which there is a significant number of people that also hold this right.

Proximity of Turbine 14 to our bog Plot 180

Image 5 below illustrates that **Turbine Nr. 14 is circa 223m** from the center of **our bog plot 180**. Will this prevent us from continuing to cut turf and exercising my turbary rights. There has been no engagement by the applicant or even acknowledgement that turbary right holders exist and thus nothing specifies that our rights are not hindered.

We are very concerned about the **lack of engagement** and **lack of proactive design** to not hinder turbary right holders.



Image 5 - Approx distance from my bog to Turbine 14

Incomplete and misleading landownership declaration

While the applicant may hold freehold title, the lands are clearly subject to third-party property rights, including turbary rights. These rights constitute legal burdens affecting the title and use of the lands.

The failure of the Landowner Letter to acknowledge turbary rights holders results in an incomplete description of the legal interests affecting the site.

For the purposes of the planning permission, the Commission must be satisfied that it has a complete and accurate understanding of all legal interests affecting the lands. The additional information submitted does not achieve this.

Potential flooding / damaging the hydrology of the bog

The applicant has produced drawings showing borrow pits 1, 2, 3 and 4 of up to 9 and 10m deep over the bog. Image 6 below illustrates the depths the formation of the bog is affected by. These borrow pits will excavate the following volumes (as per the applicant's drawings):

- Borrow pit 1 – 16,351m³
- Borrow pit 2 – 10,342m³
- Borrow pit 3 – 167,558m³
- Borrow pit 4 – 336,200m³

Total excavation 530,451m³

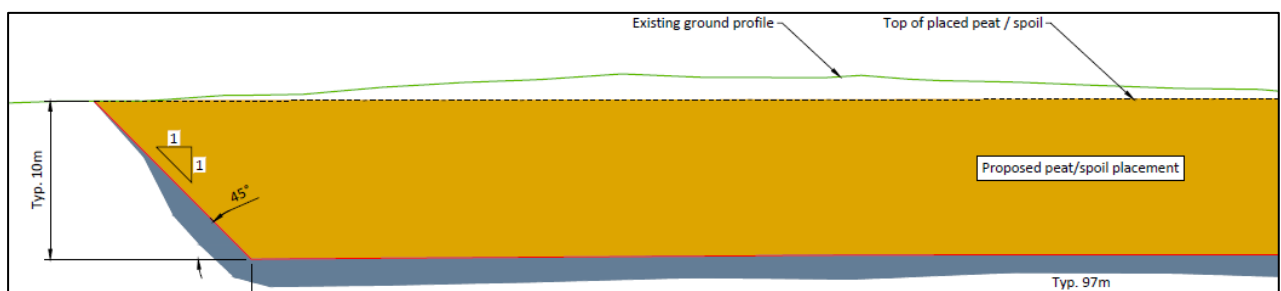


Image 6 - Borrow pits as per drawing nr. P20-216-0600-0020

This is over half a million cubic meters of excavation of borrow pits and placing back into

these pits peat excavated and moved from other locations so well over 1 million cubic meters. We extracted a note from drawing nr. P20-216-0600-0020, see below and highlighted in blue. They do not intend to backfill the 4 borrow pits to the original ground surface. This will have a very significant impact on the bog's topography, surface water flow and hydrology. The applicant has not addressed how this issue is adequately dealt with.

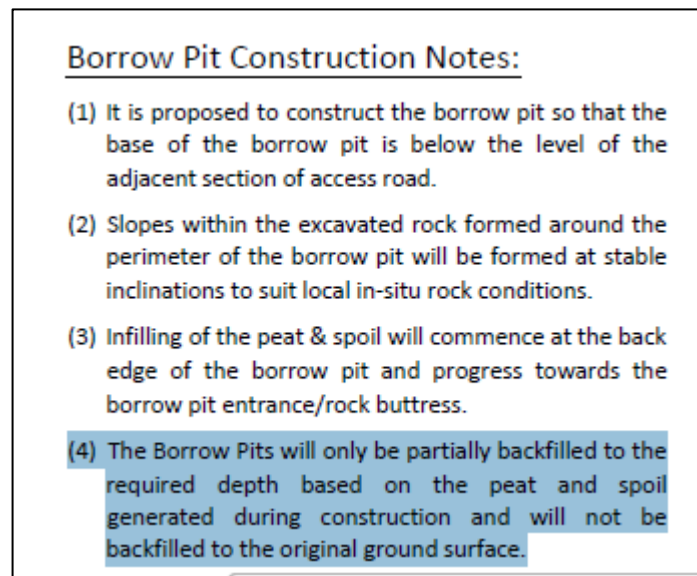


Image 7 - extract from drawing nr. P20-216-0600-0020

There are areas of deposition of 1m depth in other areas, circa 181,000m³ of deposited material. Another huge volume of material moved on site and affecting current topography of the land, surface water flow and hydrology. The total area affected by borrow pit and deposited areas are 60 acres, excluding all hand standing areas, roads and turbine bases.

Under the EU Water Framework Directive (2000/60/EC), Ireland is legally required to prevent deterioration of water bodies. The applicant has not demonstrated that hydrological changes will not negatively affect:

- Local streams and rivers
- Groundwater recharge
- Wetland habitats dependent on stable water levels

This is a clear breach of the Directive's requirements.

The site consists areas of deep, unstable peat. Construction traffic, turbine foundations, and access roads all pose a risk of:

- Peat slippage
- Subsidence
- Mass movement events

Ireland has a documented history of catastrophic peat failures (e.g., Derrybrien, 2003), which resulted in EU infringement proceedings and a multi-million-euro fine. The Derrybrien judgment (C-215/06) established that developments on peatlands require robust, site-specific geotechnical analysis.

The applicant's documentation does not meet this standard. The peat stability assessment is superficial, lacking:

- Deep-core sampling
- Detailed shear-strength analysis
- Assessment of slope stability under extreme rainfall
- Consideration of cumulative drainage impacts

Given the known risks, this is unacceptable.

Deficiencies in the Site Layout Key Plan

The Site Layout drawings similarly fail to identify the following legal and practical constraints with the Lemanaghan bog:

- turbary plots
- turbary access routes
- areas traditionally used for turf cutting
- lands subject to turbary rights

This omission means the development continues to be presented based on an incomplete description of existing land use and legal interests affecting the site.

These are not minor mapping details. They are core baseline elements required for proper environmental assessment and decision-making.

Project Splitting

This planning application relates to Lemanaghan bog only. Bord na Mona has published their intention to seek planning permission in the future for Bellair Bog Windfarm, which lies to the north of Lemanaghan bog. These two bogs are connected by a Bord na Mona railway line passing through Cooldorragh and have always been worked together. Bord na Mona has already had a local community information evening about the development of wind turbines on Bellair Bog.



Image 8 - Interface between Bellair (north) & Lemanaghan Bog (south)



Image 9 - railway line between the two bogs

As these two bogs are both wind farms, as the applicant has placed the **220kva substation** between the two bogs it is our contention that these are in **fact one wind farm development and not two.**

A developer cannot artificially separate a single overall project into multiple smaller projects if they are functionally linked parts of one development.

The prohibition on project splitting comes primarily from the following:

- The EU EIA Directive (2011/92/EU as amended)
- Article 2(1) of the Directive
- Irish Planning and Development legislation implementing the Directive
- CJEU and Irish High Court jurisprudence

Irish courts repeatedly state that the “project as a whole” must be assessed. What planning authorities and ACP look at when deciding whether project splitting has occurred, authorities examine whether the separate elements are:

- **geographically connected**
- functionally interdependent
- economically linked
- dependent on one another to operate
- **part of a common design or strategy**
- phased merely to stay below EIA thresholds

Relevant considerations include:

- timing of applications
- **shared infrastructure**
- **shared access/services**
- **ownership/control**
- cumulative environmental effects

When you examine the above these two windfarm **projects meet a lot of the criteria** of what “**Project Spitting**” is measured under. We would seek that the Coimisiún please review the following legal case precedence in relation to this “project splitting” assertion.

- O’Grianna v An Bord Pleanála
- Daly v Kilronan Wind Farm
- Sweetman v An Bord Pleanála
- Coyne v An Bord Pleanála

Noise Amplification Over Peatland: A Known but Ignored Phenomenon

Peatlands have unique acoustic properties. They:

- Amplify low-frequency noise
- Allow sound to travel further due to lack of natural barriers
- Reflect noise differently depending on moisture levels
- Create unpredictable noise patterns during high winds

The applicant’s noise modelling:

- Uses generic assumptions not applicable to peatlands
- Fails to account for ground-borne vibration
- Ignores amplitude modulation, a major source of annoyance
- Does not include night-time noise propagation over flat bog terrain
- Provides no independent verification of modelling methods

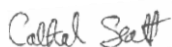
This is a breach of the Environmental Noise Directive (2002/49/EC) and the EPA’s Noise Guidelines, which require realistic, site-specific modelling.

Request to the Commission

For the reasons set out above, **we respectfully request** that An Coimisiún Pleanála **refuse the planning permission** for the wind farm development at Lemanaghan Bog.

We request confirmation that this submission has been received and placed in the case file.

Yours faithfully,



Cathal Scott



Patrick Scott

Legal Note / Reservation of Rights

This submission is made for the purposes of the planning process only and **without prejudice** to any private law rights, property rights or legal remedies which may exist or arise. Nothing in this submission should be taken as a waiver or limitation of such rights.

**Appendix 1 –
Google Image with Plot 18 O shown
Cathal Scott & Patrick Scott Turbary Rights on this bog**



**Banagher
Line**

**Bog outlined in red, we
have turbary rights on.**

**This is Plot number
“18 O” on Bord na
Mona maps**

**The Latitude and
longitude are as
follows:**

**53.3017179
-7.7404009**

Google Maps

Appendix 2 –
Bord na Mona Map with Plot 18 O shown
Cathal Scott & Patrick Scott Turbary Rights on this bog

