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Planning Application Tirawley Windfarm: Case Reference: PAX16.324258

Dear Sirs,

I refer to the above planning application and wish to make the following submission.

My Background

I have a long association with the area of the proposed Tirawley Windfarm. My late mother in law's home is located in Beltra adjacent to the proposed development. Over the last 45 years I have spent long periods of time there each year.

I am a retired Teagasc Regional Manager with a B.Agr.Sc. (Hort) and M.Agr.Sc. in Rural Environmental Conservation & Management. On retirement I was appointed Appeals Commissioner for the Hen Harrier Project.

The Hen Harrier

Hen harrier, is an iconic native Irish bird of prey listed as Annex 1 of the EU Birds Directive (2009/147/EC). The population of hen harrier in Ireland is now at a critical level with a 33% drop since 2015, to its current estimate of 85 to 106 breeding pairs. Given this level of decline and the many threats and pressures acting on the hen harrier it is likely that it will be on the next Red-list of the Birds of Conservation Concern in Ireland. EU Member States are obliged to report on the implementation of the Birds Directive every six years and the most recent review included a species-specific report for the hen harrier decline. A comprehensive list of anthropogenic pressures and threats were assessed in terms of both the breeding and wintering hen harrier populations. Pressures and threats included those linked to forestry, agriculture and wind energy development.

Hen Harrier's Ecology and Conservation During the Non-breeding Season

The winter season, the period outside the breeding season (mid- July to mid-March) is critical for the survival of the hen harrier. It effectively accounts for three-quarters of the year and it has been identified by O'Donoghue (2000) as a critical factor in Irish hen harrier population dynamics, with fewer juveniles surviving each winter than are required to maintain a critical population. This period is of integral importance to the survival of the hen harrier. If juvenal survival rates over the winter period are poor this will result in lower numbers going into the breeding population – lower numbers than are required to maintain a stable population. To avoid this happening the hen harrier needs unimpeded winter forage over ground that can provide it with the prey it requires.

O'Donoghue (2021) studied the hen harrier ecology and conservation during the non-breeding season in Ireland from 2014 to 2020. The aim of the study was to find hen harrier roosts and establish the distribution and habitat associations with them during the non-breeding season, as well as the conservation issues facing the species during this time. Primary pressures and threats identified include, the distribution/removal of roosts (e.g. through burning and wind farm development) and changes to the surrounding landscape. (e.g. agricultural intensification and afforestation). Pressures

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on roosts were considered to apply within 700m of the roost while issues for the surrounding landscape were considered to apply within 9km of the roost. In the study a total of 203 roosts were surveyed and specific information was recorded for 190 of the 203 roosts. The most common pressure recorded at the roosts was vegetation burning- associated with 46% of roosts. The next most common pressures identified were those of renewable energy developments and associated infrastructure (transmission lines), 44% of roosts.

The Hen Harrier and the Tirawley Windfarm Site

Hen harrier is present on the Tirawley windfarm site and overall the wind farm site is considered to provide good habitat in Autumn and Winter for hen harrier. During two winter periods and in late August and September 2021 there were 14 sightings recorded. Section 7.3.5

The site covers a large area, 6km from north to south and 2km east to west and within it there are a number of habitats that provide foraging and roosting ground for hen harriers. The habitats of importance are scrub, blanket bog, semi-improved grassland, wet grassland and open canopy forestry. Scrub is crucial habitat as it provides both foraging and roosting ground and is a vital component of a healthy landscape that supports the species survival. On the site, beside the old abandoned quarry is mature tall willow scrub, a habitat known to be favoured by roosting hen harriers. The blanket bog on the site is also of critical importance as it provides open spaces, prey and roosting ground. The grassland habitats of the site are made up of small fields surrounded by hedgerows. These hedgerows are essential as they provide food and cover for the small mammals and birds that the hen harriers prey on. They are also critical for providing connectivity between habitats. In the case of the Tirawley Windfarm site the hedgerows link the grassland habitats to the scrub habitat, wet grassland and blanket bog habitats. While there are maturing forestry plantations on the site there are still open spaces with critical habitats intact.

The Tirawley Windfarm proposal has very serious consequences for the survival of foraging of Hen Harrier on the windfarm site. The development if approved will result in the removal of habitats integral to its survival, severe disturbance from construction works and displacement when the turbines are in operation.

Ground 1: Loss of Habitat

Ground 2: Disturbance

Ground 3: Displacement

Ground 1: Loss of Habitat

Hedgerow removal 1: Due to construction work on the Wind Farm Site 1,625m of linear hedgerow will be permanently removed. As compensation for this it is proposed to plant what is termed hedgerows in three locations, at AT01, AT06 and AT16. EIAR 6.5.2.1 This compensatory planting is not hedgerow planting as defined by the regulations. It consists of planting blocks of land with native hedging plants and trees. "A hedgerow is a line of shrubs and/or tree species, maintained to form a barrier for controlling animals or marking land boundaries". Hedgerows are protected features under the EU's Habitats Directive and the Common Agricultural Policy (CAP). Under these regulations permission is required to remove a hedgerow and if granted what is removed must be replaced in the same location at a rate of 2:1 i.e. for every metre removed two must be replanted. Planting must take place prior to removal with strict regulations as to the type of planting that is acceptable. Removing more than 500m of hedgerow requires screening by DAFM and an Environmental Impact Assessment (EIA) Agriculture. "A hedgerow or line of trees planted in front/alongside of another hedgerow or

planting a line of trees, or planting a grove of trees, is not considered fulfilling the replacement requirement." Applying these principles to Tirawley Wind Farm Site would mean planting 3250 m of linear hedgerow prior to the removal of the original 1,625 m of hedgerow. What is being proposed is to plant 0.73ha of native hedgerow plants and trees in blocks. Clearly this is contrary to the regulations.

Hedgerow removal 2: 6.4.4.2. states "To facilitate the delivery of the turbine components sections of hedgerows along the route will be removed as part of road widening. The hedging will later be replaced along the new road edges. Removal is required at 17 no. locations at the Wind Farm site and that approximately 2,394m of hedging will be removed. The significance of the loss of hedgerows along the TDR is rated as an Adverse Significant Effect of Medium-term Duration at a local level of importance. In the long-term (>15years), this effect is likely to become neutral".

As a mitigation against this it is proposed to plant 0.41 Ha of native hedgerow plants and trees in various blocks in the Wind Farm Site. This mitigation is not in conformity with EU and National regulations. Permission and an EIA Agricultural is required.

Removal of landscape features: The removal of landscape features, drains/ditches, are governed by the same regulations as hedgerows. Prior approval is required from the Department of Agriculture and where permission is granted the feature has to be replaced prior to removal. On the Tirawley Wind Farm site these features are present "Hedgerows (WL1) typically form the boundaries of fields and are often in association with Drainage ditches (FW4)". There is no reference to their removal in conjunction with hedgerow removal in the application. This will inevitably happen with the removal of up to 4km of hedgerow and this is a serious omission in the application.

Land Ownership: 2.4.5 "The majority of the Wind Farm Site is located on lands under the ownership of third-party private landowners who have consented to the application and the Proposed Development". This indicates that most of the hedgerows scheduled for removal are on lands owned by private landowners. These landowners will be responsible for complying with the regulations on hedgerow and landscape feature removal. No details on the obligations of the landholders with regard to these obligations are included in the application.

Windfarm roads: 6.1.1. Further habitat loss will occur due to the construction of 10.41 km of new roads through the Wind Farm Site. These roads will be 4.5m in width and cover an area of 4.68 Ha. Up to 2.28 km of existing site access tracts will be widened by 2m resulting in a further loss of 0.455 Ha of habitat. No details are provided as to the type and quantity of habitat that will be lost as a result of this road construction. The tracts leading into the old abandoned quarry pass through blanket bog and should these be increased in with it will result in the further loss of blanket bog and scrub habitat. Many of the site tracts within the site are bounded by ditches (landscape features) and there is no mention of these or how they will be impacted by construction of the Wind Farm. The amount of each habitat type removed needs to be identified, quantified and remediated for. This information is lacking in the application and is a critical omission.

Windfarm infrastructure: 6.4.4.1 "The permanent loss of habitats on the Wind Farm Site, i.e. habitat which will be replaced by wind farm infrastructure including Turbine Foundations and hardstand areas, Onsite Substation, BESS and new Site Access Tracts and road upgrades is estimated at 9.93 ha. "The majority of the permanent habitat loss is improved/semi-improved grassland, wet-grassland and conifer plantations. These habitats are widespread throughout County Mayo and the island of Ireland. It is noted that conifer plantations is a non-native and can have adverse effects on local areas of bog due to the spread of self-seeding trees. The effect of the loss of these habitats is rated as "Not Significant." The removal of these habitats has

consequences and these consequences cannot simply be dismissed because the habitats are common in Mayo and Ireland. Areas of wet grassland in combination with hedgerows, scrub, pre thicket forestry and blanket bog are critical habitats for foraging Hen Harrier. Their presence on the wind farm site is critical to the survival of the species. Over 9.9 Ha of habitat is being removed and the amounts of each habitat removed needs to be quantified. Wet Grassland is present at AT01, AT02, AT05, AT07, AT08, AT11, AT12, AT13, AT14, AT16 (+ scrub) and Operating Building, TCC BESS. The amount of each habitat removed needs to be identified, quantified and remediated for.

Blanket bog removal: The construction of turbine AT13 and a site access tract will result in the permanent loss of 0.68 ha of blanket bog which will be built on and the separation of the remaining 7.65ha of blanket bog into two by an access road. The bog will be fragmented which will make it harder for the hen harrier to forage and move around. This is a significant loss of hen harrier foraging ground and potential roosting ground.

Removal of blanket bog acrotelm: 6.5.2.2 "the construction works will cause disturbance to adjoining bog habitat around the AT13 turbine site, as an area will be needed by the contractor to facilitate the works." The area concerned is at a minimum 0.36 Ha. The removal and the later replacement of the growing layer from the bog at AT13 is rated as a Moderate Adverse effect of Medium-term duration. This is on the assumption that there will be 100% recovery after replacement i.e. the bog post construction of AT13 will be returned to its original condition. This unlikely as removing the active growing layer of a bog, storing it for a period and later replacing it is a risky procedure. Once the water table of a bog has been lowered and the growing layer removed it becomes almost impossible in most cases to restore an active bog.

Lack of information: There is no information in the application on the effect construction at the hard stand will have on the hydrology of the bog. No information on the condition of the sub soil on which the growing layer is being replaced onto. The only information provided is that growing layer during construction will be removed, stored elsewhere and replaced once turbine AT13 has been erected. If on replacement the growing layer does not become reestablished then there is every likelihood that other sections of the bog will be contaminated from runoff. This proposal, to remove the growing surface from a section of the bog at AT13 raises a number of critical issues and if approved could have a significant detrimental effect on the whole of the blanket bog at this location. It is a cause for concern as it is an open request without commitment which is likely to lead to significant additional habitat loss – a further 0.365 Ha of blanket bog and runoff throughout the bog.

Biodiversity enhancement management plan: In addition to the native woodland planting it is proposed to carry out a Biodiversity Enhancement Management Plan (BEMP) on the old abandoned quarry within the windfarm site. The following habitats were identified on the quarry site. Lowland blanket bog (3.9 ha), Willow scrub, Gorse and briar scrub, Mosaic of scrub and Meadow grassland, Mosaic of recolonised bare ground and Meadow grassland, Quarry ponds and Active quarries and ponds. 6.5.2.1 states "The BEMP shall also provide mitigation for the overall effect on biodiversity as a result of the Proposed Development, with *preservation and enhancement of areas of willow scrub, grassland, rock surfaces (bare to sparsely vegetated) and ponds*. This is contradicted in BEMP section 2.3.4 Measure no 4: Other habitats. "*It is unlikely that the other habitats within the site, quarry activities such as grassland on gravel surfaces and spoil heaps (from former quarry activities) scrub and ponds, will require active management*".

BEMP Primary Objective "to preserve and enhance an area of lowland blanket bog within an

abandoned quarry so as to compensate for the loss of blanket bog (at AT13) as a result of the proposed windfarm development.” With regard to the blanket bog enhancement, no detail is provided as to the degree of enhancement proposed. Measures are outlined and discussed but there is no detail as to how they will enhance the bog and to what extent. The BEMP does not provide the information necessary to enable an assessment of the claim to preserve and enhance an area of lowland bog so as to compensate for the loss of blanket bog at AT13. It lacks the necessary detail to make such an assessment. In the absence of such information the claim of preserving and enhancing an area of blanket bog cannot be stood over or the claim that it will compensate for removal of 0.68 Ha of Blanket bog, the separation of 7.65 Ha of blanket bog in two by a road and the removal of 0.365 Ha of blanket bog acrotelm. From the limited information available it is hard to see it making any meaningful mitigation for these losses.

BEMP Secondary Objective “to preserve and enhance over time various other habitats and associated flora and fauna species of biodiversity value, so as to mitigate for loss of, and disturbance to habitats and species affected by the wind farm development.” An area of 2.69 ha within the BEMP is available to receive spoil and after the spoil is delivered and settled on the quarry it will be planted with native trees and grassland. The area covered with spoil and the area planted is not stated i.e. the area for biodiversity has not been quantified. None of these mitigation measures will be of immediate benefit to the hen harrier.

Ground 2: Disturbance of the Hen Harrier by the Tirawley Windfarm Development

Construction disturbance: During the 21month construction phase the hen harrier will be disturbed due to construction works. This will arise from machinery removing hedge rows, felling trees and construction work around the turbine sites. Transport of spoil to the 18 spoil deposit areas and the old quarry site will all also lead to disturbance. Tree felling is known to significantly disturb hen harriers and can lead to site abandonment. Nine of the proposed turbines sites are in forested areas. To construct the turbines, 40.2 ha of forestry will have to be felled. The forests are located throughout the site and because of this and the number involved felling will take place over a long period of time. A constant source of disturbance to the hen harrier.

Roosting sites favoured by hen harriers: Within the windfarm site are habitats that are known to be favoured by hen harriers for roosting, blanket bog, scrub of various types and rush dominated grassland yet no baseline survey on hen harrier roosting on the wind farm site has been conducted. At the site of proposed turbine AF13 there is blanket bog and wet grassland. At the site of proposed turbine AT16 there is tall willow scrub and low scrub. If turbines are erected on these habitats they will not be availed of by the Hen Harrier as pressures on roosts are considered to apply within 700m of these structures (O'Donoghue 2021).

A winter roost: A winter roost was recorded on the windfarm site in the vicinity BEMP site during the Bird Survey Flight Line Survey. On 19/3/2023 at 06.34 a hen harrier roost was observed from Vantage Point 3, Appendix 7.2 a hen harrier “Emerged from bog and flew east over the quarry area – roost.” The presence of this roost is acknowledged in EIRA Chapter 7 page 45 “A winter night roost is also known within the study area.” It is also acknowledged in EIRA Chapter 7 page 31 when commenting on the flightlines “Four of the flightline records involve birds landing or rising from bog in the Castlelacken Demesne and Lecarrowntemple areas. One of these in particular was early in the morning (06.34 hrs on 19/3/2022) which suggests single birds may roost on bog.

Winter hen harrier roost survey: Between 2022 - 2023 a hen harrier winter roost survey was undertaken by the applicant. *Appendix 7.8 Winter Hen Harrier Roost Survey Details.* The roost survey was concentrated not on the windfarm site but on reedbeds outside of the site. These

reedbeds are in Lacken Saltmarsh and Kilcummin SAC (this is not stated). The reason for doing this is given as "The survey for winter hen harrier roosts was focused on the inner component of Lacken Bay where suitable hen harrier roosts exists and winter sightings have been reported."

No hen harrier winter roost survey on windfarm site: The winter roost survey undertaken by the applicant is deficient as it fails to provide any baseline data on roosting on the windfarm site. This is a major omission. There was a sighting of a hen harrier roost on the windfarm site and no effort was made to follow up on this. A comprehensive picture of roosting on the site is required to draw the conclusions that the applicant is making. Conclusions are drawn without evidence and these are speculative. The following conclusions regarding roosting are made under- Hen Harrier Chapter 7 page 38. The topic is introduced as follows "The winter roost, which is within an area of swamp vegetation in inner Lacken Bay is at a minimum distance of 1.5 km from the nearest area of construction (turbines AT07 & AT08) Between the roost and the wind Farm Site, there is active agricultural land, local residents and public roads. On this basis, it is considered that there is no potential for the construction works to have effects on birds entering (there are no sightings of birds entering the windfarm site from the reedbeds) or leaving the roost area." This is followed up further down the page by "Overall, it is considered that the effect on wintering hen harriers as a result of construction work is not significant"

Misleading terminology: The use of the terminology "The winter roost" is misleading as it gives the impression that it is the only winter roost in the area used by the hen harrier. This is not the case as a roost was identified on the Windfarm Site during the flightline survey. The applicants winter roost survey was weighted in favour of birds seen over the reedbeds in Lacken Saltmarsh and Kilcummin SAC. Eighty per cent of observations were conducted prior to sunset and twenty percent prior to sunrise. No sightings of birds leaving the reedbeds at sunrise and landing on the windfarm site were recorded. Since there is no evidence (sightings) of birds entering the wind farm site from the reedbeds it cannot be concluded "Overall it is considered that the effect on wintering hen harriers as a result of construction work is not significant. This is an assertion without scientific evidence.

Ground 3: Displacement of the hen harrier by the Tirawley Windfarm Development

Displacement: Hen Harrier displacement results from the avoidance by the birds of operational wind turbines, leading to habitat loss. This occurs particularly in upland sites such as the Tirawley Wind Farm site. Pearce-Higgins 2009 found in a multi-site study at twelve windfarms in the UK a 50.2% reduction in hen harrier activity within 500m zone of operating wind turbines.

Habitat avoidance: The avoidance of suitable foraging habitat by Hen Harriers is widely acknowledged. This occurs due to the avoidance by birds of suitable habitat as a result of the presence of turbines. No mitigation for this is proposed by the applicant.

Recent planning applications: In recent planning applications for wind farms in Ireland a buffer zone of 250m in the vicinity of proposed windfarm turbines is been proposed on the assumption of 100% avoidance. In these applications habitat loss for foraging Hen Harriers was calculated for a buffer zone within 250m radius of a wind turbine. The area of important foraging habitats i.e. blanket bog, cutover bog, wet- grassland and scrub are calculated within a 250m radius of each turbine. These habitats are at risk of being avoided as foraging habitats by hen harriers within 250m of any turbine and must be mitigated for. No such mitigation is proposed and this is a major omission.

Conclusion

Renewable energy is needed to tackle the climate crisis but developments cannot be at the expense of biodiversity. Planning decisions must ensure that biodiversity concerns are taken into account as climate change and biodiversity are interconnected. In the application, the subject of this submission, Constant Energy are seeking permission to erect a large Wind Farm within the foraging and roosting habitat of the hen harrier. This proposed development poses the gravest of risk to the very survival of the hen harrier on the site. This risk will arise from widespread habitat removal, displacement, and disturbance.

The removal of over 4 km of hedgerow will have an immediate ongoing effect on the hen harrier as the wildlife corridors the hedgerows provide for prey and hunting will be lost. The mitigation proposed for this removal does not fulfil the legal requirements for such removal. Over 5.13 ha of habitat will also be lost due to road construction and widening with a further loss of 9.93 ha for infrastructure. Many of the habitats removed are important to the hen harrier, rough-grassland, scrub, blanket bog but the area and type of habitat removed is not quantified. The removal of these habitats, without mitigation is justified, on the basis that the majority of habitats in these locations are common in Mayo and Ireland. This is an unacceptable justification for their removal without mitigation.

A 0.68 ha of blanket bog habitat and a likely further 0.365 ha will also be removed. Also impacted will be an area of 7.65 Ha of blanket bog which will be separated in two by a site road. The cumulative effect of all this habitat loss will leave the hen harrier without sufficient prey and foraging ground with the mitigation proposed insufficient and with too long a lead in time.

In the application there is no mitigation proposed for the disturbance to the hen harrier that will arise from construction works, the movement of spoil etc throughout the site and the felling of over 40 Ha of forestry. No baseline study on Hen Harrier roosting on the Windfarm Site was undertaken, rather it is implied that the only roost used by the foraging hen harriers takes place on the reedbeds in in Lacken Saltmarsh and Kilcummin SAC and not on the Wind Farm Site. On the basis that sightings of the birds on the reedbeds and no sightings of birds entering the wind farm site from the reedbeds it is contended that disturbance will be negligible. No mitigation for disturbance is proposed.

While the avoidance of the harrier of foraging ground in the vicinity of turbines is acknowledged no mitigation is proposed to compensate for this avoidance.

As the hen harrier moves closer to extinction, granting planning permission for this project will lead to the abandonment of the wind farm site by the Hen Harrier. The direct and cumulative effects of the development on the Hen Harrier are not comprehensively addressed by the applicant. Phrases such as *'may show, would be expected'* are used when discussing threats to the Hen Harrier by the project. For the Hen Harrier to continue to survive on the Wind Farm site there must be no scientific doubt as to the effect of the proposed development on the survival of the Hen Harrier. This is not the case with this application

I therefore request An Coimisiun Pleanála to reject this planning application.

Please take this submission into consideration during the assessment of the planning application.

Peter Leonard

