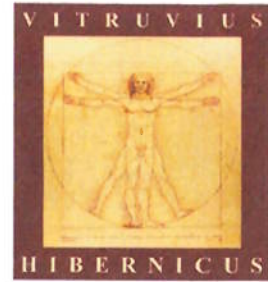


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An Coimisiún Pleanála,
64 Marlborough Street,
DUBLIN 1
D01 V902

4 Sept. 2026

ACP ref : 324561 RED III Application
Applicant : SSE Renewables (Ireland) Ltd.

AN COIMISIÚN PLEANÁLA	
LDG-	090414-26
ACP-	
17 SEP 2026	
Fee: €	50
Type:	CuQ
Time:	9:15
By:	Rio Post

Decommissioning 23 no. wind turbines and erecting 17 no. wind turbines etc. at various townlands in Co. Sligo.

Dear Sir/Madam,

this is third party observation by Patrick Flynn, Farrell mac Farrell, Dromore West, Co. Sligo F26 KT32 on the above proposed development.
Attached is the third party observation fee €50-00.
Set out below are my my client's observations.

1. OVERVIEW - LACUNAE

Although well presented, the application papers have significant scientific gaps or *lacunae*. The EIAR and NIS must reach the standard equivalent to a High Court Affidavit. Typographical or directory errors aside, they must be 'bullet-proof', so to speak. The contents must be complete, precise and definitive. There can be no scientific gaps.

2. CJEU and High Court

(i) PROOFS

In civil legal cases the standard of proof is the balance of probability. In criminal cases, the standard is beyond all reasonable doubt. In EU Habitats Directive (NIS) the proof must be beyond all reasonable scientific doubt. This is the 'Sweetman' standard of proof : there can be no scientific *lacunae*.

Moreover the proposed development must be assessed for compliance with the requirements of the Water Frameworks Directive (2006/60/EC) I argue that the applicant has provided insufficient reference to the Directive and/or compliance with its provisions.

- (ii) The applicable standard of proofs are those decided in CJEU and HC cases :

C-258/11 para. 44

So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have *lacunae* and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to effects of the works proposed on the protected site concerned.

C-461/17 *Holohan v An Bord Pleanala*.

An Appropriate Assessment must examine the implications of a proposed project, not just for the species within a European site but also the significant *ex situ* implications for the habitat types and species found beyond the defined boundaries of a European site.

C-164/17

It follows that the answer to the question referred is that Article 6 of the Habitats Directive must be interpreted as meaning that, where it is intended to carry out a project on a site designated for the protection and conservation of certain species, of which the area suitable for providing for the needs of a protected species fluctuates over time, and the temporary or permanent effect of that project will be that some parts of the site will no longer be able to provide a suitable habitat for the species in question, the fact that the project includes measures to ensure that, after an appropriate assessment of the implications of the project has been carried out and throughout the lifetime of the project, the part of the site that is likely to provide a suitable habitat will not be reduced and indeed may be enhanced may not be taken into account for the purpose of the assessment that must be carried out in accordance with Article 6(3) of the directive to ensure that the project in question will not adversely affect the integrity of the site concerned : that fact falls to be considered, if need be, under Article 6(4) of the directive.

C-461/13

Article 4(1)(a)(i) to (iii) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as meaning that the member States are required – unless a derogation is granted – to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good water status or of good ecological potential and good surface water chemical status laid down by the directive.

[2018] IESC 31 *Connelly v An Bord Pleanala*

The decision maker has a duty to both provide reasons for reaching the relevant conclusion and “to make complete, precise and specific scientific findings” which justify that conclusion.

3. ARTICLE 6(2)

I submit that ACP must fulfil its strict obligations under Article 6(2) of the Habitats Directive :

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

4. PROCEDURAL

I argue there are procedural errors/gaps.

4.1 The Combined Prescribed Bodies notified totals 25 agencies.
NPWS was not notified.

4.2 A toilet is shown on the Plans.
There is no Septic Tank, Percolation or other wastewater treatment plan and no supporting Percolation test. cf. Drg. 230841-12 and 16.
The wastewater treatment plant is not mentioned in the Public Notices

4.3 Owners' consents have been submitted in relation to some properties.
However, the oversailing of lands owned by parties other than those who have given consent has not been addressed.
This is very important in relation to the delivery Route – see below.

4.4 Zoning :
The most fundamental of all planning criteria is Zoning.
If an area is zoned residential, permission cannot lawfully issue for an Industrial Estate.
That's self-evident and long established planning law.
The Sligo County Development Plan does not provide for the proposed use.

LACUNA (1) Sound/Noise

- 1.1 There is no mention whatsoever of the effects of Sound/Noise on Bats or Birds.
The Assessments focus only on possible effects on Humans.
The assessment and/or conclusions are therefore incomplete.
cf. Population and Human Health
 Bat Report S. 6.2.3.3.3 of Chapter 6
 Birds.
- 1.2 Sound is usually expressed in dB.
The basic unit is the Bel (subdivided into 10 deciBels)
The units are Exponential, like the units in the Richter scale. i.e. 10 to the power of 'X'
An earthquake force increase from 5 to 6 Richter scale is a tenfold increase [10^5 to 10^6]
At c. 1.0 m a whispered conversation measures 20 to 30 dB and a car horn 110 dB.
This is the 'amplitude' of a sound.
- 1.3 Sound pitch or frequency is measured in cycles per second or Hz.
The Human range is 20 Hz to 20,000 Hz.
The Bat range, depending on species, ranges from 700 Hz to 200,000 Hz.
Infrasound has not been mentioned or assessed by the applicant.
Ultrasound has not been mentioned or assessed by the applicant.
- Ultrasound Hz are over 20,000 Hz.
 It's above human detection but within bat detection range.
 This has not been assessed.
 Therefore the effect on Bats, Protected Species, is unknown.
 (*Sound Bats Tables attached.*)
- 1.3 Vibration arising from Sound/Noise has not been assessed in relation to Humans,
 Bats or Birds.
- 1.7 While Bats can see, they rely heavily on echolocation or sonar navigation.
 Sound travels on fluctuations in air movements.
 Wind turbines and propellers cause air movement or turbulence.
 The Bat flight corridors - and especially the height above ground level - are not fully or
 properly assessed. The inter-relationship has not been assessed
- These phenomena have not been assessed.
 Therefore any conclusions drawn are not grounded on real measured data.
- 1.8 The dB levels are also contested as Bats hearing range differs from human range and
 the air turbulence from rotating helicopter blades was not assessed.
 Standardised human testing is at 10 degrees C and 70% Relative Humidity (RH).
 Bat hearing range, temperature and RH were not assessed.

- 2.1 The impact and effect on Birds/Bats has not be assessed.
This is especially important as it affects Bats, a Protected Species.
There are scientific gaps.
The Risk Assessment merely confirms that Pipistrelle Bats/Birds are at High Risk.

The fullest picture is not presented by the misleading diagram (attached) or by the passing description of the rotor blades which would have 9.35 rpm.
9.35 rpm sounds innocent.

9.35 rpm for a turbine of 150m diameter is a circumference travelling 4406m/sec which is over 260 km/hour.

Importantly the maximum velocity is at the rotor tips which are nearest the ground level and therefore at the most vulnerable of Bird and Bat flight paths.

So how is the tiny pipistrelle Bat going to fly safely, blindfolded in the dark, at night, though the guillotine rotor blade tips ???

Some are going to die.... by guillotine rotor blades the tips of which have a rotational velocity of over 260 km/hour.

First I argue that the rotational velocity was not clearly disclosed and, second, that no conclusion was arrived at that there would not be a significant effect on the Protected Species. Indeed no justification for the slaughter was offered.
There is a scientific doubt as to impact.

- 2.2 Turbulence interferes with Bats' navigational skills.
Turbulence from propellers rotating over 260 km/hr from FGL to flight height has not been assessed.

- 2.3 Blade Feathering is mentioned in the Assessments.
This is an ancient term from the days of Dutch windmills.
When winds increased to hurricane strength, the canvas-covered arms 'feathered' as a safety measure.
In other words the blades didn't go faster and faster till they spun off.
Instead they feathered to a standstill.

Some authorities hold that Blade feathering below 2 rotations per minute on larger wind turbines [57 km/hr. at the blade tip] can reduce Bat fatalities by up to 50%.
That's a double entendre : it confirms that there will be Bat fatalities and merely reduces the slaughter.

- 2.4 Apart from the slaughter, there is a scientific doubt.
In the absence of complete, precise and definitive proofs, ACP must refuse permission.

LACUNA (3)

Shadow Flicker

- 3.1 Shadow Flicker Assessment refers only to the possible effect on humans in dwellings.
The assessment refers only to “nearby” properties.
There is no assessment on humans working outdoors on their farmlands.
People have a entitlement to full enjoyment of the all of their properties, not merly inside the bedroom or sittingroom, but in thie gardens.
This concept was dismissed by the applicant.
- 3.2 There is no assessment on humans while driving ... and we all know how dangerous flickering sunlight through a front and side car windscreens can be.
There is no assessment on the possible effects on Birds or Bats.
This is a scientific gap or *lacuna*.
- 3.3 Shadow Flicker is directly related to rotational velocity, in this case, 260 km/hour
There are 9.35 rpm or over 9 flickers per minute
There is no assessment of a double-flicker, comng from two turbines at the same time or within a second of each other, which would give over 18 flicks per minute
(Imagine that in your sittingroom while you’re watching the World Cup Final.)
- 3.4 There is no assessment of the possible effects on Birds or Bats - that is, the Bats that aren’t guillotined.
- 3.5 The orientation is in this case most important as all the “nearby” houses are situate on the north of the proposed turbines, in other words, dorectly in the shadow of the turbines. cf. EIA Ch. 5.5.2.3
- 3.6 Epileptic fits can be triggered by the the flicker of single fluorescent light tubes.
That’s why fluorescent light packs are always twin-packs as the wavelength flicker of one tube counters the flicker of the second tube.
(Have you ever walked past high railings when the sun is shining through them ?)
Flicker from rotating blades can trigger epileptic seizures.
This has not been assessed.
Whether this can happen to Birds or Bats has not been assessed.
- There is a sceintific gap or lacuna.

LACUNA (4) Population and Human Health.

- 4.1 "No publication with credible scientific evidence to link wind turbines with adverse health on humans."
Page 21.
- 4.2 The onus is on the applicant to demonstrate that the proposals do not pose a health risk to humans : it is not for the observer to demonstrate that the proposals will cause a risk.
- 4.3 Humans do not fall into the definition 'Protected Species', like Bats and certain Birds. The possible effects on Protected Species, Bats and certain Birds, has been considered. The possible effect on humans is dismissed *en passant*.

LACUNA (5) Delivery Route

- 5.1 ACP's particular attention is drawn to the beautifully presented Turbine Delivery Route Maps. I attach Location 6 map as just one example.
The colour coded legend is clear.

Magenta : 'area will be oversailed by vehicle load'
Blue : 'area will be oversailed by vehicle body'

The areas oversailed are private property not in the ownership or under the control of the applicant and without the owners' consent. Trespass !

The Legend below is telling :

* *The swept path analysis is produced from a transport oriented view only and does not consider any issues in connection with land ownership, or any other preconditions that may be restrictive.*

* *Permits and/or Garda escorts may be required for the transport of wind turbine components. Permits may also be required for the movement of vehicles shown in this swept path analysis. Local Authorities issue Permits (..... to trespass ???)*

- 5.2 I make this crystal clear – the only person who may authorise passage across private land is the land owner.
I make this further point. In certain locations, removal/cutting of hedges is intimated. The only person who may be authorised this is the land owner.
- 5.3 The total Delivery Route extends from Killybegs, Co. Donegal halfway to the application site in Co. Sligo.
There is but a single paragraph in the EIA/NIS which describes the first – and most important – half of the journey. The paragraph says there is only 6.6km of local roads and a National Primary Route. But none of this half has been assessed.
No land owners' consents were sought and none exist. Moreover, the land owners have not been identified.
- 5.4 All the Planning Permissions in the wide world won't solve this.
This is like having a car ... but no petrol.

LACUNA (6) - Flood Risk, Peat movement, Land slides, Derrybrien.

- 6.1 All the above concepts interact with a potential to create a disaster.
- * site on the N/W **slopes** of the Ox Mountains,
 - * 30 degree incline on the proposed excavation Borrow Pits [CEMP]
 - * potential for land slips : "*excessive peat movements*"
 - * "*learning from past mistakes*"
- 6.2 The 2 fundamental ingredients of peatland are :
- (a) peatland is waterlogged and
 - (b) the waters are slightly acidic (which counters ordinary microbial degradation).

Bogs are like a big wet soggy sponge.

Interference with the tight balance and/or blocking or causing confluences in the naturally occurring hydrological balance can either block stored waters, or cause their concentrated release. The latter can cause, contribute to or exacerbate land slips. (Contrary to suggestions, there is a record in Scotland of a peat slide.)

Not to be overlooked is the decommissioning, not only in 35 years time but now with the proposed decommissioning of 23 existing turbines take together with the associated excavations and the excavations for the proposed new 17 turbines.

All taken together there is a very real potential for 'Derrybrien 2'

7. SUMMARY - REFUSAL

I argue that there are scientific *lacunae*.

I submit therefore ACP has no legal option but to refuse to grant planning permission.

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LONGFORD
N39 EE73

