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ACKNOWLEDGEMENT OF RECEIPT OF SUBMISSION OR OBSERVATION ON A PLANNING APPLICATION

THIS IS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANÁLA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICH WILL BE ACCEPTED BY AN BORD PLEANÁLA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

PLANNING AUTHORITY NAME Cork County Council

PLANNING APPLICATION REFERENCE NO. 21/00737

AN BORD PLEANÁLA
LDG- 058961-22
ABP-
09 NOV 2022
Fee: € 220.00 Type: cheque
Time: By: Regpost

A submission/observation, in writing, has been received from:

Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

ON 19/09/2022 in relation to the above planning application.

The appropriate fee of €20 has been paid.

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations, 2001 and will be taken into account by the Planning Authority in its determination of the planning application.

Anne Lordan

CORK COUNTY COUNCIL
PLANNING AUTHORITY
NORTON HOUSE
SKIBBEREEN
CO. CORK

PLANNING & DEVELOPMENT

Date: 19/09/2022

We are Cork.

Recycled

Mr Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

25/11/2021

APPLICANT: The Electricity Supply Board (ESB)
DEVELOPMENT: Development will consist of; The application will seek permission to remove the existing grid connection works and for the development of the full length of a new grid connection over a distance of approximately 14.8km, between the existing Ballylicky ESB substation and the permitted Derreenacrinnig West Windfarm. The proposed development involves the following works: (a) removal of approximately 9.5 km of 20 kV overhead line (OHL) along the route, the OHL to be removed consists of 138 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment (b) following removal of the OHL, it is proposed to construct approximately 10.8 km of 20 kV overhead line (OHL) along the route, the OHL to be constructed consists of c. 157 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment. (c) installation of approximately 4 km of underground cable ducting and associated electrical cabling, and all other ancillary works including joint bays, culverts, marker posts and all associated developments. An Environmental Impact Assessment Report (EIAR) has been prepared and will be submitted to the planning authority with the application.
AT: Derreenacrinnig West, Barnagowlane West, Glanareag Ards Beg, Ardrah, Laharanshermeen, Maulraha, Mauli Shandrum More, Dromloughlin, Ballylicy, Crossoge, Co. Cork
FOR: Permission
PLANNING REGISTRATION NO: 21/00737

Dear Sir,

I wish to acknowledge receipt of your submission/observation on 25/11/2021 concerning this application. I enclose herewith receipt no. WCP9999 in respect of correct fee paid. I wish to confirm that your submission/observation has been received within the period of five weeks beginning on the date of registration of the application and is therefore considered a valid submission/observation.

Copies of site map/plans and particulars submitted in connection with the application will be available for inspection at this department during office hours (9.00 a.m. to 4.00 p.m., Monday to Friday) until the application, or any appeal thereon, is finally determined. The applicant shall be given your name and content of the submission/observation should it be requested.

Your letter will form part of the documentation available for inspection by the public. You will be notified when a decision is made on the application.

This letter should be retained. If you wish to appeal such decision a copy of this acknowledgement together with the attached official document must accompany your appeal to An Bord Pleanála.

Yours faithfully,

Anne Lordan

Anne Lordan
PLANNING & DEVELOPMENT
Assistant Staff Officer

ACKNOWLEDGEMENT OF RECEIPT OF SUBMISSION OR OBSERVATION ON A PLANNING APPLICATION

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PLANNING AUTHORITY NAME **Cork County Council**

PLANNING APPLICATION REFERENCE NO. 21/00737

A submission/observation, in writing, has been received from:

Mr. Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

ON 25/11/2021 in relation to the above planning application.

The appropriate fee of €20 has been paid.

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations, 2001 and will be taken into account by the Planning Authority in its determination of the planning application.

Anne Lordan

Anne Lordan**PLANNING & DEVELOPMENT**
Assistant Staff Officer

Date: 25/11/2021

Appeal against the Decision by Cork County Council to Grant Conditional Permission for the Removal of an Overhead Line and Reconstruction of the Overhead Line in the same Place under Pl. Ref. 21/373

Appellant: Ian Collins
Maulakieve
Bantry
Co. Cork

Date of Appeal: 9th November 2022

Maulakieve,
Bantry,
Co. Cork.

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

9th November 2022

Dear Sir/Madam,

I hereby lodge this planning appeal against the decision by Cork County Council under Pl. Ref. 21/737 to grant conditional permission for the development described below and enclose my remittance of €220.00 being the statutory fee for lodging an appeal.

Development:

The proposed development involves the following works: (a) removal of approximately 9.5 km of 20 kV overhead line (OHL) along the route, the OHL to be removed consists of 138 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment (b) following removal of the OHL, it is proposed to construct approximately 10.8 km of 20 kV overhead line (OHL) along the route, the OHL to be constructed consists of c. 157 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment. (c) installation of approximately 4 km of underground cable ducting and associated electrical cabling, and all other ancillary works including joint bays, culverts, marker posts and all associated developments.

Location:

Derreenacrinnig West, Barnagowlane West, Glanareagh, Gortnacowly, Ards Beg, Ardrah, Laharanshermeen, Maulraha, Maulikeeve, Derryarkane, Cappanaboul, Skahanagh, Gortroe, Shandrum Beg, Shandrum More, Dromloughlin, Ballylicky, Crossoge, Co Cork.

My receipt from the Planning Authority for fees paid to lodge my observation is enclosed as an appendix to this appeal.

Yours faithfully,

Ian Collins

PLANNING APPEAL – ESB OVERHEAD LINE

Table of Contents

PLANNING APPEAL – ESB OVERHEAD LINE

INTRODUCTION

1.1 Nature of the Proposed Development

The Environmental Impact Assessment Report for this planning application states that planning permission is sought by ESB for the removal of the partially built grid connection and for the development of the full length of a new grid connection over a distance of approximately 14.8 km, to connect the already consented Derreenacrinnig West Wind Farm to the existing Ballylickey substation.

It then says that the ESB are going to remove approximately 9.6 km of 20 kV overhead line along the route, consisting of 138 wood poles supporting electrical conductor lines and ancillary structures and equipment and following removal of the existing overhead line, they will build 10.8 km of 20 kV overhead line along the route, consisting of 157 wood poles, also supporting electrical conductor lines and ancillary structures and equipment.

The existing 9.6 km of overhead line is going to be replaced with 10.8 km of the same thing.

1.2 Consenting Process

It appears that Cork County Council stopped them part way through building the overhead line in 2017 because they did not have planning permission to build the 9.6 km of overhead line and that although the ESB got substitute consent to keep it and planning permission to complete it, these permissions were found to be against the law as set out in Section 1.1.4 "Judicial Review" of the EIAR which states:

"ESB has considered various options in relation to consenting the grid connection and concluded that the Section 34 process is the most prudent way to proceed. Whilst planning legislation provides for a planning consent to be achieved via a combination of a Section 34 application and a Substitute Consent application as previously consented by ABP, ESB notes the issues raised in the JR in relation to splitting the consenting process into different applications and has decided to proceed on the basis of a singular Section 34 application."

The EIAR does not suggest that this is a fresh route over different ground with less environmental impact, only that the ESB is going to excavate and extract the totality of the existing overhead line and then excavate a new set of holes in which to place 157 new poles, thereby causing further environmental damage whilst doing so.

1.3 Conflation of ESB OHL EIA and Windfarm EIA

The EIAR conflates construction of the ESB Overhead Line with Windfarm Development in Section 2 "Project Description" of the EIAR where it states that "The principle of a wind farm development at the Proposed Development Site has already been approved by An Bord Pleanála with the grant of planning permission on 5th December 2012".

This blurring of function is further developed in Section 2.3 "Legal Context" of the EIAR which states that "This EIAR reflects changes to the legislative context. The objective of the EIA Directive is to determine if the project is likely to have significant effects on the environment. The seven wind turbines and all related electrical infrastructure (as granted under CCC Reg. Ref. 10/857 / ABP PL88.239767 - the original planning permission) have already gone through the EIA process."

The development that is the subject of this appeal is confined to a point-to-point electrical connection by the ESB between a substation and a private development in which the ESB has no ownership and to which it undertakes to make a connection in exactly the same way that the ESB makes connections to any other customer, be they domestic dwellings, farms, industrial premises or electricity generators.

An EIAR should be clear and unambiguous in order to facilitate an impartial Environmental Impact Assessment by the Planning Authority.

1.4 Judicial Review

Section 1.1.4 of the EIAR reports that "In March 2021, the High Court issued an Order quashing both decisions related to the grid connection issued by ABP in June 2020". The consequence of this is that there is currently no planning permission for either the erected poles for which retention was sought, or for the additional poles that were applied for to complete the overhead line. The existing 137 poles will be removed, meaning the grid connection is now open to all options.

This creates a clean slate, which is the position this grid connection would have been in had the ESB applied for planning permission in the first place. One of these options is the use of underground cables in accordance with County Development Plan Objective ED 6-2, particularly since now that the poles have been removed by order of the High Court, there is no existing infrastructure to financially influence one choice over another.

PLANNING APPEAL – ESB OVERHEAD LINE

MATERIAL OBSERVATIONS ON PLANNING APPLICATION

2.1 Failure to Consider Alternatives

Section 9 of the Planner's Report - Primary records that in terms of this application (Pl. Ref. 21/737), nine letters of representation/objection have been attracted, that many of these letters run to very many pages which can be read in full, and the listing provides a brief summary of the main points together with drawing attention to the issues raised in the assessment.

These include:

- There is little on alternative routes, a complete lack of justification and the do nothing is "gobbledygook."
- There is little basis for the conclusions reached on the alternative routes when the option of using an underground cable has not been fully explored. It lacks substantiated justification and an underground cable would have little or no environmental impact.
- However, once the 'Do Nothing' scenario is dealt with, 'Alternative Locations' and 'Alternative Layouts' appear to have been bypassed and the "Alternative Grid connection options' is flawed.
- The 'Consideration of Alternatives' of this EIAR is fundamentally deficient.
- Alternatives have not been properly considered, either a basic remediation alternative (i.e. to remove the poles) or consideration of alternative routes. It is very unfair on the public for this project to be considered as a fait accompli in circumstances where there was never public participation on the siting of the route that is proposed now or the route which was partially constructed. The developer creates the impression that the wind farm construction has substantially commenced. This is not the case. Some internal roads have been constructed but no work has commenced on the construction of the wind turbines, cabling or substation.

Mr. A. Carling, in his November 2021 submission to the Planning Authority, pointed out that the whilst the EIA Directive expressly recognises that the main reason for the chosen option must be to minimise adverse environmental impact, the introduction to Section 2.13 "Consideration of Alternatives" provides a description of the alternatives considered by "The Applicant in the design of the EIA Development and the consented Derreenacrinning West Wind Farm."

Once the 'Do Nothing' scenario for the grid connection is dealt with, 'Alternative Locations' and 'Alternative Layouts' appear to have been bypassed, because the next

item considered is 'Alternative Grid connection options' in Section 2.16.3 which states:

"In Ireland, connecting into the national grid is the statutory responsibility of the Commission for Energy Regulation (CER) with the Enduring Connection Policy (ECP) process largely influenced by national policy and the need to provide capacity on the national electricity grid for renewable energy production. In processing connection applications and modifications, ESB and / or Eirgrid must give due consideration to the efficient development of the transmission and distribution networks but must also give due regard to the environment.

Prior to the commencement of development of the as built grid connection, a number of alternative grid connection routes were considered as part of a high-level assessment. Key consideration was given to environmental matters. For example, some locations had more inherent environmental sensitivities than others. It was possible to avoid such routes in favour of a route which has fewer constraints and more capacity to sustainably assimilate the grid connection".

Exploration of three options is reported in Section 2.16.4 'Route Screening Analysis' and consideration which states the key consideration was "avoidance of adverse effects on the environment". It continues by stating that "It is therefore considered that any alternative grid connection route would likely result in significantly greater environmental impacts that the current route and would not be desirable from an environmental perspective." But what is the environmental impact of removing 138 constructed wooden poles and replacing them in the same hole from which they have just been extracted?

In the assessment in Section 11, the Planner states:

"What would be highly useful for the decision maker, is for this issue to at least be explored, substantiated and justified one way or the other as a reasonable alternative study by the developer. It is therefore not considered unreasonable given the allegations that placing the new route right next to the existing route has been stated to be "absurd" for the developer to demonstrate this alternative option. Reasonable alternative may relate to matters such as project design, technology, location, size and scale. Indeed the Directive requires that information provided by the developer in an EIAR shall include a description of the reasonable alternatives, the reasonable alternatives which are relevant to the project and an indication for the main reasons for the option chosen, taking into account the effects of the project on the environment."

2.2 Alternative Processes

Bearing in mind that this planning application applies solely to a grid connection to a permitted wind farm, it is difficult to see the relevance of the environmental impact assessment of the wind farm as set out in Section 2.16.9 'Alternative Processes' of the EIAR which states that:

"Alternative processes were considered with respect to alternative technologies for the generation of electricity for supply to the national grid. EIAR Section 3: Planning Policy provides an Ireland context for the international and national policy for increasing electricity generation from renewable energy sources. This has a number of drivers and benefits such as the security of energy supply, security of the cost of electricity (due to variability of international fossil fuel costs) and reducing emissions. Alternatives processes were also considered as part of the consented DWWF with respect to other renewable energy technologies. While solar and hydropower are established renewable generating technologies, the potential for this technology to generate significant amounts of energy is limited in Ireland compared to wind energy. This is mainly due to few inter-related factors: Ireland is a low-lying country with few high mountains, those available are not extensive in the local geographic area and fish spawning grounds are afforded a high degree of protection."

The consideration of alternative processes with respect to an electrical grid connection should take into account the option of undergrounding as an alternative to an overhead line, and not only has the analysis in the EIAR appears to have completely missed this point, but so too it does not appear to have been considered by the Planner.

2.2 Consultation Undertaken for EIAR in August 2021

Mr. N. Burke in his submission to the Planning Authority said that this planning application would appear to be jumping the gun with respect to the consultation with relevant authorities listed in Table 1.2. This table lists 'no response received to date' with respect to responses from the IAA, Cork Airport, Bat Conservation Ireland, An Taisce, Bord Failte, the Heritage Council, the Department of the Environment and the OPW and queried whether any follow-up was carried out.

This concern over statutory Authority consultation does not appear to have been carried into Section 9 of the Planner's Report and flagged for further action.

2.3 Contradictions in the Non Technical Summary

PLANNING APPEAL – ESB OVERHEAD LINE

In my submission dated 24th November 2021, I pointed out that the EIA (Non Technical Summary) has many more contradictions that deserve to be highlighted as well, in particular:

Section 7.10 "Landscape and Visual" on page 23

This states that the emphasis in this chapter is on the likely (visual) effects of the underground connection. It covers the assessment methodology, a description of the subject development and the existing landscape as well as landscape policy and relevant guidance.

It then completely fails to mention the underground connection again but describes only the route of the constructed grid connection through a 'High Value Landscape'. It assures that 'a field visit was undertaken' in addition to a 'desk study' and that the grid connection by virtue of its nature will not have a 'material visual impact on the existing landscape'.

Further 'The grid connection is (sic) comprises elements of both OHL and underground elements of grid connection. Therefore it is not necessary to use the full suite of traditional LVIA tools such as ZTV maps and photomontages to assess the potential visibility'. The as-constructed grid connection marches across the skyline from many aspects in the valley, most notably from the public road and dwellings, all avoidably.

Next there is further assurance 'The nature and scaled of the grid connection works proposed is such that it can be accommodated in a landscape where there are existing electrical lines, housing and forestry. This landscape is a working landscape and capable of accommodating change'.

It is open to conjecture at what point of adding more overhead lines into the environment the threshold of too many is reached and why in its planning the ESB didn't just go to Ballylickey directly as the crow flies; it couldn't have been worse and possible cheaper. Next it explains how the line travels 7km in a 'High Value Landscape' but then repeats that it is a working landscape capable of accommodating change, convincing by nature of endless repetition.

The point is that yet another overhead line is being added to the network to create a plethora of overhead lines. The existing network is supplying the residents with their electricity and is necessarily sited and routed. The proposed (and constructed already) line is not so constrained and could be sited on a much less visually intrusive route.

Section 7.11 "Material Assets" on page 25

It is stated "Within the site (presumably, but not stated, the wind farm site) all cabling will be underground". Why is it necessary to underground cables here but alright to run them overhead through a 'Landscape of High Value'? Further, it states "There is a substantial distribution network in the area and it is likely the Derreenacrinnig West substation will be connected to this. Thus it is considered that this proposed development will not create an unacceptable additional impact. The project indirectly, and in the long term, will improve the standard of living in the region by virtue of providing a power supply platform on which to develop industrial sectors.

The distribution network consists of the 38 kV and 20 kV lines, what has changed that makes this application necessary when it can be seen that there is a 20 kV line already near the wind farm site in the Mealagh Valley approximately 1.5 km distant from the proposed Derreenacrinnig substation. Is there a plan to develop 'industrial sectors' subsequent to this and appurtenant to the development of this grid connection?

There is a further reference in the EIA p29 2.2 where it is stated "The development will be of benefit to the local economy providing additional key infrastructure which may assist in the further development of the area in addition to facilitating the Derreenacrinnig wind farm". Again in the EIA p68 3.1 "The development is also of considerable benefit to the local economy providing additional key infrastructure which may assist in the further development of the area".

If there are further plans which may be contingent on the construction of this grid connection they should be at least expanded upon in this application for planning consent. There is a need to substantiate these mysterious 'further developments'. This may go some way to the selection i.e., it is of note that the proposed (and as constructed) grid connection goes to Ardragh which was the site of a proposed wind farm under Pl. Ref. 11/318 which was refused on appeal to ABP but maybe a plan is afoot to apply for a wind farm, here again.

Dark hints are not appropriate in a planning application where public participation is encouraged.

Section 9 "Conclusions" on page 28

'No significant negative impacts on the environment are predicted' - unless you are looking at an unpermitted ESB overhead line on the skyline on a previously unspoilt ridgeline, which could have been completely avoided.

There remains confusion then whether or not the undergrounding of the grid connection was seriously considered or whether or not the wind farm could have been connected to the local distribution network as the possibilities are evidenced in the EIA

above. The plethora of promises and intentions abundant in the EIA and EIA (Non-Tech) about what is going to be discussed and compare is in stark contrast to the dearth of actual evidence and information supplied.

The endless restatement that there are no viable alternatives and that there will be no discernible visual impact is no substitute for reasoned and evidenced consideration in a meaningful way and should not be accepted as being adequate.

The overwhelming impression from reasonably close scrutiny of the EIA and its appendices is that it is a 'cut and paste' extravaganza from previous work submitted in the original application for the wind farm Pl. Ref. 10/857 and appealed under PL878.239767, the application for substitute consent SU04.305609 and the application for planning permission to complete the (unpermitted) grid connect Pl. Ref. 19/10 and appeal ABP 305790.

The result is that the EIA supplied varies from difficult to fathom to absolute nonsense with every mix of the two in between. That no-one from the consultants to the developer and the ESB has even seen fit to read it through to check it is an insult to the Planning Dept., but far more seriously from a member of the public's point of view it is completely unintelligible.

This discourages and disincentives public participation in the planning process which is (helpfully quoted in the EIA, page 16, 1.2.25) 'to provide information for the effective participation of the public concerned in the decision making process', Article 6(2) and Article 6(5) of the revised EIA Directive. This is not optional, but a requirement of EU Law transposed into Irish Law, on which the EIA fails the test of clarity

Most interested members of the public, and quite likely a number of those who made submissions to the Planning Authority, only read the Non-Technical Summary as they simply do not have the time to wade through the voluminous documentation of the main EIAR and its appendices.

It is therefore crucially important that the Non-Technical Summary is a faithful and unambiguous synopsis of the full documentation such that the public are not disadvantaged. This does not appear to have been taken into account in the assessment by the Planning Authority.

2.4 Key Planning Policies - Cork County Development Plan 2014

Mr. Burke also questioned the relevance of the first three key planning policies from the Cork County Development Plan 2014 listed in Table 3.3 of the EIAR (ED 3-2, ED 3-3

and ED 3-5) with respect to a planning application for an electrical grid connection. The two policies that definitely do apply to the grid connection (a transmission line) are ED 6-1 and ED 6-2.

The EIAR sets out Objective ED 6-1 as follows:

"Electricity Network Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure. Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards. Facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal proper planning considerations. Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected."

It sets out Objective ED 6-2 as follows:

"Transmission Network Proposals for new electricity transmission networks need to consider the feasibility of undergrounding or the use of alternative routes especially in landscape character areas that have been evaluated as being of high landscape sensitivity. This is to ensure that the provision of new transmission networks can be managed in terms of their physical and visual impact on both the natural and built environment and the conservation value of European sites. Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected."

Mr. Burke observed that it is noteworthy that it is a key objective in the Cork County Development Plan 2014 that "new electricity transmission networks need to consider the feasibility of undergrounding or the use of alternative routes".

This has not been done in this EIAR and therefore an EIA based upon it would be inherently deficient.

2.5 Is the Development a Grid Connection or is it a Wind Farm?

The conclusion of Chapter 3 is rather bizarre where the final paragraph asserts "The Development meets all the relevant planning policies identified in this Chapter. In

particular the National Planning Framework and The Climate Action Plan 2019 and The Climate Action and Low Carbon Development (Amendment) Act 2021 where there is an identified and pressing need to meet the ambitious targets for 2050".

It continues to claim (without basis) that the development will make an important contribution to the ambitious targets set out in The Climate Action Plan 2019 by offering a number of major opportunities including:

- Reduced dependency on fossil fuels resulting in lower carbon dioxide (CO_2) emissions and output;
- Utilisation of the latest turbine technology;
- Sustaining existing development and construction jobs and creates opportunities for new supply chain jobs;
- Helping to create a long-term, stable investment platform, and,
- Wider economic and social benefits.

Those five bullet points specifically relate to construction of a wind farm and the wind farm is not the subject of the current planning application – it is already permitted. There is no possible relationship between the latest turbine technology and the construction of a grid connection. The grid connection will not reduce CO_2 emissions and one would be hard put to see how it can help create a long-term, stable investment platform with wider economic and social benefits.

2.6 Impact on Local Tourism

Mr. Burke in his submission raised the point that the world renowned St Finbarr's Way walking route begins at the Top of the Rock, Drimoleague, traversing the Ilen, Mealagh and Ouvane mountain and valley systems with the first day actually interweaving with the proposed route of the grid connection and culminating in a spectacular descent from Foilastookeen, high above St Finbarr's Oratory in Gougane Barra.

The Planner's Primary Report notes in Section 9 that "There are many walks and drives including the St Finbarr's Way walking route and Keakill is an important walking centre. The EIAR has ignored the impact on major recreational walking trails" and having noted that, makes no further reference to the impact on tourism in its assessment.

MATERIAL OBSERVATIONS ON FURTHER INFORMATION

3.1 Assessment of Material Observations on Further Information

The Planning Authority wrote to the persons who had made submissions with respect to Pl. Ref. 21/737 on 12th August 2022 to advise that further information was submitted by the applicants in support of their application on 04/04/2022, as amended on 25/07/2022 as below:

"The Planning Authority has examined this information and considers that the information contains significant additional data. In accordance with the Planning Regulations 2006 the Planning Authority has requested that the applicant erect a new Site Notice and publish a notice in an approved newspaper to this effect. Consequently, you are hereby notified that submissions or observations may be made in relation to the further documentation submitted, not later than two weeks following receipt of the newspaper and site notices by the Planning Authority; or in the case of a planning application accompanied by an EIAR and/or an NIS within five weeks of receipt of such notices by the Planning Authority."

It follows that the record of the assessment of submissions or observations would be contained in planning reports dated subsequent to the closing date for receipt of such submissions. There is no report on file by the Area Planner subsequent to the Planner's Report Further Information Assessment dated 27th May 2022, so the assessment of these submissions or observations falls to the Senior Executive Planner's Report Further Information Assessment dated 17th October 2022 which states:

"The Planning Authority subsequently received 6 no. submissions which have each been read and the issues noted. The issues raised are briefly summarised below as follows:

1. Reasonable alternatives of the grid connection including the construction of an undergrounding cable system have not been properly considered and are deficient.
2. The route selection has not been justified and there is a lack of evidence presented at the consideration of alternatives etc.
3. The proposal is not justified and cable grid connection should be fully underground the public roadway which would have little environmental impact.
4. Proposal is not in compliance with objective ED 6-2 of the 2014 CDP.
5. Proposed development is premature as a fresh proposal cannot be considered until the unauthorised development is removed and the area restored.

6. Considered the further information response does not accord with the legislative requirements of the Habitats directive or address the Planning Authorities request.
7. Residential properties would not be located in close proximity to cable laying activities on the public road.
8. Application is not credible and the proposed development will result in environmental damage.
9. No need for the directional drilling which was mentioned.
10. Construction method described is no longer appropriate as new guidelines have been issued which prefer the installation of the cable duct in the road margin.
11. The ecological impacts highlighted to the full undergrounding of the grid connection cable are overstated.
12. The Planning and Development Act has been undermined and a precedent is created where the ESB has sole control over the route and method of construction of a new electricity line regardless of any planning and environmental considerations.
13. Consent status of the Derreenacrinnig Wind Farm is questioned.
14. EAI is ambiguous and should only include what is relevant to the grid connection.
15. The map provided indicating the location of mitigation habitat / replacement planting is confusing.
16. Requests the application be refused permission and the unauthorised development be removed."

Having read and noted 16 individual issues arising from public submissions on the significant further information received, the Senior Executive Planner then, without recording any assessment of the merits of the 16 issues in the report, simply notes that since the Area Engineer, Council Archaeologist and Environment Officer's reports on file have recommended a grant of permission subject to conditions and that the Council Ecologist has concluded that the proposed project will not adversely affect the integrity of any European site, in view of the sites Conservation Objectives and has recommended a grant of permission subject to conditions to conclude that:

"It is therefore considered that all outstanding issues have been addressed to the satisfaction of the Planning Authority. Having regard to the positive inter-departmental reports received on file which raise no objection to this proposed development, permission is recommended subject to appropriate conditions."

It is a fundamental principle of public participation that where the public are invited to make submissions or observations by a public authority, that these submissions or observations are assessed and either accepted in full or in part or rejected. In this instance, the merits appear to have fallen into a wholly unrecorded black hole between the 'reading and noting' by the Senior Executive Planner and the recommendation for conditional permission for the proposed development.

Since this scarcely engenders public confidence in the planning assessment process, it falls on me at my own expense to draw the attention of the Board to this deficiency by transcribing the six submissions referred to in the report and listed on the Cork County Council Planning Enquiry System and request that the Board carry out the assessment that one would have expected from the Planning Authority in the first instance.

3.2 Index of the Six Submissions on Further Information

3.3 Submission by Mr. J. Albrow

Date of submission 9th September 2022

3.4 Submission by Mr. A. Carling

Date of submission 14th September 2022

3.5 Submission by Wild Ireland Defence C.L.G.

Date of submission 27th September 2022

3.6 Submission by Mr. I. Collins

Date of submission 15th September 2022

3.7 Submission by Mr. N. Burke

Date of submission 13th September 2022

3.8 Submission by Mr. N. de Haas

Date of submission 19th September 2022

3.3 Submission on Further Information - Mr. J Albrow

Undergrounding of Grid Connection

The first reason cited by the Planning Authority for seeking further information was "*Uncertainty with regard to the alternative cable routes investigated and the absence of any investigation of undergrounding of the entire line*" and the Developer was invited to consider submitting reasoned justification, supported by evidence, as to whether the complete undergrounding of the cable is a viable alternative or not and whether it would have greater or lesser environmental constraints and to submit such information as to whether this alternative has been explored.

In my original submission, I questioned why, if the poles are now being removed, is the grid connection not made using underground electrical cable as has been approved and done in the case of **ALL** West Cork wind farm grid connections since the Derreenacrinnig wind farm was granted planning permission? I listed these in the appendix to that submission, and repeat the Planning Numbers here for ease of reference, namely **12/5270, 13/635, 15/730, 15/6966** and **16/256**.

The response by the Developer was that "*It is industry standard practice for medium voltage circuits, such as the proposed grid connection associated to this planning application to be provided using overhead line technology*". It is instructive that the 38kV grid connection from the (recently dismantled) Cappaboy wind farm to the ESB Ballylickey substation installed pre-2005 is of overhead line construction, whereas the five examples above which were approved since 2012 at 33kV have all been fully underground.

The rationale for overhead line construction is stated as "*Overhead lines are deemed both efficient and reliable for typical distribution/transmission connections. The technology has long been adopted by ESB's and global electrical power operators and is the preferred technical solution for grid connections across open countryside such as that encountered between Ballylickey ESB station and Derreenacrinnig Windfarm site*".

Overhead line generator grid connections may well have "*long been adopted*" but history clearly does not determine the present, for if this were the case, the 33kV wind farm grid connections listed in paragraph (2) above would have been approved by the Planning Authority as overhead line and not underground cable on the public roadway for their entire length as is the case. The modern trend in all jurisdictions is to deploy underground cabling where this is feasible.

The Developer states that "*The Applicant also considered a full underground option as part of the project. This was assessed as part of the Environmental Impact Assessment at an early stage*". The response sets out that paragraph 2.16.3 (Grid Connection Alternatives) of the EIAR stated that "*Prior to the commencement of development of the as built grid connection, a number of alternative grid connection routes were considered as part of a high-level assessment. Key consideration was given to environmental matters. For example, some locations had more inherent environmental sensitivities than others. It was possible to avoid such routes in favour of a route which has fewer constraints and more capacity to sustainably assimilate the grid connection*".

However, the issue of whether a fully underground cable connection had been considered was never mentioned in the EIAR, a fact that has caused me to spend considerable time and effort in making submissions drawing the attention of the Planning Authority to this fundamental deficiency in the Planning Application as presented. The Route Screening Analysis reference in the EIAR (Para. 2.16.4) simply dismisses what may have been consideration with the words *"Following the omission of two of the routes as a result of the technical and environmental considerations"*.

It now turns out that two underground options were assessed, both of which are over 5km from any Natura 2000 site, can be built almost entirely along public roads and are acknowledged in the assessment to *"have a reduced visual impact when compared with overhead lines"*. The *"reduction"* in visual impact is something of a misnomer; unlike overhead lines, there is NO visual impact.

This assessment also makes much of *"Repairs and Maintenance"*, saying that overhead lines allow for easier repairs when required and have a range of advantages that make them the default option for transmission and distribution system operators. The elephant in the room is that unlike overhead lines, underground cables are not susceptible to trees falling across the line or vehicles impacting them, and therefore are far less likely to require repairs.

It is true that *"Overhead electricity line technology is a recognised and established and a reliable method for energy transmission"*. Is the implication that underground electrical technology is a not recognised and established and a reliable method for energy transmission? If so, we are all in for big trouble in the future!

The response letter to the request for clarification for Planning Reg. No. 21/00737 from the ESB Planning Team Leader, Mr. B. Allen makes the point that *"It should be noted that the sole purpose of this electrical circuit is to connect up to 5.8MW of renewable energy to the electricity grid"*. In other words, there is no broader distribution purpose, and it is in exactly the same category as the other wind farms that have all been connected by underground cable as I have shown.

Cork County Development Plan 2014
Objective ED 6-2: Transmission Network

Proposals for new electricity transmission networks need to consider the feasibility o undergrounding or the use of alternative routes especially in landscape character areas tha have been evaluated as being of high landscape sensitivity. This is to ensure that the provision of new transmission networks can be managed in terms of their physical and visua impact on both the natural and built environment and the conservation value of Europear sites.

Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approvec if it can be ascertained, by means of an Appropriate Assessment or other ecologica assessment, that the integrity of these sites will not be adversely affected.

PLANNING APPEAL – ESB OVERHEAD LINE

Guidance from the Roads Department

Item (4) of the Further Information request states "*While acknowledging that undergrounding beneath the road was previously approved by both Cork County Council and An Bord Pleanála on what are now quashed decisions, new guidance from the Roads Department has suggested that the road network is not used for the laying of cables beneath it, where possible*". This item is indeterminate in that the Planning Authority:

- is simply raising a "suggestion" rather than a requirement, and,
- has granted multiple recent planning permissions for cabling beneath the public roadway.

The Developer has confirmed that "ESB are amenable to placing the cable in the roadway or along the verge adjoining the carriageway within the area taken in charge by Cork County Council" and undertakes "*in line with our commitments to customers, public safety and local stakeholder engagement on developments, will ensure that, should the works be permitted, any associated local traffic management plan minimises the impact of any works on local businesses and services*".

Section 2.7.4 of the EIAR specifies that 20kV power cables will be laid in a single 125mm diameter uPVC duct in a cable trench, that the typical trench cable arrangement will be 1 duct and that the typical trench dimensions will be 325mm wide and 950mm deep following the "*ESB Standard Detail for a Single Circuit 20kV Underground Cable*". There is no suggestion of a technical obstacle to effecting the grid connection of the Derreenacrinnig by means of underground cable beneath the public roadway.

Conclusion

There clearly is no impediment from either the ESB or recent Cork County Council planning practice (as evidenced in the cited grants of planning permission) with respect to a wholly underground cable grid connection.

The only course of action is to refuse this ill-conceived planning application and for the ESB to submit a fresh application using underground cabling as should have been done in the first place, and which would have averted this charade of proposing to dig out 137 poles and stuff them back into the same hole from which they have been removed by order of the High Court.

Furthermore, this sequence should be carried out as soon as possible to enable the permitted Derreenacrinnig wind farm to be commissioned and commence generating the renewable energy that Ireland so badly needs to reduce its greenhouse gas emissions. That will constitute a win for the wind farm and a win for the local environment that will not be scarred by underground cabling as it would be by the present overhead line proposal.

3.4 Submission on Further Information - Mr. A. Carling

Please add the following comments on the further information provided by the ESB to my submission dated 24th November 2021 concerning the above planning application. A copy of the receipt from the Planning Department is attached.

The issue of uncertainty with regard to the height of the 157 wooden poles for the new 20kV line arose from contradictions in terms of the pole height identified by the Planning Department where the submitted plans indicate the height of 10-14 metres and "will depend on final detailed design". On this issue the development description refers to "OHL be constructed consists of c 157 wood poles ranging from 9m to 12.5m above ground". The response from the ESB is that "We can confirm that the sections of the existing as built 20kV line that is to be removed consists of 138 timber poles that measure 9m -12.5m above ground. To minimise waste and impact, it is proposed that the new grid connection will utilise the same wooden poles removed from the unauthorised as-constructed line".

As I have already submitted, this is an absurd proposition, and the ESB have not provided credible argument for this course of action, simply saying that it "has decided to proceed on the basis of a singular Section 34 application" which is comprised of this nonsensical sequence of environmentally destructive activities. There is no suggestion that this is a fresh route over different ground with less environmental impact, only that the ESB is going to excavate and extract the totality of the existing overhead line (undoubtedly causing environmental damage whilst doing so) and then excavate a new set of holes in which to place 157 new poles, thereby causing further environmental damage whilst doing so.

Alternatives to the proposed development are prescribed by Article 5(1) of the EIA Directive which sets out the information to be contained in an EIS, and these provisions have been clarified by the Revised EIA Directive, in particular in relation to the requirement that the EIA Report includes a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment. This expressly recognises that the main reason for the chosen option must be to minimise adverse environmental impact.

The response (on page 14) to Item (7) of the further information request "Submit full details of proposed mitigation habitat / replacement planting, where applicable. Details in relation to proposed native species mix for new planting and monitoring of effectiveness of the same should be provided. A map indicating the location of mitigation habitat / replacement planting should also be provided" is confusing to the reader that it is blank and unhelpfully does not refer to page 76.

PLANNING APPEAL – ESB OVERHEAD LINE

Page 76 says that "The installation of the sections of overhead grid connection route will not require any excavations along access routes to pole set location and no replacement planting will be required along the routes used to access pole set locations". But this is a red herring; the very activity of first digging out the existing erected pole sets and then sticking them back into the ground maximises the unnecessary environmental impact.

Since the ESB seems determined to drive ahead with this outlandish proposal, a "Less Bad" alternative would be a wholly undergrounded cable connection, a scenario which was raised by the Planning Department as "Uncertainty with regard to the alternative cable routes investigated and the absence of any investigation of undergrounding of the entire line". The response by the ESB says that "The provision of overhead line for developments of this nature is the established industry standard". This seems to be based on a paragraph on Page 2 which says that overhead line technology "has long been adopted by ESB's and global power system operators and is preferred technical solution for grid connections across open countryside".

It continues to say that "The preferred grid connection route is considered to be the optimum and least environmentally sensitive arrangement available to transport renewable electricity from the permitted Derreenacrinnig West Wind Farm to the national grid". How can the process of digging up 157 erected poles and sticking them back in the ground be called "least environmentally sensitive"? The response asserts that "The provision of a full underground grid connection would result in more disruption to residents as a result of road closures and construction works in close proximity to dwellings during the construction period".

There are two points that arise from this. Firstly, when the road works are finished, the countryside is restored to the condition that prevailed before any of these existing ill-conceived actions were started, and secondly, the ESB has failed to quantify what constitutes "close proximity". Indeed, a perusal of the map provided (Drawing 4636 Figure 100) shows no dwelling in "close proximity" to the road frontage. The configuration of the two underground cable routes shown on Drawing 4636 Figure 100 are reproduced overleaf for convenience of reference.

The route from the ESB 110kV substation in Ballylickey follows the L97109 to the N71 where it turns south. The L97109 has four properties, all set well back from the road verge. It leaves the N71 turning back up the L4720 where it passes several properties at Caher and Loughdeeveen, all of which are set back from the road verge before proceeding along quiet country lanes through Gortroe, Shandrum, Dromsullivan to Ards More.

PLANNING APPEAL – ESB OVERHEAD LINE

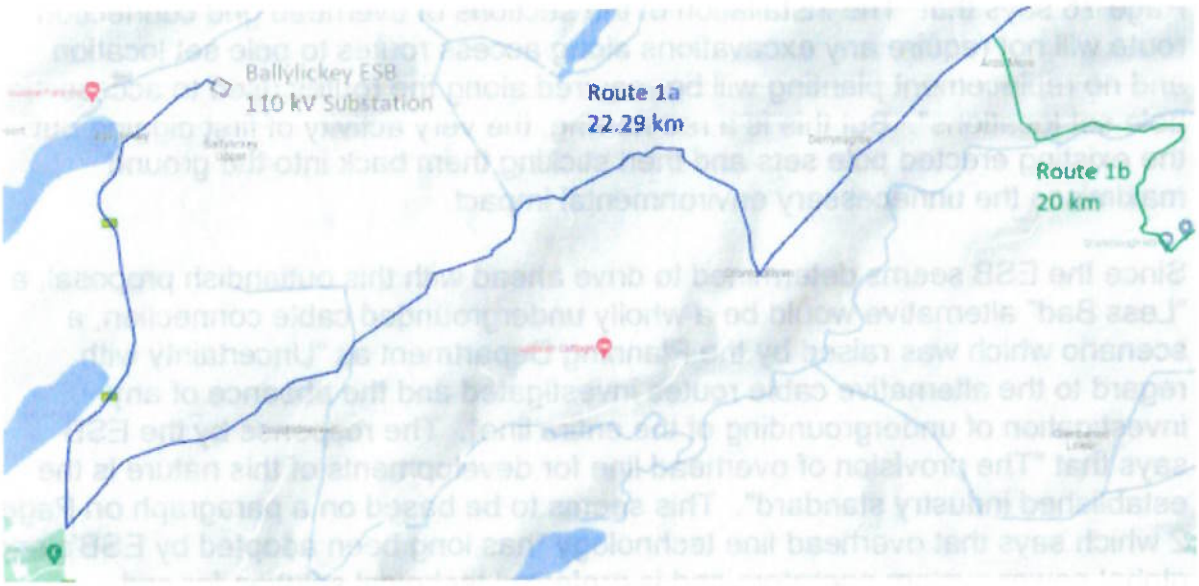


Fig. 1a – Grid Connection Cable Route to Ballylickey ESB 110 kV Substation

Fig. 1b – Grid Connection Cable Route to Derreenacrinnig Windfarm Substation

ESB show two options from Ards More. The first (and longer) route is over Gortnacowly and Coomleagh to Goulanes via Goulanes Bridge, whilst the shorter route is to Goulanes via Dromlough and Barnagowlane. In both cases, properties are set back from the road verge and would not be in the "close proximity" to cable laying activities in the public roadway inferred in the response by the ESB.

The Planning Department sought clarification of concerns with regard to the disturbance to the public road network and crossings including at Dromloughlin and beneath the road at Gleanareagh and other areas. The response undertakes that "ESB are amenable to placing the cable in the roadway or along the verge adjoining the carriageway within the area taken in charge as directed by Cork County Council". In other words, the ESB have no intrinsic objection to installing underground cabling. The issue of minimising traffic impact is dealt with in the response by committing to works being carried out during holiday periods (particularly relevant to Kealkill Pre-School) and off-peak times.

Please consider the points I have raised in conjunction with those of my original submission. I remain of the view that the 'Consideration of Alternatives' of this EIAR is fundamentally deficient in not including the reasons upon which it rejected the simple recognition that the minimum environmental damage would arise from leaving the constructed line in place and adding the extra bits needed to complete it as envisaged in Planning Application 19/10. Anything else simply fails the common sense test. The convoluted thinking in the current application, its associated EIAR and further information response are impediments to getting the permitted wind farm up and running as soon as possible.

3.5 Submission on Further Information - Wild Ireland Defence

This submission is being made in reply to the response from the ESB in relation to the request for further information issued by Cork County Council on 17 December 2021.

It is noted that the reply to that request was submitted by the Applicant on 04 April 2022. It is also noted that a request for clarification of further information issued from the Acquiring Authority on 27 May 2022 with the response from the Applicant issuing on 25 July 2022

Having considered both responses the Acquiring authority subsequently directed the Applicants by letter dated 12 August 2022 to issue new public notices on the basis that the information that had been submitted, constituted significant further information.

The within submission is being made to the determination of 12 August.

Having considered the response of the Applicant for permission of 04 April 2022 it would appear that the Applicant has failed to properly address the specific requests at bullet points 1,5, 6 &8 of the request for further information of 17 December 2021.

1. Paragraph 6 of our submission of 29 November 2021 made the complaint that alternatives had not been properly considered. This complaint is still made on foot of the response of the Applicant of 04 April. In essence the Applicants for permission have done nothing more than vacillating a predetermined route. The Applicant proposes and accepts that the overhead line will be situated in the very same locations that the partially unlawfully constructed line is placed. The Applicant makes no genuine effort to consider reasonable alternatives and as such this is in contravention of the EIA Directive and the Juris Prudence of the CJEU on the question of alternative routes.

This view is supported by the Applicants own admission that it does not envisage the construction of an underground cable system and seeks to rely on a misguided supposition that the industry standard is overhead lines. Even if that was the standard, which is denied, that does not remove the obligation on the Applicant to consider all reasonable alternatives as required by law. The ESB is well aware that the industry standard for Windfarms is the provision of underground cable systems.

2. Paragraph 5 of our submission of 29 November 2021 makes the complaint inter alia, the reports in question were scant when they were prepared but are now no longer even relevant to the current proposal which purports to be a hybrid remediation and development project, and which is a materially different development. The response of the Applicant of 04 April in respect of bullet points 5, 6 & 8 of the request for further information does not accord with the legislative requirements of the Habitats Directive and/or satisfactorily address the request of the local authority.

   As a State body the Applicants for permission is well aware of its obligations under the Habitats Directive and it is submitted that it is simply not good enough for the Applicant to try to pigion hole its own preferred approach into the legislative framework that requires a particular standard that has not been met on this occasion.

Conclusion statement

Based on the above submission and the original submission of 29 November 2021, which we ask to be read in conjunction with this submission, we submit that this application for permission should be refused.

3.6 Submission on Further Information - Mr. I. Collins

Please read in conjunction with 'Response to Further Information Request 29.3.22' from The ESB.

Item I

The developer was asked (again) for a description of the reasonable alternatives (in terms of project design, technology, location, size and scale) studied by the developer and a comparison of the environmental effects. Once again the opportunity to expand the understanding of both the public and the county Council as to why the chosen route and its division into overground and underground portions is eschewed and instead there is an argument for the preference of the connection being constructed overground. To summarise the argument I try as follows. i) It is old tried technology. ii) Fault finding and rectification are quicker and easier. iii) It is cheaper and it is commonplace in rural Ireland. Yet undergrounding is also a tried and tested technology, there are fewer

faults in underground circuits (not subject to lightening strikes, trees falling on the line, accidents, and less maintainance) costwise it would have enabled considerable savings over the developer's current approach and it is no longer 'commonplace' to put grid connections to wind and solar farms via overhead lines.

Three grid connection route options were examined in the EIAR (Section 2.16) and the key considerations in selecting the options were elucidated a) to minimise environmental constraints (the undergrounding option would certainly have scored heavily here). b) Routes were selected to minimise the number of watercourse crossings. (why? Overground cables are not relevant to watercourse crossings, undergrounding would be if it were not along or next to the public road. c) Minimise traffic and transport obstruction. (possibly in this case but see argument below). d) Outcomes of engagement with impacted landowners (completely bypassed in the undergrounding option). e) avoidance of archeological sites, (also not impacted by the undergrounding adjacent to the road network) f) least cost. (the undergrounding of the whole of the grid connection - with the benefit of hindsight - may well have been the least cost option in this case considering all the extra costs encountered as a result of ignoring the Planning regulations.

There follows a claim that undergrounding was considered as an 'earlier option' and was a viable option which was 'discounted for a number of reasons which are presented below'. What follows is a table comparing the two alternative underground routes 'considered'. Table 1.1 on Pg

'Underground Route Selection Criteria'

It would appear that there is little difference in routes 1A or 1B with the possible exception of the route 1B having a construction period of estimate 6-9 months as opposed to route 1A which would have a construction period of 6-10 months. It is suggested that both routes would involve 'significantly more disruption to residents and road users as a result of road closures'. How this helps to choose between 1A and 1B is uncertain and looks as if it really is comparing undergrounding versus overhead line construction. This is an attempt to justify something which is not the case. The undergrounding would not be as significant a factor in traffic disruption as is implied were it carried out as described later along the road margin. There are very few houses along either route very close to the road and some of the water crossings are in portions of the proposed overhead/undergrounded grid connection which are proposed to be undergrounded anyway. There is only 1 crossing of the Healagh River in route 1B not 2 as stated. The table is a pretty meaningless exercise in obfuscation.

PLANNING APPEAL – ESB OVERHEAD LINE

Landscape and Visual Impacts. There is a reluctant observation that 'underground cables have a reduced visual impact when compared to overhead lines'. While strictly true it would be more truthful to state they have no visual impact once buried. There is absolutely no need at all for the 'possibly disruptive' directional drilling that is hinted as being possibly needed.

Repairs and Maintenance. The arguments for the advantages of overhead lines seem to recede into the background when the developer wishes to underground a portion of the grid connection

Construction Methodology. The construction method described on P5 and 6 is no longer appropriate as new guidelines have been issued which prefer the installation of the cable duct to be in the road margin. The trench required is actually quite small for the ϕ125mm 20 KV duct and a 3 tonne digger would be all that is required. There would be little more disruption to traffic than when the county council roads department clean off the margins as they do every couple of years. The digger moves out of the way to let vehicles pass and then returns to task.

Ecological Impacts. The impacts suggested here on P.7. are an extreme over-statement of the case. Trenches need to be excavated admittedly but then digging a 2·4m deep hole to stand a pole is somehow less significant. There was more criss-crossing of habitat to the overhead line than would be required for the underground option which is accessed by the public road network. There is no demonstrated need for heavy machinery off the public road at all. The cable duct is quite light and the cable is not significantly heavier than the overhead cable. Soil compaction and directional drilling scare-mongering are just red herrings. The amount of material to be removed and the replacement with appropriate fill would be about (30m³ × 2 × 1·5) = 75 tonnes per 100m of cable laid which at the rate of construction described elsewhere means 1 lorry load per day. 'Adverse environmental impacts can occur from the inadvertent release of drilling fluids during directional drilling' is like saying that an operative may fall from a height whilst installing an overhead line. One assumes a certain competence from a contractor (perhaps misplaced judging by this unprofessional offering) In any case there is no demonstrated need to do any 'directional drilling'

There is sufficient road depth at both the alternative crossings of the Meelagh River at Ards or Coomleagh East to accomodate the underground cable.

Traffic Disruption. The argument here seems to suggest that traffic disruption would be greater if the grid connection was undergrounded for its full length than if only the portions proposed are constructed. This may well be the case but to imply that a temporary inconvenience is some how more significant impact to residential amenity than spending a lifetime looking at an overhead line is rather questionable.

There is still no evidence produced to show that the selection of the route chosen involved any serious examination of the alternatives. No costings are shown, nor is there any evidence of the 'technical and environmental considerations' so often referred to having been seriously examined. It is as if the ESB is just saying that they have made a decision on the route and that is that. Well so it may be but in their refusal to meaningfully comply with the spirit of the planning process their hand might be forced by a refusal of permission which would be justified.

Item 4

Where the ESB want to put the grid connection underground they make a very good case for 'its' desirability to be placed under the public road network. Suddenly at iii) P13 '..it may not (even) involve the need for road closures throughout the construction phase' and '..the trenching associated is relatively narrow (325mm wide 950mm deep)'. Thus the ESB undermines its own reasons for undergrounding the entire circuit.

Please read in conjunction with 'Response to a Clarification Request of Further Information issued by Cork County Council on 27/05/22 dated 21/7/22

See P10 of TLI Group's outline construction management plan. It would seem that TLI Group have not aquainted themselves with the 'new guidance from the Roads Department has suggested that the roads network is not used for the laying of cables beneath it where possible' (P10 Item 4 Request) mentioned in the 'Response to Further Information request dated 29/03/22. The ESB has

familiarised themselves with that in as much as at P13 further on in the same section (iii) they say 'they are amenable to placing the cable in the roadway or along the verge adjoining the carriageway - as directed by Cork County Council. It is to be hoped that there is better communication between the developer and the contractors before any further work is carried out because mis-understandings have been legion so far.

To a concerned member of the public this whole confusing episode seems to be a power tussle between the ESB and the county planners. The ESB when they ignored the refusal of the County Council to accept that the construction was exempt development have created a very expensive and time-consuming stand-off. Now their (the ESB) position is that they and only they can be the arbiters of the route of the grid connection and its' underground and overground components. Their refusal to admit that the only real criterion for the route of the grid connection was the willingness or otherwise of local landowners to allow access to their lands (for a payment) for the passage of the line in question, and that everything else in the EIA has been to find other justification for that route selection. Historically in this valley there was a great deal of opposition to the proposed overgrounding of the grid connection from the Ballybane wind farm (to the south of the Medagh valley) to the Ballyfeeney sub station. Eventually to save time that grid connection was placed underground and this experience led the ESB to adopt a different approach to avoid a similar confrontation. Some might call it bribery but it was certainly an enticement but although some landowners benefit others suffer the added visual intrusion. Regardless of what it is called it is certainly only a small part of 'Good Planning'.

That the ESB are still refusing to contemplate any alternative to what they have already planned and constructed, but are claiming that they will remove the unpermitted overhead line as constructed, remove it off site for storage and then replace it exactly as previously constructed (with the exception of two pole's positions) is laying the groundwork for basically doing nothing. It beggars belief that there is any intention to actually remove the as constructed line and put it back up exactly as before and preventing it such is pure fiction. If

the County Council gives this permission then there is a perfectly reasonable case to made to the council for a variation to that permission to drop the requirement to remove the line and so putting everything back to the May 2018 position when work was halted as being unpermitted. This means that their unpermitted development will still stand and all the subsequent expenditure of time and money has come to nought (except for the cost to the public purse). The whole purpose of the various Planning and Development Acts will have been undermined and it creates a precedent whereby the ESB has sole control over the route and method of construction of a new electricity line regardless of any planning or environmental considerations.

The justification for the route selection, despite its reiteration many times, has not been substantively expanded upon and still is saying that they have taken all steps necessary and done any necessary investigations, and that this is the best route. There is still no actual evidence presented of the consideration of alternatives, no minutes of meetings, reports from engineers, alternative costings or survey results (except the counting of nearby houses stream crossings and sites of historic interest) The justifications offered are muddled, repeated endlessly (cut and pasted from previous offerings) and full of mistakes. They in toto constitute an attempt to confuse, obfuscate and avoid real appraisal (evidenced by the large amount of significant further information requested by the County Council's Planning Dept.). It is a disgraceful attempt by a large organisation to steamroller over the planning process to get its own way. They have had numerous opportunities to present a cogent case clearly and concisely which they have manifestly failed to do so far. They should not be awarded of any further opportunity. I urge that they be given permission to remove the unpermitted development but not be granted permission to reconstruct it in the same position. Only then can a proper and meaningfull planning process be commenced.

3.7 Submission on Further Information - Mr. N. Burke

I wish to lodge the following observations on the further information lodged with respect to the planning application for the proposed development above and enclose a copy of my receipt dated 24th November 2021 in payment of the Statutory Fee for lodging such observations. My observations set out below relate to the contents of the further information furnished to the Planning Authority in response to its request for such information.

PLANNING APPEAL – ESB OVERHEAD LINE

1. Consent Status of Derreenacrinnig West Wind Farm

In the overview of my observation dated 24th November 2021 I questioned why, if the Derreenacrinnig West Wind Farm is already consented, the EIAR stated that it "includes an evaluation of the Grid Connection route and is assessed in combination with the wind farm and the removal of the existing grid connection" as surely the EIAR for the grid connection should be confined to the developments are not consented (i.e. the grid connection) and not conflate a grid connection with a permitted wind farm.

Developments with this planning application subsequent to that observation, and which are not referenced in the further information are pertinent in this context. The planning history of the Derreenacrinnig West Wind Farm is that a 10-year conditional permission was granted by An Bord Pleanála (PL 88.239767) on 5th December 2012 for construction of a wind farm comprising 7 no. wind turbines with a height of 55 metres and rotor diameter of 52 metres, substation, site roads, borrow pit and ancillary works.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the site had a number of attributes (as set out in the reasons and considerations above) that facilitated development of a wind farm development, and taking into account the scale of development proposed, it was considered the resultant impact on landscape and visual amenity would be acceptable at this location. While the development may impinge to some extent on views from scenic route S30, and might form the backdrop to certain views of the castle at Castledonovan, it was not felt that these impacts were so negative as to warrant a refusal of permission.

The reason cited by the Board for granting the 10-year permission was that "Having regard to the nature of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years". The Board were of the view that a period of ten years of permission validity rather than the normal five years was required, which is normal practice with wind farm planning applications in the recent past

The applicant was granted a separate 5-year planning permission on 12th March 2009 under Pl. Ref. 08/2119 for construction of a nearby wind farm comprising 5 no. wind turbines with a tower height of 46 metres and rotor diameter of 62 metres and ancillary equipment for the generation of electricity with a control building, substation and 40 metre wind monitoring mast at Goulacullin. A 5-year extension of permission by the Planning Authority was granted on 16th April 2014 with respect to an application under Pl. Ref. 14/0143 made pursuant to subparagraph (ii) of section 42(1)(a) of the Planning and Development (Amendment) Act, 2010 regarding considerations of a commercial, economic or technical nature.

An inconsistency of treatment between these wind farms arises from the fact that the Planning Authority refused an application for a 5-year extension of permission under Pl. Ref. 19/112 for the Goulacullin Wind Farm on 11th April 2019 made pursuant to Section 42-1(a)(ii)(I) of the Planning and Development Act 2000 as amended by Section 28 of the Planning and Development (Amendment) Act, 2000, on the basis that "The applicant has been unable to commence development on site due to financial difficulties encountered over the past number of years and requires an extension of duration for a further five years, in order to complete the project".

The reason given was "This application to extend the appropriate period fails to comply with section 42 (4) of the Planning and Development Act (as amended) which states that "A decision to extend the appropriate period shall only be made once and once only under this section and a Planning Authority shall not further extend the appropriate period". The Planning Authority is, therefore, precluded from granting a further extension of the duration having regard to the provisions of Section 42 (4) of the Planning and Development Act (as amended)".

In the case of the Goulacullin Wind Farm, the developer was refused extension of permission duration past a total of ten years, whilst in the case of the Derreenacrinnig West Wind Farm the applicant was granted a 2-year extension of permission duration on top of an expiring ten-year permission under Pl. Ref. 22/153 on 3rd May 2022. The Planner's Report - Primary states that "Works on the approved wind farm commenced in 2014 and the developer secured a connection from ESB in 2014 that was prior to the O'Grianna ruling* in 2015, see below. ESB subsequently commenced works on the overhead line".

The report states that "On the 8th June 2017 an application for a 20 kV overhead line was received from applicant/developer George O'Mahony and the agent Jennings O'Donovan (D/25/17). This again related to a determination as to whether the construction of 20 kV electrical connection between the wind farm and the 110KV substation at Ballylickey was 'exempt development' or not".

* *O Grianna & ors -v- An Bord Pleanála, [2014] IEHC 632, Judgement of Mr. Justice Michael Peart delivered on the 12th Day of December, 2014.*

It then states that "On the 3rd May 2018 a 'warning letter' was issued to George O'Mahony Derreenacrinnig West, Drimoleague with a separate letter dated 14th March 2018 sent to Derreenacrinnig West Wind Farm. These 'warning letter(s)' alleged an overhead and underground power cable 20 kV line between the approved wind farm and Ballylickey substation. Two further 'warning letters' were issued to ESB Networks Ltd and ESB Networks Designated Activity Company on the 3rd May 2018 (SKB170054)".

The dates recorded in reports by officers of the Planning Authority show that a period of over three years elapsed between requirements clarified in the O'Grianna judgement and the warning letters issued by the Planning Authority to all parties

involved. Three years during which the whole issue should have been resolved, and which remained four further years within the duration of the grant of planning permission. The grant of an extension to the Derreenacrinnig West Wind Farm is, on the face of it, inconsistent with denying an extension to the Goulacullin Wind Farm, a development of similar proportions in the same area.

The consent status of the Derreenacrinnig West Wind Farm is central to the current planning application, as there would be no reason to construct the grid connection if the consent was void. This is a consideration that needs to be taken into account with respect to a proposed development that has already spent substantial time in the High Court.

2. Route Screening Analysis

Prior to the further information furnished by the applicant, the EIAR provided no details of the underground cabling option other than saying that both overhead and underground cables (and/or a mix of both) were considered to be technically feasible and viable alternatives for this project, providing just three options in Figure 2.9 with preference for Option 1. The only category of connection considered was overhead lines, with each option simply following a separate route.

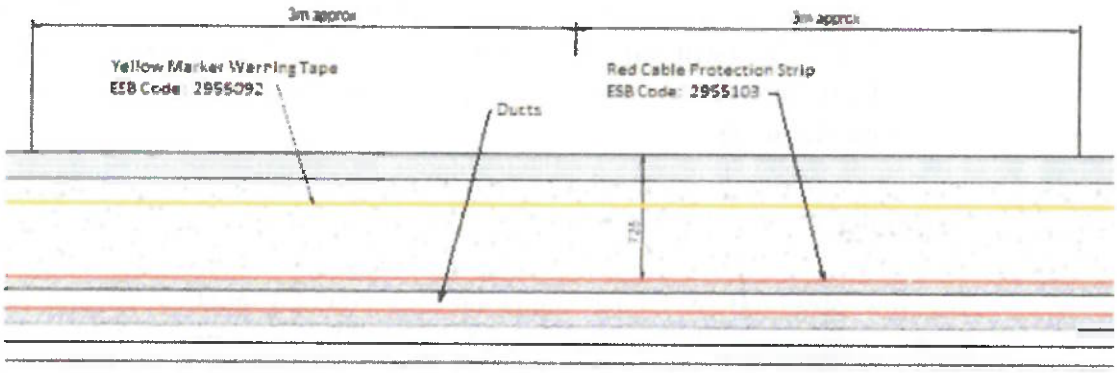
In framing its further information request, the Planning Authority invited the developer to consider submitting reasoned justification, supported by evidence, as to whether the complete undergrounding of the cable is a viable alternative or not and whether it would have greater or lesser environmental constraints and to submit such information as to whether this alternative has been explored.

Table 1.1 of the response sets out two potential underground cable routes between the Ballylickey ESB 110 kV substation and the Derreenacrinnig West Wind Farm substation, both of around 20 to 22 kilometres in length, almost entirely within public roads including a section of the N71 secondary route, an expected construction period of 6 to 10 months and 118 to 121 residential properties along the route.

There are 14 to 20 river crossings including 2 to 4 times across the Mealagh River, with a note in each instance that the crossings of the Mealagh River may involve directional drilling across the river, but no confirmation that this is the case or that alternative river crossing methods have been considered. Directional drilling is normally the least favoured means of underground cable grid connection watercourse crossings, and is only considered where piped crossings over a bridge/culvert, under a bridge/culvert or in flatbed formation over a bridge/culvert are not possible.

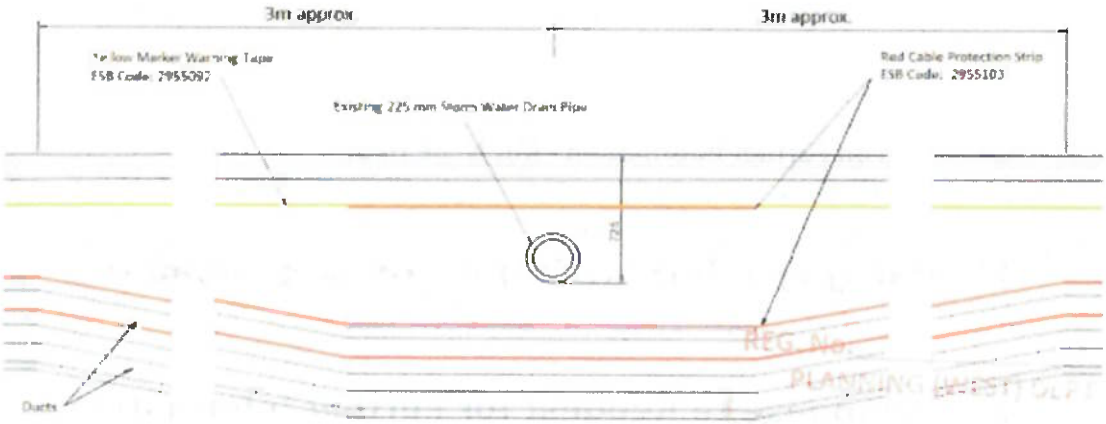
(a) Piped Culvert Crossings over Bridge/Culvert

Watercourses are not directly impacted upon since there are no in-stream works or bridge/culvert alterations carried out. Where sufficient cover exists above the culvert, the trench is excavated above the culvert and the ducts are installed in the trefoil arrangement passing over the sealed pipe where no contact is made with the watercourse.



(b) Piped Culvert Crossings under Bridge/Culvert

Where the culvert consists of a socketed concrete or sealed plastic pipe where sufficient cover over the culvert does not exist to accommodate the cable trench, a trench is excavated beneath the culvert and cable ducts are installed in the trefoil arrangement under the sealed pipe.



(c) Flatbed Formation over Bridge/Culvert

Where cable ducts are to be installed over an existing bridge/culvert where sufficient cover cannot be achieved by installing the ducts in a trefoil arrangement, the ducts are laid in a much shallower trench the depth of which is determined by the location of the top of the culvert or the depth that can be achieved in the deck of a bridge structure. The ducts are laid in this trench in a flatbed formation over the existing culvert/bridge and are encased in 6mm thick steel galvanized plate with a 35N concrete surround as per ESB specification.

It can be seen that there are several bridge/culvert crossing methods that are far less invasive than directional drilling, which remains the technique of last resort. There is little basis for the assertion that there are no reasonable alternative grid connection routes which change this position, where the option of using an underground cable has not been fully explored. The statement that "It is therefore considered that any alternative grid connection route would likely result in significantly greater environmental impacts that the current route and would not be desirable from an environmental perspective" lacks substantiated justification where an underground cable under the public roadway would have little or no environmental impact.

3. Conclusion

The few observations I have made on this planning application and now on the further information illustrate the conflation of the environmental assessment of the (so far unpermitted) grid connection and the assessment of the (permitted) Derreenacrinnig West wind farm. This makes it very difficult for the reader to discriminate between what is relevant and what is irrelevant.

I respectfully reiterate my suggestion that the EIAR is returned to the applicant such that those parts that have no relevance to the grid connection (save for cumulative effects) are removed in order that the reader does not have to judge what is "in" and what is "out". An EIAR should be clear and unambiguous in order to facilitate an impartial Environmental Impact Assessment by the Planning Authority.

3.8 Submission on Further Information - Mr. N. de Haas

1. Further Information Reference Documents

2. Response to Request for Further Information

Document Reference. Response to RFI ESB/BA 29 MAR 2022

The purpose of this response by the ESB is to set out the further information requested by the Planning Authority on ten items

2.1 Item 1 – Alternative Underground Cable Routes

Uncertainty with regard to the alternative cable routes investigated and the absence of any investigation of undergrounding of the entire line. The Route Screening Analysis (Section 2.16.4) of the EIAR states that "Three options were explored in further detail as part of the Route Screening Analysis, and these are presented in Figure 2.9. Consideration was given to alternative options from the outset of the project where the key consideration was given to the avoidance of adverse effects on the environment."

The Planning Authority invited the developer to consider submitting reasoned justification, supported by evidence, as to whether the complete undergrounding of the cable is a viable alternative or not and whether it would have greater or lesser environmental constraints, noting that the Directive requires that information provided by the developer in an EIAR of the reasonable alternatives are relevant to the project with an indication of the main reasons for the option chosen taking into account the effects of the project on the environment.

The Further Information response shows that two viable underground cable grid connection routes were considered, namely Route 1A of 22.3km and Route 1B of 20.0km connecting the permitted Derreenacrinnig West Wind Farm substation to the ESB 110kV substation in Ballylickey on a largely common route with 1A routed north of the Mealagh River from Goulanes to Aros More, and 1B routed south of the river between the two points.

The reasons for not considering the wholly underground cable grid connection option provided in the Further Information appear to be:

1. It is industry standard practice for medium voltage circuits, such as the proposed grid connection associated with this planning application to be provided utilizing overhead line technology;
2. Overhead lines are deemed both efficient and reliable for typical distribution/transmission connections;
3. Developments of this nature have established installation, operation, maintenance and fault repair methods which can be carried out on relatively short timeframes;

4. The placing of cables underground is considerably more expensive to develop and repair.

5. Underground cable laying in the public roadway would disrupt road users for 6 to 10 months.

6. Crossing the Mealagh River may involve directional drilling.

7. Disruption to resicents and construction works in close proximity to dwellings during the construction period

I would comment on the above points as follows

1. Why are grid connections such as the Killaveenogue and Snehy More wind farms wholly located in ducts beneath the public roadway if it is industry standard practice for medium voltage circuits, such as this to be provided utilizing overhead line technology?

2. Are underground cables deemed to be either inefficient and/or unreliable for typical transmission connections?

3. Are there not established installation, operation, maintenance and fault repair methods for ducted and manholed underground cables which can be carried out on relatively short timeframes?

4. Is it not a fact that overhead lines are far more susceptible to faults caused by impacts, wind borne debris and lightning strikes than underground cable?

5. Why would underground cable laying for a distance of 22km in the public roadway disrupt road users for 6 to 10 months when comparable (Killaveenoge and Snehy) grid connections were effected in a far shorter period with the minimum of disruption?

6. The assertion that crossing the Mealagh River may involve directional drilling (method of last resort) is offered without reference to alternative ducted over-river methods

7. The Further Information does not define which of the dwellings along the route are in physical "Close Proximity" to construction works.

It also bears noting that Section 3.6.1 of the FIAR (4636 DCWWF EIS) explicitly cited Cork County Development Plan 2014 Objective ED 6-2 which provides

"Transmission Network Proposals for new electricity transmission networks need to consider the feasibility of undergrounding or the use of alternative routes especially in landscape character areas that have been evaluated as being of high landscape sensitivity. This is to ensure that the provision of new transmission networks can be managed in terms of their physical and visual impact on both the natural and built environment and the conservation value of European sites".

It is not possible for the proposal to be in compliance with the Cork County Development Plan policies if it fails to realistically consider the feasibility of undergrounding the entire grid connection transmission line from the wind farm to the ESB substation as appears to have been the practice in the vast majority of wind farm grid connections that have been granted by the Planning Authority in recent years.

2.2 Item 3 – Separation Distances Between Existing and Proposed Line

The Planning Authority had concerns over uncertainty with regard to the separation distance(s) between the existing 20kV overhead line and the proposed 20kV overhead line. Item (3) of the Further Information request needs to be read in the overall context of the objective of this planning application as set out in Section 2.9 as

"Development will consist of; The application will seek permission to remove the existing grid connection works and for the development of the full length of a new grid connection over a distance of approximately 14.8km, between the existing Ballylicky ESB substation and the permitted Derreenacrinnig West Windfarm. The proposed development involves the following works:

(a) removal of approximately 9.5 km of 20 kV overhead line (OHL) along the route. the OHL to be removed consists of 138 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment

(b) following removal of the OHL, it is proposed to construct approximately 10.8 km of 20 kV overhead line (OHL) along the route, the OHL to be constructed consists of c. 157 wood poles (ranging from 9m to 12.5m above ground), supporting electrical conductor lines and ancillary structures and equipment.

(c) installation of approximately 4km of underground cable ducting and associated electrical cabling, and all other ancillary works including joint bays, culverts, marker posts and all associated developments."

Bearing in mind that substitute consent by An Bord Pleanála for retention of the line to be removed was annulled by order of the High Court, this planning application is premature in that the merits of a fresh proposal cannot be considered until complete removal of the unauthorised development and restoration of the location is enforced by the Planning Authority.

The Developer has responded by stating: "It is proposed that the overhead line sections of the new grid connection will be built along the same route corridor of the section of the grid connection to be removed. It is expected that the positions of the existing and new polesets will not vary along the new line except at polesets P-56-P58 where there is a small variation to the proposed new line compared to the as built line. As a result, for the majority of the route there will be no distance/offset between the existing and proposed lines except at P56-58".

It is my understanding from the documentation lodged by the Developer including the statement above that, apart from three polesets, the remaining 154 standing polesets will be excavated and withdrawn before re-erecting them in the location from which they have just been withdrawn. This bizarre proposal only arises because the applications for permission to dismantle non-exempt development has been conflated with an application to construct identical infrastructure in the same location.

2.3 Item 4 - Disturbance to the Public Road Network

The Planning Authority expressed concerns with regard to the disturbance to the public road network and crossings including at Dromlough'in and beneath the road at Gleanareagh, saying:

"While acknowledging that undergrounding beneath the road was previously approved by both Cork County Council and An Bord Pleanála on what are now quashed decisions, new guidance from the Roads Department has suggested that the road network is not used for the laying of cables beneath it, where possible."

This concern provides no reference to the specific "New Guidance" cited by the Planning Authority and is unsurprising that clarification was subsequently requested from the Developer on the practice of undergrounding grid connections, for which the ESB have, as stated, proven and documented procedures of long standing.

3. Conclusion

It remains my contention that this planning application is premature in that the removal of the unauthorised development has not yet taken place under Planning Enforcement and that the EIAR and Further Information that underpins it illustrates that the applicant failed to carry out a full and comprehensive consideration of alternatives.

I would therefore reiterate my earlier observation in which I urged the Planning Authority to refuse permission until such time that the unauthorised works have been removed, and in the same vein, would urge the ESB to carry out a realistic consideration of all alternatives including undergrounding the entire grid connection that was so arbitrarily dismissed before submitting any fresh planning application.

PLANNING APPEAL – ESB OVERHEAD LINE

CONCLUDING STATEMENT

It is clear from the direct references cited in this appeal that the Planning Authority failed to take full and proper account of the submissions made by the public with respect to the current planning applications in conducting the Environmental Impact Assessment of the proposed development, in contravention of the requirements of the EIA Directive and its enactment in Irish Planning Law.

It seems that the normal Planning requirements have not been applied by the Planning Authority to this application by the ESB. Despite the ESB having carried out a substantial amount of construction, flagrantly ignoring the requirement to apply for planning permission, this grant of permission facilitates the deconstruction and reconstruction of an electrical connection whose method and route are both an environmental and engineering nonsense.

This planning application was an opportunity to rectify this sorry state of affairs, yet the ESB has steadfastly remained opaque in their reasoning and failure to accept reasonable alternatives. Were this an application entirely in the new, i.e. no works had been carried out prior to this application it would be possible to examine alternatives with the planners and landholders in a proper manner. Instead the fact that about half the line (in cost as opposed to distance) has been constructed leads one to assume that the primary criterion is the retention of the unauthorized development, as constructed. The consequence is the effective circumvention of the decision of the High Court, leaving the unpermitted line in place "as is" and simply carrying on from the point at which construction was stopped.

It is significant that in this 'Grant of Conditional Permission' there is no 'condition' to monitor or insist on the removal of the existing works. This is tantamount to giving permission to do absolutely nothing save complete what has already been constructed.

It was explicity stated in the decision from An Bord Pleanala permitting the wind farm at Derreenacrinnig that there was not an implied or extant planning permission for the grid connection. Despite the Planning Authority having subsequently confirmed to the ESB by correspondence that the grid connection was not 'Exempted Development', the ESB started work on construction of the grid connection, ignored the first correspondence from the Planning Authority and carried on until a 'Notice to Cease' was given. It is worthy of note also that it took more than five months between the initial report that unauthorised construction had begun and the cessation of works. Indeed when the first telephone report was given to the planning department there were only seven (7) poles standing and were action expedited by the Planning Department at that stage the entire question of the route and method adopted for the

grid connection could have been considered without the undoubted cost that has been involved now.

This whole affair has made a mockery of the planning process. By their own actions the ESB and or the Developer have created (aided by the tardiness demonstrated by the County Council Planning Department) this absurd situation. They have conflated the application to rebuild the as constructed portion and complete the grid connection with an application to remove it. Therefore since the already constructed portion has been determined to have been constructed illegally, they are now seeking permission to remove it! The County Council Planning Department can hardly refuse permission to remove an unpermitted development so therefore they could not refuse this planning application. The Developer/ESB has demonstrated a breathtaking reluctance to comply with planning law, thereby rendering the entire process deeply flawed. What is needed here is proper enforcement of the planning acts as has been done in the cases reported locally and appended below. Only then would an application for planning permission on the route they have chosen be able to be properly judged on its' merits instead of being overshadowed by other considerations. It was always open for the existing unpermitted works to have been removed to expedite the second half of this planning application if time is of the essence.

The implicit conclusion being that the Law can be ignored by the ESB at will. It is incumbent on An Bord Pleanala to ensure that the law is equally applied to all and sundry as it has been in the two cases exampled in the appendices. There is the case of two nuns who were occupying some sheds which had not been given planning consent, which ended by order of the District Court in Skibbereen in 2020. Another case concerned the unauthorized extension by Ms Fiona McCarthy to a small timber chalet at Tragumna which was required to be totally demolished earlier this year 2022.

The shortcomings that flow from this grant of Planning Permission are of a magnitude to render the decision null and void, and as such, I request that the Board overturn the grant by the Planning Authority and refuse permission for this development.

PLANNING APPEAL – ESB OVERHEAD LINE

APPENDIX

Receipt for payment of observation by Ian Collins

Issuing Authority: Cork County Council

Date of Receipt: 25/11/2021

Address: Maulakieve, Bantry, Co. Cork.

Copies of Correspondence with Cork County Council reporting unauthorized development

Copies of articles in local newspaper regarding previous enforcement actions by CCC

Re CCC 21/737

23 Low Telephone

Environment Section 028 40340

Philippa O'Sullivan

Bernadette Collins compl Irene MAWE

---

26 Nov 2017

I wish to inform you that there has been work undertaken on the overhead power line to connect the (permitted 10/857) wind farm at Derreenacrinnig to the ESB substation at Ballyhickey without planning permission having been granted. This construction requires permission and there needs to be an opportunity for public participation in the process. Furthermore because it is part of a project which required an Environmental Impact Statement (EIS) it too will require an EIS to accompany the application for planning permission. This ~~closed~~ connection cannot be ~~exempted~~ from needing Planning Permission and I await your reply detailing your proposed course of action in this matter

Re CCC 21/737

Comhairle Contae Chorcaí
Cork County Council

Rannóg Pleanála, Teach Norton,
Bóthar Chorcaí, An Sciobairín,
Co. Chorcaí P81 AT28.
Fón: (028) 40340 • Faics (028) 21660
Suíomh Greasain: www.corkcoco.ie
Planning Section, Norton House,
Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie

Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

Date: 04/12/2017 ***Ref: SKB170054***

Re: ***George O'Mahony,***
Alleged unauthorised erection of 20KV overhead power line connecting windfarm to Ballylickey sub station at Multiple Townlands - Derreenacrinnig West, Drimoleague, Co. Cork.

Dear Sir,

I wish to acknowledge receipt of your representation received on 28/Nov/2017 concerning the above mentioned alleged unauthorised development.
It is considered that the level of information provided in the complaint is insufficient for the Planning Authority to carry out a reasonable investigation into the matter.

You are therefore requested to submit the following information:

1. Please submit maps showing the location of the development/s being carried out.
2. Please submit a description and nature of the development being carried out.
3. If possible please submit photographic evidence of the development.
4. Any other information which may be helpful to the Planning Authority when carrying out an investigation of the alleged unauthorised development, such as commencement dates, persons carrying out the works etc, should be forwarded to the Planning Authority when possible.

PTO

Recycled

Please quote Ref. No. SKB170054 in any correspondence or direct contact with the Enforcement Section.

Yours faithfully,

Bernadette Collins

Bernadette Collins
Enforcement Section
Planning Department

Cork County Council
Enforcement - Planning

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Re CCC 21/737

Comhairle Contae Chorcaí
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Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie

Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

Date: 16th May 2018 ***Ref: SKB170054***

Re: George O'Mahony/Dreenacreenig West Wind Farm Limited
Alleged unauthorised 20KV electrical connection between Derreenacrinnig West Windfarm and existing substation at Ballylickey comprising of overhead power line and power cable ducted underground

---

Dear Sir,
With reference to the above and previous correspondence thereon, I wish to inform you that two further warning letters were issued on 3rd May 2018 in respect of this matter to:

- ESB Networks Ltd., Sarsfield Place, Wilton, Cork.
- ESB Networks Designated Activity Company, Clanwilliam House, Clanwilliam Place, Dublin 2, D02 KR90.

You will be advised of any further action by the Council in due course.

Please quote Ref. No. SKB170054 in any correspondence or direct contact with the Enforcement Section.

Yours faithfully,

Bernadette Collins

Bernadette Collins
Enforcement Section
Planning Department

Recycled

Re CCC 21/737

Comhairle Contae Chorcaí
Cork County Council

Rannóg Pleanála, Teach Norton,
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Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie

Ian Collins,
Maulakieve,
Bantry,
Co. Cork.

Date: 14th March 2018 ***Ref: SKB170054***

Re: George O'Mahony/Dreenacreenig West Wind Farm Limited
Alleged unauthorised 20KV electrical connection between Derreenacrinnig West Windfarm and existing substation at Ballylickey comprising of overhead power line and power cable ducted underground

---

Dear Sir,
With reference to the above and previous correspondence thereon, I wish to inform you that two warning letters are being issued today in respect of this matter. You will be advised of any further action by the Council in due course.

Please quote Ref. No. SKB170054 in any correspondence or direct contact with the Enforcement Section.

Yours faithfully,

Bernadette Collins
Enforcement Section
Planning Department

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Southern Star Sat 29 Oct. 2022 P10. Re CCC 21/737

Court-ordered demolition of Trag chalet is nearly finished

A DISTRICT court judge told a school teacher that the opprobrium she suffered following the publication of her case in the local and national press was probably punishment enough.

Judge James McNulty made the remark at Skibbereen District Court when he gave Fiona McCarthy of Bawnlahan, Tragumna, the benefit of a conditional discharge after she failed to comply with an enforcement notice service on her by Cork County Council.

The notice required her to demolish a building that had been constructed on a small plot of land at Tragumna.

Donnchadh McCarthy, the barrister for Cork County Council, said an old timber chalet had been increased in size from 30 metres squared to 40 metres squared, just 2.5m from a neighbouring property. He said planning permission had been refused by Cork County Council and An Bord Pleanála, and that a retention application had also been refused. He confirmed that the demolition work was substantially complete, all that was left for the defendant to do was to remove a small amount of timber decking and re-seed the grass.

In mitigation, Liam O'Donovan, solicitor, said his client had pleaded guilty to the offence and rectified matters. He said his client would also comply with the court order to pay the Council's costs and expenses of €6,452.

Judge McNulty said it was clear Ms McCarthy had 'overstepped the mark and failed to get the message' before complying with the order. He imposed a conditional discharge under the Probation Act. It requires the defendant to enter a bond to be of good behaviour for the next two years.

RE CCC. 21/737

JULY 1ST, 2022 11:45 AM
BY SOUTHERN STAR TEAM

The court in Bantry heard that the small dwelling is not currently in use, at Tragumna. (Photo: Shutterstock)

SHARE THIS ARTICLE

CORK County Council has served an enforcement order on a woman from Skibbereen who replaced a small timber shack at Tragumna with a small dwelling.

Cork County Council brought proceedings against Fiona McCarthy of Bawnlahan, Tragumna, Skibbereen, for failing to comply with an enforcement notice.

Fiona McCarthy was legally represented by Liam O'Donovan, solicitor, who requested a short adjournment to Bantry District Court on Thursday June 23rd.

Mr O'Donovan said his client was pleading guilty to the offence and he pointed out that the property is currently not being used by her.

step.

The final step to which he referred was the Council's enforcement notice to completely demolish the property to ground level.

The enforcement notice also requested that Fiona McCarthy would remove all demolished waste and building matter from the unauthorised dwelling.

Finally, the Council enforcement notice specified that she must remove the underground wastewater treatment tank and associated piping and backfill.

Photographs of how the old shack appeared on the small parcel of land in October 2009 were produced as evidence. And a second photograph – taken in July 2019 – showing a vastly different and unauthorised dwelling was handed in to the judge.

Mr O'Donovan said attempts were made to 'regularise' the situation but applications made to the Council for retention were declined.

The barrister appearing for Cork County Council said the green chalet, or shack, had been increased in size from 30 metres squared to 40 metre s squared and was taller by 1.5m.

He also said the dwelling was now just 2.5m from a neighbouring property.

The barrister said the dwelling was refused permission by Cork County Council and An Bord Pleanala and a retention application was refused.

'The Council is adamant it has no planning,' said the barrister who informed the court that there are also two sets of costs outstanding in the sums of €329.50 and €609.50.

Re CCC 21/737

NEWS

Leap nun's planning case is adjourned to June

MAY 16TH, 2020 7:05 AM
BY JACKIE KEOGH

Mother Irene, left, and Sr Anne Marie, in Skibbereen for an earlier District Court hearing.

THE case brought against a nun for breach of planning in Leap has been adjourned to June 23rd.

Last December, Judge James McNulty adjourned the case against Mother Irene Gibson – who is one of two nuns living at the development at Corran South – to the April 28th sitting of Skibbereen Court for the imposition of penalty.

On that occasion, the nun contested claims by the prosecutor, Cork County Council, that she was in breach of an enforcement order served on her on July 24th 2018.

Judge McNulty rejected her submissions that the development – which by that stage consisted of three wooden huts – was temporary and therefore exempt from planning.

NEWS NOV, 2022
Permanent wild-flower meadow planned by...
READ MORE

Judge McNulty told her that the local authority had 'a duty to put a stop to unauthorised development.'

When the case was called at Skibbereen court, last Tuesday, there was no appearance for either the prosecutor or the defendant.

The court clerk, Len MacCarthy, confirmed to Judge John King, presiding, that he had advised the Council that 'attendance was not required due to Covid-19 restrictions.'

Judge King adjourned the case to the June 23rd sitting of the District Court in Skibbereen.

SPORT
Darragh McElhin Nicola T

NEWS
Perman wildflow meadow

SPORT
Skibber Finn pov Cork Scu

Re CCC 21/737

Nun: Council was 'vindictive' and 'petty' over sheds

DECEMBER 16TH, 2019 7:19 AM

BY JACKIE KEOGH

Mother Irene, left, and Sr Anne Marie, with the Child of Prague, in Skibbereen on Tuesday.

A WEST Cork nun who believes she was harshly prosecuted by Cork County Council for planning breaches, said she now has no choice but to relocate to a donated 'fixer-upper' in East Cork.

At Skibbereen Court on Tuesday, after respectfully asking that their Child of Prague statue (being carried by the nun) be removed from the court, Judge James McNulty told the accused, Mother Irene Gibson, that she was not unfairly treated by the Council.

He said the local authority has a duty to put a stop to unauthorised development and he convicted her of being in breach of an enforcement order served on her by Cork County Council on July 24th 2018, but he adjourned the implementation of penalty to April 28th.

Judge McNulty refused to allow Sr Anne Marie – the only other member of the Carmelite Order of The Holy Face, based at Corran South in Leap, to act on behalf of Mother Irene, because Sr Anne Marie was not charged with any offence. But he did allow her to give evidence as a witness, and to assist Mother Irene in a technical defence.

PTO Cont:-

Sr Anne Marie claimed that the bulk of the work done at the site – the building of seven wooden cells and the placing of a temporary, wooden oratory on a concrete base – was 'exempted development.'

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Referring to the Council's own Planning and Development Regulations 2001, she argued that planning permission is not needed for 'temporary on-site accommodation' for people working on a site.

She said their 8ft by 10ft wooden cells have no electricity, running water, flush toilets, showers and no phone, and it would 'take a great imagination or an unreasonable ill-will for anyone to consider these sheds as anything but temporary accommodation'.

Mother Irene said these cells were in keeping with their intention of living 'a simple and frugal life' and without them they would be 'homeless'.

Sr Anne Marie accused the Council of being 'vindictive and petty tyrants' to such an extent that the nuns have decided to cut their €75,000 losses and 'move on.'

Patricia Murphy, solicitor for the Council, pointed out that regardless of pre-planning meetings, lengthy correspondence, site visits, and the Council's refusal of 'retention', the nuns – instead of ceasing development – actually accelerated it, and were guilty of six planning violations, namely: the creation of unauthorised access; a large wooden shed; seven pods or cells; an inappropriate fence and signage; a large concrete base for two structures; and a flat-roofed two-storey structure.

The nuns submitted that there are now just three cells – two for habitation and one kitchen – as well as a red, storage shed, containing all their worldly possessions, but the structures will be gone before the two women relocate to East Cork next April.