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SECTION 131 FORM

Appeal No

ABP- 321285

Defer Re O/H

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Having considered the contents of the submission dated/received 16-12-24 from Anne Boland I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

no new material planning issues

Section 131 not to be invoked at this stage.

[Checked box]

Section 131 to be invoked — allow 2/4 weeks for reply.

[Empty box]

Signed

Liz Clore

EO

Date

15-01-25

Signed

[Empty box]

SEO/SAO

Date

[Empty box]

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

[Empty box]

Task No

[Empty box]

Allow 2/3/4 weeks

BP

Signed

[Empty box]

EO

Date

[Empty box]

Signed

[Empty box]

AA

Date

[Empty box]



Planning Appeal Online Observation

Online Reference  
NPA-OBS-004081

BPLCO  
FO ISSUE ✓  
AM 31.12.24

Online Observation Details

Contact Name  
Anne Marie Boland

Lodgement Date  
16/12/2024 00:47:48

Case Number / Description  
321285

Payment Details

Payment Method  
Online Payment

Cardholder Name  
Anne-Marie Boland

Payment Amount  
€50.00

Processing Section

S.131 Consideration Required

Yes — See attached 131 Form

N/A — Invalid

Signed

*Ruseo*

Date

20/12/24

EO

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG- 076839-24 .

Reason for Refund

Documents Returned to Observer

Yes  No

Request Emailed to Senior Executive Officer for Approval

Yes  No

Signed

Date

EO

Finance Section

Payment Reference

ch\_3QWSTQB1CW0EN5FC1JDTJZ3U

Checked Against Fee Income Online

EO/AA(Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date

Kilbane  
Broadford  
Co Clare

15 December 2024

Dear Sir/Madam

**RE: Bord Pleanala Case Reference PL03.321285**

**EDF Renewables In the Townlands of Kilbane, Killeagy (Ryan), Shannaknock, Killeagy (Stritch), Killeagy (Goonan), Ballymoloney, Magherareagh and Lackareagh Beg, Co. Clare.**

I wish to lodge my objection to the EDF Renewables request for an appeal of the decision of Clare County Council. My concerns relating to this proposed industrial construction are outlined below:

#### ***Watercourses***

While the proposed wind farm site itself is not within a designated conservation site, its proximity and hydrological connectivity to several Special Areas of Conservation (SACs), Natural Heritage Areas (NHAs), and Special Protection Areas (SPAs) downstream pose significant concerns for water quality and ecosystem integrity that cannot be ignored. Mitigation measures proposed by the applicant in no way alleviate the risk to the downstream bodies.

The majority of surveyed watercourses in vicinity of the Proposed Project site were evaluated by the applicant as locally important given the presence of aquatic species of high conservation value and or  $\geq$ Q4 (good status) water quality. Of note is the presence of Q4-5 (high status) biological water quality at sites on the Kilbane Stream and Ardclonny River. High status waterbodies continue to decline significantly in Ireland (Trodd et al., 2022) and thus these watercourses require strict protection, the proposed construction works will result in significant impacts through siltation, enrichment and or hydrocarbons.

Several scientific studies and reports underline the potential impacts of wind farm developments on water quality and hydrology, especially in ecologically sensitive areas such as the proposed site of this large industrial size construction.

#### **Groundwater and Hydrology Alterations:**

This wind farm construction and operation is likely to disrupt groundwater flow regimes, including changes in infiltration, surface runoff patterns, and groundwater storage due to physical infrastructure construction, turbine foundations and access roads.

In Chapter 8 Land, Soils and Geology, MKO Planning and Environmental Consultants state that

- *Where practical, the surface of the placed spoil is shaped to allow efficient run-off of surface water.*
- *Where possible, shaping of the surface of the spoil will be carried out as placement of spoil within the area progresses.*

This first bullet point is too vague and lacks clarity on what constitutes 'practical' conditions, potentially leading to inconsistent application or insufficient mitigation of surface water runoff. The second suggestion that 'shaping of the surface of the spoil will be carried out as placement of spoil within the area progresses' this approach does not provide a clear, definitive plan or timeline for shaping the spoil and raises concerns about the adequacy of runoff management over time and the potential for environmental issues if shaping is delayed or insufficient.

## 2. Sedimentation and Contamination Risks:

During construction, earthworks and drainage activities can introduce significant risks of sedimentation and contamination to nearby watercourses. Disturbance of soils, especially on upland or peatland sites, can lead to increased sediment loads in streams and rivers, adversely affecting water quality and aquatic habitats. Pollution from fuel, oil, or building materials used during construction further exacerbates these risks.

MKO Consultants state that the works will result in the disturbance and relocation of ~41,010m<sup>3</sup> of peat/topsoil and 148,983m<sup>3</sup> of spoil during construction.

Excavation of peat, subsoil and bedrock will be required for the proposed works during the construction phase including:

- The installation of new proposed access roads and the upgrade of existing site access roads will require the excavation of 13,179m<sup>3</sup> of peat/topsoil and 14,375m<sup>3</sup> of spoil materials;
- Construction of 7 no. turbine foundations and associated turbine hardstands will require the excavation of 20,597m<sup>3</sup> of peat/topsoil and 114,195m<sup>3</sup> of spoil;
- Construction of 1 no. met mast will require the excavation of 242m<sup>3</sup> of peat/topsoil and 173m<sup>3</sup> of spoil;
- Construction 1 no. onsite 38kV substation and BESS compound will require the excavation of 2,225m<sup>3</sup> of peat/topsoil and 13,340m<sup>3</sup> of spoil;
- Excavation of the proposed borrow pit will require the removal of 1,438m<sup>3</sup> of peat/topsoil and 5,750m<sup>3</sup> of spoil;
- Construction of the temporary construction compound will require the removal of 966m<sup>3</sup> of peat/topsoil and no spoil; Insertion of the Proposed Project drainage network; and

According to the submitted Aquatic Baseline Report, Salmonids were present at 11 no. sites in total, with Brown trout present at 11 of these (i.e. A7, A9, A10, A11, A13, A14, A15, A16, B1, B2 & B3) and Atlantic salmon present at 5 no. sites on the Broadford River (A15 & A16) and Ardclony River (B1, B2 & B3). European eel was also relatively widespread in the survey area and were recorded in low densities from a total of 7 no. sites on the Broadford River (A7, A14 & A16), Kilbane Stream (A11 & A13) and the Ardclony River (B2 & B3). These species water habitats need to be protected.

The hydrological flowpaths linking the proposed wind farm to sensitive habitats highlight the risk of water contamination and sedimentation during both construction and operation phases. Key areas of concern include:

- Doon Lough NHA (Site Code: 000337) – Located approximately 5km west of the proposed wind farm site, this NHA comprises a raised bog with wetlands, woodlands, lakes, and marshes, all of which are highly sensitive to changes in water quality. The wind farm site is connected hydrologically to this NHA via the Glenomra and Broadford rivers, with a flowpath distance of around 6.4km. Any potential release of

sediment, chemicals, or pollutants from the construction activities could flow into this fragile ecosystem, causing damage to both water quality and habitats.

- Danes Hole, Poulnalecka SAC/pNHA (Site Code: 00030) – This site, located approximately 8km southwest of the proposed site, is a critical winter hibernation and mating area for the Lesser Horseshoe Bat. The hydrological link through the Broadford and Owenogarney rivers increases the risk that water contamination from the wind farm could affect this sensitive species' habitat.
- Lower River Shannon SAC (Site Code: 002165) – Spanning over 120 km and located 19km from the proposed wind farm site, this SAC supports several important habitats listed in Annex I/II of the Habitats Directive. It is hydrologically connected to the wind farm via the Owenogarney and Broadford rivers, with a flowpath of around 29.24km. Polluted runoff from the wind farm could flow downstream into this SAC, potentially affecting the water quality and threatening both aquatic ecosystems and wildlife that depend on clean, undisturbed water sources.
- Fergus Estuary and Inner Shannon North Shore pNHA (Site Code: 002048) and River Shannon and Fergus Estuary SPA (Site Code: 004077) – Located over 20km downstream from the proposed wind farm site, these estuarine systems are critically important for biodiversity and provide habitat for numerous bird species. Any degradation of water quality upstream due to construction-related runoff, sedimentation, or accidental spills would have far-reaching consequences for these designated areas. The estuaries and rivers are particularly vulnerable to pollutants, which could disrupt the ecological balance and endanger the species they support.

Studies highlight the vulnerability of high-status watercourses, such as those with Q4-5 biological water quality, to siltation and enrichment. These impacts pose serious threats to fish populations like salmonids and eels, which are sensitive to water quality changes. Declines in high-status waterbodies in Ireland make these habitats particularly important for conservation.

The hydrological connectivity between the proposed site and the downstream conservation sites increases the likelihood of indirect but severe impacts and cannot be ignored. Changes to drainage patterns, increased sedimentation, and potential chemical runoff during construction activities are all substantial and likely risks. In particular, peat soils often found in bog environments can be highly susceptible to erosion and waterlogging, further exacerbating the likelihood of sediment-laden runoff entering watercourses.

Wind farm developments are known to disturb natural water flow, especially during ground clearance and turbine construction, leading to a high potential for erosion, siltation, and pollution. These impacts are difficult to mitigate effectively, the ecological integrity of downstream SACs, NHAs, and SPAs depend on maintaining water quality and natural hydrological regimes, and any deterioration in water quality could have long-lasting, irreparable effects on these ecosystems. The proposed mitigation and risk assessment conducted by the applicant are not robust enough given the scale of the project and the sensitive nature of the hydrologically linked sites, and are contrary to the proper planning and sustainable development of the area.

### ***Bird Species`***

The proposed industrial wind farm will be located in an area where several vulnerable bird species have been recorded, including records from the limited recording by MKO consultants provided on behalf of EDF. The proposed site is a habitat for a range of bird species listed under national and international conservation frameworks, many of which are highly sensitive to wind farm developments. The specific bird species afforded protection

under Annex I of the EU Birds Directive (2009/147/EEC recorded on the site and of concern include:

- Hen Harrier (*Circus cyaneus*) – Listed in Annex I of the EU Birds Directive, the Hen Harrier is a species of international conservation concern. Its habitat is protected, and any disturbance or potential risk of mortality from wind turbines would pose a significant threat to this already vulnerable species.
- Peregrine Falcon (*Falco peregrinus*) – Also listed in Annex I of the EU Birds Directive, the Peregrine Falcon is another species of high conservation importance. The risk of collision with turbines is particularly concerning for this raptor species, which depends on large, undisturbed areas to hunt and breed. In addition there are breeding Peregrines roughly 1km East of Broadford – the nest site is 3.8km from the boundary of the proposed development.
- Barn Owl (*Tyto alba*) – Red-listed by the Birds of Conservation Concern in Ireland (BoCCI), the Barn Owl is facing considerable population declines. Wind farm developments pose a serious risk to its survival, particularly through habitat disruption and increased collision risks.
- Kestrel (*Falco tinnunculus*) – Another BoCCI Red-listed species, the Kestrel has experienced significant population decreases in recent years. The installation of wind turbines threatens to further exacerbate these declines through habitat loss and collision mortality.
- Red Grouse (*Lagopus lagopus*) – This species is also on the BoCCI Red List due to its vulnerability in Ireland. The presence of a wind farm could disturb the Red Grouse's breeding and foraging areas, leading to further population decreases.
- Snipe (*Gallinago gallinago*) – As a BoCCI Red-listed species, the Snipe's presence in this area indicates the importance of preserving its wetland habitat. Wind farm construction may negatively affect these sensitive environments, leading to a decline in the species.
- Buzzard (*Buteo buteo*) – Buzzards are identified as a species sensitive to wind farm developments, especially due to their soaring flight behavior, which increases the risk of collision with turbine blades. The potential for disturbance and habitat displacement further endangers this species.
- Sparrowhawk (*Accipiter nisus*) – Like the Buzzard, the Sparrowhawk is highly sensitive to wind farm developments. Its hunting patterns and territorial behavior may put it at risk of collision, while disturbance during construction and operation of the wind farm could negatively affect its local population.
- Curlew *Numenius Arquata*, The Curlew is one of Ireland's most distinctive birds and it is a red-listed species under the Birds of Conservation Concern in Ireland and is Ireland's only species on the IUCN red list of endangered species.

Other species recorded by MKO Associates on behalf of the applicant included Long-eared Owl *Asio otus*, Golden Plover *Pluvialis apricaria*, Cormorant *Phalacrocorax carbo*, Goldeneye *Bucephala clangula*, Greater White-fronted Goose *Anser albifrons*, Kingfisher *Alcedo atthis*, Knot *Calidris canutus*, Lapwing *Vanellus vanellus*, Little Egret *Egretta garzetta*, Tufted Duck *Aythya fuligula*, Woodcock *Scolopax rusticola* and a long list of non-target species were also included including birds such as the Cuckoo

Wind farms are known to pose significant risks to bird species through direct collisions, habitat loss, and disturbance during both the construction and operational phases. Raptor species, in particular, are highly susceptible to these risks due to their hunting and flight

behaviours. Moreover, the presence a number of Red-listed species further emphasizes the critical need for careful consideration of the ecological impacts of this development. Given the presence of these vulnerable bird species, this proposed industrial wind farm construction needs to be rejected. The ecological importance of this site cannot be overstated, and the potential consequences of disrupting these habitats could lead to further population declines or local extinctions of species already under significant pressure.

Whilst the proposed site is located in a non-designated area, it is an important foraging and nesting habitat for a number of red listed birds and the proposed development would, I believe have significant adverse impacts on the above species and therefore on the ornithological importance of this area by way of disturbance and displacement of protected bird species as well as the potential for bird strikes. This proposed industrial wind farm would, therefore, be contrary to the proper planning and sustainable development of the area and its rejection by Clare County Council should be maintained by An Bord Pleanála.

### **Bat**

Bat species are protected under the Wildlife Act, 1976 to 2018 and are subject to strict protection pursuant to the requirements of the Habitats Directive (92/43/EEC). All Irish bats are listed in Annex IV of the Habitats Directive and the lesser horseshoe bat *Rhinolophus hipposideros* is further listed under Annex II requiring designation of Special Area of Conservation for the species.

In the correspondence from National Parks and Wildlife, the applicant is advised to of the new research on patterns of bat activity in upland wind farms which indicates it is more appropriate to use 30 day survey periods with static automated detectors, in each season, and in different weather conditions to reduce sampling bias. The survey should include use of detectors at different heights.

In their documentation MKO consultants state “ *All recommendations by the Department were fully considered in the design of the bat surveys and the preparation of this report*” . However, it would appear from the information provided that while they considered the recommendations, they did not adopt them.

In addition, there was a loss of data in the initial spring deployment, and a statement that it was not possible to be analysed due to gappy continuity, while additional detectors were deployed information from some seasons were not available, and information was recorded with little variation in the weather. This loss of data during the initial spring deployment poses significant problems for the bat survey, particularly in terms of the reliability and validity of the results. First, the inability to analyze data due to 'gappy continuity' undermines the consistency of the survey, potentially leading to incomplete or skewed conclusions about bat activity and behaviour. Bat populations can vary in activity depending on seasonal and environmental factors, and missing or incomplete data from certain seasons means that critical insights could be lost, leaving the study's conclusions less representative of the full range of conditions.

Furthermore, while additional detectors were deployed, the absence of some seasonal data is problematic because it creates gaps in the overall picture of bat presence, migration patterns, or behaviour throughout the year. In ecological studies, understanding seasonal variations is crucial, and without comprehensive data, it becomes challenging to draw accurate, long-term conclusions about bat populations or their habitat use. Bats are highly sensitive to weather patterns, and the absence of diverse weather data means the survey might not capture critical behavioural changes under varied conditions, such as temperature fluctuations or changes in precipitation, which are essential for understanding their

ecological needs." The significance of having continuous, complete, and varied data to ensure the survey accurately reflects bat activity and behaviour across different conditions, and the missing data compromises the integrity and value of the study and is reflective of the approach taken for this environmental survey which appears to be surface-level, rather than in-depth overall.

Bats are directly impacted by onshore wind turbines through collision with the turbine blades or injuries from air pressure changes around the blades. Indirectly, bats are impacted by wind farm development through loss and fragmentation of their habitats

The following high-risk species were recorded during the limited survey carried out by MKO consultants on behalf of the applicant: Leisler's bat, Common pipistrelle, Soprano pipistrelle, Nathusius' pipistrelle, the lesser horseshoe bat.

Leisler's bat is classified as a high risk species in relation to wind turbines as it is a high flier which potentially brings it into direct risk of collision with wind turbines. which travels considerable distances (up to 13.4km has been recorded in Ireland, Shiel et al. 1999) between roosts and foraging areas.

The lesser horseshoe bat distribution in Ireland is confined to six west coast counties: Mayo, Galway, Clare, Limerick, Cork and Kerry. Lesser horseshoes rely on linear landscape features (e.g. treelines, stone walls and hedgerows) to navigate and commute from roosts to feeding sites and seldom fly out in the open. This species forages on flying insects predominantly in deciduous woodland and riparian vegetation, normally within a few kilometres of their roosts and was recorded by MKO in their survey of the site area.

Median Bat Activity for brown long-eared bat while recorded on the proposed site was recorded by the consultants as low in comparison to other species recorded, however it was recorded throughout the site during all three seasons and was found to be widespread across the whole site. The overall status of this species is assessed as inadequate and declining and this industrial wind farm construction will only lead to the decline of suitable habitat for it as well as increasing risk level for collision with the turbines. The Bat Mitigation and Monitoring Plan is wholly inadequate.

### **Hedgerows and Trees**

Hedgerows, treelines and stone walls have all been assessed as being of Local importance (Higher Value) as these linear habitats provide connectivity to the wider landscape and provide supporting habitat for a wide variety of faunal species.

According to MKO consultants, in order to facilitate construction of the Proposed Wind Farm there will be **some loss** of hedgerow, stone walls and earth banks and treeline habitat within the site.

There will be a permanent loss of approx. 2104.2m of native hedgerow (and associated stone walls), 247.2 of native treeline and 0.05ha of linear broadleaved woodland to accommodate the footprint of the Proposed Wind Farm, including turbines, wind farm roads and other infrastructure. This does not include the trees and hedgerow that will be removed as part of the proposed widening of the local roads to facilitate movement of large vehicles to support the construction of this commercial venture.

It is claimed that the loss of trees and hedgerow will be mitigated through the establishment and enhancement of planting comprising native broadleaved trees, shrubs and hedgerow habitat within the Proposed Wind Farm site.

According to the consultants , planting will be of semi-mature specimens to ensure connectivity is immediate and will be of local provenance. However, they state that where semi-mature specimens cannot be obtained **then fast-growing species such as Willow may be supplemented**. This is not acceptable, as its most likely that the cheaper alternative will be used and the broadleaved trees that have been growing for generations once felled will never be replaced. Again, no detailed commitment to replace like with like. More loss of habitat and biodiversity for our community.

There is inadequate mention of the proposed management/control of the invasive plant species identified in the footprint of this site.

### **Traffic management and road closures**

The increase in traffic does not take into account the cumulative effect of other planning permission granted to nearby wind farms who will be using sections of the same road infrastructure.

The alternative routes for the Kilbane area are not satisfactory and are suggested without proper consideration of the suitability of these routes and must have been another one of the desktop studies that MKO appear to have carried out for a number of elements of their EIAR. For example, the proposal to divert traffic L7080 with a diversion route of 19.1km does not take into account the steep gradient of part of this road, the narrowness of the road and the inability of two cars to safely pass in addition to the lack of turning areas. This is not a viable alternative and during certain weather conditions is not a safe alternative. A diversion route of 19.1km along a single track L road four times a day means on a five day week that a person going to school and involved in sport activities will have to travel an additional 80kms per week and a journey which previously took 20 minutes will now take 55minutes ie an additional 2 hours travel per day will be added for the duration of the road closures outside their house which the consultants state could be for up to 40 days. The suggested alternative route for the road closure is obviously proposed by someone who has not travelled the selected route..

The proposal to use a local quarry in the Broadford area is questionable as it is not clear if the appropriate licence is in place. I question the proposed route that these deliveries will use, the report and maps are contradictory. If the deliveries will travel through the village of Broadford, they will be going over two protected structures and MKO do not appear to have taken these protected structures into consideration when proposing the route for the 'local quarry'. In addition, the effect of the 350 days when we are enduring the proposed construction groundworks, and there are an additional PCUs travelling to/from the site, the effect of the weight of heavy trucks passing the Kilbane Bridge ( a protected structure) is not taken into account. It also appears that it is proposed that the quarry delivery may be passing over this bridge, which the protected structure record dates as 1740/1760 but the MKO incorrectly records as circa 1850 .

The traffic management is wholly inappropriate and the constant passing of heavy trucks and equipment on local roads is not safe. The effect on air quality, noise, dust and dirt generated for those living in the area is completely discounted by the applicants as inconsequential.

### **Visual impact**

This proposal would result in a considerable and unacceptable adverse visual impact upon this upland environment. The siting of this development at the proposed location would constitute a highly obtrusive development that would detract from the existing natural

character of the area, would undermine the setting of this unspoilt area and would erode the landscape and visual quality of this rural area and compromise the scenic amenities of this visually sensitive and vulnerable area. The proposed wind turbines would, thereby, be excessively dominant features and a visually obtrusive form of development in this landscape, and would seriously injure the landscape and visual amenities of the area.

The East Clare Way is a 172km circular route that passes very close to this proposed wind farm. The profile of recreational activities in this area is landscaped based – walking, cycling and other outdoor activities, and the protection and management of the landscape character must be as much about protecting the physical context of the landscape features as it is about the protecting the cultural aspect.

This proposed wind farm will have a detrimental effect on the landscape character of the area, destroy a habitat, effect biodiversity and local water supplies and overall have a negative effect on the ecosystem and will have a which is not outweighed by the energy

The United Nations Intergovernmental Panel on Climate Change (IPCC) in their publication climate change and land use highlight the need to be cautious of the location of renewable energy installations, highlighting that the degradation and destruction of ecosystems by humans increases the vulnerability of people, that land cover change, loss of biodiversity can adversely affect the capacities of ecosystems to adapt to climate change. The repeated suggestion in their documentation that the project will contribute to Irelands targets for renewable energy by 2030 seems to be the only argument given for this construction and apart from the undisclosed monetary benefit to the owners, the information provided in their application does not take into account the destruction by this industrial construction of the habitat within the footprint of the project, the negative effect it will have on the biodiversity in the area, the negative effect on the adjoining areas of SACs and the negative effect it will have on the water quality. The 'claimed' benefit in the case of this application does not outweigh the negative effects it will have on the habitat and environment of the area, and certainly the destruction of both of these contributors to reducing the impact of climate change should not be permitted. I therefore plead with An Bord Pleanála to uphold the decision of Clare County Council to refuse planning permission for this industrial construction.

Yours sincerely

Anne-Marie Boland