

File With

SECTION 131 FORM

Appeal No

ABP— 321285

Defer Re O/H

☐

Having considered the contents of the submission dated/received 16-12-24
from M. Sweeney 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.

☒

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

☐

Signed

Liz Clare

EO

Date

15-01-25.

Signed

SEO/SAO

Date

M

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

To

Task No

Allow 2/3/4 weeks

BP

Signed

EO

Date

Signed

AA

Date



Planning Appeal Online Observation

Online Reference
NPA-OBS-004096

LitapLisa

*BPLD
to issue*

✓ 19.12.24

Online Observation Details

Contact Name
Mike Sweeney

Lodgement Date
16/12/2024 17:22:44

Case Number / Description
321285

Payment Details

Payment Method
Online Payment

Cardholder Name
Michael Sweeney

Payment Amount
€50.00

Processing Section

S.131 Consideration Required

☒ Yes — See attached 131 Form

☐ N/A — Invalid

Signed

Michael Sweeney

Date

19/12/24

EO

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG—*076820-24*

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_3QWi0GB1CW0EN5FC0kp8iJSO

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

Clongaheen

Kilbane

Broadford

Co Clare

I Mike Sweeney with to object to the proposed Wind Farm at Kilbane by EDF case ref 321285, I base my objection on the decision by Clare County Council P24-60411

COMHAIRLE CLARE
CONTAE AN CHLÁIR COUNTY COUNCIL

23rd October 2024

EDF Renewables Ireland Limited
c/o MKO Planning & Environmental Consultants
Tuam Road
Galway
H91 VW84

Ref No.: P24-60411

PERMISSION for development in the Townlands of Kilbane, Killeagy (Ryan), Shannaknock, Killeagy (Stritch), Killeagy (Goonan), Ballymoloney, Magherareagh and Lackareagh Beg, Co. Clare.

A Chara,

I refer to attached notification of the decision to refuse to grant permission for the above development.

Please find attached Determination under Section 177(V) of the Planning and Development Act 2000 (as amended).

Mise, le meas


ANNE O'GORMAN
STAFF OFFICER
PLANNING DEPARTMENT

SCHEDULE

1. The proposal site is located in the Slieve Bernagh Bog Landscape Character Area (LCA), in an area where windfarm developments are 'Open to Consideration'. In accordance with Objective WES10 of the Clare Wind Energy Strategy *wind energy developments in these areas can be considered on a case-by-case basis subject to viable wind speeds, environmental resources and constraints and cumulative impacts.*

Having regard to the location of the site in the more sensitive and scenic area of the LCA (Lackereagh and Glenvagalliagh Mountains), the Planning Authority considers that the proposed turbine structures, by reason of their height (tip height up to 180m), scale and siting on this open, exposed and sensitive upland landscape would constitute a prominent feature on the landscape from both local and long range viewpoints, and would therefore seriously injure the visual amenities of the area. Furthermore, it is considered that the development would be highly visible from, and negatively impact upon, the R466 Regional Road which is a designated Scenic Route and would negatively alter the character of this rural landscape.

Having regard to the foregoing and noting also the significant potential for cumulative impacts arising when the proposed development is considered in-combination with permitted and proposed wind farm development in the surrounding area, it is considered that the proposed development, would contravene Objectives CDP14.2 and CDP14.7 of the Clare County Development Plan 2023-2029 and would be contrary to the proper planning and development of the area.

2. The Planning Authority notes that there is hydrological connectivity between the proposed development site and both the Lower River Shannon SAC, and the River Shannon and River Fergus Estuaries SPA. The majority of the habitats and species for which both European sites are designated are water-dependent habitats and species with requirements for high to pristine water quality.

Having regard to the particulars submitted with the planning application, with particular reference to the peat and spoil management proposals, surface water management plans, and the WFD Assessment contained in Appendix 9-3 of the submitted documents, the Planning Authority, as the competent authority in the appropriate assessment process, is unable to conclude, beyond reasonable scientific doubt, that the proposed development will not adversely affect the integrity of downstream European sites. The proposed development would be contrary to Objective CDP15.3 of the County Development Plan and contrary to the proper planning and sustainable development of the area.

3. It is an objective of Clare County Council, under Objective CDP15.12 of the Clare County Development Plan 2023-2029 to *inter alia* to promote the conservation of biodiversity through the protection of sites of biodiversity importance and wildlife corridors, both within and between the designated site and the wider plan area.

Having regard to the importance of the area for multiple bird species, as evidenced by the survey results submitted with the development proposal, it is considered that there is significant potential for cumulative effects through the in-combination effects of other proposed and permitted windfarm developments in the area, all of which contain significant numbers of birds of conservation concern and red-listed bird species.

In the absence of a strategic level cumulative assessment of the impact of the construction of a large number of turbines within one geographical area (66 turbine proposed or permitted), the Planning Authority cannot satisfactorily determine that the proposed development will not give rise to, or contribute to, significant or adverse effects on either the Special Conservation Interests of the Special Protection Areas in the zone of influence of the proposed development, Birds of Conservation Concern or on the Red List.

Having regard to the foregoing, the Planning Authority considers that the proposed development would significantly diminish the biodiversity value of the area, would be contrary to Objective CDP15.12 of the Clare County Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development of the area.

Determination under Section 177V of the Planning and Development Act 2000 (as amended) in relation to whether Planning Application P.24/60411 would adversely affect the integrity of a European site.

I refer to the refusal of permission for the development associated with P.24/60411. In accordance with Section 177V (3) this determination is a record of the planning authorities' conclusion in accordance with the Appropriate Assessment process which was carried out in line with Article 6 (3) of the Habitats Directive and Section 177V (1) of the Planning and Development Act (as amended).

Determination

Having regard to the content of the Planning Application as submitted, the Plans and Particulars of the Application including the Natura Impact Statement together with all internal reports and third-party submissions received, it has been determined that there is insufficient information in terms of the cumulative and in-combination effects of the Proposed Windfarm in conjunction with the proposed and/or permitted windfarms within approximately 25km of the application and the mitigation measures required to avoid, reduce, or remediate the potential for adverse effects, to conclude a finding of no adverse effects beyond scientific doubt as is required under Article 6 (3) of the Habitats Directive.

This determination is made considering the following;

- Having reviewed the Qualifying Interest Features of the Glenomra Wood SAC [001013] and the Lower River Shannon SAC [002165] together with the Special Conservation Interests of the Lough Derg (Shannon) SPA [004058] and River Shannon and River Fergus Estuaries SPA [004077].
- While there is an absence of a direct footprint associated with the works within a European Site, there is a potential for in-direct and adverse effects due primarily to the hydrological connectivity across the landscape to the receiving environment of the River Shannon catchment which has a dual designation as a European Site.
- The finding of no adverse effects on the European sites located downstream of the Proposed Windfarm is based on the findings of each of the individual windfarm applications and their application of mitigation measures. There is no consideration of the cumulative or in-combination impacts arising from each of these windfarms albeit at a lower level which cumulatively could lead to adverse effects downstream.

- There is no analysis, information, or scientific assessment to indicate how this conclusion has been reached. Specifically with respect to the 2 no. windfarms which have been included in the cumulative hydrological study area Clare County Council raised a number of issues with the Fahy Beg application both as part of the environmental assessment and as part of the refusal reasons in the Chief Executives Order. Issues pertaining to noise, the management of the excavated soils and materials on the proposal site, risk to the Qualifying Interests and Special Conservation Interests of the associated European Sites which were inadequately addressed in the NIS amongst others were raised but have not been assessed in the application to hand as part of the cumulative and in-combination effects.

- With respect to bird species, it is difficult to see how the cumulative impact of 66 turbines comprising those already permitted or proposed in conjunction with the current application for 7. No turbines within a 25km radius have been sufficiently assessed within the NIS.
- The NIS talks to each of the previous applications but dismisses the potential for adverse effects to arise individually based on the identification and application of mitigation measures.
- Significant doubt remains as to the cumulative impact of either the construction or operational phase impacts that may arise and lead to significant or adverse effects on the Special Conservation Interests of the associated SPAs.
- With respect to the cumulative assessment of the impacts from the project on water quality having considered the requirements of the Water Framework Directive in terms of achieving at least *Good Status* in all surface and groundwater bodies by 2027 at the latest I am not satisfied that the project as proposed, can achieve this and therefore ensure the absence of adverse effects downstream on the associated European sites.
- This risk is predominantly associated with the identification of Doon Lough (which is an important NHA in Clare) as a *Hydraulic Buffer* which will provide a *dilution effect* to the River Shannon downstream.
- In conclusion, having regard to the Natura Impact Statement submitted as part of the planning application and following review of same I am not satisfied that there is no risk of adverse effects on the integrity of the associated European Sites (either directly or indirectly), alone or in-combination with other plans or projects. The application as submitted contains reasonable scientific doubt which in line with case law precludes the Competent Authority from concluding a finding of no adverse effects.

Signed



Helen Quinn
Senior Planner

23-10-2024.

Mike Sweeney

Clongaheen

Kilbane

Broadford

Co Clare

