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Offices of An Coimisiún Pleanála
64 Marlborough Street
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28 July 2026

Arklow Bank Wind Park Phase 2
ACP Reference: ABP-319864-24

Dear Sir/Madam,

We submit this observation on behalf of individuals from The Environmental Gathering and Rights of Nature movement non-governmental organisations. Although not all of us live directly beside Arklow Bank, we share a legitimate interest in the protection of Ireland's marine environment, meaningful public participation, and the proper application of environmental law.

We are concerned that a very large industrial development is proposed on a shallow and dynamic offshore sandbank close to beaches, dunes, protected habitats and coastal communities.

We support only appropriately scaled renewable energy development that does not cause harm to people, communities, or the natural environment. Our concern is that this proposal fails in protecting these populations and is therefore fundamentally unsuitable for Arklow Bank.

In our view, the additional information submitted by SSE Renewables Sure Partners Ltd has not given the public a clear and reliable assurance that the project will not damage Arklow Bank, the adjoining coastline, wildlife, bathing water, tourism, and/or the natural character of the area.

We are therefore asking the Commission to examine the application from the practical point of view of communities and individuals who depend on the coast remaining undeveloped/unindustrialized, and who expect any developer to prove that serious and/or irreversible harm will not occur before permission is granted.

Furthermore, the public is being asked to examine a technically complex body of revised information within an eight-week consultation period. SSE, by comparison, requested and received a three-month extension to prepare its further-information response. The Aarhus Convention requires reasonable timeframes that allow the public sufficient time to become informed, prepare and participate effectively in environmental decision-making. The imbalance between these two consultation periods raises serious concerns about whether the public has been given a genuinely effective, fair opportunity to read, review, and respond to this body of materials.

The central problem we have is that SSE's conclusions depend heavily upon numerical modelling of an exceptionally dynamic sandbank. A model is a very simplified representation of the natural environment. It cannot reproduce storms, sediment movement, wave direction, interaction or long-term change that may occur over the lifetime of the project.

The effect predicted by the model is very small, but the uncertainty within the model may be greater than that predicted effect: the model cannot reliably support a conclusion of "no appreciable effect".

Commented [CN1]: Just wondering if we should take this out (or revise it), since we are arguing that we don't want development at all, and are rejecting permission be given

Commented [CN2]: I would just include the 'who' here - name 'who' is asking the public, so that the following text makes more sense. (You'll also see that I moved the AC sentence into this paragraph)

Commented [CN3]: Can we qualify 'interaction'?

The precautionary principle must also be applied. It is a recognised principle of EU environmental law under Article 191 of the Treaty on the Functioning of the European Union. Where there is a credible risk of serious or irreversible environmental harm, and the available scientific evidence or modelling cannot establish the consequences with sufficient certainty, uncertainty should not be used as a reason to permit the development. The appropriate response is to prevent the potential harm before it occurs.

The fundamental questions we are asking of An Coimisiún Pleanála are:

What is the probability that SSE's central conclusion is wrong, what would the environmental consequences be if it is wrong, and who would bear the resulting cost?

We are concerned that any negative consequences from the above proposed development would not be borne principally by SSE. Instead, they are likely to be borne by local communities, future generations, the State, and the natural environment through increased erosion, altered sediment movement, irreparable damage to beaches and dunes, deterioration in fresh and oceanic water quality, disturbance and endangerment of critically-listed and protected species, and the loss of important coastal amenities.

Commented [CN4]: Does this in turn cause damage to the dunes, etc?

SSE has also not, in our view, demonstrated with sufficient certainty that the large-scale disturbance, excavation and redistribution of seabed material will not adversely affect water quality or bathing waters, or release contaminants presently contained within marine sediments. Statements that disturbed material will disperse rapidly do not, by themselves, prove that the material will cause no human or environmental harms.

Similar concerns remain regarding piling and underwater noise. The assessment must establish the likely effects on marine mammals, fish, seabirds and coastal communities before permission is granted.

We do not accept that any proposed mitigation should be used to justify damage to a sensitive and dynamic marine environment or to make an unsuitable development appear acceptable. The starting point must be the avoidance of harm, which includes the protection of critical ecosystems, human communities, and environmental and human health. Where adverse effects on protected habitats, species, coastal processes or water quality cannot be ruled out, on the basis of complete and reliable scientific evidence, permission should not be granted under Article 6(3) of the Habitats Directive: [include article wording here]. Measures proposed after the site has been selected cannot necessarily restore losses or remedy disturbance or fragmentation of functioning ecosystems. Monitoring after consent does not itself prevent damage from occurring.

EU law draws a clear distinction between measures that genuinely avoid or reduce harm, and measures intended to compensate for damage after it has occurred. In Case C-521/12, Briels, the Court of Justice of the European Union held that the proposed creation of an equal or greater area of the same habitat did not remove the adverse effect on the integrity of the original habitat. The existence of proposed mitigation or future habitat replacement should therefore not be used to conceal known adverse effects, or to justify development at an unsuitable location.

Commented [CN5]: Great example! Could we add a bit more information here - for example, a brief description of what happened?

The assessment must also consider the cumulative effects of this development alongside other existing and approved offshore developments, such as marine infrastructure, shipping activities, fishing activity, and other pressures affecting the Irish Sea. These impacts cannot and should not be assessed in isolation.

The full climate footprint and resource implications of the project must also be transparently assessed across its entire lifecycle, including the extraction and processing of raw materials, manufacture and transportation of components, seabed disturbance, construction, maintenance, replacement works,

decommissioning and waste management. We regret that this information was not included, or made available, to the public before the consultation period began.

Although arising in a different legal context, the reasoning of the UK Supreme Court in *R (Finch) v Surrey County Council* [2024] UKSC 20 reinforces the need for environmental assessment to consider reasonably foreseeable indirect greenhouse-gas emissions and not merely those arising within the physical boundary of a development. The climate assessment should therefore provide a complete and transparent account of material lifecycle emissions and should not exclude significant impacts simply because they occur elsewhere in the supply chain or at a later stage.

As to the specific area in question: Arklow Bank is a sandbank habitat of a type recognised under Annex I of the Habitats Directive as habitat type 1110, “Sandbanks which are slightly covered by sea water all the time.”

The absence of a formal Special Area of Conservation designation for Arklow Bank does not remove its Annex I status. EU environmental law, and the CJEU’s interpretation of the Habitats Directive specifically, does not permit the degraded state of a protected site to be used as justification for further degradation.

The wider Wicklow and Wexford coastline also contain SACs, SPAs, important bird and marine mammal populations, valuable beaches, and areas of exceptional natural beauty.

The recent (2025) report *The Status of EU Protected Habitats and Species in Ireland* has found that “90% of Ireland’s protected habitats are in ‘unfavourable’ conservation status, while 51% are showing deteriorating trends across their national ranges, which includes sites that are designated as Special Areas of Conservation as well as the wider countryside.” Ireland has also been fined €3.5m by the European Court of Justice for “failing to comply with environmental law”; it is facing EU infringement proceedings for failing to “fully transpose the Single-Use Plastics Directive into Irish law”; has been found to be “in breach of its obligations under EU water protection law” for “serious non-compliances with the EU Water Framework Directive”; and Ireland is also “being taken to the European Union’s highest court for failing to stop illegal peat extraction.”

Given all of these infractions and legal violations, which are likely to cost Ireland millions in fines, granting permission to the current Arklow Bank Wind Park proposal where serious scientific uncertainty remains would be inconsistent with the need to protect and restore nature, and is instead permitting its continued degradation. Ireland, its terrestrial and marine ecosystems, as well as its international obligations, clearly cannot afford more fines and environmental failures.

The above proposal should also be considered in the context of the recommendations of Ireland’s Citizen’s Assembly on Biodiversity Loss, including its call for stronger recognition and protection of the rights of nature. Nature is not confined by planning boundaries, administrative borders or the parameters of numerical modelling. Damage to Arklow Bank could have consequences for interconnected marine habitats, species, coastal processes and communities along the wider Wicklow and Wexford coastline and beyond.

Ireland has one of the largest marine territories in Europe. Importantly, SSE was asked by An Coimisiún Pleanála to consider alternative locations. EU law requires this. However, SSE instead proposed alternative engineering options at the same site, with a small reduction in the number of proposed turbines (from 56 to 53).

Where adverse effects on the integrity of a protected European site cannot be excluded and permission is nevertheless being considered under Article 6(4) of the Habitats Directive, the applicant and competent authority must demonstrate that there are no less damaging alternative solutions, including alternative locations, designs, scales or means of achieving the project’s objective.

Commented [CN6]: Is the Arklow Bank degraded at present? If not, do we need to include this?

Commented [CN7]: This paragraph might need to be moved? Does it sound right here, given what I added?

Commented [CN8]: Requires what? Can we flesh this out a bit?

The application should also be considered in the wider context of growing reliance on industrial scale wind generation and increasing electricity demand. There is a legitimate public interest question as to whether additional generation is meeting existing public need, or if industrial scale wind generation is in fact surreptitiously facilitating new, exceptionally energy intensive developments such as data centres. Increasing demand should not automatically be used to justify further industrialisation of marine and coastal environments without first considering demand reduction, energy efficiency and less environmentally damaging alternatives. Nor should it be used to furtively support other emissions-heavy forms of infrastructure under the guise of 'green' energy and emissions reduction.

EU law requires permission affecting protected European sites to be based upon complete, precise, and definitive findings capable of removing reasonable scientific doubt.

This standard was established by the Court of Justice of the European Union in Case C-127/02 (Waddenzee, 2004), confirmed for Irish planning law in Case C-258/11 (Sweetman v An Bord Pleanála, 2013), clarified in Case C-521/12 (Briels, 2014), and most recently reaffirmed in Cases C-293/17 and C-294/17 (2018).

It is codified in the European Commission's official guidance on Article 6 of the Habitats Directive, published in the Official Journal of the European Union on 28 October 2021.

In June 2023, the Court of Justice of the EU found Ireland guilty of general and persistent infringements of its Habitats Directive obligations.

In April 2026, the European Commission opened further infringement proceedings, specifically for failing to protect marine reefs, sandbanks, harbour porpoise, bottlenose dolphin and eight seabird species.

We request that An Coimisiún Pleanála refuse permission for this project in the present location because the applicant is unable to provide scientifically robust evidence to demonstrate that the project will not adversely affect the Arklow Bank sandbank, coastal processes, fresh and oceanic water quality, protected habitats and wildlife, or the integrity of the adjoining Wicklow and Wexford coastline over the 35-year lifetime of the project.

Kind regards,

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