

James Sweeney

From: McMeel, Heather (Engineering and Major Projects) <heather.mcmeel@esb.ie>
Sent: Monday 13 July 2026 17:21
To: Appeals2
Subject: 323014-25 and 323018-25 - Applicant's Response on Submissions Received
Attachments: 260713_Response to Submissions_37L 323018-25.pdf; 260713_Response to Submissions_Sub Con 323014-25.pdf

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Good afternoon,

I refer to the above applications and, in particular, to correspondence received from An Coimisiún Pleanála (ACP) dated 24th June 2026, requesting ESB to make submissions or observations on the observations received by ACP for both **323014-25** and **323018-25**. Please see attached the Applicant's observations in relation to same.

I would appreciate if you could provide confirmation of receipt of this email.

Kind regards,

Heather

Heather McMeel | Specialist Lead - Planning | Networks Civil & Environmental Engineering | Engineering and Major Projects | ESB
M: 086 176 7511 www.esb.ie
The Sidings, Grand Canal Quay, Dublin 2, D02 E7K8

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An Coimisiún Pleanála
64 Marlborough Street,
Dublin 1
D01 HV902

13th July 2026

**Re: ACP Case Number 323014-25 - Response to Submissions from Martin Collins;
Derrybrien Bog Plot Owners' Society Limited; An Taisce; and Transport Infrastructure
Ireland**

Dear Sir/Madam,

1. Introduction

On behalf of Gort Windfarms Ltd., I refer to the above application and, in particular, to correspondence received from An Coimisiún Pleanála (ACP) dated 24th June 2026, requesting ESB to make submissions or observations on the observations received by ACP from:

- (i) Martin Collins dated 20th August 2025,
- (ii) Derrybrien Bog Plot Owners' Society Limited dated 22nd August 2025,
- (iii) An Taisce dated 22nd October 2025, and
- (iv) Transport Infrastructure Ireland dated 17th October 2025.

It is noted that certain submissions received refer to issues in terms of the use of language as between the documentation submitted under the subject application for substitute consent (ACP 323014-25) and the documentation submitted with the application made under section 37L of the Planning and Development Act 2000, as amended (ACP 323018-25). In responding to the items raised in the submissions on the application for substitute consent, this response refers to documentation as submitted in respect of the substitute consent application under ACP 32014-25 and, only to the extent necessary and appropriate, refers to documentation submitted under the 37L application.

The specific submissions are responded to below.



2. Response to Submissions

2.1. Martin Collins

The submission received from Martin Collins identifies a number of issues arising in relation to the substitute consent application and the planning issues arising from the submission are considered and responded to below.

Issue #1: Community Engagement/Just Transition Fund

Submission: The submission suggests that the Applicant did not engage meaningfully with the local community (*refer page 1, pages 4-7 of the observation*). It is also contended that the Applicant has not put in place a "Just Transition Fund" to support the community (*refer page 1 of the observation*).

Section 2.6 of the Planning Report submitted with the application sets out the details of the consultation and engagement process undertaken in relation to the application for substitute consent. Gort Windfarms Ltd set in place a consultation process that began once the decision to refuse consent issued under ABP-308019-20 (February 2022). A press statement was issued on the 16th of March 2022 to confirm the cessation of generation activity and that the Project would be decommissioned. In advance of submitting the application for substitute consent, a number of steps were taken by or on behalf of Gort Windfarms Ltd. including: (i) retaining an independent Community Liaison Officer (CLO) for the project, (ii) maintaining a dedicated project website (www.Derrybrienwindfarm.ie), (iii) convening a public information event in September 2024, and (iv) informing key stakeholders of the intended application (as outlined in Chapter 2 of the rEIAR). The Applicant has sought to increase public awareness of the application and highlighted the opportunities for third parties to become involved. Full details of the consultation process and issues raised through the pre-planning public consultation phase in relation to the Project are set out in Section 2.6.3 of the Planning Report as submitted with the substitute consent application.

Further, there has been ongoing consultation as part of the statutory development consent process before the Commission.

It is acknowledged that a Just Transition Fund has not been put in place in this instance. It is important to recognise that the Just Transition Fund was created to support communities, particularly in Midlands counties, which are affected by the cessation of electricity generation from peat. In these areas, local economies were heavily dependent on employment provided by Bord na Móna's peat extraction activities and the ESB's peat-fired power generation. As these industries, that had long sustained significant levels

of employment, were wound down, the Fund played an important role in assisting the communities most impacted. However, the decommissioning of an existing wind farm development does not present a comparable economic impact, nor does it carry the same implications for local employment. For those reasons, a Just Transition Fund is not appropriate in this context. However, it is worth noting that ESB has continued to operate a Community Benefit Fund for the Derrybrien Wind Farm, despite the wind farm ceasing commercial operations in February 2022, and ESB has committed to maintaining this Community Benefit Fund until 2028.

Issue #2: Remediation Option

Submission:

The submission states that the Applicant has not attempted to remediate the windfarm site to pre-development condition (pre-2003) (*refer page 1, page 3 of the observation*) and also queries the Alternative Scenarios considered in the rEIAR and the rationale for the retention of specific features on the site (*refer page 7-10 of the observation*).

Response:

As set out in detail in Chapter 3 of the Remedial Environmental Impact Assessment Report (rEIAR), together with Appendix 3-1: *Assessment of Decommissioning Alternatives Report*, a full range of decommissioning options for the wind farm development was examined. These various alternatives were evaluated with regard to land ownership constraints, engineering feasibility, and environmental effects.

It should be reiterated that the overarching objective of the Derrybrien Wind Farm Development Decommissioning Project is to remove the wind farm infrastructure and, insofar as practicable, restore the site in a manner that avoids or minimises potential risks to key environmental receptors. In this context, the option of remediating the site to pre-development (pre-2003) condition is explicitly assessed and assessed in the rEIAR under **Alternative 3** (including emergency works installed during the peat slide) and **Alternative 4** (excluding emergency works). The environmental implications of both alternatives are evaluated in Chapter 3 and its associated appendices. Section 3.5 of the rEIAR sets out the conclusions of the alternatives assessment for each works area and provides the rationale for the preferred option.

Accordingly, the Applicant has considered the option of remediating the windfarm site to pre-development condition, as one of the alternative scenarios considered in the EIAR. However, for the reasons set out in the EIAR, such remediation to pre-development condition is not the preferred approach.



Issue #3: Hen Harrier Habitats

Submission:

The submission states that the Applicant has not attempted to restore Hen Harrier habitat at the site and also refers to information regarding the status of Hen Harrier population in the Slieve Aughty Mountains SPA (*refer page 1, pages 10-12 of the observation*).

Response:

As is evident from section 5 of the Remedial Natura Impact Statement (rNIS) submitted with the application for substitute consent, the assessment has shown that the construction, operational or ceased operation phases of the project or the Retained Development have not had and will not have adverse effects on the integrity of Slieve Aughty Mountains SPA.

With respect to Hen Harrier habitat, the removal of conifer plantation as part of the initial project construction created approximately 255 ha of suitable open upland foraging habitat for Hen Harrier in the Slieve Aughty Mountains SPA. The original felled area within the wind farm site (222 ha) has been partly colonised by self-seeded conifers (approximately 69 ha up to 2021). The cessation of maintenance works will allow self-seeded conifer trees to spread along the road edges, where the slightly drier conditions may be more suitable for growth, and also within the overhead line corridor. However, the spread of self-seeded conifer trees at these locations will proceed at a slow rate and the landscape will retain a largely open character.

In circumstances where plantation forest maturation has been cited by Ruddock et al. (2012) as being possibly partly responsible for the regional decreases in breeding Hen Harriers, the alteration of mature forestry to open habitat has the potential to have significantly positively affected Hen Harrier population within the Slieve Aughty Mountains SPA. As this has been assessed as a positive effect, measures to restore hen harrier habitat are not required.

Issue #4: SEA Directive

Submission:

The submission states that the planning application is not in compliance with the Strategic Environmental Assessment Directive (SEA Directive) 2001/42/EC (*refer page 1 of the observation*).

Response:

The project for which development consent is sought is not a “plan or programme” which is required to be subject to environmental assessment pursuant to the SEA Directive, or the Irish implementing regulations. Article 3(2) of the SEA Directive provides the circumstances in which an environmental assessment shall be carried out in respect of a plan or programme. However, the project for which development consent is sought does not constitute such a plan or programme.

The SEA Directive is not applicable to applications for development consent, including applications for substitute consent (see, for example, *O'Donnell v. An Bord Pleanála* [2023] IEHC 381 at §116-§126, *Ballyboden Tidy Towns Group v. An Bord Pleanála* [2023] IEHC 722 at §184-§241 and *Kimmage Dublin Residents Alliance CLG v. An Coimisiún Pleanála* [2026] IEHC 406 §168 - §230).

Rather, the application documentation for substitute consent, including the rEIAR, has been prepared in accordance with the requirements of the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) concerning the assessment of the effects of certain public and private projects on the environment.

Issue #5: Second Substitute Consent Application**Submission:**

The submission appears to raise issues in relation to the legality of seeking a second substitute consent, the ‘severance’ of the applications and the discrepancy of the site areas (**refer pages 2-4 of the observation**).

Response:

The context and rationale for submitting an application for substitute consent is outlined in Section 1 of the Planning Report as submitted with the application. The application for substitute consent previously submitted (ABP-308019-20) sought development consent relating to the retention and continued operation of the wind farm development. In February 2022, the previous application for substitute consent was refused.

As a consequence, the Derrybrien Windfarm Development has been deemed, by operation of law, to be an unauthorised development and is now subject of an enforcement notice issued by Galway County Council. As such, development consent and environmental assessments are required in order for the Decommissioning Project to proceed, which project is different in both planning and factual terms to the development for which substitute consent was previously sought. In this regard, the application for



substitute consent is required in order to regularise the planning status of aspects of the development, taken alongside a separate application for planning permission to carry out the Prospective Development, under section 37L of the Planning and Development Act 2000, as amended (ACP 323018-25).

Furthermore, this substitute consent application is fundamentally different from the 2020 substitute consent application submitted to the Commission under ABP-308019-20 – in that it does not seek consent to regularise and continue the operation of the Derrybrien windfarm but rather seeks consent to decommission the development as a consequence of the decision to refuse substitute consent and in order to comply with the enforcement notice. The application boundary area of this substitute consent application, and thus the site area as calculated, is therefore different and reflects the works proposed for regularisation as part of this substitute consent application.

Issue #6: Landowner Consent

Submission:

The submission states that several of the Letters of Consent attached to the application do not relate to lands adjoining the windfarm (*refer page 7 of the observation*).

Response:

The letters of consent from third parties (refer to the Application Form as submitted) which are submitted with the application relate to the relevant folios which are within or partially within the application boundary.

Issue #7: Quarry at entrance to site

Submission:

The submission states the quarry at the entrance to the windfarm should be made safe (*refer page 10 of the observation*).

Response:

The quarry referenced in the submission (i.e., borrow pit 3), which is located at the site entrance, does not present a health and safety risk. It should be noted that this quarry is intended to be retained and is included within this application for substitute consent. For the sake of completeness, it should also be noted that the quarry is located approximately 3 kilometres from the nearest public road. Moreover, and significantly, as demonstrated in Drawing No. QS-000280-01-D460-033-005-000 submitted with the application, comprehensive safety measures are already in place to safeguard the public, which include

secure perimeter fencing, clearly visible warning signage and strategically positioned life buoys around the quarry area.

Issue #8: Infilling excavated drains

Submission:

The submission states that there is a need to infill excavated drains to restore the site to its original condition and stop release of carbon (*refer page 10 of the observation*).

Response:

As outlined in Chapter 3 of the rEIAR, Alternative 2 considered the option of backfilling/reinstating the drains that were constructed for the wind farm, see *Table 3-4 (Soils and Geology)*. Blocking and infilling of the drains that were constructed for the windfarm could have a moderate to significant impact on peat stability if it results in localised flooding and ponding of surface runoff in areas where there is an elevated risk of peat instability due to natural conditions on the site such as zones of deep peat at convex breaks in slope directly upslope from natural watercourses where there is evidence of concentrated subsurface drainage. As concluded in Chapter 3, Alternative 2 was not considered to be a practicable alternative.

Issue #9: Responsibility for the site

Submission:

The submission queries who will maintain and be responsible for the safety of the site in the future (*refer page 12 of the observation*).

Response:

Following the conclusion of the decommissioning works and the end of the legal interest of the Applicant in the lands, the responsibility for the site will revert to the landowner. The Applicant acknowledges that ACP has full discretion to impose such conditions as it considers appropriate in the granting of the planning permission or substitute consent including with regard to any ongoing monitoring or annual surveys post decommissioning.

2.2. Derrybrien Bog Plot Owners' Society Limited

The submission received by ACP from the Derrybrien Bog Plot Owners' Society Limited raises a number of issues, each of which has been considered by the Applicant and responses to each issue are set out below.



Issue #1: Public Engagement

Submission:

Observation Point 1, Point 2, Point 3 and Point 13: The submission states that the Applicant did not adequately facilitate engagement with the public as part of this application and did not facilitate a scientific evaluation by the community of the rEIAR and rNIS submitted.

Response:

Section 2.6 of the Planning Report submitted with the application sets out the details of the consultation and engagement process undertaken in relation to the application for substitute consent. Gort Windfarms Ltd set in place a consultation process that began once the decision to refuse consent issued under ABP-308019-20 (February 2022). A press statement was issued on the 16th of March 2022 to confirm the cessation of generation activity and that the Project would be decommissioned. In advance of submitting the substitute consent application, a number of steps were taken by or on behalf of Gort Windfarms Ltd., including: (i) retaining an independent Community Liaison Officer (CLO) for the project, (ii) maintaining a dedicated project website (www.Derrybrienwindfarm.ie), (iii) convening a public information event in September 2024, and (iv) informing key stakeholders of the intended application (as outlined in Chapter 2 of the rEIAR). The Applicant has sought to increase public awareness of the application and highlighted the opportunities for third parties to become involved in the development consent process. Full details of the consultation process, and issues raised through the pre-planning public consultation phase in respect of the Project are set out in Section 2.6.3 of the Planning Report, submitted with the substitute consent application (and summarised below for ease of reference):

Further, there has been ongoing consultation as part of the statutory development consent application process before the Commission.

Issue #2: Assessment of Slieve Aughty Mountains SPA

Submission:

Observation Point 4: The submission states that the environmental assessment is inadequate as the rEIAR fails to take account of the Slieve Aughty Mountains Special Protection Area (SPA) in existence over the entire site and that arguments for the retention of significant elements of the development appear to be based on purely economic factors and do not take into account the issue arising from the SPA.

Response:

The potential for the Prospective Development (ACP 323018-25) to result in adverse effects on the Slieve Aughty Mountains SPA, either alone or in combination with other plans or projects, has been fully assessed in the Natura Impact Statement submitted with the application. Similarly, the potential for the Retained Development to result in adverse effects on the Slieve Aughty Mountains SPA, either alone or in combination with other plans or projects, has been fully assessed in the remedial Natura Impact Statement submitted with the substitute consent application. In addition, all potential impacts on biodiversity, including the Slieve Aughty Mountains, have also been assessed in the EIAR (see Section 6.3.1.1, 6.4.2.1, 6.4.3.1 and 6.5.1.1) and rEIAR (see Sections 6.3.1 and 6.4.1.2) for the respective applications.

These assessments have considered potential impacts on the qualifying interest special conservation interest species of Slieve Aughty Mountains SPA in its geographical entirety, including with reference to its conservation objectives. The ecological assessment methodology followed best practice guidance. The Zone of Influence (ZoI) of the development was established using the source-pathway-receptor conceptual model, all potential impacts have been identified and fully assessed, and mitigation measures have been proposed as necessary.

Potential impacts on biodiversity (including the Slieve Aughty Mountains SPA) as well as other environmental factors were considered as part of the Assessment of Reasonable Alternatives as presented in Chapter 3 of both the EIAR and rEIAR, which also informed the proposed retention of certain structures as part of the Retained Development.

In these circumstances, the assessments in the application documents, including in the NIS submitted on the section 37L application concluded as follows:

- With the implementation of mitigation measures (as described in Section 5.3 of the NIS) the Prospective Development will not result in any adverse effects on the integrity of the Slieve Aughty Mountains SPA or any other European site, either alone or in combination with other plans and projects, during the decommissioning of the wind farm and associated infrastructure.
- The Retained Development will not have an adverse impact on any European site, in light of its conservation objectives, either individually or in combination with other plans or projects.



Issue #3: Subdivision of applications for development consent

Submission:

Observation Point 5: The submission states that no explanation has been offered for the reasons for the subdivision of the application.

Response:

The context and rationale for the making of the application for substitute consent is outlined in Section 1 of the Planning Report submitted with the application. The Derrybrien Wind Farm Development has been deemed, by operation of law, to be an unauthorised development and is subject of an enforcement notice, issued by Galway County Council. As such, development consent and environmental assessments are required in order for the Decommissioning Project to proceed. In this regard, the application for substitute consent is required in order to regularise the planning status of aspects of the development, as well as a separate application for planning permission to carry out the Prospective Development, under section 37L of the Planning and Development Act 2000, as amended (ACP 323018-25).

Issue #4: Adequacy of Drainage

Submission:

Observation Point 6: The submission queries the adequacy of the drainage assessment in the rEIAR in the context of the emergency works following the landslide during construction of the windfarm.

Response:

Extensive geotechnical and hydrological investigations were undertaken following the 2003 peat slide, including a full review of both the on-site and downstream drainage regime. These post-event drainage works and their environmental implications are assessed in the rEIAR, which supersedes the assumptions made in the original EIA.

Section 9.4 of the rEIAR specifically evaluates the hydrological and hydrogeological effects of the emergency drainage measures, including their influence on surface-water pathways, peat stability, and downstream receptors. This assessment considers both the immediate containment works and their longer-term environmental impact within the wider catchment. On this basis, the rEIAR provides an updated and comprehensive analysis of the drainage interventions and their environmental consequences, addressing the issues raised in the query. Potential impacts that may have arisen from the peat slide and associated works are also fully assessed in Sections 4 and 5 of the rNIS.

Issue #5: Impacts of retaining development *in situ*

Submission:

Observation Point 7: The submission states that the retention of the turbines and concrete foundation slabs have not been analysed for future impact.

Response:

It is important to reiterate that, as set out in Section 2 of the Planning Report, it is not proposed to retain the turbines on site. Rather, the decommissioning of the turbines from the site are subject of the 'Prospective Development', under section 37L of the Planning and Development Act 2000, as amended (ACP 323018-25). It is important to note that the elements proposed for retention are limited to the reinforced concrete foundations within the Derrybrien and Agannygal substation compounds and the concrete bases of the Turbines. These retained structures have been fully assessed in the rEIAR, including a detailed review of their potential long-term environmental effects. The assessment concludes that the retention of these limited elements of the development does not give rise to significant adverse environmental impacts, and is therefore considered appropriate.

Issue #6: Soil stability assessment

Submission:

Observation Point 8, Point 9 and Point 10: The submission states the environmental impact assessment in relation to soil stability is unreliable and inadequate, failing to properly assess turf cutting activities and substantial heavy-equipment works carried out by ESB during the wind farm's operation and the implications these have for decommissioning.

Response:

In relation to Observation Point 8, the assertion that the rEIAR makes a "specious allegation" of significant soil-stability impacts arising from turf-cutting operations is incorrect. Indeed, the rEIAR does not identify turbary activity as a significant stability risk, nor does it rely on any assumptions regarding machinery types. The reference to turbary activity is contained in section 8.5.5, where peat extraction is clearly assessed as a cumulative, localised land-use impact, accompanied by recommended mitigation measures to minimise any cumulative effects on stability.

The stability assessment presented in the rEIAR is founded on geotechnical investigations, peat-strength data, hydrological analysis, and documented construction-related impacts. It does not depend on turbary machinery or turbary operations in any way. Accordingly, the claim that the rEIAR's conclusions are "without any foundation and entirely unreliable" is wholly incorrect.

In relation to Observation Point 9, the comment that individual bog-plot analysis is "entirely rejected" mischaracterises the rEIAR's methodology. The rEIAR provides a site-wide peat stability assessment supported by geotechnical investigations, peat-depth mapping, hydrological analysis, and records of historical instability. In addition, a Peat Stability Risk Assessment (PSRA) was carried out for the turbary plots to evaluate the likelihood of peat failure in each plot, which considered existing peat and subsoil conditions, topography, hydrology, slope-stability factor-of-safety calculations, and recognised contributory factors, such as the methods of mechanical peat extraction used on the site since 2012, together with evidence of existing instability in the area. The PSRA results demonstrate that, under uncontrolled conditions and without appropriate mitigation, several turbary plots exhibit a Very Possible to Likely risk of peat failure associated with mechanical peat harvesting. However, these activities relate to third-party land use and do *not* affect the stability of the wind-farm infrastructure. Accordingly, the rEIAR's conclusions remain valid, robust, and appropriately scoped.

In relation to Observation Point 10, the submission incorrectly asserts that the rEIAR fails to assess the impact of ESB's operational works, including the use of heavy vehicles on floating roads. In fact, chapter 8 the rEIAR expressly considers:

- Construction-phase loading, including heavy plant and road-surge effects
- Operational-phase traffic, including long-term consolidation of peat under road infrastructure
- Future maintenance and decommissioning impacts, including heavy-vehicle access requirements

The rEIAR concludes that long-term consolidation and drainage improvements have increased peat stability, and that operational traffic does not pose a significant risk of peat failure when managed under existing mitigation measures. The claim that a "significantly more thorough examination" is required is not supported by the evidence. Rather, the rEIAR's assessment is consistent with geotechnical best practice and reflects the actual conditions and operational history of the site.

Issue #7: Quarry drainage and soil stability assessment

Submission:

Observation Point 11: The submission states that the EIAR has not analysed the quarries in terms of impact on drainage and soil stability. The submission further alleges that the quarry at the site entrance is dangerous and a public nuisance.

The assertion that the EIAR and planning application fail to analyse the on-site quarries is incorrect. All on-site quarries referred to as *borrow pits* in both the EIAR and rEIAR, and the potential impacts of those borrow pits are assessed comprehensively, including in terms of their geotechnical stability, including soil stability and associated risks (Appendix 8-2 "*Geotechnical Stability Report for On-Site Activities*", specifically sections 3.1.9, 3.2.9, 5.4.3 and 7.5). In addition, borrow pits are analysed in Chapter 9, where their drainage characteristics and potential impacts are evaluated in the context of the overall wind farm drainage design.

The quarry referenced in the submission (i.e., borrow pit 3), which is located at the site entrance, does not present a health & safety risk. It should be noted that this quarry is intended to be retained and is included within the application for substitute consent under ACP 323014-25. For the sake of completeness, it should also be noted that the quarry is located approximately 3 kilometres from the nearest public road. Moreover, and significantly, as demonstrated in Drawing No. QS-000280-01-D460-033-005-000 submitted with the application, comprehensive safety measures are already in place, which include secure perimeter fencing, clearly visible warning signage and strategically positioned life buoys around the quarry area.

Issue #7: Maintenance and rehabilitation

Submission:

Observation Point 12: The submission states that the application does not provide for the ongoing maintenance and rehabilitation of entire site after decommissioning.

Response:

Following the conclusion of the decommissioning works and the end of the legal interest of the Applicant in the lands, the responsibility for the site will revert to the landowners. The Applicant acknowledges that ACP has full discretion to impose such conditions as it considers appropriate in the granting of the



planning permission or substitute consent including with regard to any ongoing monitoring or annual surveys post decommissioning.

2.3. An Taisce

The submission received from An Taisce raises a number of issues, which are responded to in turn below.

Issue #1: Legal Context

Submission:

Observation Point 1: An Taisce has made submissions regarding the legal context within which the substitute consent application is made and contends that that the legal process is flawed.

Response:

The application has been made in the context of the applicable Irish legislation which incorporates the relevant obligations of European Union law.

As a matter of law, subsection 177O(4) of the 2000 Act requires that where, as in this case, a development in respect of which substitute consent has been refused (in February 2022, An Bord Pleanála refused the application for substitute consent under ref. no. ABP-308019-20), then the planning authority “shall, as soon as may be, issue an enforcement notice under section 154” of the 2000 Act, “requiring the cessation of activity and the taking of such steps as the planning authority considers appropriate”. Thus, subsection 177O required the service of an enforcement notice under section 154. Accordingly, an enforcement notice was issued dated 17 June 2024 (and re-issued on 29 August 2024), requiring that an application for consent/permission shall be submitted to the appropriate authority or authorities pursuant to the provisions of section 177E and 37L of the 2000 Act. Accordingly, Gort Windfarm Ltd. was required to submit the application for substitute consent. Section 1 of the Planning Report submitted with this application which outlines the legal context in which this application has been made.

In relation to points 1.1, 1.2 and 1.3 in An Taisce’s submission, it is noted that these relates to specific requests to the Commission.

In Section 1 of its observation, An Taisce make various criticisms of the legislative framework which existed at the time that the original application for substitute consent was made and the decision of the (the then titled) An Bord Pleanála refusing the first application for substitute consent. However, those criticisms relate to a decision-making process which is spent, and which was never challenged before the



High Court. However, for the avoidance of doubt, it is not accepted that the legal framework within which the previous application for substitute consent was refused was, or is, invalid. In addition, it is not accepted that, in the context of the earlier application for substitute consent, there was no obligation on the Board to carry out an assessment as required by Article 3 of the EIA Directive or that no such assessment was undertaken. Rather, in the context of the earlier substitute consent process, the Board completed a remedial environmental impact assessment and concluded that substitute consent should not be granted in respect of the wind farm.

Insofar as An Taisce criticises the process by which Galway County Council issued an enforcement notice, it is noted that no challenge was brought to the enforcement notice and, in any event, the legislative provisions pursuant to which the enforcement notice was issued are compliant with Ireland's obligations under EU law.

The applications for substitute consent and permission under section 37L are accompanied by a comprehensive suite of materials which will enable the Commission to carry out its functions in accordance with all applicable obligations of EU and Irish national law. The suggestion that there is no legal basis for the applications under either section 177E or section 37L of the 2000 Act is demonstrably incorrect. In particular, the applications meet the criteria provided under sections 177E(1B) and (1C) and section 37L(1) of the 2000 Act which, in turn, are compliant with EU law.

The Applicant does not accept that the Commission has any conflict of interest as regards the determination of this application and, indeed, it is noteworthy that none has been demonstrated by An Taisce. Similarly, no conflict of interest has been demonstrated on the part of Galway County Council.

Issue #2: Public Consultation

Submission:

Observation Point 2: Observation point 2 relates to An Taisce's observation on the public consultation carried out in relation to the proposed development.

Response:

Section 2.6 of the Planning Report outlines the public consultation and engagement process undertaken in respect of the Project and, additionally, Chapter 2 of the rEIAR details the scoping and consultation undertaken as part of the EIA Process. The public consultation undertaken in respect of this application, which included the submission and observations made on the applications for development consent meets the applicable requirements of the EU and Irish national law.

Matters raised concerning the planning and legal history of the development site fall outside the scope of the consultation process for the Project which forms the applications for development consent currently pending before the Commission.

The purpose of the assessments, including the consultation process, on the current development consent application decommissioning project is to assess the proposed decommissioning works and was not intended to revisit historic legal issues.

Issue #3: Scope of Remedial Assessments

Submission:

Observation Point 3: Observation 3 concerns to the extent of Site Area and Area/Scope covered by the Remedial Assessments. An Taisce notes the site area of the proposed development is different than the site area subject of the previous substitute consent application for the windfarm (under ABP-308019).

Response:

As outlined in the planning documentation submitted with this application, the development for which substitute consent is sought on this application is materially different, in both planning and factual terms, from the previous substitute consent application. In those circumstances, the application boundary reflects the extent of the development which is proposed for retention on this application, as opposed to the previous application.

However, as outlined in Figure 4-1 of the rEIAR, the extent of the rEIAR study area and thus, the assessments, extends beyond the application boundary area. Additionally, Chapter 5 of the rEIAR contains an assessment of the potential effects of the Retained Development associated with the *"Derrybrien Windfarm Development Decommissioning Project"* on population and human health, with section 5.6.2 assessing the proposed development in the context of construction phases impacts.

Issue #4: EC Report on Previous Substitute Consent Application

Submission:

Observation Point 4: An Taisce makes reference to the Previous European Commission Report *'Technical Assessment of Derrybrien Windfarm and Ancillary Works'* in relation to the previous substitute consent application for the wind farm (ABP 308019).

The report of the European Commission was submitted in respect of the prior application for substitute consent and it has not been demonstrated that the contents of that report are relevant to the current application.

The applicant acknowledges the concerns referenced in relation to the previously refused substitute consent application (Ref. 308019). The findings arising from that process have been fully considered in the preparation of the current substitute consent application and the associated prospective development. It is important to note, however, that while both applications relate to the same site, they are materially different in nature. The earlier application sought permission to continue operating the wind farm, whereas the present application concerns the decommissioning of the development following An Bord Pleanála's decision to refuse permission.

The issues highlighted by the European Commission have been addressed through a suite of new field surveys and investigations (where required), together with a comprehensive reassessment of past operations, the decommissioning phase, and the post-decommissioning period. The rEIAR has been fully restructured to enhance clarity and ease of interpretation, ensuring that the assessment can be readily understood and interrogated by both the public and the competent authority. In addition, an updated public consultation process has been undertaken, incorporating both in-person engagement and online channels, thereby ensuring that stakeholder views are appropriately captured and reflected in the remedial and prospective assessment.

Observation Point 5: An Taisce raises a concern regarding drainage and long-term site stability for the site and requests the preparation of a post-decommissioning drainage monitoring and management plan.

The potential effects on drainage patterns and soil stability are detailed in Chapters 8 and 9 of the submitted rEIAR.

Following the conclusion of the decommissioning works and the end of the legal interest of the Applicant in the lands, the responsibility for the site will revert to the landowners. The Applicant acknowledges that ACP has full discretion to impose such conditions as it considers appropriate in the granting of the planning permission or substitute consent including with regard to any ongoing monitoring or annual surveys post decommissioning



Observation Point 6: An Taisce raises an observation regarding water quality, referencing long-term peat stability risks associated with retained structures and noting the reliance on EPA water quality datasets that have since been updated.

Section 8.1.3 of the rEIAR confirms that overall site stability is not dependent on this remaining infrastructure. Instead, it is the removal of the below-ground elements and the reinstatement of these areas that could result in very significant negative impacts on soils and peat stability, with consequent risks to the environment and public safety. As outlined in Chapter 3 of the rEIAR, the removal of the concrete foundations would necessitate extensive deep excavations in peat and glacial subsoils, intensive earthworks, hydraulic breaking of reinforced concrete, and frequent movements of fully laden heavy earthmoving vehicles across floating access tracks activities comparable in scale to the original construction phase. Similarly, the removal of approximately 25 km of below ground LV aluminium electrical cables and fibre optic control cables would require trenching across blanket bog using wide tracked excavators. This would likely have a very significant negative impact on peat stability due to surcharge loading on the peat, temporary side casting of excavated materials, and disturbance of regenerated vegetated peat along the trench lines.

With respect to the EPA water quality data cited in the submission, the assessments presented in the rEIAR, EIAR, WFD Assessment and Appropriate Assessment were based on the most up-to-date EPA datasets available at the time of preparation. These datasets were further supplemented by an extensive programme of field surveys and site-specific water quality sampling undertaken between 2011 and 2024 (refer to Section 7.2.5 of the rEIAR). This combined dataset provides a robust, representative and high-resolution baseline against which potential project-related impacts have been rigorously evaluated.

Observation Point 7: An Taisce outlines the requirements for the competent authority in their assessment of remedial appropriate assessments. They also note third party submissions regarding issues and deficiencies with the rNIS, in particular the assessment of impacts to hen harrier, as well as potential impacts on European sites from continued degradation of peat after decommissioning.

The Applicant notes this comment and would refer to the rNIS as submitted with the application, which complies with the relevant statutory requirements. Responses to other third party submissions regarding the rNIS, in particular impacts on hen harrier, are provided in this letter.

As stated in the rNIS, the Retained Development may result in positive effects on the downstream aquatic environment due to absence of ongoing site maintenance leading to reduced efficiency of the drainage networks which will enhance on-site attenuation and infiltration and buffer solids wash-out.

Observation Point 8: An Taisce outlines observations in relation to the long term integrity of the concrete bases and other Infrastructure to remain in-situ and questions whether retaining these structures is the safest environmental option in terms of peat stability and overall public safety.

Section 8.1.3 of the rEIAR confirms that overall site stability is not dependent on this remaining infrastructure. Instead, it is the removal of the below-ground elements and the reinstatement of these areas that could result in very significant negative impacts on soils and peat stability, with consequent risks to the environment and public safety. As outlined in Chapter 3 of the rEIAR, the removal of the concrete foundations would necessitate extensive deep excavations in peat and glacial subsoils, intensive earthworks, hydraulic breaking of reinforced concrete, and frequent movements of fully laden heavy earthmoving vehicles across floating access tracks activities comparable in scale to the original construction phase. Similarly, the removal of approximately 25 km of below-ground LV aluminium electrical cables and fibre-optic control cables would require trenching across blanket bog using wide-tracked excavators. This would likely have a very significant negative impact on peat stability due to surcharge loading on the peat, temporary side-casting of excavated materials, and disturbance of regenerated vegetated peat along the trench lines.

Observation Point 9: An Taisce outlines that the effects of the proposal on climate change requires assessment.

The rEIAR assesses the potential impacts from climate in Chapter 10.

Observation Point 10: An Taisce outlines that an ongoing monitoring and maintenance plan for the site is required.

Following the conclusion of the decommissioning works and the end of the legal interest of the Applicant in the lands, the responsibility for the site will revert to the landowners. The Applicant acknowledges that ACP has full discretion to impose such conditions as it considers appropriate in the granting of the planning permission or substitute consent including with regard to any ongoing monitoring or annual surveys post decommissioning.



2.4. Transport Infrastructure Ireland (TII)

The submission received from TII sets out its observations in relation to two issues arising on the application which have been considered by the Applicant and responded to in turn below.

Issue #1: Direct access to national road network

Submission:

Observation Point 1: TII outlines the requirements of the Section 28 Ministerial Guidelines '*Spatial Planning and National Roads Guidelines for Planning Authorities*' in relation to the creation of additional access points onto national roads and notes that the application does not indicate any direct access requirements to the national road network.

Response:

The Applicant confirms that additional access points onto national roads are not proposed and there is no direct access requirement to the national road network as a result of the Project.

Issue #2: Assessment of Potential Traffic Impacts

Submission:

Observation Point 2: TII notes that Section 14.1 of the Remedial EIAR submitted outlines an assessment of the potential Traffic and Transport impacts or effects arising from the Retained Development and confirms they are satisfied that the submitted information raises no issues to address in relation to national road network maintenance and safety. Additionally, TII notes that the Applicant should consult with Galway County Council in relation to any greenway or active travel projects in the vicinity of the site.

Response:

The Applicant notes the content of the TII submission and confirms that it shall consult with Galway County Council in relation to matters raised.



3. Conclusion

As set out above, Gort Windfarms Ltd. has considered the issues arising on the submissions and observation made on the substitute consent application and, as requested by ACP, has provided its submissions by way of response to the issues raised.

Yours faithfully,

Heather McMeel

Heather McMeel

Specialist Lead Planning, ESB Engineering and Major Projects

Tel: 086 176 7511 | e-mail: heather.mcmeel@esb.ie

