S. 37

File With _____

SECTION 131 FORM

Substitute Consent Application NO: ACP-323018-25
Defer Re O/H ☐

Having considered the contents of the submission received 20/8/25 from Martin Collins 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 planning issues

E.O.: Daniel O Connor **Date:** 21/8/25

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐

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

S.E.O.: _____ **Date:** _____

S.A.O: _____ **Date:** _____

M _____

Please prepare SC _____ **- Section 131 notice enclosing a copy of the attached submission**

to: _____ **Task No:** _____

Allow 2/3/4weeks – BP_____

EO: _____ **Date:** _____

AA: _____ **Date:** _____

S. 37

File With _____

CORRESPONDENCE FORM

Substitute Consent Application No: ~~ABP-~~ ACP-323018-2

M _____

Please treat correspondence received on _____ **as follows:**

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with ~~SC~~ FO 140	**1. RETURN TO SENDER with SC** _____
3. Keep copy of Board's Letter ☐	2. Keep Envelope: ☐
	3. Keep Copy of Board's letter ☐

Amendments/Comments Observation from Martin Collins

4. Attach to file (a) R/S ☐ (d) Screening ☐ (b) GIS Processing ☐ (e) Inspectorate ☐ (c) Processing ☐	**RETURN TO EO** ☐ D O Connor

	Plans Date Stamped ☐ Date Stamped Filled in ☐
EO: Daniel O Connor	**AA:**
Date: 21/8/25	**Date:** 29/08/25

Validation Checklist

Lodgement Number : **LDG-082245-25**
Case Number: **ACP-323018-25**
Customer: **Martin Collins**
Lodgement Date: **20/08/2025 09:59:00**
Validation Officer: **Daniel O'Connor**
PA Name: **Galway County Council**
PA Reg Ref:
Case Type: **Further Development under 37L (FD Cases)**
Lodgement Type: **Observation / Submission**

An Coimisiún Pleanála

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Not Applicable
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes

FD40 to observer
Copy of observation for public file
Copy to be scanned to S. Drive
Upload copy to website

Run at: 21/08/2025 17:01

Run by: Daniel O'Connor

Derrybrien,
Loughrea,
Co Galway

An Coimisiun Pleanala,
64 Marlborough Street,
Dublin 1
D01 V902

AN COIMISIÚN PLEANÁLA
LDG- _____
ACP- _____
20 AUG 2025
Fee: € _____ Type: _____
Time: 9:59 By: R-Post

19th August 2025

Notice of objection to the Derrybrien Windfarm Application for Development pursuant to Section 37L of The Planning and Development Act 2000 (as amended) by the Gort Windfarms Limited / ESB
FD 07.323018

A Chara,
I wish to formally request An Coimisiun Pleanala to **refuse** the planning application for the windfarm development at Derrybrien (application **No FD 07.323018**) on the basis that this application is constructed by the ESB to create a "self serving narrative" which attempts to nullifies their economic, environmental, legal and moral responsibilities in relation to this windfarm development.

It is extraordinary that almost 27 years have passed since this windfarm first applied for planning permission and the ESB does not seem to have learned the lessons of not engaging properly with the local community and putting this sordid saga to rest once and for all.
They are clearly attempting to snow us under with gloss, glamour and self-serving spin.

There is no attempt by the ESB to properly remediate the entire windfarm site to the condition it was before development work started in 2003.
There is no attempt by the ESB to rewet, rewild and restore the Hen Harrier habitat that has been destroyed.
There is no attempt by the ESB to put in place a **"Just Transition Fund"** in place to properly support the Derrybrien community recover from the decades of destruction and division that has befallen our community as a result of their intransigence. Funds were provided but they went to a large number of communities who did not suffer any ill effects from the windfarm and of course they were delighted to receive money for nothing.

This planning application is not in compliance with the Strategic Environmental Assessment Directive (SEA Directive) 2001/42/EC.

In the DB Decommissioning Planning Report the ESB state that;

"In July 2008, the Court of Justice of the European Union (CJEU) delivered a judgment against the Irish State in Case C-215/06 referencing Derrybrien Wind Farm 1. In a further judgment in Case C-261/18 2, on 12th November 2019 the CJEU found that the Irish State had failed to take measures necessary to comply with Case C-215/06 and to fulfil a number of obligations arising from the Environmental Impact Assessment (EIA) Directive (at the time Directive 85/337 as amended by Directive 97/11). On foot of that judgment, and the legislative provisions set out under section 177B of the 2000 Act, on 23rd July 2020, Galway County Council directed Gort Windfarms Limited to seek substitute consent from the Board in respect of the Derrybrien Wind Farm development. In August 2020, the application for substitute consent relating to the retention and continued operation of the wind farm development, and decommissioning of all elements of the existing development, was submitted to the Board ("ABP") under reg. ref. ABP 308019-20. In February 2022 the Board decided not to accept its Inspector's recommendation to grant, and refused substitute consent. The Board's February 2022 decision to refuse substitute consent rendered the development which formed the subject-matter of the application under ref. no. ABP 308019-20 as "unauthorised development". Commercial operation of the windfarm ceased shortly thereafter."

Therefore, this is an unauthorised development and is not in a legal position to seek a second substitute consent application and a Section 37L of the Planning & Development Act 2000 (as amended). If such an application is acceptable it is making a complete mockery of the planning laws, the EIA Directive and the Habitats Directive.

In addition, this unauthorised development was one application in 2020 planning application under Reference No ABP 308019-20 and it cannot now be "severed" for the express convenience of the ESB.

In the August 2020 Substitute Consent application Ref No ABP 308019-20 the size of the site was stated as 514 Ha.
In the July 2025 Substitute Consent application Ref No SU 07.323014 the size of the site is stated as 458 Ha.
In the July 2025 Decommissioning and removal application Ref No FD 07.323018 the site is stated as 132 Ha.

The windfarm decommissioning application should be one application for a site with an area of 514 Ha and the exact footprint of the site refused permission by An Bord Pleanala in February 2022 (Ref No ABP 308019-20).

This windfarm decommissioning application is non-severable and must be rejected on that basis.

When this windfarm was built it must have been accepted that at some point in the future it would be removed and the site restored to its original condition. If this is not the case our planning system is deliberately destroying thousands of hectares of land with no prospect of any reasonable restoration. This is totally unacceptable, and the state cannot allow the destruction of our environment.

In the DB Decommissioning Planning Report the ESB state that;

"In order to determine the optimal consenting option(s), the scope of works – both retained and prospective, was considered. Screening statements were prepared in respect of the requirements for both Environmental Impact Assessment (EIA) and Appropriate Assessment (AA). Screening confirmed that both EIA and Stage Two AA were required for both the Retained and Prospective Development. On that basis, in accordance with the provisions of the 2000 Act, substitute consent is required in relation to the Retained Development. ***Where an application for substitute consent is made, a separate application may also be made for permission for: (a) development of the land the subject of the application for substitute consent; (b) development of land adjoining the land the subject of the application for substitute consent. This is the basis for the separate application for planning permission being sought for the Prospective Development. Therefore, to implement the Decommissioning Project, it is necessary to make two separate applications as follows****: • an application for substitute consent in relation to the Retained Development, under section 177E of the 2000 Act – being the retention in situ of part of the existing development – including at- and below-ground structures such as turbine and other foundations; and development associated with historic peat slide events that occurred during construction such as barrages, peat repositories, on-site borrow pits / quarries etc. • an application for planning permission to carry out the Prospective Development, under section 37L of the Planning and Development Act 2000, as amended ("the 2000 Act") – being decommissioning works to remove the majority of above-ground features from the site – including all turbines, masts, electrical plant, overhead lines etc; and enable the final decommissioning of the site."*

The ESB has created their self-serving narrative in that there are two different categories of development "Retained Development" and "Prospective Development" and they invented a scenario that supported their own agenda. They state that it is necessary to make two separate applications.
This is a false and misleading interpretation of this windfarms legal position.

While the ESB may be technically correct that "***Where an application for substitute consent is made, a separate application may also be made for permission for: (a) development of the land the subject of the application for substitute consent; (b) development of land adjoining the land the subject of the application for substitute consent"***, this is not the case in this instant case at Derrybrien.

The facts are that in order to regularize this windfarm legal position one planning application under Section 37L of the Planning and Development Act 200 as amended ("the 2000 Act") should be made.
What is required is one planning application which clearly outline how they will decommission and remove all the windfarm infrastructure from this windfarm site taking into account that this site of 514 Hectares is all within the Slieve Aughty Mountaina (Special Protection Area) SPA Site code 4168.

In the single planning application there may be certain elements of infrastructure that should remain in situ however there would need to be very clear reasons for the retention of such infrastructure.

I wish to categorially refute the assertion by the ESB that they engaged in any meaningful consultation process for this planning application.

As stated in the rEiAR Volume 1the;

"Public Information Event – 16 September 2024 In advance of the public information event, advertisements were posted in the local press, and details provided to local newspapers. A leaflet drop in the wider area was also carried out. At the event, information boards were provided describing the proposed development and setting out the next steps in the planning process; and 10 representatives from the technical team – including those engaged in planning, environmental impact assessment, civil engineering, geotechnical assessment, and hydrology / flood risk assessment; attended. The event was attended by c. between 55 and 60 people - principally members of the local community, with a small number of public representatives. Specific to the proposed decommissioning works almost all attendees would be considered detractors of the project – insofar that that they were largely opposed to the decommissioning of the windfarm. The key issues raised were:

- *Dissatisfaction with the proposal to decommission the Wind Farm, particularly in light of the need for additional renewable electricity generation capacity and the perception of it as an important asset.*

- *Community gain and a desire that there should be a contribution to the local community via a prolonged community fund, or other measure linked to the long term management of the site.*
- *Concern about how the Project could interact with on-going turbary activity on the site.*
- *Flooding and assessment of flood risk – with positive engagement on how the risk would be assessed and mitigated.*
- *Engagement and communications – with some participants speaking to issues specific to the planning and legal history of the development, which were beyond the scope of the discussion.*

What the ESB did do was pursue a public relations exercise in an attempt to drum up support for their own self-serving narrative.

No changes whatsoever was made to the plans on the display boards at the event in Gort and the planning application. They came to tell the people what they were going to do. It was a clear case of this is what is going to happen whether you like it or not.
My personal experience at the Public Information Event in Gort was one of shock and blatant hostility from some of the representatives of the developers.

When dissatisfaction was expressed to the representatives on their treatment of local people regarding turbary rights we were told in no uncertain terms if we were unhappy or dissatisfied, we should leave!!
The hostile actions of the ESB has stopped people who usually exercise their right and require turf to heat their home are now left without turf from Derrybrien bog.

The ESB has not provided any evidence to show that they made any changes to the planning applications on foot of the meeting in Gort. This shows that they had no interest in anything local people in Derrybrien had to say. In fact, it is a continuation of the dismissive arrogance that has brought them to this shameful conclusion.

See below a copy of a note I took shortly after the meeting in Gort;

"All the reps in the room had a hand written sticky label on their clothing displaying their first name only. No surname or no identification of who they represented. For example were they direct ESB employees or were they contracted experts. For example we understand that there may have been a number of people from MKO Planning and Environmental Consultants in attendance.

In summary this meeting was a cynical box ticking exercise at which the ESB were telling us what they had decided to do.

They had no interest whatsoever in the issue of the bog or the bog holders.
In fact we left the meeting when one of the reps displayed a breathtaking level of disregard and arrogance towards us in relation to the bog issue.
Our discussion went along the lines that we were wasting our time at the meeting and we were told in an arrogant manner that we were wasting our time.

I went into the meeting with a glimmer of hope that the ESB were calling the meeting in good will and prepared to listen to genuine and legimitate concerns.
I left the meeting feeling that everything had been predetermined and that they had no interest whatsoever in anything we had to say.

The ESB reps made it clear that they were doing the minimum amount of removal of the windfarm infrastructure possible.

As you will see in poster 1 and 2 they have planned to remove all infrastructure overground and leave all infrastructure at and under ground level.

No drains will be infilled and no rewetting.
No quarry will be filled. Eventhough one has a dangerous high level of water in it. Currently it has fencing around it but who will maintain this.
No roadway will be removed.
No turbine base or crane handstand will be removed.
No concrete foundation will be removed.
No consideration of the SPA area and as far as I can recall no Hen Harriers have been spotted in or around the windfarm.

No interest in discussing the issue of the bog as it had nothing whatsoever to do with the planning application.

Just to summarise the ESB are fully intended to employ contractors to cut remove the turbines at ground level, load them onto lorries transport them away, remove the powerline and the 2 substations and just walk out the gate locking it on their way out.

They do not see themselves as having any social or environmental responsibility to Derrybrien.

In fact I would go so far as to say that they are completely disconnected from our community and our environment in Derrybrien.

When one ESB employee was asked did he know the population of Derrybrien, he said no. While this is not of huge significance it does show that they have no interest in what is happening to our community, population trends, what has happened since the windfarm was first proposed and what the future holds.
Unfortunally as was explained to the ESB reps since the windfarm first came into our lives and community it has caused destruction, division and environmental damage. We are on a steep downward trajectory and Derrybrien as a living community is on the knife edge of survival.

So now, after over two decades struggling to have our voice and concerns heard it is up to us to provide the money to employ an expert who will carry out a critical analysis of what is being proposed by the ESB and see if it is in the best interest of our environment and our community."

As a local person in Derrybrien I am not aware of any leaflet drop for the Gort event.

A number of the letters of consent landowners attached to this application has **no lands adjoining the windfarm site** and appears to me to be a veil of pretence that the ESB has some form of acquiescence of adjoining landowners. Once again this is a self-serving peculiar list of letters of consent.

As stated in the rEiAR Volume 1 the;

This chapter sets out the evolution process of the Derrybrien Wind Farm Development Decommissioning Project. This chapter assesses four alternatives decommissioning options and evaluates them based on following EIA topics: Population & Human Health; Biodiversity; Land, Soils & Geology; Hydrology & Hydrogeology; Air Quality; Noise & Vibration; Cultural Heritage; Material Assets and Waste & Resource Management. The alternative options considered are:

- *Alternative 1 - 'Do Nothing' i.e. the Derrybrien Wind Farm Development will remain in situ in its current state (2024) as an unauthorised windfarm development that ceased commercial electricity generation in February 2022.*
- *Alternative 2 – Remove all development which has taken place since 2003 including those offsite emergency works installed during the peat slide.*
- *Alternative 3 - Remove all development which has taken place since 2003 excluding those offsite emergency works installed during the peat slide.*

- *Alternative 4 – 'Practicable Restoration' i.e. remove and alter existing structures on the site and, restore the site in so far as is practicable, while minimising risks to safety and the environment.*

It is clear from the self-serving list of alternatives listed above that the ESB decided to construct a set of alternative options which predetermined their own wishes. They just grouped together all the at ground and underground infrastructure into one convenient category and leave them in situ.

The rEiAR Volume 1 state that;

A breakdown of materials and estimated tonnages to be removed from site under Alternative 2 is provided in Table 3-3 below. It is estimated that a total of 356,528 tonnes of material would have to be removed from site to be managed in accordance with the applicable provisions of the Waste Management Act 1996 and associated regulations. This would result in the addition of approximately 35,653 truck movements to the local road network during decommissioning.

2.3 The Retained Development
The existing Derrybrien Wind Farm Project comprises 70 no. Vestas V52-850 kW wind turbines and on-site substation ('Derrybrien Substation'), a c.7.8km grid connection comprising an overhead line and Agannygal Substation connecting the wind farm to the National Grid and all associated development works. For context, the location of the project site is shown on Drawing QS-000280-01-D460-031 002-000. For ease of reference this drawing also shows the application area for the Prospective Development application. As noted in Para. 1.2 above, the 'Derrybrien Windfarm Development Decommissioning Project' will be implemented by way of two consented works packages – the 'Retained Development' and the 'Prospective Development'. This application relates to the application for substitute consent in respect of the Retained Development i.e. parts of the existing development that will remain in situ after decommissioning. The Retained Development comprises those features that will remain in situ after the Derrybrien Wind Farm Decommissioning works are completed, which are:
o At-ground and below-ground structures, such as:
o Reinforced concrete foundations for 70 no. wind turbines.

o Reinforced concrete foundations of structures within the Derrybrien Substation compound.
o Reinforced concrete foundations of 2 no. Anemometer masts.
o Approximately 17.5km of access tracks and 70 no. hardstand areas.
o Direct buried underground electrical and communications cabling.
o 3 no. Borrow Pits / Quarries.
o Naturalised Peat Repository areas.
o Onsite Drainage Infrastructure.
o Below ground elements of 34 no. double wooden pole sets.
o Reinforced concrete foundations for 2 no. end masts.
o Reinforced concrete foundations for 5 no. angle masts.
o Reinforced concrete foundations for 1 no. intermediate mast.
o Reinforced concrete foundations of structures within the Agannygal Substation compound.
o Offsite features constructed in response to the peat slide in 2003, including:
o Barrage 1 and Coillte Access Track.
o Barrage 2, Access Track and Peat Repository Area. 8 QS-000280-01-R460-013-000
o Barrage 3 and Repository Area.
o Barrage 4. o Repository Area at the Black Road Bridge.
o Drainage Diversion Works.
o Repair works to Black Road Bridge, Flaggy Bridge, Unnamed Bridge C and Crooked Bridge.
Subject to a grant of substitute consent all of these elements will remain in-situ. However, the effect of such a grant of substitute consent, and the environmental assessments to be undertaken in the context of this application, would be that the planning status of these items would be regularised – i.e. they would no longer constitute unauthorised development. The accompanying application documentation provides details in relation to each aspect of the Retained Development, which are subject of detailed assessment as set out in the rEIAR and rNIS. For the avoidance of doubt, in the event of any conflict between the development or construction details set out in this Report and the accompanying drawings, the rEIAR or the rNIS, those statutory documents should be considered to take precedence.

2.4 The Prospective Development Separately, planning permission is being sought for 'Prospective Development' - that is all proposed works to be carried out in respect of the Project, including any ancillary and temporary works – being the works that will be carried out in order to decommission the existing wind farm site; along the route of the overhead line, and at Agannygal substation.
These are summarised as:

• enabling works to facilitate the decommissioning of the Derrybrien Wind Farm, including all temporary and ancillary works;
• the decommissioning of Derrybrien Wind Farm with the removal of the 70 No. turbines (blades, nacelle, and tower), 2 No. anemometer lattice masts, electrical equipment and the substation building at Derrybrien substation.
• decommissioning and removal of the Derrybrien Wind Farm grid connection comprising Derrybrien-Agannygal 110 kV Overhead Line and Agannygal Substation connecting into the Ennis-Shannonbridge 110 kV Overhead Line. Reinstatement of the Ennis-Shannonbridge 110kV Line. It is noted that a number of these works rely on the regularisation of the planning status of specific items subject of this substitute consent application, namely:
• existing hardstands – which it is proposed will be used at two locations the Wind Farm and Agannygal Substation, to accommodate new, temporary construction compounds with minor improvement works including vegetation/scrub clearance and minor levelling works;
• existing on-site roads and accessways – which it is proposed will be subject of localised improvements and use in facilitating decommissioning works; with these 'improved and retained' roadways remaining in situ post-decommissioning, subject of a grant of permission.

The ESB has not looked at in singular detail, any legal, financial, environmental or social criteria for retaining individual infrastructure on this windfarm site. This failure constitutes a "continued trespass" on this windfarm site.

For example no proper reason was put forward for retaining specific roads, drains, turbine bases, substation bases, mast bases.

The main quarry on site at the entrance to the windfarm is extremely dangerous and is a health and safety hazard and must be made safe.

There is no reason for retaining the two substations foundations and all the mast foundations.

There are no clear details of how the wind turbine blades will be disposed of. The likely hood of 20-year-old blades being reused at another windfarm site is highly unlikely. Therefore, much more clarity is required as to how and where will all the blades be dealt with.

The entire catchment area of the Slieve Aughties receive a very high level of rainfall annually and this flows into a unique limestone area with fragile underground systems. The cumulative effect of this windfarm development and other large scale drainage has most definitely increased the volume and speed of the water flowing from the Slieve Aughties into the Gort lowlands. Therefore

all the new drains excavated by the ESB following the landslide in 2003 must be infilled to restore the site to its original condition and stop the release of carbon.

A 75% drop in numbers of Hen Harriers over the last 15 years on the Slieve Aughty SPA.

The 2015 National Survey of Hen Harrier in Ireland by the National Parks and Wildlife Service the Hen Harrier population in the Slieve Aughtie Special Protection Area has shown a dramatic loss of almost 50% since 2005.

Duchas officials under the National Parks and Wildlife service wrote to Galway County Council in March 1998 and to An Bord Pleanala in September 2001clearly highlighting the fact that the EIS were seriously deficient in its providing information regarding the impacts on flora, fauna, soil and water. Both correspondence referred in particular to the impact on the Hen Harrier and Merlin population in the area. The planning authorities cannot say that they were not aware of their obligations and legal duty to protect the habitat for the Hen Harriers and Merlin. Their legal duty were enshrined in law under the Wildlife Act 1996 and under Annex 5 of the EU Habitats Directive and Annex 1 of the Birds Directive (Council Directive 79/409/EEC on the conservation of wild birds).

Also of significance is the fact that Galway County Council refused planning permission for 00/4581 which was overturned in an appeal to An Bord Pleanala. In her report the An Bord Pleanala inspector clearly identified the importance of the Hen Harriers and the fact that the Slieve Aughties were a stronghold at that time. She states that;
"In view of the importance of this general area for the Hen Harrier and the paucity of information available regarding the impact of windfarms on this species,I would concur with Duchas in relation to the value of surveys. However, in I also agreed with the applicant (Saorgus Energy Ltd) who states that surveys undertaken during periods of disturbance may be considered invalid" and ***"The applicant intends to commence development as soon as possible. I am of the opinion that the Board could require that a series of surveys to be undertaken, possibly commencing in Spring / Summer 2002. I would submit that the attachment of such a condition would also be reasonable for the following reasons; (i) the Slieve Aughty Mountains have been identified as a stronghold for the Hen Harriers following a survey undertaken in 1998/1999***

(ii) the inter-relationship between Hen Harriers and windfarms is not well understood and it may be that the relationship is not one of conflict
(iii) it is desirable that further research be undertaken of operational windfarms in the area where Hen Harriers are known to exist. I consider that such information would add to decision making in future years and that it is not unreasonable that windfarm operators be required to support this research."

According to the National Parks and Wildlife Service report titled.
The 2022 National Survey of breeding Hen Harrier in Ireland Irish Wildlife Manuals 147

The Slieve Aughties region (Co. Galway and Co. Clare), which is larger than the Slieve Aughty Mountains SPA, has had its population decline by around two thirds since 2015 and now holds fewer than six pairs of breeding hen harrier. The extent of declines here since previous surveys is severe, with an 82% decline when compared to the peak population recorded in 2005 (27 breeding pairs). The extent of losses of breeding hen harrier in the region are widespread and substantial in the national context.

The ESB has not set out clearly who will maintain and be responsible for the safety of this windfarm site into the future.

For all of the reasons above I request you to refuse the planning application and demand that the ESB make a new singular application with proper consultation with the Derrybrien community.

I look forward to a favourable response from you in due course.

Yours sincerely,

Martin Collins

Contact mjgcollins67@gmail.com

Phone 0872924313