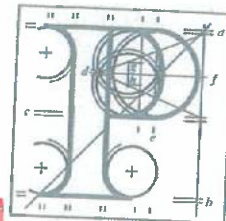


Our Case Number: ABP-307939-20



An
Bord
Pleanála

AN BORD PLEANÁLA

LDG- _____

ABP- _____

25 MAY 2022

Fee: € _____ Type: _____

Time: _____ By: RSC Port

Timothy and Kathleen Baker
Knockduff
Dunmanway
Co. Cork

Date: 05 May 2022

Re: Substitute consent for the Cleanrath Windfarm development
Townlands of Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South,
Milmorane, Coombilane, Rathgaskig, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen,
Gurteenflugh, Lyrenageeha and Lackabaun, Co. Cork

Dear Sir / Madam,

Enclosed for your information only, is a copy of the Board's letter to Cleanrath Windfarm Limited dated 13th July, 2021 and their response dated 4th August, 2021 and, a copy of statutory notice issued by the Board in relation to the above-mentioned application for Substitute Consent.

Submissions or observations may be made on the application, to An Bord Pleanála, 64 Marlborough Street, Dublin 1, without charge. Submissions or observations must be in writing and made within the period of **5 weeks** beginning on the date of receipt by An Bord Pleanála of copies of the further newspaper and site notice and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application.

Yours faithfully,


Mary Holohan
Senior Administrative Officer
Direct Line: 01-8737125

BP77

Teil
Glao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Fax
Website
Email
(01) 858 8100
1890 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Kathleen and Timothy Baker

Knock duff

Dunmanway

CO Cork

P47WR24

Date 23rd May 2022

Case Ref No ABP SU04.-307939-20 Application for Substitute Consent for Clenrath Wind Farm Development, County Cork.

Dear Sir/Madam

The situation we have reached now is of a wind utilisation facility whose construction started after planning permission was granted by ABP. The decision was appealed through every stage of the legal process until the Supreme Court finally overthrew it.

One may have compassion for the developer who believed that he was in the right to continue construction of this development in the knowledge that he had the necessary permission from ABP – the highest planning authority in the land.

Had he been a condemned man in prison, who had appealed to a higher court, he would have felt a little peeved had he been lead out to be hanged before the appeal process had been completed. He would not be in a position to claim exceptional circumstances in the afterlife.

The Supreme Court came to the conclusion that the decision to award planning permission had been awarded without due consideration being given to certain observations that the objectors had made, and as in the case of a criminal case that it would be unsafe to pronounce someone guilty if there was a significant element of doubt.

The Supreme Court made a specific point highlighting the scientific research/papers submitted by Mr Noonan (solicitor) on behalf of Klaus Balz and Hanna Heubach. It was demonstrated that there remains a significant element of doubt about the efficiency of the set-back distance currently used by ABP, because of the poor understanding of the measurement of sound and how it impacts on human beings and the huge increase in size of the wind turbines now being erected. It should also be born in mind that many other European countries have far greater set-back distances.

It is time the Minister of Environment took matters in hand and updated the regulations. The process to update them is already well advanced, as recommendations have been ready to introduce since 2013, all it needs is the political will. We understand that as leader of the Green Party, that Renewable Energy in the form of Wind Power is close to his heart, but as they say: the road to Hell is paved with good intentions.

Will the people of Ireland have to endure countless years of injustice before someone in the Department of the Environment has the bottle to admit that something was terribly wrong and that it was all due to the mind-set of the time. Will Clenrath become another Tuam, do we want another stain on the good name of our country. Yes we need Wind Power, but not at the expense of peoples health and wellbeing.

Now is the time for ABP to have the courage of OUR convictions and make strong representations to the minister to change the regulations to save so many people in rural Ireland from the erection of these squeaky moaning throbbing flickering monsters so close to their homes. A decision by ABP to reject this application for Substitute Consent in support of the Supreme Court will send a strong message to the Minister that change must happen.

We want to make it clear that there have been hundreds of objectors to the wholesale destruction of the wild uplands surrounding the basin of the upper Lea Valley. Each one is, in its own way, worthy of consideration during the planning process. Each one demonstrating the trust that we place in the due processes that our ancestors fought to put in place. Each one carefully crafted and paid for. Many people have used their entire savings to fight these planning issues and yet the official perception is that they are trivial or the product of professional troublemakers. This is unfair and unkind. If the "powers that be" actually stopped for a moment to consider that perhaps it is the obsolete regulations that are the cause for the high level of objections and subsequent litigation, then the way forward becomes clearer for everybody.

The Supreme Court was perceptive in its observation that the tone of decisions made by ABP and the reasons it gave to the court for making those decisions was indicative of an institution that was under siege. One could describe this approach as "fox holing", which is to dig a hole, get in it, and defend it to the bitter- end whatever the human cost.

Well, we have reached the bitter- end; the turbines are up but not running. They dominate the landscape above Klaus Balz and Hanna Heubach's and are oppressive. The developers are not making anything back on their investment but have not actively engaged with the court. They stubbornly go back to ABP and apply for Substitute Consent without having done anything positive since the Supreme Court decision. They claim Exceptional Circumstances but offer nothing new to break deadlock. The elephant is still there in the room – actually nine of them - and they are not going round and they are not going away. This obstinate refusal to engage with the court or any other litigant is offensive. It is suggestive of the mind-set of the oppressor that they will simply bang away until they get what they want, and the only exceptional circumstance is their own.

How can ABP in all conscience accept this application in the face of the Supreme Court's decision, and would it give the green light for every developer to simply re-apply every refused case in a bizarre merry-go-round that will block the system and leave it open to ridicule. We noted that the original decision by ABP to give permission to this Wind Farm was to assist the national move away from Carbon Fuels; and yet we are now in the position of having to pay producers to turn off turbines because the Grid network cannot cope, and there is not the demand for all the energy produced by wind. While politicians say this drive for Wind Power will make us leaders in Europe, we are actually leaders in being the most expensive Electricity in Europe.

In our opinion this company had a strong motivation to complete the project in time to avail of the Refit 2 Support Scheme. When one wants something you will do all you can to hold onto it, and delays cost money.

As stated by ABP each decision made can have huge consequences for communities, and the environment. Planner's local authorities and developers should look to the future with a more consistent and considered focus when conflicts arise between development and conservation.

NOISE

DICK BOWDLER is one of the highest profile acousticians and is highly qualified, and over his consultancy career he has carried out or reviewed over 500 noise assessments of various types; he states unequivocally that ETSU97 is not fit for purpose.

In the North of Ireland, the environmental committee asked an expert acoustician from Ulster University to give evidence and she reported that ETSU97 is so outdated that it is now impossible to ignore the health risks associated with Wind Turbines.

At last year's conference of the Institute of Acoustics a group of acousticians presented an independent review at and stated they have no confidence in ETSU97 and not only acknowledge Amplitude Modulation but recognise Extreme Amplitude Modulation is a factor.

A senior Cork County Council planner when commenting on an application for a Wind Farm in Carrigareirk Co Cork on 22nd of February 2016, concluded that "the existing wind farm guidelines are not fit for purpose given the changes in wind turbine development over the past ten years. The 500m rule of thumb and fit-all set back guideline is clearly not appropriate for turbines that stand at 140m and the height with a rotor cut covering 10,300 square metres; nor do I concur with the view that it should be normal planning practice to accept that property holders should accept up to 30 minutes a day shadow flicker"

In Germany, Bavaria has specified that there should be a minimum set back distance of 10 times tip-height which would translate into a 1500 metre set-back from people's homes. Poland has gone further and demanded a 2 kilometre separation distance. We are pushing for increasing renewable energy but we must not forget the rights of neighbouring landowners. They must be able to enjoy their land and get a good night's sleep; let us not forget that loss of sleep can lead to severe health problems.

EIAR

The Citizen on Biodiversity Loss is a group of 99 randomly chosen individuals to mark the start of the series of meetings on the Biodiversity Emergency declared by the Dial in May 2019. Experts outlining the task ahead told the group, nature has already been pushed into a corner in Ireland, there is a shocking decline in population numbers in recent decades particularly in birds. Ireland risks being turned into a "ghost land" for nature if abuse of land, habitats and species continues.

Professor Robert Watson a leading climate and Biodiversity expert said government policies and commitments were inadequate, he stressed that natural eco systems were essential to regulate floodwaters, water quality, air quality and disease. Nature is critical to human well-being, we humans are destroying it, and therefore we are undermining our own future

BATS

The surveyor who undertook the work on the Bat surveys must have a demonstrable track-record of experience in surveying Bats. They should be prepared to give evidence in court or oral hearing and be prepared to give evidence and defend their work, in some areas it is required that a four season approach is adopted for survey work for Bats. If you destroy a habitat for Bats you should make sure, you create another. Bats are long lived but slow breeding, making them very susceptible to extinction, which is why they must remain legally protected.

Strong legal protection works, and conservation action to protect and conserve Bats is achieving some success. This is why it is vitally important that this is continued.

We must remember that Bats are pollinators for up to 500 plants.

We have not seen any updated surveys on Bats and Birds done for Clenrath from MKO.

BIRDS

Some species that were recorded on the Clenrath site by MKO such as Snipe and Kestrel that were on the Amber List are now on the Red list. Golden Plover are also on the red list and they have been seen on the Gearagh and the River Lea. The Hen Harrier breeds in Ireland's bogs and uplands. Its nests are in heather moorland and young forestry plantations, it is probably only heard calling in the breeding season near their nesting sites, they need some cover, woodland edges and bushes to surprise their prey. This species is in decline due to loss of habitat due to agricultural changes and maturing forestry plantation, they will hunt over moorland for small nesting Birds and Mammals. This Wind Farm site at Clenrath was ideal habitat for the Hen Harrier, how many places are going to be left for this particular Bird to breed and survive, not many.

(4)

Birds, Mammals and Invertebrates need shelter water and food and sometimes have to endure cold winters they need their own territories with a good supply of food.

The Wind Farm developers are not interested or care about conservation and biodiversity and do not want to pay to increase the survey hours. We have heard the Irish government want to rush Wind Developments along much quicker. We may see survey work reduced to one year or scrapped altogether. The hours spent doing these surveys are already inadequate. There is a risk of starving birds out of existence.

MKO produce photomontages that make the turbines look no bigger than a tree or they take a picture with a big tree in front of them or a picture of an ugly breezeblock wall to make their turbines appear attractive. It is all done to deceive.

The Wind farm developers tell you the turbines do make noise but only that the noise is no noisier than a fridge or a washing machine.

When the turbines are up, working and it is found that depending on the wind speed, and wind direction they are noisy and you wish to complain to the company, they bring in equipment to prove they are compliant but they are still causing you to lose sleep.

You might also be unlucky that your home and garden is suffering from shadow flicker depending on the position of your home and garden and they say try blinds.

Good luck getting any help, the Councils do not want to know you are on your own but the turbines are still a causing you to lose sleep they are problem and are a nuisance.

The community will soon realize that the local authorities such as their local Councils and the Irish Government are also not going to protect them-the political fast tracking of renewables means that communities are already factored in as collateral damage.

For the Wind Farm operator and owner to turn the turbines off would hit their profits. They will do anything to prevent it.

Where is the EIAR on people's lives?

To treat people unfairly is unacceptable.

Kathleen Baker

K.S. Baker

Timothy Baker

T. Baker

