

Drumsallagh,
Kingscourt,
County Cavan.
A82 DD 70

To: An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

AN BORD PLEANÁLA	
LDG- _____	
ABP- _____	
16 SEP 2020	
Fee: € _____	Type: _____
Time: _____	By: <i>Deag Post</i>

Regarding: Observation on Application under the Planning and Development Act 2000 as amended for substitute consent for a wind farm in Co Cork. by Val Martin, Drumsallagh, Kingscourt, Co. Cavan.

Hereunder are the details required for a valid submission to the Board.

Planning Authority; An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Planning Reference numbers PL04. 307939, substitute consent.

Name and address of applicant: Cleanrath Wind Farm Limited, Lissarda Industrial Estate, Lissarda, Co. Cork P14YN56.

Description of the proposed development. The development will consist of a wind farm with an operational life of 25 years from the date of commissioning and constitutes the following:

9 No wind turbines with a ground to tip height of 150 meters and all associated foundations and hard standing areas All associated underground electrical 33kV and 38kV and communications cabling connecting the wind farm to the national grid. Upgrade of

existing access junctions and roads. Upgrade of existing and provision of new access roads and borrow pits, temporary construction compound and accommodation works along the turbine delivery route. Temporary roadway to facilitate turbine delivery. Forestry felling, site drainage, The operation of the wind farm for a period of 25 years. The decommissioning of the wind farm. Removal of the wind farm and restoration of the site and all associated development and ancillary works.

Location of proposed development. County Cork

Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South, Milmorane, Coomlibane, Rathgasig, Augeris, Gortteenakilla, Carrignadoura, Gorteenowen, Gurteenflugh, Lyrenageeha, Lackabaun.

This submission is made by: Val Martin of Drumsallagh, Kingscourt, County Cavan.

The contact person for communications: Val Martin, Drumsallagh, Kingscourt, Co Cavan Mobile phone No. 086 - 3614853.

Fee enclosed. There is no fee as advised by the Board Staff for this submission.

Recommendation: I recommend that this application be marked invalid or refused on the ground stated hereunder.

- 1) This application is in breach of the Strategic Environmental Assessment Directive 2001 / 42 . EC. Article 3(2) of that Directive mandates there be an assessment at National Level of on - shore wind energy and none was ever done. The on-shore wind energy government policy is a public plan or programme under this Directive. An Environmental Report is required with public participation which includes the need for it and which sets

associated development and ancillary works. Removal of the wind farm and restoration of the site and all farm for a period of 25 years. The decommissioning of the wind turbine delivery route. Temporary roadway to facilitate turbine construction compound and accommodation works along the provision of new access roads and borrow pits, temporary existing access junctions and roads. Upgrade of existing and

Location of proposed development. County Cork

Lynnegeera, Lackan, Gorteenakilla, Carrigadoura, Gorteenowen, Gorteenlough, Clearrath South, Milmore, Coomilane, Rathgaisig, Augeris, Reanaree, Cloontycarthy, Clearrath North, Derrineanig,

This submission is made by: Val Martin of Drumsallagh, Kingscourt, County Cavan.

The contact person for communications: Val Martin, Drumsallagh, Kingscourt, Co Cavan Mobile phone No. 086 - 3614853.

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the framework for all projects under it applied for under EIA Directive 2011/92/EU and 2014.

With no SEA, the application is invalid because the Board is not a competent authority to assess the need for the project on the basis of electrical generation and the impact of wind energy on the national grid. There are three designations legally describing works to land.

- 1) A Public Plan or Programme. SEA Directive.
 - 2) A Project. EIA Directive.
 - 3) A Development. Planning and Development Act.
- 2) If the Board insists on proceeding in the absence with the legally required SEA, then I am forced to engage in an illegal process and do so now under protest. The EIA Directive, the Habitats Directive and the Machinery Directive are the principal Directives and then there is the impact normally included under the planning and development acts.
- 3) There is no section of the Planning and Development Act (PDA) providing for this situation. Section 177 deals with a situation where the **development is carried out**. In this instant case the applicant must begin the whole process again. A development is limited to an application under the PDA. An application requiring an EIA is a **Project**, not a development.

Section 177 B states: *"Where a Planning Authority becomes aware in relation to a development in its administrative area for which permission was granted by the planning authority or the Board for which:*

Any error of fact, law or procedural matter. Et al

Section 177 C (1) refers to a person who has *carried out* the development. It does not apply in this case.

S.I. 387/2015 refers to houses which are normally developments.

Examples of where this Section would apply is if Section 160 of the PDA were invoked in relation to a development. There is no provision for an application under Section 160 unless the development is built. Challenges to wind farm applications are now in train for 10 years and the wind farm industry is well able to influence law making. There is no law to cover a situation where an application under Part X of the PDA is quashed by the courts at the third stage of the planning process, viz: Local authority, The Board and the Courts. This project went through the first stages but failed at the third stage i.e. at the court stage. The court ruled that the board failed to assess the potential impact of noise on local residents. The Board is not now at liberty to take the part it failed to assess and assess it unless there is a legal provision to cover it.

It is not clear from the information available to me if the Board directed the applicant to apply for substitute consent within 12 weeks. Section 177 (2) (b) does not specifically state that a person in the situation described can make an application for substitute consent.

There is nothing exceptional in the circumstances which apply here. The Board did what it has always done. It failed to insist the information supplied to it was accurate and it failed to properly assess the potential impact of noise.

It must be remembered that it took a long hard struggle by communities and individuals taking Judicial Reviews to force compliance with the EIA and Habitats Directive and it was pulled kicking and screaming into a sort of compliance. It's default approach is to do as little as it can get away with. To describe its own failure as exceptional circumstances stretches the intended meaning of the Section beyond normal bounds.

The EIA Directive is clear and the O'Grianna Ruling confirms that the cumulative effects of a project must be assessed. In doing that the Board must assess all the effects which currently apply in light of evolving information. It cannot repair one aspect (noise) and grant permission. It must insist the applicant begin the process again and the public must be notified and allowed to participate. The courts have made numerous decisions in the interim which could have been used by the residents in Judicial Reviews had they been available then.

Note Article 6 of the EIA Directive and the obligations of the Board under it. It must give reasons for its decision and that decision must be challengeable by way of Judicial Review.

4) Land ownership.

The North East Pylon Pressure Group (NEPP) took a judicial review against the Board in 2017 challenging its decision to grant planning permission to Eirgrid PLC for the North South Interconnector. In his ruling, Judge Max Barrett dealt with the situation where an interloper applies for planning permission for works on land he does not own and has no likelihood of ever getting the consent of the owner. His reasoning included a scenario where a competent authority is deliberating on such an application and can demand the land owner provide details of interest in the land, mortgages held and details of joint ownership. It would be incompatible with Irish law to allow an interloper to cause a criminal sanction on the land owner. The applicant in this case intends to lay cables from Co. Cork into County Kerry either under the public road, over land or a combination of the two. The land under the public road is owned by the owner of the land adjacent to the road and where it is owned on both sides, the landowner owns all the land under the road.



Wind developers have been getting round this by ignoring the rights of these land owners. There must be a condition in any grant that the written permission of all land owners be provided before work commences. Otherwise the board is complicit in taking over private land. Cork County Council or the Board could encounter a situation where it would demand a landowner to provide information about his land which was used (without his authority) and bringing him to court where he fails to do so. The ruling reduces this developer to the status of an interloper who has no authority to apply to lay cables on the land of another.

5) I am Val Martin, a farmer and environmental campaigner from Drumsallagh, Kingscourt, County Cavan. The Raragh wind farm was granted planning permission per Cavan 09/270 and appealed to the Board who granted permission per PL.02236608. The 5 turbine wind farm is situated on the eastern side of my farm at Drumsallagh, Kingscourt and is in the Townland of Raragh and Corrinshigo Kingscourt. My home is Eircode A 82 DD 70. The distance of the 5 turbines varied from 520 meters to 560 meters from my house. The Board gave permission without specifying the make and model of turbines to be used. I have now learned that each turbine make has a unique noise output and in this application the applicant must be compelled to specify the exact make and model of the turbines they intend to use. They installed Enercom E 90 model turbines rather than the Vestas make promised and I now know these have a different sound profile to Vertas.

The turbines are fitted with electric motors which adjust the yaw mechanism and this happens in all wind speeds. The decibel reading is in the region of 44 Db. This means there is never a calm day to be enjoyed. The motor runs about $\frac{1}{3}$ of the time and as there are 5 turbines, one is always going. In addition when there are light winds and it is relatively calm in the hollows

including at my house, there is noise like a distant war up on the hills. Sometimes it is like horses and carts trundling over cobbled roads or an airplane that never lands.

There is the swish swish of the blades and there is infrasound. Everywhere I go on my farm it is beating away constantly. Cavan County council refuse to entertain any complaints and they are the enforcement authority. There is also shadow flicker on my house and lands. Neighbours have made complaints to the developer who did nothing and said there is nothing more can be done. In Tierworker, near Kells, Co, Meath the developer of a permitted wind farm has admitted the noise is excessive but there is nothing more can be done.

Normal sleep is a thing of the past for me except in very calm conditions the turbines are stopped or nearly stopped. When I get to sleep, I wake up when I am less tired and the noise is the first thing I notice.

It is often like a pressure in the inner head. There is an old style wide chimney from the kitchen in my house and the noise comes down it. There is a Rayburn cooker and when the wind is blowing the noise comes out from the fire box. Closing the firebox door stops it, but the heat is lost. I have to choose between sitting in the cold suffering the noise.

I am now facing years of litigation to shut this facility down because the Board ignored the recommendations of its own inspector and failed to properly assess the impact of noise on me. The Board should now use my experience to refuse this application. The developer must not be allowed to leave the make and model of turbine open, but must be compelled to specify the turbines which will be installed. I will swear an affidavit in support of any judicial review that may be taken if this application is granted. Anyone living between 500 and 800 meters of this wind farm will suffer from the impact of noise. Irish courts have already acknowledged the impact of noise.

6) Evidence must be provided that the turbines to be installed will comply with the machinery Directive. They must be accompanied by a type certificate, I know of no make which is.

This application is totally irregular and must be marked invalid.

Signed

A handwritten signature in black ink, appearing to read 'Val Martin', with a long horizontal line extending to the right.

Val Martin

Date 14th September 2020.

21 Aspen Drive,
Kinsealy Court,
Swords,
Co. Dublin

To: An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

Regarding: Observation on Application under the Planning and Development Act 2000 as amended for substitute consent for a wind farm in Co Cork. by John Dooley of above address.

Hereunder are the details required for a valid submission to the Board.

Planning Authority; An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Planning Reference numbers PL04. 307939, substitute consent.

Name and address of applicant: Cleanrath Wind Farm Limited, Lissarda Industrial Estate, Lissarda, Co. Cork P14YN56.

Description of the proposed development. The development will consist of a wind farm with an operational life of 25 years from the date of commissioning and constitutes the following:

9 No wind turbines with a ground to tip height of 150 meters and all associated foundations and hard standing areas All associated underground electrical 33kV and 38kV and communications cabling connecting the wind farm to the national grid. Upgrade of existing access junctions and roads. Upgrade of existing and

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provision of new access roads and borrow pits, temporary construction compound and accommodation works along the turbine delivery route. Temporary roadway to facilitate turbine delivery. Forestry felling, site drainage, The operation of the wind farm for a period of 25 years. The decommissioning of the wind farm. Removal of the wind farm and restoration of the site and all associated development and ancillary works.

Location of proposed development. County Cork

Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South, Milmorane, Coomlibane, Rathgasig, Augeris, Gortteenakilla, Carrignadoura, Gortteenowen, Gurteenflugh, Lyrenageeha, Lackabaun.

This submission is made by: John Dooley, 21 Aspen Court, Kinsealy, Co. Dublin.

The contact person for communications: Val Martin, Drumsallagh, Kingscourt, Co Cavan Mobile phone No. 086 - 3614853.

Fee enclosed. There is no fee as advised by the Board Staff for this submission.

Recommendation: I recommend that this application be marked invalid or refused on the ground stated hereunder.

I am a retired engineer.

In response E NE 055 9 37 (dated the 16/6/2015) to a question raised by Mairead McGuinness the EU Commission stated that "wind turbines are machines to which the Machinery Directive applies".

Article 4 of that Directive sets out the obligation of member states to ensure that the provisions of the Directive apply and that machines placed on the market and put into service are safe. The implementation of this Directive is the responsibility of the relevant national authorities by carrying out the appropriate surveillance activities.

In a 2017 Swedish report named "Market Control of Wind Turbines" No 2017 -04-18 2015 -0342101, by Arbetsmiljo Verket, (equivalent to Irish HSA) the conclusion was reached that wind turbines do not comply with the Machinery Directive.

Also in 2017, Sluttraport RO 2017 : 01 carried out into the collapse of a 3 MW Vestas V112 turbine on the 24th December 2015 at Junkobing County Lemnhult, the conclusion reached is that IE 61400 -22 type certification of wind turbines was not in compliance with the Machinery Directive. This turbine collapsed after 3 years of service.

A market surveillance should be carried out in Ireland to confirm the actual legal position of wind turbines.

I recommend this application be refused on the grounds that the developer has failed to prove the turbines will be compliant and there is a public danger.

Signed John Dooley
John Dooley

15th September 2010.

Gortnakesh
Cavan
Co.Cavan
H12 X8K7
14/09/2020

To: An Bord Pleanala
64 Marlborough St,
Rotunda,
Dublin 1,
D01 V902

Dear Sir / Madam,

Regarding: Submission on Application under the Planning and Development Act 2000 as amended for substitute consent for a wind farm in the townlands of Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South, Milmorane, Coombilane, Rathgaskig, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen, Gurteenflugh, Lyrenageeha and Lackabaun, Co. Cork, by Owen Martin, Gortnakesh, Cavan Co. Cavan.

Hereunder are the details required for a valid submission to the Board. Planning Authority; An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Planning Reference numbers PL04. 307939, substitute consent.

Name and address of applicant: Cleanrath Windfarm Ltd, Lissarda Industrial Estate, Lissarda, Co. Cork P14YN56

Description of the proposed development - The development will consist of a wind farm with an operational life of 25 years from the date of commissioning and constitutes the following: • 9 No. wind turbines with a ground to blade tip height of 150 metres and all associated foundations and hard-standing areas; • All associated underground electrical (33kV & 38kV) and communications cabling connecting the turbines to the national electricity grid; • Upgrade of existing access junctions and roads; • Upgrade of existing and provision of new site access roads; • Borrow pit; • Temporary construction compound; • Accommodation works along the turbine delivery route; • Temporary roadway to facilitate turbine delivery; • Forestry Felling; • Site Drainage; • The operation of the wind farm for a period of 25 years; • The decommissioning of the wind farm, removal of turbines and restoration of the site; and • All associated site development and ancillary works.

Location of proposed development. Townlands (Co. Cork) • Reananerree • Cloontycarthy • Cleanrath North • Derrineanig • Cleanrath South • Milmorane • Coomlibane • Rathgaskig • Augeris • Gorteennakilla • Carrignadoura • Gurteenowen • Gurteenflugh • Lyrenageeha • Lackabaun

This submission is made by: Owen Martin of Gortnakesh, Cavan County Cavan.

The contact person for communications: Owen Martin, Gortnakesh, Cavan County Cavan.

Mobile phone No. 087 - 2595026.

Fee - There is no fee as advised by the Board Staff for this submission.

I wish to register the following observations on the planning application for the above proposed project :

- 1) There is no substantive justification for the project. Total emissions reported by the EPA showed that Ireland's greenhouse emissions increased from 42,206 kt CO₂eq in 2013 to 45,401 kt CO₂eq in 2018. During that same period, total wind farm capacity in Ireland approximately doubled to 4,000MW. Therefore, we have already surpassed the point where there are any more benefits to be had from wind energy. No power station has been closed down in Ireland and replaced by a wind farm. In fact, more power stations are due to be connected to the grid. According to the most recent Eirgrid Generation Capacity Statement, up to 400MW of new gas powered generating stations are in the pipeline and were successful in the recent capacity auction. The Cleanrath wind farm will be ineffective in reducing emissions. Emissions can only be reduced in Ireland by reducing demand and consumption, not by increasing more generating capacity. The evidence speaks for itself. The developer's EIAR Non Technical Summary itself even admits that Ireland will not meet its renewable 2020 targets, an indictment of Ireland's wind energy focused policy up to now.
- 2) The white tailed eagle is listed in Annex I of the EU Birds Directive as a threatened bird species. A white tailed eagle was killed by a wind turbine in Kilgarvan in 2011, due to the severing of a leg caused by the blades. This area had been designated as suitable for wind turbines. The White tailed eagle is rare due to about a hundred years of systematic persecution by human activities and was driven to an endangered or extinct status in many countries (It became extinct in Ireland in 1901). It was reintroduced in Ireland in 2007. Bogs or peatlands are known to be suitable foraging areas for white tailed eagles.

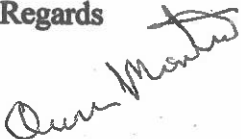
'Land areas also offer water bodies and bogs as potential foraging areas.' The issue is that the white tailed eagle does not appear to change its flight patterns in response to unprecedented objects such as wind turbines. 'However, the eagles still failed to show any sign of behavioural in-flight changes, making them more vulnerable to collision mortality.' (*Habitat use of flying subadult White-tailed Eagles (Haliaeetus*

albicilla): implications for land use and wind power plant planning. Hannu Tikkanen*, Fabio Balotari-Chiebao, Toni Laaksonen, Veli-Matti Pakanen & Seppo Rytönen Ornithologica Fennica 95: 137-150. 2018. P.146).

It is clear on the Biodiversity Ireland website that there have been a large cluster of sightings of white tailed eagles in close proximity to the Cleenrath area. This indicates the possibility of the sea eagles choosing to fly further inland in order to forage from the boggy areas such as that which is directly next to the wind turbines. These risks have not been duly considered in the application. It is an offence under the Wildlife Acts to kill a protected bird.

In view of the observations above I request that An Bord Pleanála refuse permission for this application for substitute consent.

Regards


Owen Martin

Gortnakesh Cavan Co.Cavan

