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Sent: Friday, May 24, 2024 1:26 PM
To: Appeals2
Subject: Observation on application for Substitute Consent ABP 319466-24

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A Chara,

We wish to make the following observation on this application for substitute consent ABP 319466-24

As The Bord is aware Donegal County Council injuncted the applicants from carrying out further works on this site which had been approved by An Bord Pleanala for the development of a wind farm in the summer of 2018.

It is regrettable to note that, The then Bord failed to give adequate assessment of the application and failed to take account of the independent expert opinions offered in support of the objections to the development , which clearly highlighted the vulnerability of this site.

We refer in particular to the Observations of Professor Paul Johnston and these failures by The Bord allowed for the development to be undertaken which resulted in a catastrophic peat slide in November 2020.

With the disturbance of circa 86000 cubic metres of peat , the widespread impacts on the Mourne Beg River and other local water courses, which were habitats that could have been considered to be amongst the best spawning grounds for Salmon and Trout in this part of Europe.

Due to the total disregard of the nature of the site and the absence of clear and warranted investigation of the geo technical aspects of the area, this catastrophe for the environment, which was totally avoidable was allowed to happen.

It is an example of the utmost indifference by the applicants for the preservation and conservation of this important habitat that will now likely take centuries to recover.

The purpose of the EIA process is to identify likely affects of a proposed project or development on the local receiving environment and where possible to identify remedies of how to avoid such outcomes.

Or in circumstances where a level of certainty cannot be achieved development in these areas is avoided altogether.

This was a devastating outcome.

As regards the current application under Section 160 of the Planning Act, the applicants were found to have deviated from the original permission in 25 instances, that can be regarded as significant.

The site as previously alluded to is of considerable environmental vulnerability composed mainly of blanket bog, some active.

Given the scale and affect of the deviations from the original planning permission, the High Court rendered the entire development unauthorised and not merely the deviations.

This is a very serious matter in terms of the lack of regard by the applicants for the planning process and the requirements to adhere to that process.

In particular in areas like this of environmental importance and in areas of such vulnerability. In seeking a retention of permission the application must be considered in terms of the Judgement of the ECJ in case C-215/06 Commission versus Ireland, where the grant of retention planning permission which is in effect what is being sought here is inconsistent with the requirements of The EIA Directive.

While seeking a substitute consent the availability of this remedy is surely only intended for use in exceptional circumstances and should not be regarded as a means for justifying the failure to adhere in strictest possible terms to the terms and conditions of a planning consent that has been subject to EIA.

Therefore we feel that the appropriate decision here is to refuse permission for this application.

Yours Sincerely

Peter Crossan

Rahima Sayer