

Laura Crawford

From: Gwyneth McQuiston [REDACTED]
Sent: 18 November 2021 14:02
To: Planning
Subject: LA01/2019/0890/F

Dear Sirs,

I hereby Object to Planning Application LA01/2019/0890/F as the Habitats Regulation Assessment, as required by The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), does not contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the site concerned, in contravention of European Court of Justice case C-304/05, paragraph 69.

The HRA is incomplete because a Drainage Assessment/Drainage Plan were not included in the Appropriate Assessment and therefore an assessment of hazards, risks and pathways to protected European Sites could not be determined.

The location of settlement lagoons and retention ponds was not specified as only an Outline Water Construction Environmental Management Plan (OWCEMP) was provided. The volume of these lagoons was estimated at over 4,000 cubic metres but this does not include the settlement ponds. How can Council be certain that the data in the Outline CEMPs will be the same as the Final CEMPs?

The OWCEMP notes "Siltbusters" and Flocculants will be used in settlement lagoons and retention ponds but the types of chemicals and volumes to be used, in perpetuity, was not specified nor considered in the HRA.

The chemical commonly cited as Wind Farm Flocculants is Cationic polyacrylamide which is non toxic to humans or wildlife. However, it degrades, increasing its mobility and potential leaching of acrylamide monomer, a known neurotoxin and carcinogen into the aquatic environment. The HRA failed to identify this risk and hazard to this pristine water catchment, which feeds internationally important Salmon spawning grounds. There was no consideration of this neurotoxin and carcinogen bioaccumulation in the bottom of these settlement lagoons and retention ponds or its flushing out during adverse rainfall. There was no assessment of its bioaccumulation in flora or fauna or its interaction with other pollutants.

Will each Turbine have a Bunded area around its base to prevent leaching of hydrocarbons? How will any oil contaminated water from each Turbine be collected, stored and treated? What volume of oil will be stored and used on site each year? What volume of oil contaminated water will be stored and treated in this pristine water catchment?

The Outline CEMPs propose multi-phase monitoring to ensure that there will be no possibility of any adverse effects on designated European Sites. However, I draw your attention to ECJ case C-142/16, paragraph 43: as regards multi-phase monitoring, such monitoring cannot be considered as sufficient to ensure performance of the obligation laid down in Article 6(3) of the Habitats Directive.

The Outline Decommissioning/Construction Environmental Management Plan notes that the final site DCEMP may vary from what is set out in this document. This is clear evidence that the HRA Appropriate Assessment was not undertaken on the Final project!

Furthermore, the HRA states: "The Appropriate Assessment has concluded that adherence to the condition of a Final CEMP will ensure no adverse effects to any designated European site or feature from the proposal". The HRA reliance on an assessment by the Competent Authority of the Final CEMP, after Planning Approval, is in

contravention of ECJ case ruling C-127/02, paragraphs 52-54, 59: "an Appropriate Assessment of the implications for the site concerned of the plan or project must precede its approval."

As a Final CEMP was not assessed as part of the Appropriate Assessment, the Competent Authority cannot conclude with certainty that there will be no adverse impacts on designated European Sites.

The Outline Peat Management Plan notes that 45,471 cubic metres (Tonnes) of peat will be excavated yet the HRA concludes that there will be no adverse impacts on priority habitats. The Location of Earthworks, Drainage and Stockpiles of peat is unknown. How can Peat Slide be assessed as "Stable" without this information? NIEA Water Management Unit raised concerns about water quality with the potential for Peat Slide. The 2019 NI Geological opinion on Peat Slide was given prior to the concerns raised by NIEA in 2021 regarding Peat Slide and without any knowledge of the locations of Earthworks, Drainage and Stockpiles. How can NI Geological Survey's Opinion be relied upon if they did not have a detailed and Final Peat Management Plan? They stated that Peat Slide will be reduced to an acceptable level. What is an acceptable level of Peat Slide for this sensitive habitat and in this pristine water catchment?

Regarding the proposed restoration of Peat Habitats, I draw your attention to ECJ ruling in C-387 & 388/15 paragraph 64: "measures, contained in a plan or project not directly connected with or necessary to the management of a site of Community importance, providing, prior to the occurrences of adverse effects on a natural habitat type present thereon, for the future creation of an area of that type, but the completion of which will take place subsequently to the assessment of the significance of any adverse effects on the integrity of that site, may not be taken into consideration in the assessment."

The HRA assessment of In-combination Effects only considered other Wind Farms and not other development Cumulative Impacts on designated European Sites such as roads, housing, Anaerobic Digesters and intensive agriculture. In particular, the HRA omitted any assessment of potential in-combination adverse impacts on sensitive Atlantic Salmon spawning grounds in these catchments from other projects, not just Wind Farms.

The HRA also excluded an Appropriate Assessment of the Grid Connection infrastructure required for this site.

No Environmental Impact Assessment was undertaken on the Energy Storage Battery unit and its potential emissions to air and aquatic environment and risk of fire spreading to sensitive habitats. The DFI Chief Planner advised Council, in his letter dated 22 June 2018: "Sub-stations associated with their connection to the grid are likely to constitute development under Section 23 of the 2011 Planning Act."

The risk of bird collision mortality with wind turbines was not assessed In-combination with the installation of overhead power lines for Grid Connection and these combined effects could be significant.

The HRA noted that rain water is clean and therefore it is assumed that run-off from access tracks will be clean water. It is noted that the developer is proposing using adjacent land to the access tracks for filtration but no assessment has been made of its effectiveness nor Environmental Impact. The ES noted that 2,100 Tonnes of concrete and 630 Tonnes of steel will be introduced into this pristine water catchment but no information was provided on the volume of crushed rock and bindings being introduced to create a road network and hard standings across the site. No information was provided on the chemical signature of contaminated water run-off from these roads and concrete (alkaline) structures into these acid Peatlands.

How will the foundations of the existing 10 Turbines be removed/crushed? Will this crushing occur on site? Will these redundant sites be "reinstated" to their natural condition or will they be left to continually leach contaminants into the aquatic environment?

Given the level of lacunae in the HRA, it will be unlawful for CC&GS Borough Council to approve this project. It cannot be held that an assessment is appropriate where information and reliable updated data concerning the Habitats and Species in the site are lacking, see ECJ case ruling C-43/10, paragraph 115.

ECJ case C-404/09 ruling states: "Appropriate Assessment is unlawful if it contains gaps and lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt."

I draw your attention to ECJ case C-258/11 ruling: "The assessment must be undertaken having rigorous regard to the Precautionary Principle. The Competent National Authority may grant authorisation to a plan or project only if they are convinced that it will not adversely affect the integrity of the site concerned. If doubt remains as to the absence of adverse effects, they must refuse authorisation."

See also ECJ case C-127/02 paragraph 57: "Where doubt remains as to the absence of effects on the integrity of the site linked to a plan or project being considered, the competent authority will have to refuse authorisation."

Yours faithfully,
David & Gwyneth McQuiston

Sent from my iPhone

