

Laura Crawford

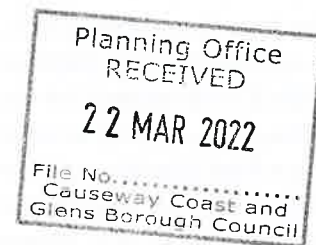
From: olga harper <
Sent: 21 March 2022 21:59
To: Planning
Subject: Further objection to Planning Application LA01/2019/0890/F OBJECTION

To whom it may concern:-

Following my letter of objection on 20 March 2020 In which I considered the deficiencies in SES response, I now turn my attention to Planning officer's Report Addendum 4 . Its flawed determinations confirm my objection to this application .

This Report states:

"1.9 The submission from the agent outlines that the design parameters for the development contained within the relevant (outline) documents in the Environmental Statement have been calculated to represent worst-case scenario parameters. The potential impacts, hazards and pathways identified at the final detailed design stage will therefore be the same or less than those presented. Therefore, the assessment carried out allows for the removal of all scientific doubt as to the conclusions of the HRA."



These "Design Parameters" did not take account of Climate Change and the risk of more extreme weather events such as drier Summers and wetter Winters and flash flooding. Therefore, the "Design Parameters" are not "Worst Case Scenarios".

The Peat Slide Risk Assessment took no account of Climate Change in terms of drier Summers leading to Peat drying out and deteriorating reducing its stability. In addition, the PSRA took no account of wetter Winters and extreme weather events, such as cloud bursts which resulted in significant Peat slides at Meenbog Windfarm, Co Donegal in 2020 and Glenelly Valley, Co Tyrone in 2018.

The Design Parameters contained no data on the Discharges to waterbodies in terms of water volume and quality (pollution) and location of Discharges. SES failed to consider these risks in their Appropriate Assessment.

The Design Parameters are just Design Principles and therefore do not contain specific details on the location of impacts or even which mitigation measures will be deployed in which location. This is why a Final CEMP is being requested as a Condition of Planning Consent as this information was not available to SES at the time of their Appropriate Assessment.

The Planning Officer assumes that the potential impacts, hazards and pathways identified at the final detailed Design stage will therefore be the same or less than those presented. However, this determination is flawed as the potential impacts, hazards and pathways may be the same but the **risks** will be different due to the specific locations of Turbines, Earthworks and Settlement Lagoons not being specified in the Outline CEMPs. The Appropriate Assessment is supposed to assess **Risks** as well as **Hazards** and **Pathways**!

"1.10 Consent to Discharge, issued under the Water (NI) Order 1999 is required for any discharge to the aquatic environment, and the use of any flocculants would be considered as part of any consent by DAERA Water Management Unit, who are the competent authority for the consent to discharge process."

Consent to Discharge is the legal responsibility of DAERA under the Water (NI) Order 1999. However, under the Habitats Regulations, it is the legal responsibility of The Planning Authority to undertake an Appropriate Assessment of all aspects of the plan or project which can, either individually or in combination with other plans or projects, affect those (conservation) objectives must be identified as per European Court of Justice case ruling C-127/02, paragraph 52-54,59.

"1.12 With regards to the concerns relating to peat slide risk, the applicant has confirmed that the issues of peat slide risk and peat storage are covered by two separate documents. The Peat Slide Risk Assessment assesses the risk of peat slide from the proposed development infrastructure. This document outlines any mitigation measures required during the construction phase including the management and temporary storage of peat. The Outline Peat Management Plan outlines how peat stockpiles are to be sited and provides for a methodology for the handling and storage of peat. The mitigated impacts of peat slide are considered to be negligible following the implementation of mitigation."

The Outline Peat Management Plan, upon which the Peat Slide Risk Assessment was based, only outlines how Stockpiles of Peat are to be sited but fails to identify their location. In addition, the Outline Peat Management Plan only provides a methodology for the handling and storage of Peat. It does not provide any details on where it will be stored or the exact volumes at which location as these facts were unknown and not assessed by SES. This is the reason why a Final Peat Management Plan is conditional for Planning Consent. However, any assessment of the Final Peat Management Plan will only occur after Planning Consent. This policy by the Planning Authority is unlawful as per ECJ case ruling C-127/02, paragraph 42.

"1.13 The HRA response dated 1/7/2021 outlines the reasoning for in-combination effects to only include other windfarms, and not all other development such as those identified at paragraph 1.4."

The Planning Officer confirms the need to include In-combination effects of other windfarms but the SES Appropriate Assessment failed to undertake cumulative assessments of environmental impacts of other windfarms with this project on designated protected sites, including Discharge Consents, Grid Connections and Battery Storage in contravention of ECJ case rulings C-127/02, C-392/96 and C-418/04.

1.20 "With regards to the impact of bird strike from overhead powerlines, NED acknowledge that this does not form part of the proposal and does not require comment under this application."

In the latest NIEA (NED) response dated 02/03/2022, *"It is the responsibility of the Planning Authority to ensure that all risks to the environment and requirements under environmental legislation and Planning Policy have been considered."* Regarding deferment of an Appropriate Assessment of Grid Connection to a later date after Planning Approval for this Windfarm, I draw your attention to ECJ case rulings C-127/02 paragraph 42: *"The assessment must therefore be undertaken before the competent authority decides whether or not to undertake or authorise the plan or project"*.

NIEA has already provided advice and cited EU guidance and case law demonstrating that Grid Connections are an integral part of Windfarm construction and their Cumulative Impact with the Windfarm should be considered prior to Planning Consent. NIEA in particular reference EU guidance: Managing Natura 2000 Sites regarding assessing the implications for the site: *"For instance, it may be that the risk of collision mortality with wind turbines alone is not likely to be significant but if it is taken in combination with the installation of overhead power lines, which could also cause collision mortality, then the effects for particular bird population could be significant."*

"1.27 With regards to the request for further cumulative studies of all

wind farms in the North Sperrins and their impact of fauna, ecological assessments were carried out as part of the Environmental Statement, which covers a range of species. Consultation was carried out with DAERA Natural Environment Division (NED) who are the competent authority for such issues.

DAERA NED in their consideration of the impacts of the development have no objections to the proposal subject to a number of conditions in respect of monitoring and mitigation, and are content with the scope of the assessment in regards to fauna.

In their assessment DAERA NED did not require specific cumulative studies to be undertaken."

Regarding DAERA NED not requiring cumulative studies to be undertaken or having **No Objection**, I draw your attention to NIEA's latest response dated 02/03/2022 which stated: *"In the absence of comment, no inference can be made on DAERA's position with regards to other environmental matters. It is the responsibility of the Planning Authority to ensure that all risks to the environment and requirements under environmental legislation and Planning Policy have been considered."*

The Planning Officer failed to consider that **no** Cumulative Assessment has been undertaken for any Windfarm, its Discharge Consents or Grid Connection in the North Sperrins in contravention of ECJ case rulings C-418/04, C-392/96 paragraphs 76 and 82: *"The failure to take account of the cumulative effects of projects in practice leads to a situation where all projects of a certain type may escape the obligation to carry out an assessment, whereas, taken together, they are likely to have significant effects on the environment."*

I draw your attention to the Waddenzee ruling C-127/02 paragraphs 52-54, 59: *"An Appropriate Assessment of the implications of the site concerned of the plan or project must precede its approval and take into account the cumulative effects which result from the combination of that plan or project with other plans or projects in view of the site's conservation objectives."*

"Such an assessment therefore implies that all aspects of the plan or project which can either individually or in combination with other plans or projects, affect those (conservation) objectives must be identified in light of the best scientific knowledge." The Planning Officer has not considered these cumulation impacts prior to this Windfarm project being considered for Planning Approval and therefore the SES Appropriate Assessment is not compliant with the legislation.

I again draw your attention to ECJ case ruling C-127/02 paragraph 57:

"Where doubt remains as to the absence of adverse effects on the integrity of the site linked to the plan or project being considered, the competent authority will have to refuse authorisation."

Yours sincerely,

Olga Harper