

**Examining Clare County Council's Planning Decision against the
Coor Shanavogh Wind Farm**

Dakota Lamb

Wednesday, July 12, 2017

Introduction

In 2010, McMahon Finn Wind Acquisitions applied to the Clare County Council for planning permission to develop a small-scale wind farm with 12 turbines. After further review, it was determined that this layout was unsuitable, and thus the application was withdrawn. The following year, on May 19, 2011, McMahon Finn re-applied to the council for a smaller, six turbine project. The development would include six Enercon E82 2.3 megawatt electricity generating wind turbines, impacting the townlands of Coor West, Shanavogh East, and Shanavogh West. These turbines have a hub height of 84.58 meters and a rotor diameter of 82 meters, for an exact tip height of 125.58 meters. When fully operational, the farm would output 13.8 MW of electricity into the grid.

Size of the Project

The total land area to be used for the project was 10.51 hectares, negotiated between McMahon Finn and six local landowners. Four of the turbines would be placed within a coniferous forest, one would be located in grassland, and one would sit in wetland. In addition to the six turbines, McMahon Finn was also proposing hard standing areas for construction and maintenance, an electrical facility, a substation building, new and upgraded site tracks, and underground cables.



Figure 1 - Model of what landscape would look like with the turbines installed from McMahon Finn's EIS

Application and Assessments

McMahon Finn submitted numerous reports, figures, and assessments with their application to the city council. These included soil and geology reports, hydrology figures, peat stability reports, noise assessments, shadow flicker assessments, and cultural heritage impact reports, among others. Of all the information provided, the major points made in support of the development were:

- No noise impact at any of the surrounding homes or businesses
- No significant shadow flicker at any of the surrounding homes
- No impact to protected wildlife habitats around the development
- Watercourses inside the development would not be rerouted or impacted
- Local traffic would not see significant impacts and local roads would not close
- Quality of groundwater would not be affected
- Breeding, wintering, and migrating birds would not be impacted

Reports Submitted

The Clare County Council asked for reports from several organizations and agencies, looking for their input on the McMahon Finn project. During the review process, the council received five reports, which are summarized below:

The National Trust for Ireland

Energy Officer Elizabeth Muldowney and Natural Environment Officer Camilla Keane of An Taisce prepared a three-page report evaluating the potential ecological impacts of the proposed wind farm. First, the report addressed the

turbines' effect on the bats in the area. While they appreciated the bat study submitted by McMahon Finn, and agreed with them that the area is unlikely to house a significant number of bats, they requested that another study be conducted during the optimal monitoring season. In addition, they asked that the results of corpse searches be made available to the public if the wind farm is constructed. Second, the report addressed Turbine 6's proximity to a stream. They note that a 50 meter buffer between turbines and all watercourses is standard procedure, and thus recommend that Turbine 6 either be relocated or omitted from the development. Third, the report discussed the potential impact on the local bird population. They recommended that further research be done to show how open areas are currently being used by birds, and also requested that bird monitoring continue for the life of the wind farm if it is approved. Fourth, the report expressed concern with the cumulative number of wind turbines in the area, which would total 97 if the 6 McMahon Finn turbines were erected. Fifth, the report requested that all clean and dirty water sources be kept separate during construction.

Risteard UaCroinin, Architectural Conservation Officer

This report was submitted as incomplete, with Mr. UaCroinin noting that the environmental impact statement does not include any mention of structures and landmarks built after 1700 AD. Mr. UaCroinin called this a "serious omission," and thus recommended that a full historic and cultural landscape evaluation be conducted. In addition, he recommended that the National Monuments Service

be contacted for further advice, as the wind farm would surround two recorded ringfort monuments, and be within 500 meters of 15 other monuments.

David Tuohy, Department of Arts, Heritage, and the Gaeltacht

Mr. Tuohy's report focused on bats and birds in the area of the wind farm. First, he recommended that further bird studies be conducted, including a study specifically focusing on the Hen Harrier. Additionally, the report suggested that a 25-year landscape model be conducted to show how the bird's habitat could be impacted over the lifetime of the wind farm. The report also criticized the bat survey submitted by McMahon Finn as incomplete, since no information was provided regarding the timing, weather, or duration of the survey.

Mary Burke, Chief Executive Chemist

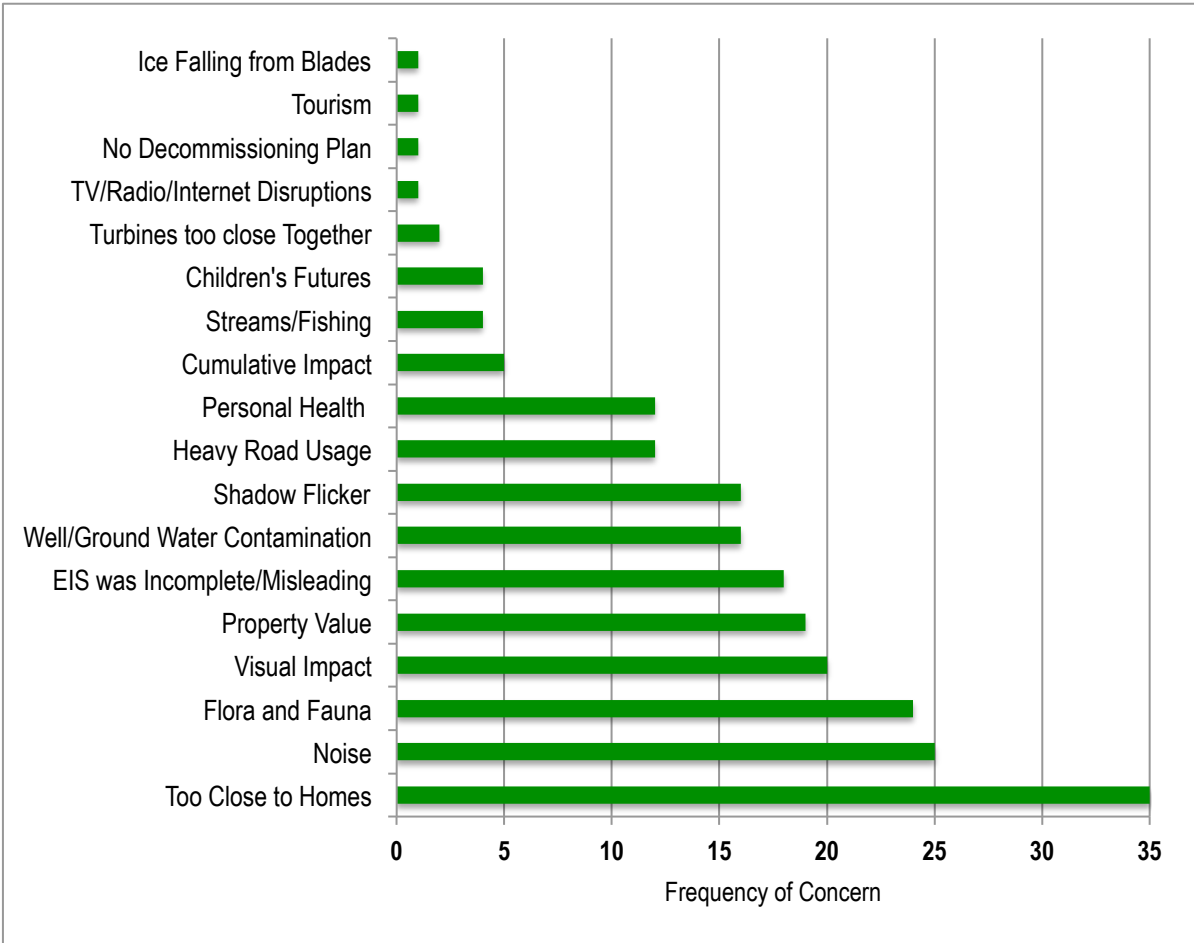
Ms. Burke's report addressed four main areas of concern after reviewing the EIS submitted with the application. First, she questioned how the EIS calculated the volume of 26,500 m³ of peat, soil, and stone to be excavated during construction without having drilled for core samples. It is also a concern that these "borrow pits" would impact badger habitat. Second, she requested that a biological survey be conducted on the streams in the drainage area of the project. Third, she asked for a noise assessment to be conducted for the construction phase of the project, describing any impacts from stone crushing or extraction. Fourth, her report asks for information on settling ponds that may be needed to collect and treat storm water during the construction of the wind farm.

Tom Cooney, Irish Aviation Authority

The report submitted by the Irish Aviation Authority does not object to any part of the proposed wind farm, but requests that (1) the developers contact the authority for information on warning lighting on the turbines, (2) the exact coordinates and elevations of the turbines be provided after construction, and (3) they be notified at least 30 days before the turbines are erected.

Public Comment

The council received 44 submissions, all of them submitted in opposition to the wind farm. The frequency of different concerns from the submissions are charted below:



In addition to comments submitted to the council, community members created an opposition organization named “Wind Aware Clare.” The group shared information about the project on a website, and sold products to offset the legal costs from their numerous appeals.

Planner’s Report

On July 7, 2011, the Clare County Planner provided his report on the proposed wind farm. The 38-page report detailed all aspects of the proposed project, including summaries of the reports and comments received by third parties. The planner’s recommendation was to refuse planning permission for seven major reasons:

1. The size of the turbines and the noise they produce could injure the amenities of nearby residential properties and negatively effect property value.
2. The topography of the land on which the turbines were to be built would make it difficult to prevent water pollution and mudslides.
3. There was not enough evidence shown that the wind farm would not impact the habitat of the Hen Harrier, which is known to live in the area.
4. Inadequate habitat mapping was provided to show how much the wind farm would impact species living the proposed project area.
5. The bat survey provided was not appropriate as it was conducted on unspecified dates under unspecified conditions.
6. The need for construction equipment and worker vehicles would negatively impact local roadways and present a public safety risk.

7. The Environmental Impact Assessment was deemed inadequate and not detailed enough to assess the project's impacts in a complete manner.

Application Decision

On July 12, 2011, the Clare County Council accepted the recommendation of the planner and issued the decision to refuse planning permission for the proposed Coor Shanavogh Wind Farm.

Appeal Process

On August 8, 2011, McMahon Finn lodged an appeal with An Board Pleanala seeking a review of the Clare County Council's decision to refuse planning permission. Four months later, on November 30, Louise Kiernan issued his Inspector's Report to the board. Mr. Kiernan recommended that the board uphold Clare County Council's decision, advising that planning permission be denied for the following major reasons:

- The scale and location of the development would generate noise and shadow flicker that would impact the amenities of the surrounding properties.
- The scale of the turbines would dominate the skyline, damaging the visuals of a nearby scenic route.
- Sufficient information was not provided in the environmental impact statement to prove species and habitats in the area would not be negatively impacted.
- The development would sit on an area of poorly drained soils and existing ditches, which could create an unacceptable impact on the local groundwater and streams. This could have a negative impact on water wells and fish habitats.

- The need to excavate bedrock during the installation of Turbine 6 could cause ground instability, with the potential to introduce sediment into nearby water systems.

Despite the inspector's recommendation to refuse, An Board Pleanala overturned Clare County Council's decision and granted planning permission for the Wind Farm. The board did not disagree with all of the inspector's objections, instead advising McMahon Finn to decrease the number of turbines from six to four and make other adjustments in order to receive planning approval.

Conclusion

After winning their appeal with An Board Pleanala, McMahon Finn continued to face challenges against the Coor Shanavogh Wind Farm. In June 2014, the High Court granted judicial review of the board's decision, leading to a hearing before the court. In June 2016, High Court judge Max Barrett overturned An Board Pleanala's decision, ruling that planning permission for the wind farm should be refused. In the end, McMahon Finn devoted more than five years and thousands of euros through the application and appeals processes. While some of the concerns levied against the wind farm were legitimate, many were unfounded and directly contradicted the studies and assessments conducted before the application was filed. This project is a good example of how small-scale wind farm developments face not only technical challenges, but also policy and regulatory hurdles from county councils, environmental organizations, and Irish citizens.

References

Planning application documents were accessed using Clare County Council's website, <http://www.eplanning.ie/ClareCC>. The application's filing number was 11360.

Appeal documents were accessed using An Bord Pleanála's website, <http://www.pleanala.ie>. The appeal's case number was 239378.

A timeline of the project and other research was collected from the community's opposition organization, Wind Aware Clare, at their website <http://windawareclare.weebly.com>.

Carolan, M. (2016, June 14). Judge critical of An Bord Pleanála as wind farm permission overturned. Retrieved from <https://www.irishtimes.com>.

Danaher, D. (2014, August 7). Court grants judicial review of wind farm plan. Retrieved from <https://www.irishexaminer.com>.