



**From the office of the Minister for Infrastructure  
John O'Dowd MLA**

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Mr Wilson, a chara,

### **KNOCK IVEAGH WIND TURBINE**

I refer to your letter of 4 December 2020 to the then Infrastructure Minister, Nichola Mallon (and subsequent correspondence and engagement with Departmental officials) requesting that the Department for Infrastructure:

- (1) use its powers of enforcement in respect of the apparent unauthorised development at the site, or should the use of enforcement powers not result in the removal of the turbine and associated works, use its powers of discontinuance, specifying steps for the removal of buildings and works on the site; and
- (2) agree to make an ex gratia payment in whole defraying any compensation liability on the part of the Council arising out of the making of a discontinuance or modification order and all associated costs.

It is my clear view that Armagh, Banbridge and Craigavon Borough Council as the responsible local planning authority for the area is best placed to take any enforcement action relating to the wind turbine development at the Knock Iveagh site. One of the key objectives of the two-tier planning system is that local Councils should be responsible for the majority of planning control decisions, including enforcement action, in their own areas. Such decisions should be taken by local elected representatives who are democratically accountable to the local community and who are well placed to make assessments about the competing public interests in that area. In the case of enforcement decisions, the Council also has the resources and local knowledge to be able to undertake enforcement investigations, as has occurred in this case. Therefore, for the reasons stated above my Department will not be taking any enforcement action relating to the wind turbine development at the Knock Iveagh site.

I trust that your Council will now take its own decision in relation to this matter, and proceed accordingly.

Is mise le meas,

A handwritten signature in black ink, appearing to read 'John O'Dowd', with a large loop at the end.

**JOHN O'DOWD MLA**  
**Minister for Infrastructure**

## Briefing note for Council

### Introduction

Gahan and Long Ltd have been contracted to prepare the following briefing note for the Council in relation to potential impacts on the Scheduled monument DOW 041:022. This work has been undertaken by Audrey Gahan FSA.

Knockiveagh Cairn is a scheduled monument of regional importance dating from the Neolithic period. It is described within the NI Sites and Monuments Records as:

"On Knockiveagh hill with panoramic views all round. The cairn is composed of stones with a covering layer of turf. The perimeter is demarcated by a kerb of stones. It is quite a substantial cairn, 31.5m x 32m in diam., standing 2.2m high at S. In the centre of the cairn is a large hollow made by treasure seekers in the C19th, 4.8m across & 1.8m deep. At the bottom a large slab, part of the cist, was exposed. Excavation of the site in 1954 showed that this cist had been displaced. Secondary burials of an adult & child were found & the cairn was found to rest on an early Neolithic occupation layer."

This note relates solely to four distinct questions at the request of the Council;

1. Whether the construction of the NIE cabinet has had an impact on the monument, and the significance of any such impact
2. Whether the finished hub height of the wind turbine (Q/2012/0303/F) being 2.2m lower than that permitted through planning, will alter the impact on the monument, and the significance of any such impact.
3. Whether the creation of an earthen platform to facilitate the hard standing and turbine base has an impact on the monument, and the significance of any such impact.
4. Whether the insertion of the pathway to the platform, being different to that agreed in Q/2012/0303/F, has an impact on the monument, and the significance of any such impact.

### Types of Impact

The types of impacts of the proposed development on archaeological features may be divided into the following categories:

**Direct:** where there may be a physical effect on a site caused by the proposed development or a visual impact.

Direct physical impacts may be caused by a range of activities associated with the construction and operation of proposed development features. In addition, above-ground disturbance, such as that caused by vehicle movement, and soil and overburden storage, may produce irreversible effects upon archaeological features. Direct impacts on archaeological features are normally adverse, permanent and irreversible.

The second category of direct impact relates to the visual impact that may exist from or to the monument from the proposed development. This may adversely affect the setting of a monument within the wider archaeological /

historical landscape. A direct impact of this nature typically relates only to those monuments categorised as State Care and Scheduled.

**Indirect:** where the setting of a locally important site or monument may be affected. Setting in this assessment is understood primarily in functional terms although it also applies to the physical space that contributes to the significance and distinctive character of a heritage asset. Indirect impacts may relate to new development causing a visual impact, such as reducing views to or from cultural heritage features with important landscape settings, or may cause increased fragmentation of a monument's setting, thereby impacting on the enjoyment and understanding of that monument.

**Uncertain:** where there is a risk that the works may impinge on a site, for example, where it is not clear where the location or boundaries of a site lie. Potential effects, direct and indirect, have been assessed in terms of their scale, longevity, reversibility and nature (beneficial / neutral / adverse). The importance of both direct and indirect impacts can vary depending on the nature of the archaeological site under consideration.

#### Definitions for Assessment of Importance

The main thresholds of archaeological importance defined in PPS 6 are Regional Importance and Local Importance.

Sites of **Regional Importance** comprise State Care Monuments, Scheduled monuments and other important sites and monuments which would merit scheduling. Knockiveagh Cairn is a scheduled monument and therefore of Regional importance.

Sites of **Local Importance** are those that are not scheduled, but have significance within a regional or local context. This may, for example, apply to their importance to regional or local history, or they may be the only local example of a monument type. Also included within this are other archaeological sites, findspots, sites identified from aerial photographs, sites identified from OS Memoirs which locations are unknown, and sites of now destroyed monuments. Such sites may comprise component parts of a landscape rich in archaeological monuments, and thereby gain greater significance.

The cultural significance of these assets is derived not only from the physical remains themselves but from their setting within the landscape and can be categorised as:

- **Very high:** Assets of exceptional significance that may be valued internationally, including (but not limited to) World Heritage Sites, historic landscapes of international value whether designated or not;
- **High:** Archaeological Remains of Regional Importance, including State Care and Scheduled Monuments, Grade A Listed Buildings, Conservation Areas and undesignated assets of comparable importance. Designated and undesignated historic landscapes of outstanding interest

- **Medium:** Archaeological Remains of Local Importance, Grade B+, B1 and B2 Listed Buildings and undesignated assets of comparable importance, registered Historic Demesnes, designated special historic landscapes and those which are undesignated but worthy of special designation and industrial heritage sites which are of sufficient importance to warrant inclusion in the SMR.
- **Low:** Other assets which, while being of local importance, are badly preserved, Listed Buildings which have been categorised as record only, supplementary Historic Demesnes, robust undesignated historic landscapes and those with a local interest and industrial heritage sites such as bridges which are still part of the current transport or il network.
- **Negligible:** Those archaeological monuments which have been excavated, destroyed, identified from aerial photographs but which have no surface expression, are unlocated or which have been recorded within the SMR but have since been found to be non-antiquities. Historic landscapes with little significant interest. Industrial heritage sites which are recorded on early editions of the OS maps but which have been demolished in the past or which have been recorded in OS memoirs but whose location is unknown.

#### Definitions for Assessment of Magnitude of Change

Consideration of the scale, extent of change, nature and duration of effect are important in determining the magnitude of change.

Level of Magnitude	Definition of Magnitude
High	Total loss or major alteration to key elements/ features/ characteristics of the baseline conditions such that post development character/ composition/ attributes will be fundamentally changed.
Medium	Partial loss or alteration to one or more key elements/ features/ characteristics of the baseline conditions such that post development character/ composition/ attributes will be partially changed.
Low	Minor loss of or alteration to one or more key elements/ features/ characteristics of the baseline conditions. Change arising from the loss / alteration will be discernible but underlying character/ composition/ attributes will be similar to pre development circumstances /patterns
Negligible	Very minor loss or alteration to one or more key elements /features /characteristics of the baseline conditions. Change barely distinguishable, approximating to the "no change" situation.

Table 1: definitions for assessing magnitude of change.

### Significance of Effect

The significance of effect is assessed through a combination of the sensitivity / importance of the cultural heritage asset and the magnitude of impact that will result from the addition of the Development.

The matrix in Table 2 illustrates how combinations of sensitivity and magnitude can give rise to significant effects. Professional judgement and interpretation also need to be applied to this process, particularly where sites are borderline between categories. Therefore, the matrix provides a guide to decision-making regarding levels of significance.

Sensitivity	Magnitude of Change			
	High	Medium	Low	Negligible
Very High	Very Major	Major	Moderate	Minor
High	Major	Major / Moderate	Moderate / Minor	Minor
Medium	Major / Moderate	Moderate	Minor	Minor / Neutral
Low	Moderate / Minor	Minor	Minor / Neutral	Neutral
Negligible	Minor	Minor / Neutral	Neutral	Neutral / No Change

### Assessment Methodology for Effects on the Setting of Regionally Important Monuments

The setting of a monument relates to its relationship with the landscape both in historical terms and in its modern day guise. At present in Northern Ireland there is no standardised methodology for assessing the impact of a development on the setting of an archaeological monument. A number of bodies have established guidelines for assessing the impact upon the setting of archaeological monuments. These are detailed below and their guidelines form the basis of this element of the assessment.

- **International Council on Monuments and Sites (ICOMS)**

The International Council on Monuments and Sites (ICOMS) is an association of professionals throughout the world that works closely with UNESCO and national governments. The Xi'an Declaration on the Conservation on the Setting

of Heritage Structures, Sites and Areas<sup>1</sup> was adopted by the 15th General Assembly of ICOMOS in October 2005 and deals with the setting of cultural assets.

- **Institute of Field Archaeologists (UK) – Working Group on the Setting of Cultural Heritage Features**

The Institute of Field Archaeologists (IFA) has produced a document titled "Setting Standards-A Review" (April 2008)<sup>2</sup> which assesses current guidelines and research in the analysis of the impact on the setting of heritage features. The review summarises the broad areas of agreement in relation to the setting of monuments.

- **Historic Scotland**

The Historic Scotland publication 'Managing Change in the Historic Environment-Setting' (2010)<sup>3</sup> provides guidance notes on managing change in the historic environment and is for use by planning authorities and other interested parties. It sets out the principles that apply to developments affecting the setting of historic assets or places including scheduled monuments, listed buildings, inventory parks / gardens / designed landscapes, World Heritage Sites, conservation areas, and designated wrecks.

- **Design Manual for Roads and Bridges (DMRB; Highways Agency, 2007)<sup>4</sup>.**

Terminology and methodology in relation to archaeology, outlined in that document has also been utilised in this assessment.

### Impact Assessment

Each of the four questions are assessed below using the criteria outlined above.

1. The cabinet as built is visible from the cairn and also from the surrounding area. Using the criteria outlined above the cabinet as built is assessed as having a medium impact of change on the monument as a result of a partial loss or alteration to one or more key elements/ features/ characteristics of the baseline conditions such that post development character/ composition/ attributes will be partially changed. Using the criteria outlined in table 2 this will have a moderate to major impact on the setting of Knockiveagh Cairn. It should be noted that removal of the foundations that have been inserted for the NIE cabinets could cause a physical impact on any potentially surviving subsurface remains.
2. The finished hub height of the wind turbine will be 2.2m lower than that granted permission. This minor reduction in height is assessed as having a negligible impact on the monument. This is due to the height difference producing a very minor loss or alteration to one or more key elements /features /characteristics of the baseline conditions. Change barely distinguishable, approximating to the "no change" situation. In this instance the very minor alteration will have no change on the impact on the setting of the monument, and certainly no change in adverse impact.

<sup>1</sup> International Council on Monuments and Sites (ICOMS) Xi'an Declaration on the Conservation on the Setting of Heritage Structures, Sites and Areas (2005). Available at [www.icomos.org/xian2005/xian-declaration.htm](http://www.icomos.org/xian2005/xian-declaration.htm)

<sup>2</sup> Institute of Field Archaeologists (IFA) "Setting Standards-A Review" (April 2008). Available at [www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)

<sup>3</sup> Historic Scotland 'Managing Change in the Historic Environment-Setting' (2010). Available at <http://www.historic-scotland.gov.uk/managingchange>

<sup>4</sup> Highways Agency, 2007. Design Manual for Roads and Bridges, Section 3 Environmental Assessment Techniques, Part 2 HA208/07 Cultural Heritage. Available at <http://www.standardsforhighways.co.uk/dmrb/vol11/section3.htm>



3. The creation of the platform to facilitate the hard stand and turbine base alters the natural topography of the area and as such is assessed as having a low impact on the monument as seen from the cairn. This is assessed as a minor loss of or alteration to one or more key elements/ features/ characteristics of the baseline conditions. Change arising from the loss / alteration will be discernible but underlying character/ composition/ attributes will be similar to pre development circumstances /patterns. Using the criteria outlined in table 2 this will have a moderate/minor impact on the monument. This aspect of the monument contains a significant number of hedgerows which reduce the impact on the alteration of the natural topography in this area to minor only. It should be noted that removal of the platform and the wind turbine base could cause a physical impact on any potentially surviving subsurface remains.
4. The insertion of the trackway as built, being different to that granted permission, will have at most a negligible to no impact on the setting of the monument approximating to a 'no change' scenario with the change being barely distinguishable and causing no loss or alteration to any key elements /features /characteristics of the baseline conditions. However, when the built trackway is compared to that granted permission in Q/2012/0303/F, the track as built complements the natural topography of the hill and as such has less impact than that which was approved and in terms of impact on the monument represents a betterment. It should be noted that removal of the trackway could cause a physical impact on any potentially surviving subsurface remains.

#### Conclusions

An assessment of the impacts on the regionally important Scheduled Knockiveagh Cairn has been undertaken by Audrey Gahan of Gahan and Long Ltd on behalf of the Council.

Four specific questions have been assessed. Firstly, whether the construction of the NIE cabinet has impacted on the monument. This was assessed as having a moderate to major impact on the setting of the cairn. Secondly, whether the reduction of 2.2m in the proposed hub height of the wind turbine relative to that which has been approved will impact on the setting of the monument. This reduction was assessed as having no change in adverse impact. Thirdly, whether the creation of the platform to facilitate the hard standing and turbine base impacts on the monument. This was assessed as having a minor impact on the setting of the monument. Finally, whether the construction of the trackway being different to that agreed has impacted on the setting of the monument. This was assessed as having a negligible to no impact on the setting of the monument with the built trackway, in respecting the natural contours of the hill, being a betterment than that which was approved.

In the case of questions 1, 3 and 4 it was noted that removal of these features could cause adverse physical impacts on previously unknown archaeological remains.

## Addendum to briefing note to council

It has been established that the hub height difference between the consented wind turbine (Q/2012/0303/F) and the finished turbine will be within the range of 2.08m – 2.1m not 2.2m as previously thought. As previously assessed this difference in height will have no change in adverse impact on the monument and as such the findings as outlined in the original document stand as drafted.

Internal Communication  
Arch. Disclosure Item



**Armagh City  
Banbridge  
& Craigavon**  
Borough Council

## **PLANNING OFFICER REPORT**

### **ENFORCEMENT INVESTIGATION**

#### **DEVELOPMENT AT KNOCKIVEAGH**

#### **1.0 BACKGROUND**

- 1.1 In 2013 the Department of the Environment (DOE), which was the relevant Planning Authority at that time, granted planning permission (Reference Q/2012/0303/F) for the erection of a wind turbine at Knockiveagh, Katesbridge.
- 1.2 In September 2017, the Council received a series of written requests from residents of Knockiveagh for the said permission to be revoked. Those requests will be addressed by the Council in due course. Further to receipt of those requests, Officers inspected the site of the approved turbine and during that visit observed that works to construct the approved turbine had commenced but considered that those works may not fully comply with the granted planning permission.
- 1.3 At the time of the site inspection Officers were aware that the site was located in the vicinity of Knockiveagh Cairn, which is a regionally important monument scheduled for protection under Historic Monuments and Archaeological Objects (NI) Order 1995. Those considerations, and related policy and guidance, were taken into account by Officers in deciding whether and if so how to exercise their delegated powers of enforcement.

#### **2.0 POLICY, GUIDANCE AND THIRD PARTY REPRESENTATIONS**

- 2.1 In order to inform Officers' judgements as to whether it was expedient to take enforcement action and if so how, Officers gave regard to the material considerations set out at sections 3-9 of this report which include the relevant planning policy context which is provided by the Local Development Plan (LDP), the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statements 6, 16, 18 and the Supplementary Planning Guidance, 'Wind Energy Development in Northern Ireland's Landscapes' issued to accompany Planning Policy Statement 18, and the Best Practice Guidance to Planning Policy Statement 18. In addition to this, Officers gave regard to issues raised by third parties including the Historic Monuments Council, and a summary of the main issues raised is set out below in italics for ease of identification:

- *The decision to grant planning permission by the former DOE for the wind turbine was legally and procedurally flawed on the grounds that amongst other things Historic Environment Division (HED) were not consulted, the original*

*submission did not make any mention of the scheduled monument and the impact of the approved turbine on the landscape and scheduled monument were not given due consideration;*

- *The archaeological and historical integrity of the site should be conserved and protected for future generations;*
- *The turbine will have an adverse visual impact on the landscape and will also have an adverse impact on local residents by reason of noise emissions;*
- *Impact on badger setts;*
- *There has been damage to the scheduled monument by the unauthorised works (unclear whether this allegation refers to unauthorised works related to the turbine, or to the unauthorised telecommunication installation, or both).*

2.2 Officers accept that it appears that there were deficiencies in the way DOE approached consultation with HED.

2.3 With regard to the comments regarding the impact on the setting of the monument and landscape, Officers are fully aware of the significance of this issue including the comments made by the Historic Monuments Council and gave full and proper regard to these matters in reaching their judgements in relation to whether or not it is expedient to take enforcement action, and if so how.

2.4 With regard to the impact of the turbine on the amenity of local residents by reason of noise the unauthorised works which have taken place at the site were not considered by Officers to have given rise to any unacceptable adverse noise emissions on the grounds that the primary noise emission from this site will be generated by the turbine and not the other elements of the development. During the processing of the planning application for the wind turbine, the Environmental Health department raised no objection to the proposal subject to the inclusion of a condition regarding the setting of noise thresholds for the turbine.

2.5 With regard to impact on badgers, Officers were not in possession of any evidence of impact on badgers resulting from the works that were the focus of this investigation. Furthermore, responsibility for criminal enforcement in this regard lies elsewhere. Given that the unauthorised works had already been undertaken any damage caused would unfortunately already have taken place and in this context Officers did not consider it expedient to take enforcement action in order to address the matter.

2.6 With regard to the allegation of damage caused to the scheduled monument potentially by the unauthorised works, officers were not in possession of any evidence of impact on the monument resulting from the works that were the focus of this investigation. Furthermore, responsibility for criminal enforcement in this regard lies elsewhere. A decision on whether or not it is expedient to take enforcement action regarding this matter will be taken by the responsible body.

### **3.0 ENFORCEMENT INVESTIGATION**

3.1 On 20 October 2017, and further to the site inspection, Officers opened an enforcement case to investigate the apparent unauthorised works regarding the wind turbine (Planning Ref: LA08/2017/0235/CA).

3.2 On 23 October 2017, and in accordance with Section 135 of the Planning Act (Northern Ireland) 2011 ('the 2011 Planning Act'), the Council served a Temporary Stop Notice on both the landowner(s) and the developer (Ayr Power Limited) because it thought that there had been a breach of planning control at the site and that it was expedient that the activity which amounted to the breach be stopped immediately, and so incidentally to provide the Council with a period of 28 days to further investigate the

apparent breach of planning control. The Temporary Stop Notice remained valid until 20 November 2017. The question for Officers, therefore, was essentially whether now to issue a full Stop Notice restraining any works considered to be unauthorised, or whether to take other enforcement or other action, and if so what action.

- 3.3 To assist and inform its investigations into the alleged unauthorised breach of planning control, Officers engaged the independent services of Gahan and Long (Archaeological Consultants) and Land Survey Services (Land Surveyors) respectively to provide an assessment in respect of the impacts, if any, of the apparent unauthorised works on the setting of the monument and to provide confirmation as to whether the turbine has been erected at (or above or below) the 220m contour as approved by planning application Q/2012/0303/F. In addition, Officers also conducted an interview ('the interview') with the developer, Ayr Power, and its representatives on 1 November 2017. Finally, Officers consulted the Historical Environment Division ('HED') of the Department for Communities on 15 November 2017 to seek its comments/views in respect of the independent report and findings received by Officers from Gahan and Long on 13<sup>th</sup> November 2017. HED responded to the Council on 17 November 2017 stating that "*HED will provide no further comment on the report*". For purposes of clarity and avoidance of any doubt HED have not provided any earlier comments on the report by Gahan and Long and the reason they state "*will provide no further comment...*" (emphasis added) is unknown.
- 3.4 The apparent unauthorised works and thus the key areas of investigation are in respect to the following matters;
- (i) The 'raised platform';
  - (ii) The erection of a turbine (part erection as of 23 November 2017);
  - (iii) The creation of an access track; and
  - (iv) The erection of an electricity cabinet and associated works.
  - (v) The electricity cabinet for which a base/foundations have been constructed.
- 3.5 Each of these matters is detailed and assessed below.
- 3.6 Part 5 of the Planning Act (Northern Ireland) 2013 gives the Council the legal power to take enforcement action – defined by Section 131 as meaning issue of an Enforcement Notice or service of a Breach of Condition Notice. A number of other options are open to the Council under Part 5, ranging from taking no action to serving a full Stop Notice or seeking an Injunction to restrain breach of planning control. The choice of option lies in the discretion of the Council, with that discretion to be exercised in accordance with the provisions of Part 5 and the general principles of administrative law. Enforcement powers being delegated to the Council's Officers, the choice and discretion lies with the Officers, as it did in this case.

#### 4.0 THE MATTER OF THE RAISED PLATFORM

- 4.1 In reaching an opinion on whether or not the 'raised platform' represents a breach of planning control, Officers had regard to the judgment of McCowan J in *R. v Basildon District Council Ex p. Martin Grant Homes Ltd*<sup>1</sup> in which he held as follows:

*"It also seems to me to make good sense to say that the planning authority must have intended that all necessary and reasonable works for the implementation of the*

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<sup>1</sup> *R. v Basildon DC Ex p. Martin Grant Homes Ltd* (1987) 53 P. & C.R. 397

permission were being incorporated within the general grant of consent" (emphasis added).

- 4.2 The applicable principle, therefore, is that necessary and reasonable works to implement a planning permission are deemed to be authorised by that permission, notwithstanding that they are not detailed in the approved drawings.
- 4.3 During the course of the interview, the developer and their representatives advised Officers that, in order to facilitate the erection and future maintenance of the wind turbine, they needed to provide a platform around its base. They advised that the platform, which covers an area of approximately 300 square metres and which has an average depth of approximately 2 metres, is comprised of earth and hard core. While technically this platform is not explicitly authorised by the planning permission granted in 2013, Officers were satisfied, on the basis of information obtained during the interview and also having regard to the provisions of paragraph 1.2.21 of the Best Practice Guidance to PPS18: Renewable Energy which refers to hard standings for turbines (refer to paragraph 9.5 below), that the creation of the platform to the size and dimensions provided was both necessary and reasonable to implement the planning permission. For that reason, Officers were satisfied that the 'raised platform' is not unauthorised when considered against the principle set out in *R. v Basildon District Council Ex p. Martin Grant Homes Ltd* and that, rather, it is authorised by the planning permission for the turbine.

## 5.0 THE MATTER OF THE WIND TURBINE

- 5.1 Having regard to the approved turbine as permitted under Q/2012/0303/F, and in order to assess whether or not the height and siting of the turbine as constructed complies with the aforesaid planning permission, Officers instructed Land Survey Services (LSS), chartered Land Surveyors, to confirm whether the wind turbine was constructed at the approved contour of 220m such that the height of the turbine when constructed in its final form would be 41.5m above ground level (AGL) to hub height and 56m AGL to blade tip as detailed in stamped approved Drawing Numbers 02 and 04 received by the former DOE Planning Service on 7 September 2012.
- 5.2 LSS undertook a site visit on 6 November 2017 and surveyed the site. The site findings have confirmed that the hub height of the wind turbine as constructed will actually be lower than the height of the turbine as approved under the 2013 planning permission. More specifically, the hub height difference between the consented wind turbine Q/2012/0303) and the constructed turbine will be within the range of 2.08m-2.1m lower. As such, this reduction of 2.08-2.1m in height at its base would equate to a similar reduction in both the 'finished' hub height (39.4m- 39.42 AGL) and height to blade tip (53.9m to 53.92 AGL).
- 5.3 While a departure from the planning permission will arise by reason of the siting of the 'as constructed' turbine base at 217.9-217.92m AGL, Officers were of the opinion that this is a technical and *de minimis* departure, which given the opinion of the independent Archaeologist cannot produce any adverse impact on the setting of the monument, so that it is not expedient to enforce. Furthermore, the opinion of the independent Archaeologist was that to remove the as-constructed turbine base may also cause an adverse physical impact on any potentially surviving subsurface remains. Officers accepted that opinion, and for that reason also considered that it was not expedient to enforce against this technical and *de minimis* departure.

## **6.0 THE MATTER OF THE ACCESS TRACK**

- 6.1 The planning application which was approved on 23 August 2013 by the former Department of the Environment Planning Service for the erection of the wind turbine at Knockiveagh (Planning Ref: Q/2012/0303/F) approved an access road to the turbine which was to be taken from the existing access road which provides access to the monument (top of Knockiveagh). (The access road is detailed on Drawing Number 01 date stamped as received on 7 September 2012).
- 6.2 The access track as constructed on site is not in accordance with the aforementioned approved road. In the opinion of Officers, the access track as constructed is sited approximately 18 – 20m to the west of the approved access road.
- 6.3 To inform the Officers' consideration of this matter, Officers asked the developer during the interview on 1 November 2017 to confirm the reason for the aforementioned departure. In response, the developer confirmed that to implement the access track as approved would have given rise to issues due to the height and sloping nature of the ground at this point. To construct the track in the approved location would have required extensive ground works as it would have been too tight to turn and manoeuvre onto the approved track. The track in its current location was, in the opinion of the developer, the best option both in respect of access extending from the existing access track and also in respect of providing a safe route for vehicles to access the site by following the existing the contour of the land without the need for ground works. Officers considered this assessment, and judged that it was correct.
- 6.4 The matter of the new access track was assessed by the independent Archaeologist in terms of its potential impact on the setting of the scheduled monument relative to the access track which was approved. The Archaeologist has confirmed that the new access track - as a minimum - would produce a 'no change' scenario in terms of potential adverse impact, causing no loss or alteration to the key elements, features and characteristics of the baseline conditions. The Archaeologist has advised that the track as built compares favourably to that approved, in that it complements the natural topography of the hill and is of minimal construction i.e. laying of stones onto existing ground, and as such has less impact than that which was approved and in terms of impact on the monument actually represents a betterment. Officers considered the Archaeologist's assessment on these points, and judged that it should be accepted. Moreover, Officers also accepted the Archaeologist's view that removal of the track could cause an adverse physical impact on any potentially surviving subsurface remains.
- 6.5 Having regard to the foregoing and in particular to the opinion of the independent Archaeologist, Officers were satisfied that the access track as constructed, while representing a departure from the planning permission, is acceptable, indeed desirable as compared to that approved. Nonetheless, Officers thought it was appropriate to issue a Submission Notice in order to regularise the matter in planning control terms.

## **7.0 THE MATTER OF THE ELECTRICITY CABINETS**

- 7.1 The works undertaken at the time of the serving of the Temporary Stop Notice comprise the following;
- i) The erection of 1No. electricity cabinet measuring approximately 3m x 2m x 3m (approx.); and
  - ii) The construction of the base/foundations of a second electricity cabinet, and

- iii) Groundworks i.e. underground cabling from the turbine to the approved NIE substation and the commencement of the substation base/foundations.
- 7.2 To inform Officers' consideration of this matter, Officers asked the developer during interview to confirm which body/organisation etc. had undertaken the aforementioned alleged unauthorised works. The developer clarified that NIE or its sub-contractor had undertaken the alleged unauthorised works. NIE is an electricity undertaker.
- 7.3 Part 14, Class C (Development by Statutory and Other Undertakers) as defined by the Planning (General Permitted Development) Order (Northern Ireland) 2015 ('the 2015 GPDO') states the following in respect of what may be classed as 'Permitted Development' i.e. development not requiring an application for planning permission, in respect of electricity undertakings:

"Class C - Permitted Development

*C. Development by electricity undertakers<sup>2</sup> for the generation, transmission, distribution and supply of electricity for the purposes of the undertaking consisting of –*

- a) *the laying underground of pipes, cables or any other apparatus, and the construction of shafts and tunnels reasonably necessary in connection with such pipes, cables or apparatus; (emphasis added)*
- b) *the installation in an electric line of –*
- (i) feeder or service pillars; or*
  - (ii) sub-stations enclosed in a chamber not exceeding 40 cubic metres in capacity; or*
  - (iii) sub-stations enclosed in an underground chamber;*
- c) *the installation of service lines for individual consumers from an electric line;*
- d) *the addition or replacement of a single fibre optic telecommunications cable to an existing overhead line;*
- e) *the sinking of boreholes to ascertain the nature of the subsoil and the installation of any plant or machinery reasonably necessary in connection with such boreholes;*
- f) *the extension or alteration of buildings on operational land;*
- g) *the erection on operational land<sup>3</sup> of the undertaking of a building solely for the protection of plant and machinery; (emphasis added)*
- h) *any other development carried out in, on, over or under the operational land of the undertaking.*

*Development not permitted*

*C.1. Development is not permitted by Class C, if;*

- a) *in the case of any Class C(b) development involving the installation of a chamber for housing apparatus exceeding 40 cubic metres in capacity, that installation is carried out at or above ground level, or under a road used by vehicular traffic;*

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<sup>2</sup> "Electricity undertaker" means a holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1991 (NI 1) as defined by Section 50 of the Planning Act (Northern Ireland) 2011

<sup>3</sup> "Operational Land" has the meaning given to it in Article 2(1) of the Planning (General Permitted Development) Order (Northern Ireland) 2015

- b) *in the case of Class C(c) development, the length of line exceeds 400 metres;*
- c) *in the case of any Class C(f) development—*
  - (i) *the height of the original building is exceeded;*
  - (ii) *the cubic content of the original building is exceeded by more than 20%;*
  - (iii) *the floor space of the original building is exceeded by more than 750 square metres;*
  - (iv) *it materially affects the external appearance of the buildings concerned;*
  - (v) *the development is in a conservation area, an area of outstanding natural beauty or a National Park;*
- d) *in the case of any Class C(g) development, the building exceeds 15 metres in height; (emphasis added)*
- e) *in the case of any Class C(h) development it consists of or includes –*
  - (i) *the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected; or*
  - (ii) *the installation or erection by way of addition or replacement of any plant or machinery exceeding 18 metres in height or the height of any plant or machinery replaced, whichever is the greater; or*
- f) *the land is within a site of archaeological interest.*

Conditions

C.2 Development is permitted by Class C subject to the following conditions –

- (a) *in the case of any Class C (e) development, on completion of that development, or at the end of a period of 6 months from the beginning of that development (whichever is the sooner) any such plant or machinery shall be removed and the land shall be restored as soon and so far as practicable to its condition before the development took place;*
- (b) *in the case of any Class C(g) development, approval from the council of details of the design and external appearance of the building shall be obtained before development is begun*".

7.4 Having regard to the nature of the works undertaken on site as detailed at paragraph 6.1 above when set against the provisions of 2015 GPDO (refer to paragraph 7.3 above), Officers considered that the groundworks to provide a connection to the electricity grid are Permitted Development in accordance with Part 14, Class C (a) of the 2015 GPDO and the erection of 1No. electricity cabinet (currently erected) and a second electricity cabinet for which base foundations have been constructed would constitute Permitted Development provided they comply with the relevant conditions of Part 14, C.1 and C.2 of the 2015 GPDO. For purposes of clarification, the land on which the ground works and electricity cabinets are located are not within a site of archaeological interest.

7.5 For the purposes of undertaking an assessment under Class C of Part 14 of the 2015 GPDO, Officers considered that the electricity cabinet as built and the cabinet for which a base/foundations have been constructed are to be classed as buildings for the purposes of the 2015 GPDO and for that reason need to be assessed against Class C(g) of part 14 thereof

7.6 Class C1(d) of Part 14 makes it clear that development is not permitted if in the case of any Class C(g) development, the building exceeds 15m in height. It has been noted by Officers that the 2015 GPDO does not include a tolerance limit for length and width of Class C(g) development. Officers were satisfied that the electricity cabinet as built does not exceed 15m in height, and indeed is substantially lower than that in height, being approximately 3m high. Notwithstanding the above, Condition C.2(b) of Part 14 of the 2015 GDO states that in the case of any Class C(g) development approval of details of the design and external appearance of the building shall be obtained before the development is begun. Such details have never been submitted for approval either by DoE or the Council. Officers were therefore of the opinion that the electricity cabinet as built breaches Condition C.2(b). However, Officers gave regard to the fact that Class C1(d) of the 2015 GPDO allows for Class C(g) development up to 15m in height without needing to obtain planning permission and the fact that the electricity cabinet as built is approximately 3m high. Officers also took into account the Gahon and Long opinion that while the colour of the electricity cabinet as built is not a matter of concern, the size of the cabinet as built is having a moderate to major impact on the setting of the scheduled monument. Officers accepted this opinion, but considered that given that Class C1(d) allows for the building to be up to 15m in height the appropriate course in order to regularise the matter in terms of planning control was to serve a Breach of Condition Notice requiring the developer of the cabinet to submit to the Council for approval details of the design and external appearance of the cabinet.

With regard to the electricity cabinet for which only the base/foundations have been constructed, Officers also considered that the appropriate course in order to regularise the matter in terms of planning control was to serve a Breach of Condition Notice requiring the developer of the cabinet to submit to the Council for approval details of the design and external appearance of the cabinet.

## 8.0 IMPACT OF UNAUTHORISED WORKS ON SCHEDULED MONUMENT

8.1 Officers identified the following works as being unauthorised:

- The matter of the wind turbine;
- The matter of the access track;
- The matter of the electricity cabinets.

8.2 In summary, the independent Archaeologist concluded as follows:

- The creation of the 'raised platform' is assessed as having a moderate/impact on the monument;
- The minor reduction in height of the turbine will have no change on the impact on the setting of the monument;
- The creation of the new access track will have at most a negligible impact on the setting of the monument; and
- The erection of the cabinet will have a moderate to major impact on the setting of the monument.

8.3 Historic Environment Division (HED) has confirmed that it has no comment to make on the findings of the independent Archaeologist, from which Officers inferred that HED sees no reason to disagree with those findings.

8.4 As noted previously, Officers concluded that the raised platform is authorised by the permission. Having regard to the findings of the report compiled by the independent archaeologist and the position of HED, Officers considered the impact of the electricity cabinet (as built), access track (as built) and reduction in the height of the turbine base on the setting of the scheduled monument and on the landscape generally, against the background of what the planning permission authorised. Taking into account the assessment of the independent archaeologist, Officers concluded that when considering the development as built against the scheme for which planning permission was granted in 2013, that it was not expedient to take enforcement action however, it was considered appropriate to serve a Submission Notice to seek to regularise the access track in planning control terms. With regard to the electricity cabinets and the fact that these were considered to represent a breach of condition C.2 (b) of the 2015 GPDO, Officers considered it appropriate that a Breach of Condition Notice be served for each of the cabinets to have the matters regularised in planning control terms. For the reasons outlined in the report, it was not considered expedient to serve a full Stop Notice in respect of those elements of the development that are unauthorised or in breach of condition.

## 9.0 OTHER MATERIAL CONSIDERATIONS

- 9.1 The LDP ("the Plan") and other relevant planning policy and guidance are considered below.
- 9.2 There is no specific guidance or policies in the Plan relevant to the site of the turbine or scheduled monument and therefore it was not of assistance to Officers in the particular circumstances of this matter.
- 9.3 The SPPS states that planning authorities should be guided by the principle that sustainable development should be permitted unless it would cause demonstrable harm to interests of acknowledged importance having regard to the LDP and all other material considerations. The SPPS also provides guidance in relation to archaeological remains of regional importance, which include scheduled monuments, wherein it states that development which would adversely affect such sites or the integrity of their setting must only be permitted in exceptional circumstances. The SPPS however does not define what constitutes 'exceptional circumstances'.
- 9.4 PPS 6: Planning, Archaeology and the Built Heritage sets out policies for the protection and conservation of archaeological remains and features of built heritage. Policy BH1 therein provides that there will be a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. As with the SPPS, it goes on to state that development which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances.
- 9.5 In relation to enforcement PPS 6 states at paragraph 10.3 that the general policy approach the planning authority will follow in taking enforcement action which may adversely affect the archeologically and built heritage is set out in draft Planning Policy Statement 9 (draft PPS 9). Draft PPS 9 and PPS 9 have been superseded by the SPPS. In relation to planning enforcement the SPPS at paragraph 58 states that, in determining the most appropriate course of action in response to alleged breaches of planning control, Councils will need to take into account the extent of the breach and its potential impact.

- 9.6 PPS 16 aims to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment. The objectives of this PPS are to amongst other things, safeguard tourism assets from inappropriate development. Policy TSM 8 states planning permission will not be granted for development that would in itself or in combination with existing and approved development in the locality have an adverse impact on a tourism asset such as to significantly compromise its tourism value. For the purposes of this PPS, a tourism asset is defined as a feature associated with the built or natural environment which is of intrinsic interest to tourists.
- 9.7 In relation to Tourism the SPPS states that the regional strategic objectives for tourism are amongst other things to safeguard tourism assets from inappropriate development. It states that a tourism asset can be regarded as any feature associated with the built and natural environment which is of intrinsic interest to tourists.
- 9.8 PPS18: Renewable Energy sets out the policies for development that generates energy from renewable resources and that requires the submission of a planning application. In respect of wind energy the commentary at paragraph 1.2.21 in the Best Practice Guidance to Planning Policy Statement 18 states, in respect of hard standings for turbines, states as follows:
- "Large hard standings are also required next to each turbine to act as basis for cranes during turbine erection and component lay down areas. These hard standings should be constructed and finished in an appropriate material so as not to adversely affect the chemical composition of the surrounding soil."*
- 9.9 In respect of connection to the electricity grid, the commentary at paragraph 1.2.23 and 1.2.24 of the Best Practice Guidance states:
- "A wind farm is likely to be connected to the electricity distribution network just like any other power station. Small transformers are required to change the generating voltage (likely to be 690V) to a common site voltage which is likely to be 11kV, 33kV or 110kV. Depending on the model of turbine used, these transformers can either be housed outside or within the turbine tower. The output from the turbines in a wind farm is normally connected to a single point via underground cables."*
- "Responsibility for the routing of electrical cabling onwards from the sub-station to the nearest suitable point of the local electricity distribution network is the responsibility of the District Network Operator, presently NIE (Northern Ireland Electricity). This will be achieved either by a standard 3-wire system mounted on wooden poles [as is the case at Knockiveagh] or by lines laid underground".*
- 9.10 In relation to proposals for renewable energy, the SPPS states that the wider social and economic benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted. It refers to the need to consider renewable energy proposals on a case by case basis but that issues such as design and visual impact as well as their contributions towards meeting Northern Ireland's target for use of renewable energy sources should be assessed when considering renewable energy proposals.
- 9.11 Wind Energy Development in Northern Ireland's Landscapes identifies landscapes that may be sensitive to wind turbine development. This document provides supplementary planning guidance (SPG) on the visual and landscape analysis

process and the indicative type of development that may be appropriate. Within the SPG, LCA 67 (Armagh/Banbridge Hills) and LCA 77 (Iveagh Slopes) are of particular relevance. With regard to assessment of wind energy development the overall sensitivity of both LCAs was classed as medium.

- 9.12 LCA 77 refers to the visual prominence and elevated nature of Knockiveagh Ridge as making this landscape sensitive to poorly sited wind energy development. It also states that care should be taken to avoid adverse impacts on the character and setting of archaeological sites and that consideration should be given to siting turbines on mid slopes away from ridge tops.
- 9.13 Officers also gave regard to the refusal of planning permission for a retrospective application to erect a telecommunication mast at Knockiveagh but were of the opinion that this is a separate planning application with its own individual material considerations. Accordingly, Officers did not view the refusal of planning permission in that case as inconsistent with their decisions in this case.
- 9.14 Having regard to the assessed impacts on the setting of the scheduled monument and the wider landscape and the conclusions reached by the independent Archaeologist in respect thereto, Officers concluded that was appropriate to issue a Submission Notice for the access track in order to have the matter regularised in planning control terms. In relation to the cabinets Officers thought it appropriate, for the reasons provided at section 7 of the report, that a Breach of Condition Notice be served.

## **10.0 THE MATTER OF THE TEMPORARY STOP NOTICE**

- 10.1 The Temporary Stop Notice ('TSN') was served by the Armagh City, Banbridge and Craigavon Borough Council ('the Council') in exercise of its power under Section 135 of the 2011 Planning Act on 23 October 2017. The TSN was served because the Council thought that there was a breach of planning control and that it was expedient that the activity specified in the TSN should be stopped immediately, given the possible implications of the apparent breach of planning control for the setting of the protected monument. The TSN incidentally allowed the Council 28 days from the date of serving to investigate the apparent breach of planning control. The activities which appeared to amount to a breach of planning control are set out at paragraph 6.1.
- 10.2 As is detailed at Sections 4-7 above and in particular having regard to the independent report and findings received by Officers from Gahan and Long and Land Survey Services and the provisions of the LDP, SPPS and other relevant planning guidance, Officers concluded as follows:
- i) The platform is not unauthorised by reason that it was both necessary and reasonable for the implementation of the planning permission;
  - ii) The new access track creates betterment in so far as it would have, at most, a negligible impact on the setting of the monument approximately to a 'no change' scenario with the change being barely distinguishable as compared to that approved, by reason of the fact that it follows a natural contour in the level of the site and consequently is of minimal construction i.e. laying of stones onto existing ground. Furthermore, it does not increase impact on the monument but delivers betterment. As such, it was not judged expedient to enforce but rather it was considered appropriate to issue a Submission Notice to have the matter regularised in planning control terms; and

iii) The electricity cabinet as constructed is in breach of Condition C2.1(b), and it was judged appropriate to serve a Breach of Condition Notice to have the situation regularised in terms of planning control. This also applies in respect of the electricity cabinet for which only the base/foundations have been constructed.

(The conclusions are detailed in full at paragraphs 4.3, 6.5 and 7.6 above respectively.)

(iv) The height of the turbine as constructed will be lower than the turbine as approved by the 2013 planning permission. Officers were of the opinion that this is a *de minimis* departure and therefore it is not expedient to enforce.

10.3 Given those conclusions, Officers were satisfied that it was not expedient to serve an Enforcement Notice or a full Stop Notice, but rather to take action in the form of service of a Submission Notice in respect of the access track and a Breach of Condition Notice in respect of the electricity cabinets.

## **11.0 CONCLUSION**

11.1 Having regard to the material considerations set out in this report, including the findings of the interview, the report by Land Survey Services, the report and conclusions of the independent Archaeologist, the position of HED, and the LDP and associated planning policy and guidance, Officers were satisfied that it was not expedient to serve an Enforcement Notice or a full Stop Notice.

11.2 Rather, Officers decided that:

- On the matter of the unauthorised access track a Submission Notice will be served to seek to have the matter regularised in planning control terms;
- On the matter of the electricity cabinet as constructed, a Breach of Condition Notice will be served to seek to have the matter regularised in planning control terms;
- On the matter of the electricity cabinet for which only the base/foundations have been constructed, a Breach of Condition Notice will be served to seek to have the matter regularised in planning control terms.



Northern Ireland  
Assembly

# Official Report (Hansard)

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# Assembly Members

Aiken, Steve (South Antrim)  
Allen, Andy (East Belfast)  
Allister, Jim (North Antrim)  
Anderson, Ms Martina (Foyle)  
Archibald, Dr Caoimhe (East Londonderry)  
Armstrong, Ms Kellie (Strangford)  
Bailey, Ms Clare (South Belfast)  
Barton, Mrs Rosemary (Fermanagh and South Tyrone)  
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Boylan, Cathal (Newry and Armagh)  
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Bradley, Ms Sinéad (South Down)  
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Buchanan, Thomas (West Tyrone)  
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Lyttle, Chris (East Belfast)  
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McCann, Fra (West Belfast)  
McCrossan, Daniel (West Tyrone)  
McGlone, Patsy (Mid Ulster)  
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Sugden, Ms Claire (East Londonderry)  
Swann, Robin (North Antrim)  
Weir, Peter (Strangford)  
Wells, Jim (South Down)  
Woods, Miss Rachel (North Down)

failed Knock Iveagh, to the stage that we have now built a wind turbine on top of the site. Instead of Knock Iveagh being somewhere that we can take our young people to look at, view and understand our history, what we have is a development that is destroying the site.

That is where the difficulty arises, because we are now caught between two Departments and a council. The planning permissions part of the DOE gave permission. I apologise if this sounds like a sort of planning seminar. Once part of the DOE had given permission for it to be placed there, and DFC's historic environment division had said, "No, it should not be", you would think that it would be really quite simple. All the historic environment division has to do is say, "No, you cannot do that", revoke the permission and take it away before it was ever erected, but nobody did. Nobody enforced anything. I guess that it is a failure by two Departments. It is not a deliberate failure, but it is a failure in the two Departments. We have been fighting for this ever since. If it was not for the Friends of Knock Iveagh — I know that a lot of Members will have engaged with the group, and with Anne Harper as part of it — this probably would not have come to light. It certainly would not have come to me. She has brought it to light and has been fighting a long campaign to have this decision reversed.

This is in South Down, not Upper Bann, so why am I interested? My interest comes in two forms, if I may. First, decisions like this are not unusual. The destruction of our heritage is not unusual. I just need to look at the rath and grange in Waringstown that were destroyed 20 years ago following a flawed planning application and permission. Although everyone has said that they got it wrong, nothing has been done to replace it. That is another example. Maybe people will not have heard of these sites. The Ballintaggart megalith in County Armagh, which is known locally as the giant grave, was lifted up, removed from the site and taken to the Ulster Museum, where it was set up. When the museum wanted more space, it was removed and is now lying in a heap in storage somewhere. That is our heritage being lost. I have a genuine interest in our heritage — our Irish heritage. It is important; it is important to me. Therefore, we need to fix what we got wrong. It is as simple as that: fix what we got wrong.

I have another issue that I have informed the other Upper Bann MLAs about. If, at the end of this month, the Department for Infrastructure says that it is going to take enforcement action, there is likely to be a cost, and that cost will be to Armagh City, Banbridge and Craigavon

Borough Council. Therefore, it will be a cost to my constituents. I have spoken to the planners at the council, and we could be talking about hundreds of thousands of pounds, if not millions.

It will be my constituents who will foot the bill. People say, "They will not really; the money will come from somewhere else". They will not foot the bill directly but may do so indirectly. That would be unfair.

#### 7.45 pm

A mistake was made by the Department for Infrastructure, the then DOE, and it was compounded by the historical environment division in DFC. I am not blaming anybody; it happened, but it needs to be fixed. It could have been fixed, because DFI could have done so under section 75 of the planning regulations. They could have made them put it back to the way that it was, but they did not, and the situation has rolled on.

What is the debate about? It is about what should be important to us, which is understanding our history. We often talk about a shared history. If we go back to Neolithic times or to the Bronze Age or to medieval times, we were one people; that is our history, but it is being systematically destroyed. I am in no doubt whatsoever that Knock Iveagh should be returned to the way that it was. The bill for that should be picked up by those who made the mistake. Those Departments should pick up the bill and they should put it back to the way that it was. There should be no sleight of hand or telling tales, and no one should say that they cannot do it; they should just get it back to the way that it was. I am hoping that a report from the planners in ABC Council, which will come out at the end of this month, will make that recommendation.

I was due to meet the Minister on the site, because she has shown a real interest in the matter, but the weather was pretty awful and we did not manage it. I hope that she can apply some sort of pressure to make sure that we get the outcome that we want, because this is our shared history, shared heritage, on a shared site. Although it might be in County Down, it is as much mine as it is anybody else's.

**Mr Speaker:** Five Members are listed to speak in the debate, and they will have six minutes each, with an additional minute if there is an intervention. It is not compulsory to make an intervention or to take an extra minute.

rightly, pointed out, this is too important to allow the problem to fester any longer. Action has to be taken. I would like to think that, in a couple of years' time, you will drive past Knock Iveagh and think, "Isn't that wonderful? It has been restored to its natural context".

**Ms Ennis:** I thank Doug Beattie for bringing this Adjournment topic to the Assembly this evening, and I thank the Minister for her time. It is good that we have this collaborative approach across constituencies; there is a two-pronged approach to this issue involving South Down and Upper Bann, and we are trying to find a resolution. Unlike any other time, I am not happy to be speaking about this subject; I am filled with desperate sadness when I think about what has been allowed to happen at Knock Iveagh and the surrounding site.

Like Mr Beattie did, I convey a huge thank you to Friends of Knock Iveagh; Anne Harper, in particular; and the whole campaign group. They have worked tirelessly over the last number of years. It has been a real quest for them to right the wrongs at Knock Iveagh, to reverse the damage and to protect and preserve the site and surrounding landscape from further destruction. I have been only too happy to work with them over the last number of years. I have tried to help them in any way that I can, and I pledge to continue to do that.

Before I get into the specifics of the issues relating to Knock Iveagh, I want to make this point. I believe wholeheartedly that the thinking about and attitudes behind the shocking planning decisions relating to Knock Iveagh and to other decisions like this point to a massive collective problem that we have right across this island in our attitude to our history and heritage. We saw that demonstrated recently with the demolition of the home place of The O'Rahilly in Dublin and the Dublin Government's abject failure to protect the battlefield site around Moore Street. The historic, ritual and archaeological importance of these sites pales into insignificance compared with their potential economic value, and therein lies the problem.

What has happened at Knock Iveagh is really nothing short of a disgrace. Knock Iveagh was the power hill of the tribal lords of the area of County Down for millennia. Leading experts now believe that it was the site of rituals, including the inauguration of the lords of Iveagh. It is also the location of an ancient burial cairn that is a scheduled monument protected by law. Investigations into Knock Iveagh and the surrounding areas show a series of linked sites of significant historical importance, each one a clue hidden in plain

sight that leads to a deeper understanding of our local history and the history of the Magennis clan, as Doug Beattie pointed out. Archaeologists also believe that the lands at Knock Iveagh may well contain additional important structures.

Given the huge importance of Knock Iveagh and the surrounding sites and that it is a scheduled monument protected by law, it is unfathomable that any statutory body would give permission for any work at the site that would cause it to be damaged, but, unfortunately, that is the reality of what we are dealing with. Knock Iveagh hillside was damaged by the erection of a broadband mast that was built without planning permission or retrospective planning permission from ABC council. Minister, I acknowledge the role that your Department has subsequently played in ensuring that that unlawful mast was removed. In its refusal, the council stated:

*"the development would have an adverse impact on the integrity of the monument's setting which is a site of regional importance".*

Despite that, in 2013, the then DOE granted planning permission to erect a wind turbine more than twice the size of the broadband mast. How was that allowed to happen? Why did no one who was tasked with the protection of this site step in and stop the unlawful destruction of a scheduled monument?

Despite the multitude of failures at Knock Iveagh, it is still not too late to act. It is not good enough to simply say, "Let's learn from this and move on". Like Doug Beattie, I call for all those with responsibility to, to quote him, get it:

*"back to the way that it was".*

Let us undo the mistakes that were made at Knock Iveagh, assess the damage that has already been caused and commit to protecting this and other sites for generations to come.

**Ms S Bradley:** I, too, thank the Member for Upper Bann for bringing this Adjournment topic to the House. We could not overstate the importance of this site. It is a Neolithic mound that predates the pyramids and Stonehenge. It may be less well known than Navan Fort, Newgrange or the Hill of Tara, but it is no less significant. The burial and inauguration site is of national importance. The associations with Magennis and the Magennis clan, which continue to be celebrated in Warrenpoint, are not lost on many.

The power for local planning applications should now be with local councils. That means that local representatives, who are accountable to local people and are armed with local knowledge, can make decisions in order to protect local sites of historical interest. The new system also includes a safeguard, whereby the Minister for Infrastructure can call in an application that is deemed to be regionally significant or otherwise.

I understand from colleagues on Armagh, Banbridge and Craigavon Borough Council that Knock Iveagh remains a live issue and that they are regularly contacted by campaigners, which is obviously why Mr Beattie brought the issue to the Chamber. In the first instance, and for the reasons that I have outlined, it should be for the council to provide clarity on this matter, with financial support as required. An application process that is still disputed more than eight years after the original decision serves nobody's interest. Sadly, it is all too common in Northern Ireland.

The Infrastructure Committee recently considered the terms of reference for a planned review of the Planning Act 2011. The review will seek to determine whether the Act meets its objectives. Our current system remains far too slow and ineffective, particularly when it comes to applications such as the one at Knock Iveagh. We must use the review as a genuine opportunity to make the system better.

It is crucial that we protect historic sites such as Knock Iveagh, and the Planning Act 2011 gives councils the power to do that. This must be on the basis of planning policy that also recognises the importance of our ancient heritage. Many people come to Northern Ireland, Ireland and the British Isles to see what we have to offer. These sites are one of our main offers. In the time ahead, we have to show that we are protecting them. If there are issues, such as those that occurred in the past, we must seek to rectify them. I remember visiting Newgrange a number of years ago, and I was probably the only person from the island of Ireland there. Everyone else was from countries across the world. Hopefully, one day, we can get back to the situation where we can have visitors and we can protect these sites as one of the jewels in our crown.

**Mr Speaker:** I invite the Minister for Communities, Carál Ní Chuilín, to respond to the debate. Normally, the Minister has 10 minutes. However, because we are still at an early stage of the debate, she has additional time.

**Ms Ní Chuilín (The Minister for Communities):** Thank you, Doug, for securing this Adjournment debate. I also want to thank Jonathan Buckley, Jim Wells, Sinéad Ennis, Sinéad Bradley and Andrew Muir. Andrew's comment that it was worth being electrocuted to see Kilnasaggart will be recorded in Hansard for ever. I will also check Hansard for other comments that were made, just for accuracy.

I was not dragged here; I am happy to be at this debate. I will also be happy to visit Knock Iveagh when the weather is a bit better and I can see it. I do not mind getting caught up in or soaked by rain. That does not bother me, but I would like to see it.

The significance of the burial monument was mentioned by everyone who spoke this evening. I want to clarify that my Department legally protects the ancient burial cairn on Knock Iveagh hill. It does so under the scheduling provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995. That statutory designation recognises the regional and national significance of this historic and very important site. These legal protections have been in place since 1996, and the site was included in the sites and monuments record for a considerable time before that. There is history of Knock Iveagh in the Departments, let alone the community. As a result of those scheduling provisions, my Department undertakes regular inspections of the cairn, provides management advice to the site owner and must consent to any works affecting it.

From what everyone has said this evening, two main impacts have been the focus of recent attention at Knock Iveagh: an unauthorised broadband mast and a wind turbine. As a statutory planning consultee, my Department's historic environment division provided advice to the council's planning authority, and that led to the successful removal of the broadband mast from the hill. Related impacts on the top of the hill and the cairn setting have been repaired through planning enforcement. That is an example of what happens when we use our powers to best effect.

An intrusion into the scheduled area surrounding the cairn, where a shallow depth of sod and topsoil was removed, occurred at the time the broadband mast was erected. That has been resolved through a legally agreed scheduled monument consent process, commensurate with the level of impact involved in the breach.

many of you will know, is nodding, so we will come back to the Member on that. It is disgraceful that some of those artefacts are withering away in storage. I have always found it disturbing for that to be the case. What is more, the fact that the public are paying through the nose for that storage does not make any sense whatsoever.

We will continue to provide advice to ABC Council. As well as that, we will continue to ensure that, through the development of a local development plan process, there is appropriate protection for Knock Iveagh, its historic landscape and the setting around it, because the whole setting is important and should not be disturbed any more than it needs to be.

I will conclude by appealing to people, particularly those in ABC Council, as the planning authority, to read the Hansard report of this debate and ensure that our considerations are taken on board as much as possible. We all have a role to play in the preservation of a historic society, historic communities and, indeed, the artefacts that we need to protect and cherish for future generations.

I thank Doug and the other Members who spoke in the debate.

**Mr Speaker:** I thank everyone for their contributions and for the good conduct and substance of all those contributions.

*Adjourned at 8.17 pm.*