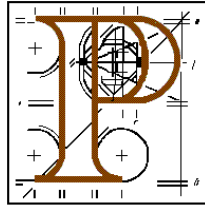


An Bord Pleanála Ref. No.: PL 04.245560

An Bord Pleanála



Inspector's Report

Proposed Development: Permission is sought for the construction of a control building for wind turbine development (change of plan from that permitted under planning reg. No. 12/5997) to meet new ESB Network Standard all at Boolard, Dromina, Co. Cork.

Planning Application

Planning Authority: Cork County Council
Planning Authority Reg. Ref.: 15/05521
Applicant: Aerie Renewables Ltd.
Type of application: Permission
Planning Authority Decision: Grant permission

Planning Appeal

Appellants: Joanne O'Brien & Others
Observers: None
Type of appeal: Third Party against Permission
Site Inspection: 7th December, 2015

Inspector: A. Considine

1.0 THE SITE

- 1.1 The proposed development is for the amendment to the previously permitted control building associated with the permitted wind farm development under 12/5997. The proposed development seeks to increase the size of the control building in order to meet ESB Network Standards and to ensure connection to the grid. These standards have changed since the original application was lodged and require a larger footprint than the permitted control building. The current proposed development site lies within the original development site boundary of the permitted windfarm development and is located within the area of the previously permitted control building.
- 1.2 The subject proposed development site is located in a rural area of County Cork approximately 6km to the south west of the town of Charleville in North Co. Cork and 6km to the west of the National Primary Road, the N20 Cork – Limerick Road. The Ballyhoura Mountain are located to the east of the site at a distance of approximately 10km. The agricultural land is generally flat with many mature trees.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development, as per the public notice, is described as follows:

Permission is sought for the construction of a control building for wind turbine development (change of plan from that permitted under planning reg. No. 12/5997) to meet new ESB Network Standard all at Boolard, Dromina, Co. Cork.

- 2.2 The site has a stated area of 0.005ha and includes just that area of the proposed control building, within the overall context of the permitted two turbine wind farm. The proposed new control building will include the following:

- Hard stand area – 10m x 5.5m

- A single storey building which has three sections including an ESB room, Wind Farm Switchgear Room and Wind Farm Metering and Telecommunications Room.
The building will be rendered with pitched roofs with a floor area of 53.7m², and maximum height of 4.65m

3.0 REPORTS ON PLANNING FILE

3.1 There are 3 submissions noted on the planning file from third parties. I have read the content of all submissions. The issues raised in the objections are summarised as follows:

- Concerns regarding the height and size of the proposed development and how it may ruin view of natural landscape
- No landscaping plan has been submitted. Existing trees must be kept.
- Lack of consultation with the local community.
- The purpose of the increased size of the control building is question. Concerns that it may be to allow for the addition of more turbines, which would have serious consequences for objectors.
- Objector had no knowledge of the previous application which permitted the two turbines – issues raised in relation to public notices associated with previous application, as well as the size and scale of turbines permitted.
- Given the second application for a similar development 4km from the subject site by the same applicant, it is considered that there is project splitting for a larger wind energy project which should be consider as strategic infrastructure. The cumulative impacts of the strategic impacts have not been properly assessed.
- EIA is required and has not been carried out.
- Issues raised regarding the Wind Energy Strategy adopted by Cork Co. Council and consideration that there are conflicting policies within the Plan.
- It is considered that the development should be refused for the following reasons:
 - No overall plan for wind farm development for this area by applicant
 - Fragmented and piecemeal development
 - Adverse visual impact (overall developments)
 - Facilitating further wind farm development.

- 3.2 There are no submissions from elected representatives received.
- 3.3 1 no. external report was submitted to the Planning Authority in relation to the proposed development from Irish Water advising no objection to the proposed development.
- 3.4 There are 4 no. reports noted from internal County Council Departments on the Planning Officers report from the following:
- Area Engineer: Notes no objection to the proposed development, subject to compliance with a number of condition.
- Environment Section: Notes no objection to the proposed development, subject to compliance with a number of condition.
- Heritage Officer: Concern is raised in this report regarding or not EIS and EIA is required.
- Archaeologist: Notes no objection to the proposed development, subject to compliance with a number of condition.
- 3.5 The Planning Authority considered the proposed development together with the information submitted in support of the proposal against the requirements of the County Development Plan and National Policy pertaining to Wind energy projects. The Planning Officers report also had regard to the submissions made in relation to the proposed development as well as reports received from internal departments of the Planning Authority. The report concludes that, the development is acceptable in terms of policy, visual and residential amenity, access and services, flooding and archaeology. In terms of AA, a screening assessment was carried out by the Heritage Officer and concludes that the potential for the development to have significant impacts on the Blackwater SAC can be screened out. In terms of EIA, the report concludes that the a sub-threshold EIS would not be required. In this regard, the report concludes that permission be granted for the proposed development.

4.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority granted planning permission for the proposed development subject to 14 conditions.

5.0 RELEVANT PLANNING HISTORY

5.1 Subject site:

PA ref 11/4974: Aerie Renewables Ltd. was granted planning permission for the construction of 2 no. wind turbines with ground to tip height up to 150.5 metres, a control building and all associated works including additional tracks and alterations to existing entrance to public road.

PA ref 12/5997: Aerie Renewables Ltd. was granted planning permission for the construction of 2no. wind turbines with tip height up to 150.5m, control building, 100m wind monitoring mast and associated site works including additional tracks and alterations to existing entrance to public road (change of site boundaries, location of turbine T2, control building and layout from that permitted under planning reg. No. 11/4974 and additional of wind monitoring mast).

PA ref 06/10392: Seanan Lavery was granted permission for the construction of silage slab, dairy washing tank, effluent tank, sump tank, slurry tower, feeding area with auto-scrappers and change of use of easy feed unit to cubicle house.

5.2 The following is the planning history associated with the applicant at a site at Rathnacally, Charleville, approximately 4km to the east:

PA ref 15/5525: Aerie Renewables Ltd was granted planning permission for the construction of control building for wind turbine development (change of plan from that permitted under planning reg. No. 12/4446) to meet new ESB Network standard.

The Board will note that the appellant in the current subject case also make reference to this permission in their appeal.

PA ref 12/4446: Aerie Renewables Ltd was granted planning permission for the construction of 2 no. wind turbines with tip height up to 150.5m, control building, 100m wind monitoring mast and associated site works (change of site boundaries, location of turbines, control building, mast and layout from that permitted under Planning Reg. No. 09/6555).

6.0 POLICY CONTEXT:

6.1 Cork County Development Plan 2014

6.1.2 The current development plan seeks to support the development of renewable energy projects. The subject site is located within an area identified as most likely to be suitable for the development of a wind energy project.

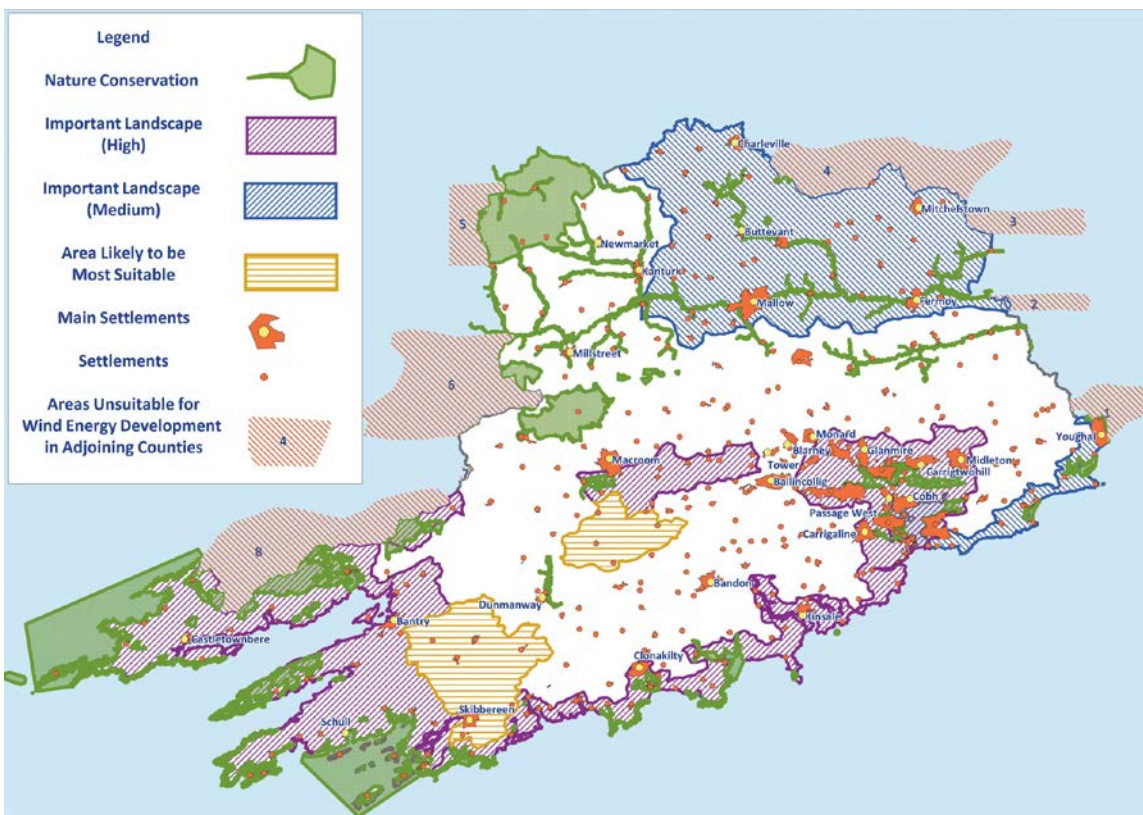


Figure 9.2 Policy Considerations for Wind Energy Projects

6.1.3 County Development Plan Objective ED 3-4: Acceptable In Principle states:

Commercial wind energy development is normally encouraged in these areas subject to protection of residential amenity particularly in

respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives.’

6.2 National Policy

National policy on renewable energy has arisen primarily in response to international agreements, most particularly the UN Framework Convention on Climate Change and the Kyoto Protocol. Current government policy in relation to renewables is outlined in the National Climate Change Strategy 2007 – 2012 which highlights the need for a radical strategy to meet the climate change commitments made under Kyoto.

6.2.1 *Sustainable Development – A Strategy for Ireland*, includes emphasis on the use of renewable resources.

6.2.2 *The National Spatial Strategy 2002 – 2020*, states, “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aquaculture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

6.2.3 *National Biodiversity Plan 2002*, was prepared in response to Article 6 of the Convention on Biological Diversity and ‘pays special attention to the need for the integration of the conservation and sustainable use of biological diversity into all relevant sectors.’

6.2.4 *Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development* - Planning policy guidance is outlined in “Wind Farm Development: Guidelines for Planning Authorities”, 2006. The guidelines offer advice on planning for wind energy through the development plan process and in determining applications for planning permission and are intended to ensure consistency of approach in the identification of suitable locations for wind energy developments and acknowledge that locational considerations are important.

Chapter 6 of the draft guidelines refers to the assessment of siting and location of such development in terms of aesthetic considerations, landscape sensitivity, spatial extent and cumulative effect, with regard to landscape character types including hilly and flat farmland, mountain moorland and transitional landscapes. The factors to be assessed comprise landscape sensitivity, visual presence of the wind farm, its aesthetic impact on the landscape and the significance of that impact.

6.2.5 *South West Regional Planning Guidelines 2010-2022*

The vision of the RPGs is stated as follows:

“to maintain and develop a sustainable and competitive economy, optimise the quality of life of its residents and visitors, protect and enhance its unique environment, culture and heritage.

By 2022, the South West Region will be realising its economic potential and providing a high quality of life for its people by meeting their employment and housing, educational and social needs in sustainable communities. At the same time it will reduce its impact on climate change and the environment, including savings in energy and water use and by strengthening the environmental quality of the Region.”

One of the key principles identified in the RPGs as underpinning this stated vision includes promoting the security of energy supply and the development of renewable energy in the region in a sustainable manner.

RKI-01 of the RPGs sets out the key planning and development issues facing the region, while Section 1.3.37 of the RPGs identifies that “wave and wind technologies are expected to play a significant part in meeting additional demand with excess renewably generated power being exported through an enhanced transmission grid to other regions within the State.”

Section 5.6.21 of the RPGs acknowledges that there is a growing network of wind powered electricity generators in both Cork and Kerry and significant potential exists for additional electricity generation by sustainable wind, wave and tidal energy sources.

Objective RTS-09 Energy and Renewable Energy, promotes the development of renewable energy resources in a sustainable manner. In particular development of wind farms shall be subject to:

- the Wind Energy Planning Guidelines
- consistency with proper planning and sustainable development
- criteria such as design and landscape planning, natural heritage,
- environmental and amenity considerations.

7.0 GROUNDS OF APPEAL

7.1 This is a third party appeal, from Friends of the North Cork Environment, against the decision of Cork County Council to grant planning permission for the proposed development. The specific grounds of appeal are summarised as follows:

- Concern about the fragmented approach to wind farm developments in the area.
- Objector is not opposed in principle to development at this location, but that any proposals need to be carefully considered and planned.
- It is considered that the legal requirements in relation to Environmental Impact Statement have not been met and that the historical Environmental Statement submitted is insufficient.
- Concern that the two individual proposed developments, cumulatively constitute a larger strategic infrastructure project and a decision to grant permission would not be in the interests of the proper planning and sustainable development of the area.
- Reference is made to previous decision PL14/5836¹ where an appeal was made on the basis that, coupled with the two applications currently under consideration, represent a medium scale strategic infrastructure project under the guise of three separate applications that do not reference one another which is misleading and insufficient regard has been taken of the legislative requirements to prepare EIS.
- The development needs to be considered as part of a wider strategic energy infrastructure project. It represents fragmented and piecemeal development. It is connected to previously approved wind farm developments.

¹ ABP ref PL04.244096 refers

- Justification for the upgrade is vague and the original planning application does not provide any details regarding the need for such a significant expansion of infrastructure.

The Board will note at this point, that the appeal makes many references to a second permission for a similar type development, made by the applicant at a location approximately 4km from the current appeal site, but that this decision has not been appealed. I do not proposed to expand on the issues raised in relation to that case.

- The original permission should have been subject to EIA as the two permitted turbines were 2.5MW each. The PA failed to adhere to EIA requirements.
- It is considered that an integrated strategic plan for future energy provision should be implemented as opposed to the reactionary and ad hoc approach currently being facilitated.
- While the proposed development will not have a visual impact, it is part of a wider development scheme which involves significant heights and a severely negative visual impact on the wider surrounding area.
- References are made to National Guidelines for Wind Farm Development, 2006.
- Insufficient regard was had to the objection of The Friends of the North Cork Environment by Cork County Council in considering this application.
- The appellant has serious concerns about the environmental effect of wind farm development in the area and are against fragmented and piecemeal development.
- While the application states that the changes to the control building are required 'to meet new ESB Network standard', it may be possible that the increase is required to facilitate the connection of additional wind turbines.
- It is requested that an overall plan for the future provision of wind farm developments in the area is requested and in the absence of same, permission should be refused on the grounds of piecemeal development.

8.0 OBSERVERS

- 8.1 There are no observers noted in relation to this third party appeal.
- 8.2 The DoAHG made a submission in relation to the proposed development in relation to heritage / archaeology. The Department noted that the RMP CO007-26--- is identified as being in the vicinity of the subject development. This 'monument' has since been reclassified as a 'redundant record' as there is not sufficient evidence to suggest that this cropmark feature is archaeological in nature. This feature is +100m from the subject site.

The nearest archaeological monument is a ringfort CO007-27---, and is located +300m to the south of the proposed development site. Therefore, this development will have no known archaeological impact. It is requested however, that an Archaeological Monitoring condition be included in any grant of planning permission, in accordance with Condition 11 attached to the PAs grant of permission.

9.0 RESPONSES

9.1 Planning Authority:

The Planning Authority has responded to this appeal advising that condition permission was recommended having regard to the nature and scale of the proposed development, the planning history, the location and characteristics of the site, the potential impacts, along with the recommendations of the Environmental Officer, the Area Engineer, the Archaeologist and the Heritage Officer.

9.2 First Party Response to Third Party appeal:

The first party has responded to the third party appeal against the decision of Cork County Council to grant planning permission for the proposed development. The document presents a background to the proposed development and other developments in the area and provides a number of appendices. The response to the grounds of appeal is summarised as follows:

- The applicant is clear that the purpose of the increased control building size is to meet the new ESB Networks specifications for such control buildings.
- The applicant does not, in seeking an amendment to the control building, intend to facilitate, nor is it configured to allow, additional wind farm development at their sites, or in the surrounding area.
- It is acknowledged that there have been 7 applications for three distinct developments in the area, of which two relate to the current applicant.
- The applicant's two wind farms are distinct separate developments approximately 4km from each other.
- The proposed development, the subject of this appeal, does not meet any of the criteria set out in the Planning & Development Act as amended, to require a mandatory EIA. As a sub-threshold development, Cork Co. Co, as the competent authority, carried out an EIA screening as part of the overall assessment, concluding that EIA was not necessary.
- It is considered that the PA has comprehensively addressed the proposed development in respect of the planning policy context.
- Both permitted wind farms have received independent grid connection offers from ESB Networks and are independent of each other.

10.0 ASSESSMENT:

10.1 The Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. The Board will note that an existing planning permission exists in the wider area for the construction of a wind energy project as well as the necessary substation to facilitate same. This current appeal seeks to amend this substation in order to meet the new ESB Networks specifications for embedded generation needed to be accommodated within the control building. In principle there is no real objection to this.

10.2 Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, I suggest that it is appropriate to assess the proposed development under the following headings:

- Principle of the development
- Landscape/visual impact
- Residential Amenity
- Other Issues
- Necessity for EIS

10.3 Principle of Development

The Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. In this regard, I am satisfied that the principle of the proposed development has been established at this location and as such can be considered as being acceptable. I note the submission of the appellants in terms of the policy context and the perceived 'uncoordinated and fragmented approach to the permitted wind farm developments over the past number of years'. However, I accept that decisions made in relation to developments must be considered against the relevant and current planning policy at the time of the planning application. Concern about planning policy is for another forum.

10.4 Landscape/Visual Impact

Overall, there is no doubt that the visual impact of a wind energy project must be considered significant given the nature of the installation. Whether or not the impact is negative or positive is a matter of opinion. In addition to the turbines, the associated control building also has a potential visual impact. While I acknowledge that the currently proposed control building is larger than that previously permitted, I consider that any visual impact will be limited. I do not consider that a grant of permission in this instance will result in any significant or negative visual impact in the wider landscape.

10.5 Residential Amenity

I acknowledge the concerns arising in relation to a wind energy development and the potential for impacts on residential amenity. However, in terms of the current proposed development, I do not consider that any impacts arise.

10.6 Other Issues

10.6.1 In terms of water issues, the Board will note that there are no services proposed to be provided within the proposed control building. In this regard, there are no issues arising.

10.6.2 As advised above, the Cork County Council County Development Plan 2014 is the relevant policy document for the proposed development, and commits the planning authority to take a generally positive approach to wind energy developments. The Board will note that an existing planning permission exists in the wider area for the construction of a wind energy project as well as the necessary control building to facilitate same. This current appeal seeks to enlarge this control building. A number of concerns have been raised by the third party appellants which I consider reasonable to address in this assessment.

10.6.3 The Third Party appellant submits that there is a lack of clarity in terms of the intended use of the control building and indeed raises concerns that there is potential for the enlarged control building to facilitate further wind farm developments in the area. The first party in response to this appeal, have clearly submitted that the increase in the size of the control building is not intended to facilitate additional wind energy projects in the area. The

changes to the permitted control building is solely to comply with ESB Network standards for such buildings. Notwithstanding the submissions of the third parties, I accept the comments of the first party in this regard.

10.6.4 The third party appellant raises serious concerns regarding the fact that there is a concurrent planning application for a similar type development on a site approximately 4km from the current site by the same applicant. The Board will note the concerns of third parties relating to perceived project splitting. The appellant is concerned that the enlarged control building will facilitate further local wind farm permissions in the area. I would suggest to the Board that this is a matter for Cork County Council and would be dealt with at planning application stage for any such proposed development. In this regard, a grant of planning permission for the proposed control building as infrastructure which will support a permitted wind farm development, does not imply that permission would be granted for additional wind farm developments in this area. Any planning application for such a proposal would be subject to further assessment by the Planning Authority in the normal manner.

10.6.5 In terms of the submission of the appellant that the current proposed development amounts to project splitting for the purposes of EIA, I would not agree. I would also not necessarily agree that the application has not been subject to a rigorous planning assessment. While the applicant may not agree with the policy context presented in the Cork County Development Plan, 2014, it is noted that all such plans, including the current CDP, are subject to Strategic Environmental Assessment and are required to comply with national policy. The indication that the current proposed development, together with other permitted developments in the area, should be considered as a single medium sized Strategic Infrastructure development is unreasonable in my opinion. Clearly, the proposed development could not be considered strategic in nature. The class of development proposed does not come under the remit of the Planning and Development (Strategic Infrastructure) Act 2006. The development is stand alone and there are no proposals to link or connect this control building with any other development in the area other than to facilitate the permitted 2 turbine wind farm. In this regard, I am satisfied that there is no cumulative impact with other developments which might have significant impact on the environment or on any Natura 2000 sites.

11.0 ENVIRONMENTAL IMPACT ASSESSMENT SCREENING:

11.1 It is a requirement under the EU Directive 2011/92/EU that member states ensure that a competent authority carries out an assessment of the environmental impacts of certain types of projects prior to development consent being given. This requirement is transposed into Irish Law under the Planning & Development Acts, 2000-2014 and the Planning & Development Regulations, 2001-2013. The preparation of an Environmental Impact Statement is compulsory for certain projects which fall within those classes of development as prescribed in Article 93 of and Schedule 5 to the Planning & Development Regulations 2001-2013.

11.2 Where a development is considered to be sub-threshold of those prescribed classes of development in Schedule 5, under the provisions of Article 103 of the P&D Regulations, an EIS can still be required to be prepared if it is considered that the development would be likely to have significant effects on the environment. In arriving at the decision, the competent authority is required to have regard to the criteria set out in Schedule 7 of the Regulations. The proposed development relates to the construction of a control building for wind turbine development (change of plan from that permitted under planning ref. No. 12/5997) to meet new ESB Networks Standard. Planning permission has been granted for the two turbine wind farm and the Board will note that an Environmental Report was prepared in support of the original proposal. The current subject site comprised part of the study area associated with that ER.

11.3 Category 3(i) of Schedule 5, Part 2 of the Planning and Development Regulations 2001, provides that an Environmental Impact Statement shall be prepared in respect of a planning application for the following development:

“Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.”

I have considered this issue carefully and accept the findings of the Planning Authority in relation to the conclusion that while the proposed development is necessary to facilitate a wind energy development, the subject proposal of itself, is not energy generating as such. Rather the proposal relates to the facility used to transmit the power generated by the

permitted turbines. In this regard, I am satisfied that an EIS is not required under this category.

- 11.4 Category 13 of Schedule 5, Part 2 of the Planning and Development Regulations 2001, relates to *changes, extensions, development and testing* which is considered relevant in terms of the subject proposal. Part (a) of this category provides as follows:

“Any change or extension of development which would:-

- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and*
- (ii) result in an increase in size greater than –*
 - 25 per cent, or*
 - an amount equal to 50 per cent of the appropriate threshold.*

In this regard, the proposed development will not result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of Schedule 5 and therefore, I am satisfied that an EIS is not required under this category.

- 11.5 In light of the above, I am satisfied that the proposed development does not require a mandatory Environmental Impact Statement.

- 11.6 Schedule 7 of the Planning & Development Regulations sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environments. In terms of the overall wind energy project already permitted which includes the subject site, I consider that the following is relevant:

1. Characteristics of the proposed development:
The size of the proposed development is limited in terms of the overall study area associated with the wind farm.

In terms of the cumulation with other developments, the Board will note that a control building is necessary to support the permitted

wind energy development. In EIA terms, the development is acceptable in this regard.

In terms of the use of natural resources, production of waste, pollution and nuisances and the risk of accidents, I consider that there is minimal difference between the permitted control building and that currently proposed in terms of EIA.

2. Location of the proposed development:

The subject site is currently used for agricultural purposes and in an area where planning permission has been granted for the construction of a smaller control building to support a permitted wind energy development.

The development, if permitted, will have little impact on the abundance, quality and regenerative capacity of natural resources in the area.

The subject site is not located within any designated sites or within a landscape that is protected under legislation.

3. Characteristics of potential impacts:

The primary impact associated with the proposed development relates to the visual impacts, purely because the proposal seeks to enlarge an existing permitted control building. I have addressed this issue above in my assessment. I advise that the visual impact associated with the proposed development is limited and minimal, and that the extent of same would not warrant the preparation of a full EIS.

There is no issue with the transfrontier nature, the magnitude or complexity of the impact.

The probability of the impact is unavoidable and will be continuous until such time that the control building is decommissioned.

11.7 In terms of a Sub-threshold Environmental Impact Assessment, the Board will note that the proposed development involves the enlargement of a previously permitted control building. There are no environmentally sensitive designations in the immediate area of the site. The site is surrounded by agricultural land. The environmental impact of the development will be limited, and would not trigger any requirement for sub-threshold Environmental Impact Assessment.

12.0 APPROPRIATE ASSESSMENT:

12.1 The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

12.2 The appeal site is located within 5km of the Awbeg River which is part of the Blackwater Rvier SAC (Site Code 002170) and there is a small watercourse located approximately 240m to the east of the location of the proposed enlarged control building.

12.3 The site the subject of this appeal itself can be considered a greenfield rural site, but planning permission has been granted for the construction of two wind turbines and a smaller control building. Given that there are Natura 2000 sites located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified SAC. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words,

where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

- 12.4 Having considered a number of potential significance indicators which have regard to any potential or likely effects of the proposed development on the on-site habitats, together with the habitats so protected under the designated SAC within 15km of the subject site, it is clear that the potential impact associated with the proposed development relates to the deterioration of water quality, which could have an indirect effect on the species and habitats that occur within the SAC. That said, I consider that, given the scale of the proposed development, together with the distance between the site and the SACs, the proposed development is unlikely to have an impact on the Natura 2000 sites within the 15km of the site. I am of the opinion therefore, that the development, if permitted, is likely to have little or no impact on the proximate Natura 2000 site. Invoking Article 28 and seeking the comments of the NPWS, is unnecessary in my opinion.
- 12.5 The AA screening report prepared by the PA determined that a full AA was not required, on the basis that there are appropriate measures to ensure the protection of water quality on site in terms of the overall wind energy development and thereby, the protection of water quality within the Awbeg River of the Blackwater River Special Area of Conservation. The report concludes that the potential for the proposed development to have significant impacts on the Blackwater River SAC can be screened out. Conditions are recommended.
- 12.6 The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. Having regard to information provided, and in terms of screening for AA, I conclude that the proposed development would not be likely to have a significant effect on any Natura site and that there is therefore no requirement for stage 2 Appropriate Assessment.

13.0 CONCLUSION & RECOMMENDATION

13.1 Conclusion:

13.1.1 Having regard to the information submitted in support of the application together with all reports and third party submission, and the requirements of the Cork County Development Plan 2014, the planning history of the site and general area and having regard to the nature of the proposed development, I am satisfied that the proposed development can be considered as being acceptable in principle.

13.1.2 Notwithstanding the concerns raised by the appellant in terms of the overall development of the North Cork Area, and in particular, their concerns regarding the planning history of the area and the policy context for in terms of the provision of wind energy projects, I consider that the development is acceptable and if permitted, would not represent an inappropriate form of development and, subject to compliance with conditions, would not adversely impact on the amenities of the area and the local environment, and would be in accordance with the proper planning and development of the area.

13.2 Recommendation:

Having considered the contents of the submitted planning application, the planning history associated with the subject site, the decision of the planning authority, the provisions of the Cork County Development Plan, the provisions of the Wind Energy Development Guidelines (DOEHLG 2006) the grounds of appeal and the response thereto, my site inspection and my assessment of the planning issues, I recommend that permission be granted for the Reasons and Considerations set out below and subject to the attached Conditions.

REASONS AND CONSIDERATIONS

Having regard to the limited extent of the proposed development, being the enlargement of a permitted control building to service a permitted wind energy development, it is considered that the proposed development would be in accordance with the policies contained within the current Development Plan for the area, would not injure the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The development here permitted, shall comply with the terms and conditions of Planning Permission Reg. No. 12/5997, which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

Reason: In the interests of the proper development of the site.

3. All trees and hedgerows within and on the boundaries of the site, save those specified trees whose removal is authorised in writing by the Planning Authority to facilitate the development, shall be protected during building operations and retained thereafter.

Reason: In the interests of visual amenity.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 5 The structure shall be removed at the expiration of a period of 20 years beginning on the date of commissioning of the development unless planning permission for a further period shall have been granted.

Reason: In the interests of planning and sustainable development of the area and to enable the Planning Authority to review the operation of the wind farm having regard to the circumstances then prevailing.

- 6 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. Considine,
Planning Inspector.
10th December, 2015