



An  
Bord  
Pleanála

## Inspector's Report ABP-316060-23

### Development

Change of use of building from a dwelling house to office accommodation together with all ancillary site works and services.

### Location

Dyrick Townland, Ballinamult, Co. Waterford.

### Planning Authority

Waterford City and County Council

### Planning Authority Reg. Ref.

221073

### Applicant(s)

Declan O'Brien.

### Type of Application

Permission.

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Declan O'Brien.

### Observer(s)

None.

### Date of Site Inspection

15<sup>th</sup> March 2024.

**Inspector**

Peter Nelson

## **1.0 Site Location and Description**

- 1.1. The site is on the western side of the Local Secondary Road L5058. The site is approximately 7.8km from Cappoquin Town Centre and 3.5km southwest of Ballinamult.
- 1.2. The site contains a two-storey dwelling with outbuildings. The house and outbuildings are backed by tree planting. The dwelling is elevated from the front road. There are plaster stone piers and side walls at the entrance to the property and a gravel avenue leading to the house.
- 1.3. The stated site size is 1.067 hectares.

## **2.0 Proposed Development**

- 2.1. Permission is sought to change the use of an existing detached two-storey dwelling house to office accommodation with all ancillary site works and services.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Waterford City and County Council refused permission for the proposed development on the 16<sup>th</sup> February 2023, for the following three reasons:

- 1) In the absence of any justification for the proposed office use in this remote rural area, the Planning Authority is not satisfied that the proposed office use/commercial development would not undermine the function of service settlements. The proposal as presented is contrary to the policies and objectives of the Waterford City and County Development Plan 2022-2028, would set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.
- 2) The applicant has failed to demonstrate that the proposal would not give rise to additional loadings on the existing septic tank and percolation area or that the existing septic tank and percolation area could adequately accommodate the waste waters generated by the development. The Planning Authority is

not satisfied that the proposal would not give rise to an unacceptable risk to ground waters with a resultant risk to public health. The proposal is therefore contrary to the proper planning and sustainable development of the area.

- 3) The applicant has failed to demonstrate that the intensification of the existing substandard access arrangements would not give rise to a traffic hazard with resultant public safety concerns with regard to employees/staff visiting and exiting the site and other road users. The proposal is therefore contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The main points of the Planning Report dated the 15<sup>th</sup> February 2023 can be summarised as follows:

- Notes that no works are proposed internally or externally to the structure.
- No justification for the change of use has been proposed.
- No employee numbers have been provided.
- Offices and commercial developments are normally only supported in rural areas with a land-dependent need or ancillary to an authorised enterprise or residential use.
- In the absence of justification for the proposal, it appears that granting the change of use could undermine the functions of Waterford Settlement Centres, where office/commercial developments should be appropriately sited/operated from.
- Public water supply is not available in this area.
- No details of the existing septic tank and percolation areas have been submitted.
- It is not possible to determine that the proposed development would not give rise to a risk to groundwater with resultant risks to public.

- The existing access does not comply with the required standards in terms of sightlines.
- It appears the proposal would give rise to intensification of traffic movements.
- There is no proposal to provide for upgraded access.
- The Planning Authority is not satisfied that the proposal would not give rise to a traffic hazard.

#### 3.2.2. Other Technical Reports

None

#### 3.3. Prescribed Bodies

None

#### 3.4. Third Party Observations

None

### 4.0 Planning History

#### **ABP Ref: 317265-23**

The application was lodged on 6 June 2023 under section 37E of the Act for the construction of a Dyrick Hill Windfarm comprising 12 no. wind turbines and related works. A decision has yet to be made on this application.

The current appeal site is included in the overall site for the above-proposed wind farm.

### 5.0 Policy Context

#### 5.1. Development Plan

The Waterford City and County Development Plan 2022-2028 is the operation plan for the area. The plan came into effect on the 19<sup>th</sup> July 2022.

#### Policies

## **ECON 13     Rural Resources**

To facilitate farm or rural resource related enterprises and diversification, including food production and processing on farm/ agricultural holdings, mineral and aggregate extractive industry, aquaculture and marine, the circular economy, and proposals which support rural tourism initiatives which are developed upon rural enterprise, social enterprise, natural/ cultural heritage assets and outdoor recreational activities, subject to the capacity of the site and the location to facilitate the proposal.

Subject to environmental policies and the development management standards of this Development Plan, the nature and scale of any proposed development will be assessed having regard to a number of factors, including nature and scale of the existing operation, building, or tourist attractions, source of material (where appropriate), traffic movements, water and wastewater requirements, capacity to reuse existing and redundant buildings, and likely impacts on amenity and the environment and the Natura 2000 Network.

- H24    We will support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

### **5.2.    Natural Heritage Designations**

Blackwater River: Special Area of Conservation. c.2.3km west and c.3km east of the site

### **5.3.    EIA Screening**

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The main points of appeal can be summarised as follows:

- The applicant owns the dwelling house, which is part of a farm of circa 120 acres.
- The applicant's sole place of residence is at Graigue, Modeligo, Cappagh, Co. Waterford.
- The subject dwelling has rented the property for several years. The tenancy period has elapsed.
- It is intended to put the dwelling to use to support his farming enterprise on surrounding lands.
- The applicant intends to start milk production in the vicinity, and the proposed office and kitchen are to be used on a part-time basis.
- Therefore, the land-dependent need is justified for the applicant to utilise the property to support his farming enterprise.
- The existing septic tank and percolation area already serve the building. The proposed part-time use of the building as an office will result in a reduction in the intensity of use of the building and water and wastewater servicing requirements.
- The applicant farms his 120-acre landholding himself, and the conclusion that this use should bring about an intensification of use is incorrect.
- The proposed vehicle entry requirement would only accommodate car and van access onto a lightly trafficked local road.

### **6.2. Planning Authority Response**

- None

### 6.3. **Observations**

None were received within the appropriate period for making a submission or observation.

## 7.0 **Assessment**

7.1. Having inspected the site and examined the application details and all other documentation on file, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Change of Use
- Wastewater Treatment
- Site Entrance

### 7.2. **Change of Use**

- 7.2.1. In the application submitted to the Planning Authority, the applicant did not provide any justification for the change of use.
- 7.2.2. In the appeal, the applicant states that this building is part of his 120-acre farm and intends to extend his farming practice into milk production in the near future in the vicinity of the proposed office.
- 7.2.3. It is stated that the existing dwelling will be used on a part-time basis for conducting accounts and storage of PPE, etc., and utilising the existing services which the building supports.
- 7.2.4. Section 4.7 of the Waterford and County Development Plan 2022-2028 states that agriculture, horticulture, forestry, tourism, aggregates, renewable energy production and rural resource-based enterprise will be facilitated, as will appropriate on-farm agricultural diversification.
- 7.2.5. Having regard to the stated proposed use of the building and its association with the use of the land for agriculture I consider the use of the agricultural office use to be



acceptable and in accordance with Policy ECON 13 of the Waterford City and County Development Plan 2022-2028.

- 7.2.6. If the Board is minded to grant permission, I recommend a condition be attached limiting the use of the office for activities related to the applicant farm only.

### **7.3. Wastewater Treatment**

- 7.3.1. The second reason for refusal stated the applicant had failed to demonstrate that the proposal would not give rise to additional loadings on the existing septic tank and percolation or that they could adequately accommodate the wastewater generated by the development.
- 7.3.2. The applicant, in the appeal, has stated that using the building as a part-time office will reduce the intensity of use of the building and associated wastewater servicing requirements.
- 7.3.3. The house has a floor area of 122 sqm and three bedrooms. The EPA Codes of Practice (Wastewater Treatment Systems for Single Houses) gives guidance in establishing the wastewater load from the maximum population that can inhabit the premises (population equivalent, PE) based on the number of bedrooms. For three bedrooms, the stated Design PE is 5. Therefore, the existing load for the dwelling is a population of 5.
- 7.3.4. While the applicant has not given details of the number of staff that will use the building; it is stated that it will be used on a part-time basis and to support his move into dairy farming. I do not consider this will result in a noticeable increase in the population equivalent using the building. Nor do I consider the use of the building on a part-time basis for uses associated with the applicant's farm will create significant additional loadings on the existing septic tank and percolation area.

### **7.4. Site Entrance**

- 7.4.1. The third reason for refusal states the applicant has not demonstrated that the intensification of the use of the existing substandard entrance would give rise to a traffic hazard. As noted above, in the appeal, the applicant has now stated that the building will be used as an office relating to the applicant's farm on a part-time basis.

I do not consider that the proposed office use will create a significant increase in traffic trips. I therefore consider that the proposed change of use will not create an unacceptable intensification of use of the existing entrance or give rise to a traffic hazard.

## **8.0 AA Screening**

- 8.1. Having regard to the change of use of an existing building from residential to office use and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

Having regard to the foregoing, I recommend that permission be granted for the change of use of a building from a dwelling house to office accommodation development for the following reasons and considerations, subject to the conditions set out below.

## **10.0 Reasons and Considerations**

Having regard to Policy ECON 13 of the Waterford City and County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would be acceptable in terms of traffic safety and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 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.

Reason: In the interest of clarity.

2. The building shall be used only as an office associated with the use of the adjoining agricultural lands.

Reason: In the interest of clarity

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Peter Nelson  
Planning Inspector

09 April 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	316060-23		
<b>Proposed Development Summary</b>	Change of use of building from a dwelling house, to office.		
<b>Development Address</b>	Dyrick Td, Ballinamult, Co. Waterford		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>		X	Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		X	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_