



An  
Bord  
Pleanála

## Inspector's Report ABP-320294-24

<b>Development</b>	Retention permission for change of use from dwelling to dental and medical practice; change of use from garage to storeroom and office; and site signage.
<b>Location</b>	Airport Dental & Medical, Rathmacullig West, Farmers Cross, Ballygarvan, Co. Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2442910
<b>Applicant(s)</b>	Dr. Fionnuala Mills.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Dr. Fionnuala Mills.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	24 <sup>th</sup> October 2024.
<b>Inspector</b>	Paul Kelly

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Appendix 1 – Form 1: EIA Pre-Screening

## **1.0 Site Location and Description**

- 1.1. The subject site is located in the southern hinterland of Cork City and at the junction of two local roads approx. 300m east of the Cork Airport roundabout junction on the Kinsale Road (R600/N27). It is occupied by a single storey type building which comprises the medical & dental facility the subject of this appeal. The facility fronts onto the adjoining public road. The property is located at the end of a ribbon of one-off rural dwellings. The curtilage is defined by a hardcore surface dressing, a post & timber fence and mature hedgerow. Cork Airport and enterprise/industrial zones are located in the vicinity of the site, which is otherwise rural in character.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises:

- Retention permission for change of use from dwelling to dental and medical practice; change of use from garage to storeroom and office; and site signage.

The subject site has a stated area of 0.123ha. The subject property is a single storey building with a floor area of 106.02 sq.m and a ridge height (over finished floor level ("FFL")) of 4.175m. It consists of: an office; waiting room; doctor surgery; store, dental surgery (1); kitchen; W.C; x-ray room and dental surgery (2). The separate storeroom and office has a total floor area of 14.57sq.m and a ridge height (over FFL) of 4m.

The facility is sited facing north onto the adjoining public road and the separate store/office, adjoins the gable end to the east.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority ("PA") decided by Order dated 1<sup>st</sup> July 2024 to Refuse Retention Permission for 2no. reasons which can be summarised as follows:

1. The proposed development would materially contravene zoning objective ZO 20 'City Hinterland' of the Cork City Development Plan, 2022 -2028 which seeks to preserve, protect and improve rural amenity and to provide for the development of agriculture. The proposed development was considered: to be a non-conforming development contrary to policy; at odds with the general pattern of development in the area; a precedent for similar types of development and therefore contrary to the proper planning and sustainable development of the area.
2. The application did not demonstrate to the satisfaction of the PA that the retention of the change of use from residential to dental practice (which materially intensified an existing use) accords with the requirements for this type of development as set out in Sections 11.172 and 11.173 of the Cork City Development Plan, 2022-2028.

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

#### **Planning Reports**

- The report of the Executive Planner dated 27<sup>th</sup> June 2024 reflects the PA decision to refuse retention permission for the 2no. reasons summarised in Section 3.1 above. The site, location and development to be retained are described and the planning history of the site and adjacent sites is set out. The report confirms that there were no pre-application consultations. The report sets out the applicable policy context and the reports received in respect of the application.
- The report notes that the site is zoned ZO 20 'City Hinterland' in the Cork City Development Plan, 2022-2028 and that the primary objective of this land use zoning is to 'preserve the character generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity'. The report notes that the 'City Hinterland' performs a number of important planning functions and acts as a greenbelt preventing sprawl of the city into the surrounding countryside. The report notes that the CCDP provides that other uses are open for consideration in this zone including: 'renewable energy development, tourism uses and

facilities, garden centres and nurseries, cemeteries and community and cultural uses' (Section 10.348 of the CCDP) and that 'rural-related business activities which have a demonstrated need for a rural location are also permissible' (Section 10.347 of the CCDP).

- In relation to community facilities the report notes that Section 11.159 of the CCDP states that '*as a general principle the location and provision of community facilities is a prerequisite to the creation and enhancement of viable enjoyable, sustainable and attractive local communities*' and that this includes 'medical facilities'. The report further notes that applications for such facilities will be assessed against 4 no. criteria, including: need and opportunity to enhance/share existing facilities; design to allow for multi-functional use/co-location as part of a hub; impact on local amenities and accessibility; and the principles of placemaking and the 15-minute city and walkable neighbourhood concept.
- In relation to medical facilities the report notes that Section 11.172 of the CCDP acknowledges that the City Council will support the provision of healthcare facilities in the City Centre, Urban Town Centres, District Centres and Neighbourhood and Local Centres. The report notes that Section 11.173 of the CCDP relates to the assessment of proposals for conversion of dwellings to medical or health related uses in residential areas.
- The report determines that EIA and AA is not required and notes that the site is not located in a Flood Zone or Risk area.
- The report finds that the first use of the property was as a dwellinghouse pursuant to planning permission 78/3529 and that this was the primary use until the building was converted for medical use. The report opines that the property is now entirely in use as a dental practice and the permitted residential use is no longer even partially existing on site. The report and assessment is based on this position. The Board should note that the planners report does not appear to deal with, or to consider, the medical practice element of the application.
- The report finds that zoning ZO 20 does not provide for dental or medical practices and the proposal does not fall under a use that is open for

consideration within the City Hinterland area. The report otherwise considers that the large gable end commercial signage is visually obtrusive; that noise associated with staff and customer traffic on the hardcore surface dressing of the site would negatively impact residential amenities; and that a failure to clarify business hours and employee numbers would, collectively result in an unacceptable intensification of use of the site in a rural and residential area.

- The report recommends that permission be refused for reasons that are consistent with the decision to refuse permission. The report is endorsed by a Senior Planner who concurred with the recommendation.

#### 3.2.1. Other Technical Reports

- Cork Airport – no comment other than to recommend consultation with IAA and AirNav Ireland.
- Area Engineer – No objection subject to standard surface water condition.
- Exec. Technician, Drainage Division – no objection subject to a Development Contribution (General DCS).

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

None.

### 4.0 Planning History

There is no other recent planning history on the site. Plan.Reg.No. **78/3529** refers to an historical permission for the erection of a dwellinghouse on the subject site.

## 5.0 Policy Context

### 5.1. Development Plan

The Cork City Development Plan, 2022-2028 (the “CCDP”) was adopted on 10<sup>th</sup> June 2022 and took effect on 8<sup>th</sup> August 2022.

- **Chapter 2 - The Core Strategy**

The CCDP sets out nine Strategic Objectives to guide the future development of Cork City.

The Core Strategy (Chapter 2) focuses on Compact Liveable Growth and **Strategic Objective SO1** to:

*“Deliver compact growth that achieves a sustainable 15-minute city of scale providing integrated communities and walkable neighbourhoods, dockland and brownfield regeneration, infill development and strategic greenfield expansion adjacent to existing city.”*

The ‘15-min city’ and ‘a City of Walkable Neighbourhoods & Communities’ are two key approaches that are central to delivering the compact liveable growth agenda of the Core Strategy. Section 2.29 of chapter 2 recognises that Cork City has an existing and emerging network of neighbourhoods within the city centre, the city suburbs and the four main urban towns and that planning for liveable walkable neighbourhoods requires the integration of a range of use(s) including, inter alia, medical centres - **Fig. 2.10** of chapter 2 sets out the ‘Liveable Walkable Neighbourhoods, Communities and Urban Towns’ of the plan area in the context of the ‘City Hinterland’.

The Core Strategy includes a ‘City Hinterland Strategy’ (at Section 2.58) which recognises that the hinterland encircles the built-up footprint of the city, its urban towns and settlements and provides a number of very important planning functions, including: acting as a green belt and preventing urban sprawl; is rich in biodiversity, ecology and wildlife; ensures a distinct landscape character within the Metropolitan Area; and protects the character and integrity of the City and its urban towns and settlements. Section 2.60 provides that the primary objective of the City Hinterland is to “*preserve the character of the area generally for use as agriculture, rural amenity,*

*open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity” and confirms that Chapter 10 of the CCDP sets out detailed objectives to achieve these aims.*

The following Hinterland Objectives of the Core Strategy are relevant to the consideration of this case:

**Objective 2.35 – Development in Hinterland Settlements**

*“Development in the city hinterland settlements shall be managed through the delivery of scaled community, housing and local employment development in the settlements of Killeens, Upper Glanmire and Kerry Pike.”*

**Objective 2.36 – Managing the Hinterland**

*“Any development proposals in the remainder of the hinterland will be closely managed to protect against unnecessary and unplanned urban sprawl.”*

- **Chapter 9 – Placemaking and Managing Development**

This Chapter of the CCDP sets out specific development actions and objectives to achieve **Strategic Objective SO 9 ‘Placemaking and Managing Development’** to:

*“Develop a compact liveable city based on attractive, diverse and accessible urban spaces and places. Focus on enhancing walkable neighbourhoods that promote healthy living, well being and active lifestyles, where placemaking is at the heart. Follow a design-led approach with innovative architecture, landscape and urban design that respects the character of the city and neighbourhood.”*

Section 11.5 sets out ‘*overarching design principles*’ which state that all development in Cork City, should (inter alia): contribute to the creation of a sustainable and compact city of neighbourhoods and communities; be aligned with the development and growth strategy of the Core Strategy; and encourage people, jobs and activity within the city centre, urban towns and suburbs.

Section 11.159 – 11.174 deals with ‘*Neighbourhood & Community Development*’. Section 11.159 deals specifically with ‘*community facilities*’, which includes ‘*medical facilities*’, and acknowledges that as a general principle the location and provision of medical facilities is a prerequisite to the creation and enhancement of viable, enjoyable, sustainable and attractive local communities. In considering applications



for community facilities this section sets out a number of assessment criteria, including: need, the principles of placemaking and contribution to the 15-minute city and walkable neighbourhood concept.

Section 11.172 deals specifically with '*Medical Facilities*' and states that '*Cork City will support the provision of health care facilities in the City Centre, Urban Town Centres, District Centres and Neighbourhood and Local Centres.*' Section 11.173 refers to the assessment of proposals for conversion of dwellings to medical or health related uses in a residential area and states that conversion of part of a dwelling may be considered where ideally the dwelling remains as the main residence of the practitioner and where a local need has been established and no adverse effects arise. Such proposals are also subject to assessment criteria including '*contribution to placemaking and to the 15 minute city and walkable neighbourhood concept.*'

- **Chapter 10 – Key Growth Areas & Neighbourhood Development Sites**

This Chapter builds on the strategic growth objectives (SO's) set out in Chapter 2 and where the Core Strategy provided overarching direction for city growth, this chapter provides more area and site specific detail. A hierarchical arrangement for the identification of growth areas is then set out on a sequential basis as follows: Strategic Consolidation and Regeneration Areas (including the city centre); Urban Towns; City Suburbs; and Hinterland and Settlements. 'Neighbourhood Development Sites' are also identified.

Section 23 of Chapter 10 sets out the detailed objectives for '*Cork's Hinterland*'. It recognises the landscape character of the area and the important planning functions that it performs as also recognised in the Core Strategy of the Plan and comments further that it acts as a '*green belt*' and is '*under the strongest urban influence*'. The primary objective of the area is re-stated in line with the Core Strategy although Section 10.347 elaborates and sets out that "*rural-related business activities which have a demonstrated need for a rural location are also permissible*", but should not compromise the specific function and character of the area. Section 10.348 confirms that other uses open to consideration in this zone include:

*“renewable energy development (wind turbines, solar farms), tourism uses and facilities, garden centres and nurseries, cemeteries and community and cultural uses, subject to the other provisions of the Plan.”*

The following Hinterland Objectives of Chapter 10 are relevant to the consideration of this case:

**Objective 10.97 – ‘Protection of Hinterland’**

*“Maintain the Hinterland for the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up areas, to focus development on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.”*

**Objective 10.54 – ‘Airport Safeguard Area’** which seeks to safeguard the sustainable development of the Airport and restrict one-off housing is also noted.

- **Chapter 12 - Landuse Zoning Objectives**

This chapter of the CCDP sets out the landuse zoning objectives of the Plan. It is clarified that land use zonings spatially represent the development strategy for the City set out in the Core Strategy and that landuse zoning objectives must be read in conjunction with the development objectives of the Plan. Where there is doubt, the Plan confirms that the direction provided in the Core Strategy should be followed.

Section 12.8 & 12.9 of the CCDP acknowledges that land use zonings may not always reflect established land uses and that as a result throughout the plan area there will be uses which do not conform with the designated zoning. The CCDP provides that where such non-conforming uses are legally established then their reasonable expansion or improvement can be considered on their own merits.

The subject site is located on lands zoned as **‘ZO 20 – City Hinterland’** with the following zoning objective:

*“To protect and improve rural amenity and provide for the development of agriculture.”*

Sections ZO 20.1 and ZO.2 restate the primary objective of this zone and the uses which are open for consideration, as previously set out in Section 23 of Chapter 10,

and Section ZO 20.3 confirms that the City Hinterland helps to maintain a clear distinction between urban areas and the countryside and avoid the harmful impacts of urban sprawl.

## **5.2. Natural Heritage Designations**

The site is not located within any National or European designated sites. The following sites are in closest proximity to the site:

- Proposed Natural Heritage Area (pNHA) Douglas River Estuary (Site Code: 001046) approx. 4.3 km northwest of the site;
- Special Protection Area (SPA) Cork Harbour (Site Code: 004030) approx. 4.3km northwest of the site; and
- Proposed Natural Heritage Area (pNHA) Cork Lough (Site Code: 001081) approx. 4.6km northeast of the site.

## **5.3. EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations, 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination.

Refer to Form 1 in Appendix 1 of this report.

## **6.0 The Appeal**

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

- A first party appeal by PABIA Consulting Ltd on behalf of Dr. Fionnuala Mills was lodged with the Board on 29<sup>th</sup> July 2024 challenging the PA decision. The grounds of appeal can be summarised as follows:
- The appeal sets out the background to the development of the site. Planning permission was previously granted for a dwellinghouse on the subject site on 19<sup>th</sup> May 1978 (Plan.Reg.No. 3529/78 refers). Dr. Mills commenced a general medical practice at the property in 1982. At that time the family home was located in an immediately adjoining dwelling to the southwest of the site. The

family subsequently moved to a new home 200m from the site. The practice expanded in 1992 to include dental practice. The joint practice has over 300 patients many of whom are elderly and live nearby or in the rural hinterland. The practice has a total of 7 staff and has been in operation for over 42 years. It has never been the subject of enforcement proceedings. It is served by public transport and public footpaths with lighting.

- The appeal notes that the (PA) planners report only has regard to the dental practice element of the application and not the medical practice element and errs in this regard. The appeal also points out that there are extensive light industrial developments and areas/zonings adjoining and within the vicinity of the site including: Cork Airport Industrial Estate, Airways Technology Park, Airport East Business & Technology Park and Cork Airport itself, and that the planners assessment does not have due regard to same.
- The appeal submits that the development use(s) are open to consideration in the 'City Hinterland' zoning and further meets the assessment criteria set out for community and medical facilities. This is supported by narrative (not evidence) that: there are no similar practices within a 3-4km radius; it is accessible by public transport; there is safe and adequate parking for staff and customers; traffic generated is quite small and visits are by appointment only; hours of business are Mon-Fri 9-5pm and do not impact neighbours; existing signage has been in place since 2014 and is not obtrusive; need is established by the longevity of the business; and the business is viable and enhances the sustainability of the local community.
- The appeal submits that the landuse zoning conflicts in a major way with the presence of Cork Airport and Business Parks and should be varied to reflect the fabric of the area.
- The appeal submits that given the very long and continuous medical and dental practice use on the site, favourable consideration should have been given to the proposal on the basis of a non-conforming use in accordance with paragraph 12.8 and 12.9 of the CCDP.
- In relation to refusal reason No.1, the appeal does not agree with the statement therein that the development to be retained is at odds with the

general pattern of development in the area and submits that this is an incorrect statement which fails to have regard to the industrial and business parks and Cork Airport in the vicinity of the site. The appeal disputes that the development would set a precedent for similar developments as a result of its longevity.

- In relation to refusal reason No.2 specifically, the appeal notes that the framing thereof as set out by the PA refers to the change of use from residential to dental practice. It is submitted that this demonstrates that the planner considered the application on an erroneous basis and failed to have regard to the joint medical practice element of the development.
- The Board is requested to overturn the decision of the PA and to grant permission for the development to be retained on the basis of summary argument that: the development is well established, does not impact the amenities of the area, consists of a proposal to regularise an established use in place for over 32 years, that no intensification of the established use is proposed and the development has never been subject to objection or enforcement.

## **6.2. Planning Authority Response**

- None

## **6.3. Observations**

- None

## **6.4. Further Responses**

- None

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national

policies and guidance, I consider that the main issues to be considered in this appeal are as follows:

- Principle of development.

7.1.1. I consider in the first instance that it is necessary to establish that I consider the proposed development to be an unauthorised development which has not been legally established. In this regard the only planning history on the subject site was for a dwellinghouse permitted under Plan.Reg.No. 3529/78. Notwithstanding whether or not the benefit of this permission as a dwellinghouse was taken, permission was not sought or granted for a medical practice, a dental practice, a joint practice or a change of use. Accordingly, the residential permission is irrelevant to consideration of the matter, as is, the longevity of the unauthorised use on site and the appellant is not entitled to rely on an established use that is unauthorised irrespective of longevity. Any arguments to this effect are not material. The facts of the case as set out in the circumstances presented in the application for retention permission and the appeal are clear in that the joint medical and dental practice is unauthorised and was not legally established. I therefore consider that the development should be considered 'de novo' and that it should be assessed as a new development proposal.

7.1.2. Therefore, the central matter to be determined in the first instance is the principle of development.

In this regard I consider that the core strategy of the CCDP is clear in seeking to achieve the future development of Cork City through a focus on '*Compact Liveable Growth*' built around a hierarchical growth strategy that is sequentially focused on: regeneration and consolidation of Cork City Centre, regeneration of Cork docklands; consolidation and expansion of seven strategic new neighbourhoods; and use of locally important and underutilised neighbourhood development sites. The subject site is located within the designated '*City Hinterland*' of the Plan where the Growth Strategy seeks to manage growth in the settlements of Kileens, Upper Glanmire and Kerry Pike.

The CCDP sets out that a '*15-min city*' and '*a City of Walkable Neighbourhoods & Communities*' are two key approaches central to delivering the compact liveable growth agenda of the Core Strategy and this is enshrined in **Strategic Objective**

**SO1** of Chapter 2, which provides (inter alia) that it is a strategic objective of the Plan to “*deliver compact growth that achieves a sustainable 15 minute city of scale providing integrated communities and walkable neighbourhoods....*”.

This is further enshrined in Chapter 9 of the CCDP ‘*Placemaking and Managing Development*’ through **Strategic Objective SO 9** which seeks to:

*“Develop a compact liveable city based on attractive, diverse and accessible urban spaces and places. Focus on enhancing walkable neighbourhoods that promote healthy living, well being and active lifestyles, where placemaking is at the heart. Follow a design-led approach with innovative architecture, landscape and urban design that respects the character of the city and neighbourhood.”*

Chapter 9 of the CCDP sets out ‘*overarching design principles*’ necessary to achieve **SO 9** and which all development proposals in Cork City are subject to. These design principles require that all development should (inter alia); contribute to the creation of a sustainable and compact city of neighbourhoods and communities; be aligned with the development and growth strategy of the Core Strategy; and encourage people, jobs and activity within the city centre, urban towns and suburbs.

The ‘City Hinterland’, within which the subject site is located, plays an important role in this growth strategy. The CCDP recognises the city hinterland as performing a number of key planning functions such as: acting as a greenbelt; preventing urban sprawl; and protecting the character and integrity of the City and its urban towns and settlements. The primary objective of the City Hinterland (**ZO 20**) is to “*preserve the character of the area generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity*” and Chapter 10 of the CCDP sets out detailed objectives to achieve these aims including Objective **10.97** to:

*“Maintain the Hinterland for the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up areas, to focus development on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.”*

It is my opinion that the location of the subject medical & dental practice in the designated city hinterland and outside of the designated growth areas, including the

urban towns and settlements or lands zoned for development, is contrary to the Core Strategy and Strategic Objective **SO 1** of the CCDP, and that this contravention is material. It is also my opinion that the subject development fails to encourage people, jobs and activity within the city centre or urban towns and suburbs and militates against the creation of a sustainable and compact city of neighbourhoods and communities and is therefore also contrary to design principles of Chapter 9 and Strategic Objective **SO 9** of the CCDP, and that this contravention is material. I also consider that the subject development is contrary to Zoning Objective **ZO 20** 'City Hinterland' as it is not located on lands zoned for development within settlements and would militate against: the preservation of the hinterland for the purpose of agriculture, open space and rural amenity; the maintenance of a clear distinction between urban areas and the countryside; and the prevention of urban sprawl, and that this contravention is also material. In reaching this conclusion I am of the view that the subject development does not come with the scope of uses open for consideration in the 'City Hinterland' zone as it is not a 'rural related' business and does not qualify for consideration as such merely because of its established location. (Section 10.347 & 10/348 of Chapter 10 of the CCDP refer).

I note that the appellant contends that the subject site is served by public footpath, streetlighting and public transport by way of argument that it is a sustainable development consistent with the concept of walkable neighbourhoods. I do not concur with this opinion. The vicinity of the site is served by a footpath to one side of the road which extends from the roundabout on the R600/N27 at the entrance to Cork Airport. It does not extend fully to the site and it is not served by public lighting. Notwithstanding, this is a hinterland area and not a neighbourhood. Visitors to the site can only do so by means of vehicular transport, either private car, taxi or Bus Eireann Bus Service 226 which stops at the Airport Roundabout. This Bus service operates between Kent Rail Station on Horgan's Quay and Kinsale Town Car Park via Cork Airport and I do not consider that the urban movements generated by this service justifies or sustains an argument for a development proposal at this location in the city hinterland. To the contrary I consider that this is an unsustainable argument which speaks against the development proposal and is clearly contrary to the Core Strategy of the CCDP.



Accordingly, I consider that to permit the development would materially contravene the Core Strategy, Strategic Objectives SO 1 & 9 and Zoning Objective ZO 20 of the CCDP, and I determine therefore that the principle of development is not acceptable.

7.1.3. In the interests of both clarity and completeness I would also point out that I am of the opinion that:

- i. The CCDP supports the provision of healthcare facilities in the City Centre, Urban Town Centres, District Centres, Neighbourhood and Local Centres and that this excludes the 'City Hinterland'. (Section 11.172 of the CCDP refers);
- ii. Notwithstanding, I consider that the subject development fails to meet the assessment criteria for '*community facilities*' set out in Section 11.159 of the CCDP as the location of the development in the 'City Hinterland' is contrary to the principles of placemaking and the 15 -minute city and walkable neighbourhood concept as set out in the Plan;
- iii. Notwithstanding, I consider that the subject development also fails to meet the assessment criteria for medical facilities set out in Section 11.173 the CCDP as it is: not located within a residential area; does not provide for partial conversion only (of a dwelling); does not remain the main residence of the practitioner; and the proposal does not contribute to the principles of placemaking, the 15min city or walkable neighbourhood concept; and
- iv. The subject proposal cannot be considered as a 'non-confirming' use having regard to the provisions of Section 12.8 & 12.9 of the CCDP as it was not legally established.

However I consider that these matters are secondary considerations which only arise in circumstances where the principle of development is first established. As the principle of development is not accepted, it is not considered necessary to take these matters into account in the recommendation that permission be refused.

7.1.4. In relation to the appellants argument that the character of the area was not taken into account by the PA and the planners report, I would concur that this is a factor which should be noted in the assessment of the appeal. However I do not consider that this is a consideration which speaks in favour of the subject development. At this

location the provisions of the CCDP to support Airport infrastructure and associated business are clearly provided for within designated zonings and associated development objectives. The proposed development is outside of these designated zonings, in the rural hinterland, and is not in any event an airport related business. As such I consider that the proposal for a non-rural and non-airport related business at this location is entirely contrary to the provisions of the CCDP and I consider that it is important that such unrelated businesses use(s) are resisted and controlled in the vicinity of the airport and within the hinterland having regard to the need to safeguard airport operations, control urban sprawl and in the interests of the proper planning and development of the area.

- 7.1.5. I do not concur with the appellants argument that the 'City Hinterland' zoning conflicts with the established industrial and enterprise zones within the vicinity of the site at this location. It is the case that there are distinct and legitimate zonings within the CCDP for the said separate uses at this location. In any event this is a matter which can only be considered in the separate plan making processes, and which is outwith the jurisdiction of the Board in the determination of the subject appeal.
- 7.1.6. Accordingly, I consider that it is clear that the development is contrary to the Core Strategy, Strategic Objectives **SO 1 & 9** and Zoning Objective **ZO 20** of the CCDP and determine that the principle of development is not acceptable. On this basis I do not consider that further consideration of the appeal is necessary, and I recommend that retention permission is refused for the entire development including the storeroom and signage which are ancillary to the primary use.

## 8.0 AA Screening

- 8.1. Having regard to the modest nature and scale of the subject development consisting of retention of a change of use from residential dwelling to medical & dental practice; garage to storeroom; and associated signage, to the significant distance from European Sites, and to the absence of a pathway or functional link between same, it is concluded that no Appropriate Assessment issues arise as the subject development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site and there is no requirement for a Stage 2 Appropriate Assessment.

## 9.0 Recommendation

I recommend that permission be refused for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. The Core Strategy of the Cork City Development Plan, 2022-2028 focuses on delivering '*Compact Liveable Growth*' for the future development of Cork City and it is a Strategic Objective of the Plan to (inter alia): '*deliver compact growth that achieves a sustainable 15-minute city of scale providing integrated communities and walkable neighbourhoods...*' (SO 1) and to: '*develop a compact liveable city based on attractive, diverse and accessible urban spaces and places.*' (SO 9). The Growth Strategy of the Plan sets out a hierarchical approach to achieve '*Compact Liveable Growth*' and the subject site is located within the designated '*City Hinterland*' of the Plan where the Growth Strategy seeks to manage growth in the settlements of Kileens, Upper Glanmire and Kerry Pike and recognises that the city hinterland otherwise performs a number of very important planning functions including acting as a green belt and preventing urban sprawl. It is considered that to permit the subject development in the '*City Hinterland*' and outside of the designated areas for growth, would constitute a disorderly development and urban sprawl generating unsustainable vehicle dependent traffic movements, which by itself and the precedent it would set, would militate against the delivery of the Core Strategy and the achievement of integrated communities, walkable neighbourhoods and Compact Liveable Growth. Accordingly, to permit the subject development would materially contravene the Core Strategy and Strategic Objective SO1 and SO 9 of the Cork City Development Plan, 2022-2028 and would thereby be contrary to the proper planning and sustainable development of the area.
2. The subject site is located within the '*City Hinterland*' of Cork City as designated in the Cork City Development Plan, 2022-2028 with the primary zoning objective to "*preserve the character of the area generally for use as*

*agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity” – ZO 20 refers. The Plan recognises that the City Hinterland encircles the existing built-up footprint of Cork City, its urban towns and settlements and it is an Objective of the Plan to “maintain the Hinterland for the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up areas, to focus development on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.” – 10.97 refers. Having regard to the location of the development outside of a settlement and lands which are zoned for development, and given that the development is not considered to constitute a ‘rural related business’ within the scope of uses open to consideration at this location, it is considered that to permit the development would constitute disorderly development and urban sprawl, which by itself and the precedent it would set, would militate against the important planning function of the area as a green belt, the preservation of the area generally for use as agriculture, rural amenity and open space, and the maintenance of a distinction between urban areas and the countryside. Accordingly to permit the subject development would materially contravene Objective ZO 20 and 10.97 of the Cork City Development Plan, 2022-2028 and would thereby be contrary to the proper planning and sustainable development of the area.*

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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Paul Kelly  
Senior Planning Inspector

November 2024

# Appendix 1 - Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-320294-24		
<b>Proposed Development Summary</b>	Retention permission for change of use from dwelling to dental and medical practice; change of use from garage to storeroom and office; and site signage.		
<b>Development Address</b>	Airport Dental & Medical, Rathmacullig West, Farmers Cross, Ballygarvan, Co. Cork.		
<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> <input checked="" type="checkbox"/>	Tick if relevant and proceed to Q2.
		<b>No</b>	Tick if relevant. No further action required
<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)?</b>			
<b>Yes</b>	<input type="checkbox"/>		Proceed to Q3.
<b>No</b>	<input checked="" type="checkbox"/>		No further action required.
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	<input type="checkbox"/>		EIA Mandatory EIAR required
<b>No</b>	<input type="checkbox"/>		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	<input type="checkbox"/>		Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>	<input type="checkbox"/>	Screening determination remains as above (Q1 to Q4)	
<b>Yes</b>	<input type="checkbox"/>	Screening Determination required	

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

Paul Kelly  
Senior Planning Inspector