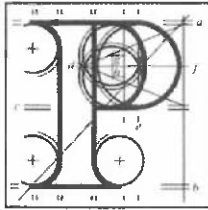


Re: Letter 5 May 2022

ABP- 307939-20



An
Bord
Pleanála

Observation on a
Planning Appeal: Form

AN BORD PLEANÁLA

28 JUN 2022

LTR DATED

LDG-

ABP-

Your details

1. Observer's details (person making the observation)

If you are making the observation, write your full name and address.

If you are an agent completing the observation for someone else, write the observer's details:

Your full details:

(a) Name

Nikki O' Sullivan

(b) Address

Derrineanig, Renanirree, Macroom, Co Cork, P12
X864

Agent's details

2. Agent's details

If you are an agent and are acting for someone else on this observation, please also write your details below.

If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Click or tap here to enter text.

(b) Agent's address

Click or tap here to enter text.

Postal address for letters

3. During the appeal process we will post information and items to you or to your agent. For this observation, who should we write to? (Please tick ✓ one box only.)

You (the observer) at the address in Part 1

☒

The agent at the address in Part 2

☐

Details about the proposed development

4. Please provide details about the appeal you wish to make an observation on. If you want, you can include a copy of the planning authority's decision as the observation details.

(a) Planning authority

(for example: Ballytown City Council)

Cork County Council

(b) An Bord Pleanála appeal case number (if available)

(for example: ABP-300000-19)

ABP-306272-19 & ABP 307 939-20

(c) Planning authority register reference number

(for example: 18/0123)

Click or tap here to enter text.

(d) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Abhaile)

Cleanrath wind farm development in the townlands of Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South, Milmorane, Coombilane, Rathgaskig, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen, Gurteenflugh, Lyrenageeha and Lackabaun, Co. Cork.

Observation details

5. Please describe the grounds of your observation (planning reasons and arguments).
You can type or write them in the space below or you can attach them separately.

Permission was granted for the construction of 11 turbines at the aforementioned site in 2017. Objections were raised by Klaus Balz & Hanna Heubach to said construction which culminated in a Supreme Court judgement delivered on 12th December 2019 which held that it was necessary to quash the earlier grant of permission by the Board. By way of Order of the Supreme Court delivered on 19th of June 2020, the order quashing the decision to grant permission made in 2017 was stayed pending an application for substitute consent. Cleanrath Windfarm Ltd now make that application seeking substitute consent for the construction undertaken at the site over the intervening years. The Supreme Court placed a stay on their Order on the understanding that the wind farm would not be operational during the intervening period. The site, however, was operational for the period between December 2019 and April 2020 and therein lies the basis of part of the objection, being the effects of this period of operation on the local residents and anticipated future impacts.

The site lies overlooking and adjacent to a number of domestic dwellings, certainly 637m from one dwelling (as raised in legal proceedings) and no more than 750m from others. The rural nature of such housing enjoys quiet contemplation of the countryside which was significantly impacted during the operational dates of the windfarm. The turbines generated such noise on occasion as to denigrate the day to day enjoyment of the dwelling houses in the locality, as well as emitting a humming sound which felt like vibrations on windy days. The placement of one particular turbine in proximity to a cluster of houses, my own included, is invasive by its very nature and disruptive to the health and wellbeing of those residing in the neighbourhood.

The turbines being some 150m in height contributes to the noise nuisance felt by the neighbouring dwellings. Thus far, the impact of noise on the dwelling houses has not had valid consideration by the Board. The Board failed to have due regard to previous objections raised pursuant to guidelines issued under section 28 of the Planning Act. Should the wind farm become operational on a full time basis, the noise emitting from same, at such a proximity to residential housing, will be relentless and incredibly disruptive. It will serve as a rapid increase to noise pollution in the area which is not offset by any proposals made by Cleanrath Windfarm Limited.

Whilst green energy solutions are needed, increasingly so to meet EU targets, the location of this particular wind farm is inappropriate in its proximity to residential dwellings. Given that 9 of the 11 turbines have already been constructed, we are passed the point of any objections in relation to construction traffic, demolition and altering the landscape. The damage in relation to that portion of the construction has already been done. The mountain area is forever changed by the construction already undertaken. The primary issue now concerns the long term impact on residents of the area and ongoing aerodynamic noise nuisance leading to a reduction in the health and wellbeing of the neighbourhood. I note that the windfarm is

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proposed to be operation for a period of 25 years, leading to a significant long term negative impact of those residing in the shadow of the turbines.

The proximity of one turbine to a cluster of houses also carries the risk of shadow flicker on the houses below. These houses sit directly downhill from the turbine and includes my own residence and that of my partner's father. As the Board is well aware, shadow flicker can be an intermittent source of nuisance to static buildings and has potential to cause headaches and poor health in residents. Shadow flicker was already evident during the short duration the wind farm was operational and it is anticipated that same will only increase in frequency should the windfarm become operational full time.

Thus far, neither the company nor their appointed planning agents, MKO, have done anything to assuage the grievances of local residents and have instead opted to parrot the submissions made on their behalf previously. The grant of planning permission, subsequent Supreme Court ruling and impact of the turbines are not merely a narrow error of law or a minor procedural error. The company relies blindly on their assertion that they were in compliance with planning permission at the time of construction and therefore, on that basis alone, substitute consent should be granted. This submission, in and of itself, conveniently belies the truth that Cleanrath Windfarm Ltd were before the Courts during the construction phase and took the risks associated with same in continuing the build while awaiting a determination. I say that economic convenience alone is not a sufficient reason to grant substitute consent and that this windfarm should be examined carefully in terms of the concerns raised above. Considerable construction was undertaken between October 2018 and December 2019 and whilst the developer decided not to construct the turbine closest to the home of Hanna Heubach, they made no such concessions to the other homes in close proximity to another turbine with same having been constructed. This particular turbine causes the same difficulties as those raised by Mr Balz and Ms Heubach for at least 8 houses under that turbine.

There are no exceptional circumstances in this case that warrant the substitute consent, especially in circumstances where the Board previously failed to consider the argument that the Wind Energy Development Guidelines ("WEDG"), derived from a UK document entitled "The Assessment and Rating of Noise from Windfarms", issued by the Energy Technology Support Unit ("ETSU") of the Department of Trade and Industry in the UK in 1996, which said guidelines were issued under s. 28 of the Planning and Development Act 2000 ("PDA 2000") were out of date and lower levels of noise should be permitted. The planning authority is obliged to have regard to the submissions made and issue a determination accordingly. The concerns regarding noise pollution and shadow flicker remain valid and should be considered carefully.

I reiterate the concerns raised in the matter of Balz & anor v An Bord Pleanála and anor [2019] IESC 90 which resulted in judgment delivered by Mr Justice O' Donnell, as he then was, on the 12th of December 2019 and published on 5th day of May 2020. I hope the Board considers the issues raised and I await correspondence in due course.

