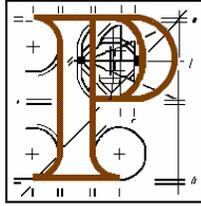


An Bord Pleanála



Inspector's Report

PL 02. 233292

Development

Civic amenity and recycling centre consisting of office/paydesk, weighbridge' yard for containers for storing recyclable materials, conversion of outhouse to toilets and all associated site works. Dunancory. Virginia, Co. Cavan

Planning Application

Planning Authority: County Cavan Council.
Planning Authority Reg. Ref.: 08/1497
Applicant: Wilton Waste Recycling Ltd.
Type of Application: Planning permission.
Planning Authority Decision: Grant permission.

Planning Appeal

Appellant(s): James and Margaret Matthews and others
Type of Appeal: 3rd Party
Observers:
Date of Site Inspection: 19th July 2009

Inspector: Patricia Devlin.

1 BACKGROUND

1.1 Site description and location/context

The site with an area of c. 0.79 ha, is located on regional route R194 at Dunancory and within a kilometre of the junction with the regional route R195 with a statutory speed limit of 80km/ph but the straight alignment facilitates faster speeds. Although the site plan shows a road on the western boundary, this access is an overgrown farm track. The width of the road is c.6m and bounded on both sides by drains c. 1.5m in depth. On the day of my inspection, the road was busy i.e. c.5 vehicles per minute including private vehicles and heavy vehicles.

The site accommodates a two storey dwelling and garage with a number of stone out buildings in poor repair and a hay barn. The domestic buildings are separated from the adjoining fields with a low wall fences and heavy planting. The dwelling appears to be recently vacated.

A field, circa 1 acre is located to the west of the buildings. The site is bounded on all sides by a hedgerow which contains many mature trees.

The site is located approximately 500metres to the west of the Virginia development envelop boundary as set out in the county development plan maps and approximately 1 kilometre from an existing bring centre in the town of Virginia in the supermarket car park (See photographs for detail). The nearest recycling centre is located c.13 kms at Bailieboro, at 3okms in Cavan and 19 kms at Kells.

The field proposed of the storage containers with a circulating access road has a gradient of c.2metres from the southern boundary down to the drain on the road boundary.

Photographs and maps in Appendix 1 serve to describe the site and location in some detail.

1.2 Proposed Development

The original explanation of the proposal in submissions with the application referred to a “bring centre”, which is defined in the glossary of the North East Waste Management Plan 2005 -2010. A 1st party submission to the Board received 9 May 2009 clarified the proposal as summarised below:

Planning permission is being sought to: provide a civic amenity and recycling centre for urban households and ‘agricultural wastes’. The facility would be restricted to the following activities: the collection, segregation of waste materials and transfer off site (no material recovery or treatment is proposed on site) of the following materials:

paper, cardboard, plastics, bottles, cans, clothing, minor construction and demolition waste, old furniture, including obsolete doors and window frames, car and household batteries garden waste, scrap metals, cooking and engines oils, white goods and other WEEE (waste electrical and electronic equipment) materials.

The table below summaries the type and quantity of materials proposed for collection and storage:

Description	Expected Annual Intake (tonnes)
Household Dry recyclables	1,200
Household Bulky Recyclable Waste	830
Hazardous Wastes	365
	Total 2,395

The works would include a single storey office/paydesk, weighbridge; a hard surface yard for containers for storing recyclable materials, conversion of an existing outhouse to washroom/toilet, new wastewater unit, 2m high palisade fence to boundary; relocation and construction of site entrance and all associated site works

It is proposed to secure the site at all times. The proposed hours of operation are 8.00am to 6.00pm Monday to Saturday.

1.3 Additional information

Additional information was received on 19 February 2009 including revised layout to address road and traffic safety, landscape plan, manufacturers' guidance on proposed wash down and silt separators, and commercial brochure on spill containment and prevention apparatus.

1.4 Planning Authority's Decision

The Planning Authority decided to grant planning permission for the proposed development subject to conditions regarding:

- the type and quantity of materials to be expected;
- restrictions on the use of facility to exclude use as a transfer station for material collected elsewhere ;
- financial contribution;
- monitoring programme;
- operating hours,
- no permanent structure in area identified for future public roads works;
- location of front boundary wall to be set back 4 metres from public road boundary;
- no surface waters from site onto the public road;
- no storage or off loading or associated activities to take place adjoining public road;
- tree planting as set out in the landscape plan to be established prior to the occupation of the site; and
- standard conditions regarding car parking, water supply and drainage, lighting; signage, road design and construction phrase including a C&D plan.

This decision reflects the report of the planning officer.

The Transportation Department:

The Roads design office was satisfied that the revised site plans, submitted in response to a request for further information addressed concerns regarding the width of the site entrance, sight lines, separation of private vehicle customers and commercial articulated vehicles.

The Environmental Services

Waste Management Section: Report requesting details of type and quantities of expected materials was not received in time for the deadline for further information. This was included as a condition of permission. The section supported the proposal in principle.

Drainage Section: Proposed standard conditions

The Parks Department

No report on file. Conditions were imposed regarding the landscape plan submitted in response to request further information.

The Environmental Health Officer

No report on file. Standard conditions regarding septic tank disposal imposed.

1.5 Prescribed Bodies:

The planning application was circulated to Department. of Environment, Heritage and Local Government, Archaeology Section and An Taisce. No record of responses on file.

1.6 Submissions:

A total of 4No. observations are on record

1.7 Planning history

Reg. Ref. 05/741: Permission to erect a commercial unit incorporating tool/machinery hire business, install propriety wastewater treatment system and for new entrance from public road was granted subject to conditions on 26 August 2005.

The subject site is adjoins or overlaps the current application site subject of this appeal.

2 NATIONAL AND REGIONAL POLICIES

National Spatial Strategy 2002-2020

The NSS sets out a national planning framework to co-ordinate future development and planning throughout the country in a sustainable manner and to consolidate the physical growth of Dublin while recognising its national and international importance.

North East Region Waste Management Plan 2005 - 2010

3.13 Policy For Siting Facilities

3.13.1 Bring Banks

3.13.2 Recycling Centres For Dry Recyclables

13 Waste Recovery And Recycling

(A copy of the relevant text is included in the appendix to this report.)

3 DEVELOPMENT PLAN

Zoning

The site is located within the rural area of County Cavan in close proximity to the western boundary of the Virginia local Area Plan as identified in the county plan development maps. The following plan references are considered to be relevant to the assessment of this proposed development. Highlights are quoted in this section of the report. A full copy of the text in context is included in the appendix to this report.

3.3 Rural Enterprises

- Enterprises will be permitted in rural locations subject to considerations for the proper planning and.

Settlement Hierarchy

2.4.3.2 Large Towns (population 1,500+)

...These towns are regarded as development centres and the emphasis is on the consolidation of town cores and strengthening of town core retail and service functions. (

3.8.7 Rural Areas

...Towns and villages should be the locations for the provision of the majority of services for the population of the County and their role should be protected and strengthened where possible.

4.3.2 Waste Management

- To ensure the provision of recycling facilities in the form of a kerbside type collection, civic amenities sites and/or bring bank-recycling facilities in accordance with the 'North East Region Waste Management Plan 2005- 2010'.
- To encourage recycling facilities (i.e. bottle banks, bring centres etc) in close proximity to commercial/residential developments.

Virginia Local Area Plan

20.3 Population

...There is, therefore, a clear need to strengthen Virginia's role as an urban area and as a provider of employment and services. One of the main aims of this Local Area Plan, therefore, is to consolidate and strengthen Virginia's Town Core, to facilitate its continued growth, whilst ensuring this growth occurs in a planned and sustainable fashion.

20.5 Town Core

There is potential capacity for further retail and service development in the Town Core, especially in light of the significant increase in population of the town and surrounding area.

The council seeks to protect and enhance the built environment of Virginia Town which contributes significantly to its distinct quality and character.

20.6 Industry, Enterprise and Employment

The service sector within Virginia is essential to its vitality and viability. Employment opportunities within the Town comprise of the Glanbia Plant as well as other services provided within the Town Core.

4 APPEAL

4.1 Summary

There is one Third Party appeal in relation to this application. The grounds of the appeal are summarised below:

- (i) The location of the proposed facility within the rural area circa one mile from the 60km/ph speed sign is considered by the appellants to contravene policies of the county development plan regarding the development of land use structures within towns and “*to respect the character of the rural area.*”
- (ii) The appellants highlight objectives of the Virginia local area plan and include the following quote:

...there is a development envelop for Virginia defines the serviceable area. Within this area development may take place...the policy in the Virginia context is not to extend the development envelop or expand the development area of the town beyond the established service area.
- (iii) The appellants are concerned that the planning authority has set a precedent by granting permission for a plant hire development in the vicinity of this site and that the applicant has acquired adjoining lands which may signal an intention for further development commercial/industrial uses within these land holdings.
- (iv) The policies of the Cavan County development plan indicate that recycling facilities should be within an urban area or as near as possible and should be located convenient to the majority of householders. The appellants considered that the proposed site for facility would be contrary to these policies in that (i) it is outside the urban area and (ii) that it is not located convenient to the majority of households.
- (v) The appellants claim that, from experience, farming households have their own systems to dispose of waste, thus the facility will cater primarily for urban households and not serve the rural community, as claimed by the applicants.
- (vi) It is claimed that the applicants, in their response to a request for further information, failed to propose mitigation measures to protect the existing residential amenity of the area.
- (vii) The terms of Condition No.2 for a financial contribution of €7,710 is challenged as “remarkably low” for a commercial enterprise when compared to the contribution imposed on a one-off rural dwelling of €8,000.
- (viii) The location of the site entrance in relation to the junction of the proposed link road between the N3 and Oldcastle Road would constitute a traffic hazard through turning vehicle movements.
- (ix) The location of the facility adjacent to a farm yard and to a family dwelling may create health and safety concerns for human and animal welfare regarding airborne waste, noise pollution, dust and attract vermin.
- (x) The facility may encourage “fly tipping” outside operating hours regardless of security cameras thus exacerbating the effects of ‘fly tipping’ through wind and traffic dispersal of dumped waste on the roadside. This effect would impact on the neighbouring properties.
- (xi) The location of the site would detrimentally affect the value of the appellants’ property.

4.2 Cavan County Council Response submissions

The planning authority submitted a response to the Board which was received on 29 April 2009. The submission stated that the planner had reviewed the planning report of 10 March 2009 and had no further comment to make regarding the proposed development.

4.3 First Party response submission to Third Party appeal.

The First Party, in submissions including site maps, plans showing in detail the proposed alignment of the link road to Oldcastle Road/N3, an aerial photograph identifying the nature of proximate buildings to the site, and photographs of the site, received on 7 May 2009, stated the following in response to the Third Party appeals:

- (i) The proposed development would not “reduce the vitality and viability” of the town. As the a large percentage of material expected to be delivered to the site would be “agricultural recyclables”, the location of the site was considered to be appropriate ensuring accessibility to outlying areas and thus would be neither “haphazard” nor “unco-ordinated”.
- (ii) It is proposed to restore outbuildings in the farmyard and to convert the adjoining field for use as the recycling centre. It is claimed that this proposal with additional landscape planting would not destroy the natural landscape nor detract from scale and character of the rural landscape.
- (iii) The use would be restricted to the collection of materials, most agricultural in origin; no industrial process would be carried out on the site.
- (iv) The location of the site, on the periphery of the town, is considered acceptable as the service would provide for both urban and rural communities and thus there is no particular zoning which is identified for this land use.
- (v) Noise emissions from the site is considered to be minimal as no motorised machinery use is proposed on the site, four (4No) heavy vehicles per day are predicted, and hours of operation are limited to Monday to Saturday (8.00am to 6.00pm). The expected noise would be within the normal limits for agricultural operations and the nearest dwelling is 200metres.
- (vi) Traffic movements to the site are expected to increase over time. Required sight distances would be adhered to, the entrance would be recessed with a proposed queuing distance of 66 metres.
- (vii) Food and odorous wastes are not proposed to be collected. Batteries and paints would be stored in a suitably bunded area. It is claimed that in terms of health and safety issues, the uses on site would be less hazardous than uses in a typical farm yard.
- (viii) The management of the facility would be strict. Information signage at the entrance, visual inspection of waste brought to the site and supervision of the public during unloading would ensure that unauthorised material was not imported to the site. There would be no long term storage of waste on site.
- (ix) 24 hour monitoring security and prosecution of offending is proposed to address the issue of potential “fly tipping”.
- (x) Surface water attenuation (see application submission for details) is proposed. As the Matthews farm and dwelling are upstream, surface water containment from the site cannot pose a threat.

- (xi) It is considered that in light of the physical improvements to the site and the management of the facility, it is considered that the proposed development would not devalue adjacent property values.

4.4 Observers.

The following prescribed bodies were circulated and requested to make observations:

National Roads Board (NRA)
Heritage Council
Northern Regional Fisheries Board
Environmental protection Agency (EPA)

The NRA responded that it had no observations.

The EPA has confirmed that the facility would require a waste facility permit.

5 REVIEW OF ISSUES AND ASSESSMENT

The main issues arising in this case are: (i) the location of the site in relation to policies in the county development plan regarding development outside land zoned for development, (ii) traffic issues and (iii) the adequacy of the information regarding site layout, operation of the proposed development and renovation of the buildings on site.

5.1 Development Plan zoning.

The proposed development would be located outside land zoned for services. Relevant policies in the county development plan regarding waste management state:

4.3.2 Waste Management

- To ensure the provision of recycling facilities in the form of a kerbside type collection, civic amenities sites and/or bring bank-recycling facilities in accordance with the 'North East Region Waste Management Plan 2005- 2010'.
- To encourage recycling facilities (i.e. bottle banks, bring centres etc) in close proximity to commercial/residential developments

In addition, the following policies are relevant regarding the role of towns in the county.

2.4.3.2 Large Towns (population 1,500+)

...These towns are regarded as development centres and the emphasis is on the consolidation of town cores and strengthening of town core retail and service functions.

3.8.7 Rural Areas

...Towns and villages should be the locations for the provision of the majority of services for the population of the County and their role should be protected and strengthened where possible.

The site is located circa 1km from the town centre and outside lands zoned within the Virginia Local Area Plan (Virginia LAP) for commercial and industrial uses. It seemed to me, from driving through the town, that there are alternative sites within the zoned lands for an additional civic amenity facility. No options or sites analyses to justify this site as a preferred option were submitted. If the proposed development is to be considered as 'infrastructure', then, in my opinion, this planning stage should be a pre-requisite; otherwise the proposal should be assessed as a commercial enterprise.

'Rural enterprises', which are open for consideration, are listed under section 3.3 of the development plan. Recycling centres are not included in this list. The applicant has argued that, as it is intended to serve waste management for agricultural community as well as the town households, the location for an infrastructural service would be appropriate on the edge of the town. However, from a review of the North East Regional Waste Management Plan,(NER Waste Management plan) it appears that targets for recycling are forecast to be met by the incremental increase in bring banks in suitable urban locations and that 11No. recycling centres are envisaged during the plan period- 7 have been provided and 4 were at the planning stage. The target for bring banks is 1No. per 500 households. As the number of households in Virginia is approximately 620 (*based on CSO, 2006 figures for population*) the single bring bank is only marginally in excess of the target for town of this size and significantly below the county average ratio of 1no bank per 934 households (as calculated in 2003).

In considering how to balance the policies of the Virginia LAP with the achievement of targets in the NER Waste Management plan, I have taken in account the comments in the waste management report from the planning authority which while welcoming the addition of an additional civic amenity facility, does not state that this facility is strategic to the achievement of the waste management plan for the region. In my opinion, such a justification would be the only reason to override the settlement strategy as set out in the county development plan which unambiguously requires that service uses be located within town boundaries.

For this reason, I consider that the location of the facility outside the area zoned for development would constitute a material contravention of the Virginia Local Area Plan and recommend that the proposed development be refused.

In addition, it appears to me, that a grant of permission for the proposed development by itself, or by the precedent, which a grant of permission for it would set for other similar developments, would be contrary to the implementation of the Virginia Local Area Plan and ministerial guidelines regarding the consolidation of rural towns.

However, in the event that the Board considers that the recycling infrastructure should take precedence over the local area plan, then I would recommend that the facility be limited to a bring bank facility only or separation between public and commercial/heavy vehicle operations and that prior to the commencement of development that revisions be submitted to the planning authority for written agreement providing details of the proposed development including: plans, longitudinal cross sections of the site layout and internal roads, elevations of all installations, revised surface water drainage (attenuation and contamination filters and traps), revised wastewater treatment system capacity, wheel wash, dust suppression equipment, bunding and site management details regarding the criteria/ standard procedures for exporting materials off the site and the destination i.e. receiving/disposal facilities.

5.2 Traffic safety issues

Given the quantities of waste material (i.e. c. 2,395 tonnes per annum or a daily average of 8 tonnes) proposed to be processed in the initial years of the operation of the facility with expected future increases, there are two traffic safety issues, which, in my opinion, require to be assessed:

1. On site

The initial proposal, shown in the site layout, did not separate private and commercial vehicles. A revised layout in response to the concerns of the county roads engineer has attempted to separate the traffic with an outer ring route to access waste storage containers and an inner apron for articulated vehicles to manoeuvre and access the same containers. However, it is not clarified how the safety of the public would be protected when heavy vehicles are loading, or unloading, or handling bulky materials, including demolition wastes, presumably with mechanical devices.

2. Public road access and egress

The entrance has been modified to improve sight lines, to enable passing movements at the entrance and to provide queuing on site. However, in my opinion, the impacts for traffic safety in a high speed environment, on narrow road widths, where a future major bypass and intersection are planned and where the applicant projects increasing business into the future, would indicate that slip shoulders on both sides of the entrance and a right hand turning bay to facilitate the safe and efficient flow of traffic should be a requirement for a facility which proposes the movement of 2,395 tonnes of waste annually into and off the site. Construction of widened shoulders to the road would be problematic given the drains on either side of the road.

In my opinion the proposal as submitted would constitute a traffic safety hazard to road users and possibly to the public using the site for waste collection. However, in the event that the Board decide to grant permission, I would recommend that prior to commencement of development that a revised site layout be submitted for the written agreement of the planning authority showing the complete separation of access on site to storage containers for public use and an with area restricted to loading and unloading of waste off or onto heavy goods vehicles.

5.3 Adequacy of submissions

There a number of anomalies with respect to the information submitted with the application which indicates that there may be an unacceptable degree of uncertainty regarding the design and operation of the proposed facility. The first, previously discussed, concerns mixing of members of the public accessing bring banks with heavy vehicles loading and unloading bulky materials, as listed in the description of the proposal. Other inadequacies of information include:

- The a hoc modification of the description of the proposed uses during the processing of the planning application from initially a bring bank and centre for ‘agricultural waste’ (which is defined in the Glossary to the NER Waste Management Plan and which is entirely outside the scope of this proposed development) to a recycling centre which fits the criteria under the Waste Management Act for a waste facility permit described in submissions to the Board.
- The design of a wastewater treatment system indicates a capacity calculation based on 2No staff, while site layout plans show 4No staff car parks (on an area of an existing garage, which was not shown on the plans).

- The drainage plans indicate the c. 2metre fall of the site from south to north but neither the site layout plan nor the landscaping plan refer to the extensive cut and fill required to form a horizontal platform for the storage containers and the construction of circulation road along the boundaries of the western field.
- There is mention in the text of submissions by the applicant to renovating the existing outbuildings on the site but no details are given.
- The storage containers identified on plans do not correlate with the list of items proposed for collection, in particular collection facilities for batteries, which are classified as hazardous waste; the storage containers for bulky items and demolition materials and covered storage of WEEE equipment to ensure practical and sustainable retrieval of recyclable parts.
- The brochure submitted regarding a bunding system for oils is not specifically designed for recycling facilities where the likelihood of spillages is greater than for standard storage of oils.
- No details are provided for cover for the storage of hazardous waste to prevent or mitigate surface water flooding during rainfalls.
- The assumptions for the calculations of capacity of the attenuation tanks do not appear in submissions. Given the potential for overflow of contaminated surface water run off during heavy rainfall, not uncommon in this region, the precautionary principle should apply. In my opinion the design criteria should be for a 100 year event.

Taken together, I consider that the detail of information submitted for a complex facility on an unserviced site within 300 metres of a stream to be inadequate and on that basis would not be satisfied that the use would not be prejudicial to public health. In the event of a decision to grant permission, I recommend the details be required as outlined in section 5.1 of this report to clarify the grant and allow for effective enforcement if required.

5.4 Other Issues

The following comments address other matters raised in the appeal:

Noise, dust, airborne debris, vermin and fly tipping

In my opinion, the noise of the vehicle movements, loading operations and balers proposed during the hours of operation would not be excessive in the rural area which is a working environment. Conditions in a grant of permission should include dust suppression measures, such as wheel wash of heavy vehicles and water sprinkling when necessary, netting or other coverage of open containers, monitoring and inspection of waste materials imported onto the site and regular exporting of waste off site should address these issues. The issue of unauthorised dumping of waste (fly tipping) is a matter of enforcement. I consider that the conditions for the installation and monitoring of security cameras and prosecution of offending should address this possibility. Thus I do not consider that these issues would constitute reasons for refusal nor would a civic amenity facility separated from dwellings by a distance of at least 50 metres and screen planting reduce the value of adjacent properties, in my opinion.

Financial Contribution

The appellant considered that the amount of the financial contribution levied for a commercial enterprise was low in comparison with the levy for a single rural dwelling. Financial contributions are levied in accordance with a scheme determined by the planning authority pursuant to Section 48, Development contributions, of the Planning and Development Act 2000 (as amended). The Cavan County financial contribution scheme includes a schedule of classes of development based on the classification in Section 2 of Schedule 9, *Fees for Planning Applications*, of the Planning and Development Regulations 2001 as amended. The contributions have been calculated on the basis of this schedule. Classes of development Nos 4, 6 and 13 are cited in the application form submitted with the planning application. The levy of €7,710 would be in order with the scheme.

However, in the event of a grant of permission, I would recommend that the Board impose a condition for a financial contribution which includes, for the purposes of transparency, that the appropriate levy for the containers and other storage structures be assessed under Class of Development No 8 as set out in the Cavan County Council Development Contribution Scheme as set out below:

8.The provision on, in, over or under land of plant or machinery, or of tanks or other structures (other than buildings) for storage purposes.	€220 per 0.1 hectare or part thereof €220 per structure (other than masts/antennae)
	Masts/Antennae €12,000 per unit

5.0 RECOMMENDATION

Arising from my assessment of the proposed development I recommend that planning permission should be refused for the proposed development for the reasons and considerations set down below.

REASONS AND CONSIDERATIONS

1. Having regard to the proposed location of the facility outside the area zoned for development as set out in the Virginia Local Area Plan of the County Cavan Development Plan 2008 – 2014 and policies in Section 2.4.3.2, regarding the function of ‘Large Towns’, and policies in Section 3.8.7, regarding the protection of rural towns, of the Cavan County Development Plan 2008 - 2014, it is considered that the proposed development would materially contravene an objective in the Virginia Local Area Plan which seeks “to consolidate and strengthen Virginia’s Town Core, to facilitate its continued growth, whilst ensuring this growth occurs in a planned and sustainable fashion.”
2. The proposed development by itself, or by the precedent which a grant of permission for it would set for other similar developments would be contrary to the implementation of the Virginia Local Area Plan, the strategy of the National Spatial Strategy 2002 -2020, and ministerial guidelines regarding the consolidation of rural towns.

3. Having regard to the scale of the proposed development, including the movement of circa 2,395 tonnes of waste material, accessed from a regional route with a width of circa 6metres, the volumes of traffic on the road, the speed environment facilitated by the alignment of the road, and the mixture of private and heavy vehicle movements on the site to deposit materials in the waste containers it is considered that the proposed development would endanger public safety by reason of traffic hazard or obstruction to road users.
4. On the basis of the information submitted, the Board is not satisfied that the proposed development would not be prejudicial to public health.

Patricia Devlin

Inspector

22nd July