



An  
Bord  
Pleanála

**Board Direction**  
**BD-004288-19**  
**ABP-304352-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on October 16<sup>th</sup>, 2019.

The Board decided, as recommended by the Inspector, to consider the application as if it had been made to it in the first instance, and not to invoke the provisions of Section 139, and decided to refuse permission for the following reasons and considerations.

### **Reasons and Considerations**

Having regard to:-

- (a) the terms of planning permission register reference number TA900637, which was for a waste recycling facility whereby it was proposed that the maximum annual intake would be 20,000 tonnes of waste, the continuation of operation of which is proposed as part of the present application;
- (b) the fact that this planning permission expired on the 25<sup>th</sup> day of June 2019, and that accordingly the continuation of operation of the waste recycling facility would involve the retention of a development for which no planning permission now exists;
- (c) the fact that the current application includes for the retention of an as-constructed materials storage shed and a waste recycling facility building,

both of which are described in the present application as unauthorised and are stated to be fundamental to the operation of the site;

(d) the provisions of Class 11(b) of Part 2 of the Fifth Schedule to the Planning and Development Regulations, 2001, as amended, whereby the threshold for mandatory Environmental Impact Assessment for installations for the disposal of waste is an annual intake of 25,000 tonnes;

(e) The documentation submitted with the application and appeal.

It is considered that a determination as to whether an environmental impact assessment would have been required if an application for permission had been made in respect of the development concerned prior to the carrying out of the subject development, is required.

Accordingly, having regard to the provisions of Section 34 (12) of the Planning and Development Act, 2000, as amended, and as the development the subject of the current application is for, inter alia, retention of unauthorised development, the Board is precluded from granting a permission in this instance, as to do so would frustrate the requirements of the Environmental Impact Assessment Directive.

Note: The Board noted the request by the appellant that the Board should direct, under Section 145, payment, by the planning authority, of the appellant's costs. The Board decided, having regard to the nature of the appeal and submissions, and to the outcome, that it was not appropriate that costs be awarded against the planning authority in this case.

**Board Member**

**Date:** 16<sup>th</sup> October 2019

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Philip Jones