



An
Bord
Pleanála

Board Direction
ABP-305937-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/05/2020.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the installation and operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is or is not development or is or is not exempted development:

AND WHEREAS KMK Metals Recycling Limited requested a declaration on this question from Westmeath County Council and the Council issued a declaration on the 24th day of October, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS KMK Metals Recycling Limited referred this declaration for review to An Bord Pleanála on the 19th day of November 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 21 of Schedule 2 of Part 1 to the Planning and Development
- (f) The planning history of the subject site and in particular planning permission reg. ref. no. 16/6002:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The permitted use of the subject premises is for recycling of metal, waste electrical and electronic equipment (WEEE) as per planning permission reg. ref. no. 16/6002
- (b) The installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, constitutes works and is development.
- (c) The works, comprising installation of 2 no. specialised degassing machines, are exempted development having regard to Section 4(1)(h) of the Planning and Development Acts 2000, as amended and Class 21 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended.
- (d) The operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is a change to the permitted use on the site but such change does not raise any new or additional planning considerations over and above those already considered under planning permission reg. ref. no. 16/6002 and is, therefore, not material.
- (e) The operation of 2 no. specialised degassing machines is therefore not development.

Furthermore, with regard to the installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, An Bord Pleanála has determined, having regard to

- i. The nature and scale of the development the subject of this Section 5 referral, which does not exceed the thresholds set out in Schedule 5 of the Planning and Development Regulations 2001, as amended;
- ii. The location of the site on lands zoned for Enterprise and Employment uses in the Westmeath County Development Plan 2014 – 2020, and the results of the Strategic Environmental Assessment of the plan;
- iii. The location of the site outside any sensitive location identified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended, and the absence of any likely significant effects thereon.
- iv. The guidance set out in “Environmental Impact Assessment Guidelines for Consent Authorities regarding sub-threshold Development”, Dept of the Environment, Heritage and Local Government (2003), and
- v. The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended

that the development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that

- (a) The installation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is development and is exempted development.

- (b) The operation of 2 no. specialised degassing machines for the treatment of 7,000 tonnes of refrigerators and freezers per annum to facilitate the shredding, recycling and reclamation of the fridge / freezer materials, is not development.

Board Member:

Date: 03/05/2020

Stephen Bohan