

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Tipperary County

Planning Register Reference Number: 15/600034

An Bord Pleanála Reference Number: PL 92.246296

APPEAL by Philip and Mary Buckley of Lawlesstown, Clonmel, County Tipperary against the decision made on the 17th day of February, 2016 by Tipperary County Council to grant subject to conditions a permission to Clonmel Waste Disposal Limited care of Bryan McCarthy and Associates of 9A Durands Court, Parnell Street, Waterford in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Increase in permitted annual intake of wastes from the current permitted level of 24,000 tonnes per annum to 49,983 tonnes per annum and carry out upgrade and road improvement works to the existing access road reference L32101 including hedgerow removal, hedgerow realignment and surface widening all at Lawlesstown, Clonmel, County Tipperary.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Appropriate Assessment Screening

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Lower River Suir Special Area of Conservation (Site Code 002137), and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on any European site, either individually or in combinations with other plans and projects.

Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, supported and amended by the further information submitted to the planning authority, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct, indirect, secondary and cumulative effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in his assessment of the likely significant effects of the proposed development, and generally agreed with his conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector.

The Board concluded that, subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment would be acceptable.

Proper Planning and Sustainable Development

Having regard to the location of the site in a predominantly rural area, the relatively low population density in the immediate vicinity, the organised approach to the management of the site as evidenced in the documentation, to the light industrial zoning of the lands, the planning history and established use of the site and landholding as a permitted waste management facility, it is considered that the proposed increased intake of waste and associated works would be in accordance with the provisions of the Clonmel and Environs Development Plan 2013 and the Southern Regional Waste Management Plan 2015-2021, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. It is considered that, subject to compliance with the conditions set out below, the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 16th day of December 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement and other particulars submitted with the application and as amended in the Further Information submitted to the planning authority by the developer shall be implemented in full in conjunction with the timelines set out in the foregoing, except as may otherwise be required in order to comply with this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.

3. There shall be no discharge of process water or treated process water to groundwater or surface water.

Reason: In the interest of the protection of the environment.

4.
 - (a) The quantity of material imported into the site shall not exceed 49,983 tonnes per annum.
 - (b) The increase in capacity herein permitted shall not be implemented until a revised waste facility permit has been granted by the planning authority in respect of its operation.

Reason: In the interest of clarity and orderly development.

5. Prior to commencement of development, detailed proposals for the widening of the L32101 road carriageway shall be submitted to, and agreed in writing with, the planning authority. Details shall include:
 - (a) Detailed construction specification and finish for the sections of the L32101 to be widened.
 - (b) Roadside drainage management proposals.
 - (c) Proposals for landscaping and replacement roadside boundary treatments.

- (d) A timescale for the undertaking and completion of works.
- (e) A construction management plan.

Reason: In the interest of amenity and of traffic safety.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing:
 - (i) Existing trees, hedgerows, shrubs specifying which are proposed for retention as features of the site landscaping.
 - (ii) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder [which shall not include prunus species.
 - (iii) Details of screen planting.
- (b) A timetable for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species.

Reason: In the interest of residential and visual amenity.

7. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the [residential] amenities of property in the vicinity of the site.

- 8. The facility shall not be open to receive waste outside the hours of 0600 to 2000, Monday to Friday (excluding Bank Holidays), and 0700 to 1800 on Saturday.

Reason: In the interest of the amenities of the area and of clarifying the scope of this permission.

- 9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.