



Planning and Development Acts 2000 to 2018

Planning Authority: Meath County Council

Planning Register Reference Number: TA/181090

APPEAL by Eco Advocacy CLG of Trammon, Rathmolyon, Enfield, County Meath against the decision made on the 13th day of November, 2018 by Meath County Council to grant subject to conditions a permission to Davin Plant Hire Limited care of Tobin Consulting Engineers of Block 10-4, Blanchardstown Corporate Park, Dublin.

Proposed Development: (a) Importation of inert excavation spoil comprising natural materials of clay, silt, sand, gravel or stone for the purposes of restoration of a previously extracted area (QY1) to restore the site to a beneficial agricultural and ecological afteruse (five hectares), (b) construction and demolition waste recycling facility, (c) wheel wash, (d) weighbridge, (e) office and (f) all ancillary site development infrastructure. The application is accompanied by an Environmental Impact Statement (Environmental Impact Assessment Report), Natura impact statement and associated documents. The application relates to a restoration development for the purpose of an activity requiring a Waste Licence to be issued by the Environmental Protection Agency. All at Moyfin, Longwood, County Meath.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations 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

The site for the proposed development consists of a former quarry, in respect of which a determination was made by the planning authority, pursuant to Section 261A of the Planning and Development Act, 2000, as amended, that development was carried out on this site after the 1st day of February, 1990 which would have required, having regard to the Environmental Impact Assessment Directive, an environmental impact assessment, but that such an assessment was not carried out, and that development was carried out on this site after the 26th day of February, 1997 which would have required, having regard to the Habitats Directive, an appropriate assessment, but that such an assessment was not carried out, and in respect of which a notice was issued by the authority on the 20th day of July, 2012, which required the quarry owner/operator to make an application for substitute consent. The notice of the planning authority was confirmed, following review, by An Bord Pleanála on the 12th day of June, 2013. No such application for substitute consent was made and, accordingly, the quarry is, pursuant to Section 177O(3) of the Act, unauthorised development, notwithstanding any other provision of the Act.

It is considered that the proposed development, which is expressed to be for the purpose of restoration of this previously extracted area, that is, part of the quarry to which the Section 261A notice, referred to above, applied, relies on the prior quarrying development/excavation, and would, therefore, necessarily involve the retention of, and consolidate, the unauthorised development in question. Such development, in the light of the requirements of this legislation, and in the light of relevant case law, would frustrate the requirements of the Environmental Impact Assessment and Habitats Directives, and would allow the developer the opportunity to circumvent the requirements of these Directives. The proposed development, in the absence of prior regularisation of the unauthorised quarrying development upon which it relies and which it is proposed to restore, would, therefore, be contrary to the Environmental Impact Assessment Directive and the Habitats Directive, and in these circumstances, the Board is precluded from granting planning permission for the proposed development, which would accordingly be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the provisions of the applicable legislation, the planning history of the subject site and relevant case law, and considered that, for the reasons set out in its Order, the Board was precluded from granting planning permission for the proposed development.

Philip Jones

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

Dated this day of 2019.