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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: S5-18-19**

**WHEREAS** a question has arisen as to whether the installation and operation of two number 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, at KMK Metals Recycling Limited, Moate Road, Kilbeggan, County Westmeath is or is not development or is or is not exempted development:

**AND WHEREAS** KMK Metals Recycling Limited care of SLR Consulting of 7 Dundrum Business Park, Windy Arbour, Dublin requested a declaration on this question from Westmeath County Council and the Council issued a declaration on the 24<sup>th</sup> day of October, 2019 stating that the matter was development and was not exempted development:

**AND WHEREAS** KMK Metals Recycling Limited referred the declaration for review to An Bord Pleanála on the 19<sup>th</sup> day of November, 2019:

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

- (a) sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 21 of Schedule 2 of Part 1 to those Regulations, and
- (d) the planning history of the subject site and, in particular, planning register reference number 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 register reference number 16/6002,
- (b) the installation of two number 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 two number specialised degassing machines, are exempted development having regard to section 4(1)(h) of the Planning and Development Act 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 two number 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 register reference number 16/6002 and is, therefore, not material, and
- (e) the operation of two number specialised degassing machines is, therefore, not development:

**FURTHERMORE**, with regard to the installation of two number 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, that having regard to

- (a) the nature and scale of the development the subject of this referral, which does not exceed the thresholds set out in Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) 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,
- (c) 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,

- (d) the guidance set out in “Environmental Impact Assessment Guidelines for Consent Authorities regarding sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government in August, 2003, and
- (e) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended

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 2000 Act, hereby decides that, at KMK Metals Recycling Limited, Moate Road, Kilbeggan, County Westmeath,

- (a) the installation of two number 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, and
- (b) the operation of two number 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.

## **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.

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**Stephen Bohan**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this            day of            2020.**