

Planning and Development Acts 2000 to 2021

Planning Authority: Kildare County Council

Planning Register Reference Number: 20/639

Appeal by Sancom Limited care of Earth Science Partnership (Ire) Limited of Tonranny, Westport, County Mayo against the decision made on the 16th day of April, 2021 by Kildare County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: A Material Recovery Facility at a worked out quarry site. The principal activity will involve the use of imported, uncontaminated soil and stone, sourced from construction sites, to backfill and restore the worked out quarry. A maximum of approximately 1.8 million tonnes of soil and stone material on site for backfilling over the course of 10 to 25 years, depending on market demand for disposal services. In addition to the principal waste activity described above, it is proposed to carry out construction and demolition of waste recovery activities on-site to include top-soil screening, sand and gravel washing, concrete crushing, associated aggregate production and garden waste composting. A maximum of 387,000 tonnes of construction and demolition related waste material will be accepted on-site per annum. The total area of the application site is 1.92 hectares inclusive of site access roads. The fill area is 13.65 hectares in size. The construction and demolition material recovery area is 4.4 hectares in size. A waste licence will be obtained for the proposed waste recovery activities under the Waste Management Act,

as amended. As part of the proposed development, it is proposed to construct a new site access road running south of the site to the L4015 Castledermot to Baltinglass Road and a new site entrance onto this road designed to appropriate standards. It is also proposed to install/develop the following on-site: a weighbridge, a wheel wash, a stockpile and sorting area, the appropriate material recovery plant and equipment, a waste inspection and quarantine area, surface water treatment infrastructure and external lighting. Existing plant, equipment, site infrastructure and settlement ponds situated on-site will be utilized for proposed site activities. A bunded fuel storage area currently present on-site will be upgraded, all at Graney West, Castledermot, County Kildare. As amended by the further public notices received by the planning authorities on the 22nd day of February, 2021 as follows: a significant alteration has been made to the original planning application submitted, named the applicant Sancom Limited now propose accepting a maximum of 95,000 tonnes of waste material at the proposed facility per annum, a 25 year period lifetime (72,000 tonnes for backfilling and 27,500 tonnes of construction and demolition waste for processing), rather than the 387,000 tonnes of waste material per annum over an anticipated 10 year project lifetime originally proposed.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH condition numbers 3 and 12 and 20, REMOVE condition number 10 and to AMEND conditions numbers 6(a), 13 and 18 so that they shall be as follows for the reasons set out.

- 6 (a) The developer shall provide a closed loop wheel wash system to the satisfaction of the planning authority. Prior to the commencement of development, the developer shall prepare a plan for the written agreement of the planning authority which provides for the management of waste from the wheel wash system and which provides for the monitoring of same. The plan shall set out how the hazardous and non-hazardous waste shall be disposed of:
- (b) A waste quarantine area shall be provided at the site.
- (c) A weighbridge shall be provided at the site.

Reason: In the interests of clarity and public health and environmental sustainability.

13. Prior to use as a Material Recovery Facility, the developer shall carry out a Road Safety Assessment (RSA) Stage 3, by an independent accredited Road Safety Auditor, to examine the proposed new entrance. The developer is requested to include agreed recommendations from the RSA in the amended construction works for the new entrance with L4016.

Reason: In the interest of road safety.

18. (a) The developer shall provide adequate lighting at the entrance to the site from the L4016 which shall be agreed in writing with the planning authority. This lighting shall be designed to consider the safety of road users, nearby residents and the nature of the rural area. The lighting shall be agreed in writing with the planning authority and shall be fully commissioned prior to use of the facility.
- (b) The developer shall comply with the requirements of the planning authority in relation to any lighting which may be required within the site to facilitate operations.



Reason: In the interest of road safety and to protect the amenities of the area.

Reasons and Considerations

In relation to condition number 3:

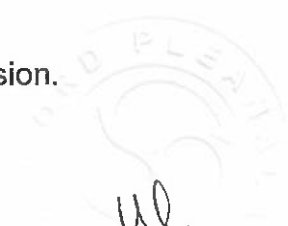
The proposed development will be subject to an Environmental Protection Agency licence which will regulate emissions from the development. This condition is necessary to regulate the construction of the project and to ensure that the mitigation measures contained in the Environmental Impact Assessment Report and Natura Impact Statement to protect biodiversity and protected flora and fauna are implemented. The condition also acknowledges that the conditions of the Environmental Protection Agency licence will take precedence over the planning condition with regard to specific emissions.

In relation to condition number 6(a):

Emissions from the facility will be regulated through an Environmental Protection Agency licence. In the absence of any conditions to regulate hazardous or contaminated material for the site, it is considered reasonable that the developer prepare a plan, which shall incorporate appropriate monitoring, for the removal of hazardous waste from the site in order to ensure proper disposal and to prevent contamination.

In relation to condition number 10:

It is considered that condition number 10 is not reasonable and would be a disproportionate requirement on the developer having regard to the wider use of the road. It is further considered that it would have been more appropriate for the planning authority to attach a section 48(2)(c) condition to be levied proportionally on developments using the L4016 but such a special contribution was not provided for by the planning authority in its decision.



In relation to condition number 12:

It is considered that condition number 12 is reasonable and does not require the developer to undertake any works that would be over and beyond what was proposed in the application documentation submitted.

In relation to condition number 13:

It is considered that, given the proposal to create a new entrance on the L4016 for the access and egress of HGV's associated with the development, the requirement to undertake a Stage 3 Road Safety Audit in respect of the new entrance with the L4016 is reasonable.

In deciding not to accept the Inspectors recommended amendment to the condition whereby it was recommended that the developer implement the recommendations contained in the Stage 1 and Stage 1/2 Road Safety Audits dated May 2020 and January 2021 regarding the proposed access onto the L4016 and the internal access road, it was considered that the proposal comprises a new entrance onto the L4016 rather than the use of an existing entrance and therefore the requirement to undertake a Stage 3 RSA was considered reasonable.

In relation to condition number 18:

It is considered that while the requirement for public lighting is limited, given the nature and scale of the development and its location in a rural setting and in particular having regard to the mitigation measures outlined in the Environmental Impact Assessment Report and the Natura Impact Statement regarding protected species in the area, in the interests of road safety some lighting should be provided at the new junction to facilitate the satisfactory operation of the facility outside of daylight hours. Lighting within and around the site shall be considered within the context of the mitigation measures outlined in the Environmental Impact Assessment Report and the Natura Impact Statement regarding protected species within the area.



In relation to condition number 20:

It is considered that the terms of the Kildare County Council Development Contribution Scheme 2023-2029, which is the Scheme currently in force, have been properly applied with regard to Sections 8.2.3 and 13 of the Scheme which relate to the level of contributions applicable to the scheme and to the payment of contributions under the Scheme.

Una Crosse

Una Crosse

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this

27 day of *June*

2023.

