

An
Bord
Pleanála

Board Order ABP-315257-22

Planning and Development Acts, 2000 to 2022

Planning Authority: Fingal County Council

Application for planning permission under section 37E of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an Environmental Impact Assessment, lodged with An Bord Pleanála on the 2nd day of December 2022, as amended by the further information received by An Bord Pleanála on the 23rd day of November 2023, by Padraig Thornton Waste Disposal Limited t/a Thorntons Recycling care of Fehily Timoney and Company of J5 Plaza, North Park Business Park, North Road, Dublin.

Proposed Development: The proposed development will involve the construction and operation of an expanded Materials Recovery Facility (MRF) which will accept and process up to 300,000 tonnes per annum (tpa) of waste material, to include:

- 100,000 tonnes per annum of residual municipal solid waste (rMSW),
- 50,000 tonnes per annum food waste,
- 100,000 tonnes per annum construction and demolition (C&D) Waste, and
- 50,000 tonnes per annum mixed dry recyclable (MDR) waste.

The proposed development comprises of the following:

1. Demolition of one annex of the existing building on-site (226 square metres, 9.46 metres in height) and the removal of an existing weighbridge.
2. Clearance of lands to the south of the existing waste facility.
3. Culverting of an existing surface water drain traversing the site.

4. Development of a new second entrance circa 35 metres south of the existing site entrance to accommodate vehicles accessing and egressing the proposed facility.
5. Upgrade and expansion of the existing building on-site, to be referred to Materials Recovery Facility 1 (2,659 square metres to a maximum height of 12.48 metres).
6. Development of a new building on-site, to be referred to as Materials Recovery Facility 2 (1,735 square metres, to a maximum height of 13.65 metres).
7. Development of a new building on-site, to be referred to as Materials Recovery Facility 3 (4,320 square metres, to a maximum height of 13.85 metres).
8. Development of ancillary infrastructure including:
 - a. advertising signage (8 metres x 2 metres) on the southern and western façades of the Materials Recovery Facility 3 building and on the southern façade of the southern façade of the Materials Recovery Facility 1 building,
 - b. internal site roads, parking and skip storage,
 - c. an administration building (272 square metres, to a maximum height of 6.96 metres),
 - d. two number at-grade weighbridges and a weighbridge office (18.5 square metres, 3.3 metres in height),
 - e. an electrical sub-station (23 square metres, 2.98 metres in height),
 - f. a vehicle workshop (519 square metres, to a maximum height of 8.44 metres),
 - g. a vehicle refuelling facility adjoining the vehicle workshop, with an internal 45 cubic metres bunded diesel storage tank,
 - h. a vehicle wash (176 square metres, 5.24 metres in height),
 - i. perimeter fencing (2.4 metres in height), gate access and perimeter landscaping (circa 6 – 8 metres in height),
 - j. site services,
 - k. surface water management infrastructure, including an overground rainwater harvesting tank (with a floor area of 86.6 square metres and a capacity of 470 cubic metres),
 - l. fire pumps and a fire-fighting and control system,
 - m. a traffic management system, and
 - n. an odour abatement system, with a 20 metres high stack.

All located at Unit 1, Cappogue Industrial Park, Ballycoolin Road, Cappogue, Dublin, and lands to the south of this address that fall across the townlands of Cappogue and Dunsink, south of the Ballycoolin Road, Dublin.

Decision

Grant permission under section 37G of the Planning and Development Act 2000, as amended, 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.

Determine under section 37H(2)(c) the sum to be paid by the applicant in respect of costs associated with the application as set out in the Schedule of Costs below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

(a) **European legislation**, including of particular relevance:

- The relevant provisions of European Union Directive 2014/52/EU amending Directive 2011/92/EU (Environmental Impact Assessment Directive) on the assessment of the effects of certain public and private projects on the environment, and,
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.

(b) **National and regional planning and related policy**, including:

- Climate Action Plan 2024,

- Project Ireland 2040 National Planning Framework,
- A Waste Action Plan for a Circular Economy, Ireland's National Waste Policy 2020-2025,
- the National Waste Management Plan for a Circular Economy 2024-2030, and
- the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031.

(c) **The local planning policy** including:

- Fingal County Development Plan 2023-2029.

- (d) The location of the proposed development in an area which is zoned in the development plan for 'General Employment' and where in this zoning category, it is the policy of the planning authority to facilitate waste disposal and recovery facilities, excluding those of "high impact", and where having regard to the nature of waste to be processed (i.e. putrescible waste) the proposed development could be considered to be a high impact facility and thus permitting same would amount to a material contravention of the development plan. In materially contravening the development plan, the Board considered that the proposed development is of strategic importance having regard to the provisions of the Climate Action Plan 2024 which seeks a transition to a circular economy by, inter-alia, increasing recycling and reducing landfill reliance. In addition, the Board had regard to the contribution of proposed development to achieving government policy set out in the National Waste Management Plan, in particular, Core Policy 12 of the National Waste Management Plan for a Circular Economy (NWMP) 2024-2030 which supports the need for nationally and regionally important waste infrastructure and to Target Policies 13.1 and 14.1 which seeks to support the development of pre-treatment waste facilities for reprocessing, recycling and recovery within the State where this capacity is technically, economically and environmentally practicable,
- (e) the nature and scale of the proposed development as set out in the planning application and the pattern of development in the vicinity, within an established and developing industrial and commercial area,
- (f) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the

proposed development and the likely significant effects of the proposed development on European Sites, and

- (g) the submissions made to An Bord Pleanála in connection with the planning application, and the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to the environmental impact assessment.

Appropriate Assessment:

The Board completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening exercise, the Board accepted and adopted the report of the Inspector in respect of the identification of the European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European Sites in view of the Sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), South Dublin Bay Special Area of Conservation (Site Code: 000210), or any other European Sites, in view of the Sites' conservation objectives.

Environmental Impact Assessment:

The Board undertook an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,

- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application, including the further information submitted,
- (c) the submissions from the applicant, the planning authority, the observers and the prescribed bodies, and,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of European Union Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant, and the submissions made in the course of the application as set out in the Inspector's report. The Board was satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation (including environmental conditions) which are incorporated into the Board's decision.

Reasoned Conclusion of the Significant Effects:

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- **Population and human health** – there will be an increase in noise and air emissions and lighting impacts on nearby residential properties which will be mitigated by fast-closing doors, processing within buildings, odour abatement system and regulatory control including licence requirements. Additional measures such as lighting control and construction of a berm/solid noise barrier along the south-eastern boundary are considered necessary to further mitigate significant effects.
- **Biodiversity** – there will be reduced biodiversity on site with removal of trees, hedgerow and vegetation and the part-culverting of drainage ditch on site which

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will be mitigated by leaving part of the drainage ditch un-culverted, implementation of the landscaping plan, and removal of trees and hedgerow within designated period.

- **Air and climate** - positive impacts on climate from generation of electricity to part-supply the operational needs of the proposed development and the provision of the expanded facility in itself which will assist in the transition to a low carbon circular economy. Increase in air emissions will be mitigated by fast-closing doors, processing within buildings, odour abatement system and regulatory control including licence requirements.
- **Land, hydrology, hydrogeology** – potential for significant effects from contaminants/emissions to ground or surface water will be mitigated by design through installation and operation of a surface water management systems, including treatment and discharge to foul sewer network, spill management and control systems.
- **Material assets** - Positive environmental impacts on material assets during the operational phase by the increase in national capacity to treat waste and reduce dependency on export.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the proposed mitigation and monitoring measures, as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, both by itself, and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision.

Proper Planning and Sustainable Development

The location of the proposed development is an area which is zoned in the Fingal Development Plan 2023-2029 for 'General Employment' and where in this zoning category, it is the policy of the planning authority to facilitate waste disposal and recovery facilities, excluding those of "high impact", i.e., those with high potential for

nuisances including putrescible waste. As the proposed development includes for the introduction of food waste and municipal residual waste, the development could be considered “high impact” and as such materially contravenes the zoning category for ‘General Employment’ of the Fingal Development Plan 2023-2029 however the Board decided to grant permission under Section 37(G)(6) for the reasons set out below.

Having regard to the:

- location of the proposed development on an extended site with an existing waste recovery facility (construction and demolition waste) which is recognised as being suitable for a waste recovery facility in the development plan,
- information provided in the Environmental Impact Assessment Report which concludes that, subject to mitigation measures, the proposed development will not have a significant environmental impact,
- additional mitigation measures recommended by the Inspector i.e. lighting control and construction of a berm/solid noise barrier along the south-eastern boundary to protect the residential amenity of adjoining residences,
- positive contribution the proposed development would make to Ireland’s Waste Action Plan for a Circular Economy: Ireland’s National Waste Policy 2020-2025, National Waste Management Plan for a Circular Economy 2024-2030 and the Climate Action Plan 2024 to move to a low carbon future,

it is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and related policy, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape or ecology, would not pose a risk to water quality and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including the Environmental Impact Assessment Report, and the further plans and particulars received by the Board on the 23rd day of November, 2023 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. The intake of waste material to the site shall not exceed 300,000 tonnes per annum, of which no more than 50,000 tonnes shall consist of food waste; no more than 100,000 of residual municipal solid waste and 50,000 tonnes of mixed dry recyclable waste. No hazardous waste shall be accepted at the facility. The developer shall maintain records of all waste accepted at the site and these records shall be made available to the planning authority if required. The facility shall not be available for use directly by members of the general public. The structures hereby approved shall be for waste recovery purposes only and will have the following hours of operation:

- Waste acceptance, handling and consignment from the facility 0000 to 0000 Monday to Sunday inclusive.
- Waste processing – 0700 to 2300 Monday to Sunday inclusive.
- The Maintenance Building will only operate during daytime hours (0700 to 1900)
- Skip movements in the skip storage area will only occur between 0800 to 2000.

Reason: In the interest of clarity.

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3. (a) A berm and/or a solid noise barrier shall be erected along the south-western boundary of the site. The details of which shall be submitted for the written agreement of the planning authority, prior to commencement of development.
- (b) Stacking skips shall not be stored along the south-western boundary, only roll on/roll-off skips can be stored along the south-western boundary.

Reason: In the interest of residential amenity.

4. The mitigation measures identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the planning application, shall be implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this permission.

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

5. (a) No storage, loading, unloading or processing, either permanent or temporary, of any materials shall occur outside of any structure shown on the Site Layout Plan (Drawing Number P21-150-0200-0001) submitted with the application.
- (b) All organic material shall be transported to and from the site in sealed containers. No material that would attract birds shall be present on the open areas of the site at any time.
- (c) Skips to be stored in the external areas shall not be stacked greater than a height of 3 metres.

Reason: In the interests of amenities, public health and safety.

6. (a) The clearance of any vegetation including trees, hedgerows and scrub, shall only be carried out in the period between the 1st day of September and the end of February i.e., outside the main bird breeding season.
- (b) Trees to be felled will be surveyed for bats before their removal. All trees should be felled under the supervision of an ecologist and left intact on the

ground for a period of at least 24 hours. The destruction or interference of any tree identified as a bat roost shall only be carried out on receipt from the National Parks and Wildlife Service of a licence to derogate from the Habitats Directive and destroy the roost.

- (c) The section of the watercourse located on the eastern boundary shall remain open and un-culverted.

Reason: In the interest of biodiversity and to provide for the conservation and protection of species of fauna protected under the Habitats Directive (92/43/EEC) and the Wildlife Act, 1976.

7. (a) The access along Barnlodge Grove shall be used for emergency vehicular access only.
- (b) Vehicles ingress/egress to/from buildings shall be limited to/not be greater than that outlined in Table 12-18b 'Estimated Roller Door Opening Times' of the Environmental Impact Assessment Report Addendum and excluding evening and night-time movements.

Reason: In the interest of proper planning and sustainable development of the area, and in the interest of traffic hazard.

8. The developer shall accord with any future requirements of the planning authority in relation to glint and glare issues that may arise and which only become apparent when the proposed installation is commissioned. Any such requirements shall be carried out at the developer's expense according to the specification and conditions of the planning authority.

Reason: To ensure the avoidance of any potential traffic, air or other hazard and in the interest of the proper planning and sustainable development of the area.

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

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

10. Details of the materials, colours and textures of all the external finishes, signage, and external hard surfaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

11. Other than the advertisements expressly permitted under this grant of permission, no advertisement or advertisement structure shall be displayed or erected on the building/within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. A site layout plan detailing all external lighting and a lighting operational plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All external lighting shall be cowled to ensure deflection of lighting is away from adjoining residential properties.

Reason: In the interest of visual amenity.

13. Where the developer proposes to connect to a public water/wastewater network operated by Irish Water, the developer shall sign a connection agreement with Irish Water, prior to the commencement of the development.

Reason: In the interest of the proper planning and sustainable development of the area.

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14. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the southern boundary, consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
- (b) Any plants which die, are removed 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, unless otherwise agreed in writing with the planning authority.
- (c) All tree and shrub removal shall be undertaken outside the bird nesting season.

Reason: In the interests of orderly development and the protection of the birds.

15. Prior to commencement of development, a detailed Construction Environmental Management Plan (CEMP) for the construction phase shall be submitted to and agreed in writing with the planning authority. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of environmental protection and orderly development.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and from 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

17. (a) The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to monitor all site clearance works, topsoil stripping, groundworks.
- (b) The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
- (c) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation which may include preservation in-situ or full archaeological excavation.
- (d) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (e) The Construction Environmental Management Plan shall include the location of all archaeological or cultural heritage constraints relevant to the proposed development as set out in the Environmental Impact Assessment Report, describing all identified likely direct and indirect archaeological impacts and all mitigation measures to be employed.
- (f) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required.

All resulting and associated archaeological costs shall be borne by the developer.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. 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. The contribution shall be paid prior to the 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 the Board 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.

Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is **€44,457**.

A breakdown of the Board's costs is set out in the attached Appendix 1.

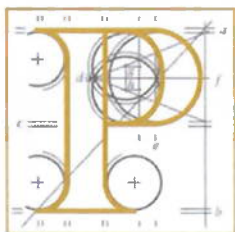


Peter Mullan

Member of An Bord Pleanála

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

Dated this *6th* day of *August*, 2024



An
Bord
Pleanála

**Board Order –
Appendix 1**

ABP-315257-22

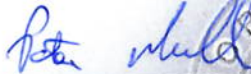
Strategic Infrastructure Development

Costs of determining the Application

Case Number: ABP-315257-22

Proposed Development: Proposed expansion of Materials Recovery Facility to process up to 300,000 tonnes per annum at Unit 1, Cappogue Industrial Park, Ballycoolin Road, Cappogue, Dublin 11, and lands to the south of this address that fall across both the townlands of Cappogue and Dunsink, south of the Ballycoolin Road, Dublin 11.

Board Costs		
(1)	Cost (calculated based on Inspector's time) Inspector 1 (pre-application consultation) – €3,107 Inspector 2 (application) – €53,536	€56,643
(2)	Costs invoiced to Board	N/A
	Total chargeable costs	€56,643
Board Fees		
(3)	Application Fee – €100,000 Pre-application Consultation Fee – €1,000	€101,000
(4)	Observer fees paid	€100
	Total	€101,100
	Net amount due to be refunded to applicant	€44,457


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

Dated this *6th* day of *August*, 2024