

An
Bord
Pleanála

Board Order
ABP-319599-24

Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: 20240159

Appeal by Peter Sweetman, Wild Irish Defense CLG of P.O. Box 13611, Bantry, County Cork against the decision made on the 10th day of April, 2024 by Wexford County Council to grant subject to conditions a permission to Sean Kinsella Site Developments Limited care of DJ Fitzpatrick Consulting Engineers of Cooperstown, Ballygarrett, County Wexford in accordance with plans and particulars lodged with the said Council:

Proposed Development: Extension of an inert waste disposal site for the filling of soil and stone by 43, 000 tonnes over two years and all ancillary site works extending the existing fill area of 82,000 tonnes to give an overall fill area of 125,000 tonnes. The site when filled will be covered in topsoil, seeded and restored to agricultural use, at Banntown, E.D. Huntingtown, Gorey, County Wexford.

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.

Reasons and Considerations

Appropriate Assessment Screening

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on Slaney River Valley Special Area of Conservation (Site Code: 000781). The Board considered that there is potential for significant effects on this site and that Appropriate Assessment is, therefore, required.

Appropriate Assessment

The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector. In completing the Appropriate Assessment, the Board

adopted the report of the Inspector and concluded that, by itself or in combination with other plans and projects in the vicinity, the proposed development would not be likely to have an adverse effect on any European site in view of the sites' conservation objectives and there is no reasonable significant doubt as to the absence of such effects.

Environmental Impact Assessment Screening Determination:

The proposed development was determined to be sub-threshold for the purposes of Part 10 of the Planning and Development Regulations 2001, as amended, that is, it is not a class of activity for which an Environmental Impact Assessment is mandatory as prescribed by Part 1 of Schedule 5, and it is also below the thresholds stipulated in class 1(a), class 11(b) and class 13(a) of Part 2 of Schedule 5. Nonetheless, the Board concluded that there is a significant and realistic doubt regarding the likelihood of significant effects on the environment and that Schedule 7A information is required to enable a screening determination to be carried out. It was considered that the information available on file was satisfactory to enable the Board to carry out a screening determination.

The Board carried out an Environmental Impact Assessment screening determination and it is concluded that the proposed development would not be likely to have a significant effect on the environment and that an Environmental Impact Assessment Report is not required.

This conclusion is based on the following -

- (i) The criteria set out in Schedule 7, in particular,
 - the nature and scale of the proposed development within an existing rural area and at the site of an existing permitted facility to

import inert natural materials for use as agricultural land, which is below the thresholds for mandatory Environmental Impact Assessment as set out in class 1(a), class 11(b), class 13(a) of Part 2 of the Schedule 5 of the Planning and Development Regulations 2001, as amended,

- the absence of any significant environmental sensitivities at the location of the site,
 - the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended,
 - the cumulative effects with the existing permitted inert waste facilities on the site,
- (ii) the results of other relevant assessments of the effects on the environment, including the Strategic Environmental Assessment of the Wexford County Development Plan, the Natura Impact Statement carried out as part of the proposed development and the Environmental Impact Assessment screening and Natura Impact Assessments carried out for the permitted fill facility on the site.
- (iii) the features and measures to avoid or prevent what might otherwise have been significant effects on the environment and in particular measures to protect the water quality of water bodies and to prevent significant adverse impacts from noise, air contamination or invasive species arising from the development.

The Board concluded that the proposed development would not be likely to have a significant effect on the environment and that an Environmental Impact Assessment Report is not required.

In doing so, the Board adopted the report and conclusions of the Inspector.

Proper Planning and Sustainable Development

Having regard to the nature and extent of the proposed development for the infilling of land with inert material, and its location within a rural agricultural area, it is considered that subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would be in accordance with the policies and objectives of Wexford County Development Plan 2022-2028 and 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, 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. This permission is a temporary permission and shall expire five years from the date of this Order.

Reason: In the interest of clarity.

3. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented.

Reason: To protect the integrity of European Sites.

4. (a) The maximum quantity of inert soil and stone shall not exceed 21,500 tonnes in any one year.
- (b) The developer shall keep a written record on site of all the material imported to the site (volume and classification) and this shall be made available for inspection by the planning authority upon request.

Reason: In the interest of clarity, traffic safety, to protect residential amenities and for the protection of the environment.

5. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
- (a) The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority.
- (b) Proposals for the suppression of dust on site and on the access road.
- (c) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.

- (d) Proposals for the disposal of waste material offsite.
- (e) Proposals to prevent the introduction of invasive species onsite.
- (f) Proposals for keeping the public road free of muck, dirt and debris including cleaning arrangements, and location of the wheelwash facility.
- (g) Details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.
- (h) Proposals for the monitoring of water, dust and noise.

Reason: In order to safeguard local amenities.

- 6. (a) A minimum 10 metres wide buffer zone shall be maintained between the part of the site to be filled and the adjacent open stream.
- (b) A silt fence backed by a wall of hay bales and a 3.5 metres high earth berm shall be erected along the northern boundary to the infill area.
- (c) Detailed drawings showing the location and design of the buffer zone, silt barrier and earth berm shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (d) No fill shall commence until the agreed works have been carried out to the written satisfaction of the planning authority.

Reason: In the interests of orderly development, to protect water courses and for sustainable drainage.

7. Prior to commencement of development, engineering drawings and details shall be submitted for the written agreement of the planning authority showing the following:
 - (a) Design details of the drainage arrangements on the site including detailed designs of the proposed drain under the fill.
 - (b) Design details of the piped section of stream including measures to protect the stream to accommodate the proposed development.

The measures shall comply with the requirements of the planning authority.

Reason: In the interest of public health, orderly development and to protect the stream and the environment.

8. The importation of inert soil, stone and topsoil and the operation of associated machinery and any other site works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays.


Reason: To safeguard the amenity of property in the vicinity.

9. The noise level from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed (a) an L_{Ar,T} value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays and between the hours of 0800 and 1400 on Saturdays (excluding public holidays); and (b) an L_{Aeq, T} value of 45 dB(A) at any other time.

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

10. During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge).

Reason: To protect residential amenities of property in the vicinity



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



Dated this 7th day of January 2025.