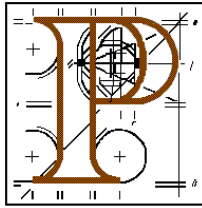


An Bord Pleanála



Inspector's Report

PL26.245835

DEVELOPMENT:-

Change of use of lands to dry car storage area and associated site works at Ballywilliam, Ballyanne, Co. Wexford.

PLANNING APPLICATION

Planning Authority: Wexford County Council

Planning Authority Reg. No: 20150916

Applicant: Patrick Byrne

Application Type: Permission

Planning Authority Decision: Grant

APPEAL

Appellant: Patrick Byrne

Type of Appeal: 1st-v-Refusal

DATE OF SITE INSPECTION: 18th February 2016

Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 1 hectares, is located in the village of Ballywilliam Co. Wexford. The site is a field currently in agricultural use (grassland). Ground levels on site fall moving north to south. The site is bounded by existing hedgerow. The public road runs along the northern boundary of the site and the Aughnacrew River runs along the southern boundary of the site. Immediately adjacent the site to the east is an existing garage/workshop (connected to the proposed use). Immediately to the west is agricultural land similar in nature to the current state of the appeal site. Other adjoining uses include existing dwellings to north and north west of the site on the opposite side of the public road, and the Glanbia co-op facility to the north of the site. There are a number of existing dwellings to the south of the site and on the other side of the Aughnacrew River.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for a change of use of lands to dry car storage area. The existing operation at this location carries out de-pollution of end of life vehicles (ELVs) with hazardous components such as batteries and fluids removed and stored. The proposal is for an increased storage area on which de-polluted ELVs will be stored prior to their onward transportation to an authorised treatment facility for further recovery. The area in question is 1 hectares in area and is located to the west of the existing garage/workshop. It is proposed to surface the area with an impermeable membrane under a hardcore surface and provide 334 individual bays for storage of ELVs. It is proposed to erect new palisade fencing around the storage area with retention of the existing hedgerow along the northern (roadside) boundary and western boundary with new planting along the southern boundary of the hardcore storage area. To the south of the storage area and north of the river it is proposed to provide attenuation, a bypass, separator, hydrobrake and silt trap. The drawings indicate that the external layout of the existing garage/workshop is to be revised with 49 individual bays for vehicles on site. It is also proposed to provide a defined parking layout for customer and staff parking along the eastern elevation of the existing workshop building. It should be noted that the existing garage/workshop and its curtilage is not included in the red line site boundary and the development description does not include details of any alterations to the existing garage/workshop.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) OPW (07/10/15): The proposal should be considered under the Planning System and Flood Risk Management Guidelines for Planning Authorities November 2009.
- (b) EHO (14/10/15): The EHO expresses concerns regarding the risk posed by the development to the New Ross town water supply. The EHO notes that a number of issues need addressing before the proposal should be considered with focus on the risk of contamination of the water supply. In addition the EHO notes that there are more vehicles stored on site than permitted, that the village is prone to flooding with concerns regarding the status of the site and proposal in relation to flood risk.
- (c) Development Applications Unit (19/10/15): Pre-development archaeological tests required and to be applied as a condition.
- (d) Development Applications Unit (23/10/15): The location of the site in relation to the River Barrow and River Nore SAC is noted and it is considered that the information submitted is insufficient to form a conclusion in relation to screening for Appropriate Assessment. It is recommended that further information is required in the form of a screening for Appropriate Assessment and/or Natura Impact Assessment.
- (e) Environment Section (05/11/15): The planning history including refusals for an ELV processing unit and change of use of lands to dry storage was noted due to risk of pollution of New Ross water supply whose supply intake is 2km downstream of the proposed development. Refusal was recommended due to this potential risk.
- (f) Planning report (05/11/15): The assessment raises concerns regarding the location and nature of the development in the context of the abstraction point for the New Ross water supply and considers that the proposal represents an unacceptable risk of pollution to this water supply. Refusal was recommended based on the conditions outlined below.

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission refused based on two reasons which are as follows....

1. *The proposed site is immediately upstream of the New Ross water intake and it is considered that the risk that this site presents is not compatible with the proper protection of the public water supply. Therefore the proposed development poses an unacceptable public health risk and would be contrary to the proper planning and sustainable development of the area.*

2. *The Planning Authority is not satisfied that the proposed development would not exacerbate the risk of flooding in the area. The location of the proposed development within an area at risk of flooding would also pose a public health risk and would be contrary to the proper planning and sustainable development of the area.*

5. PLANNING HISTORY

- 5.1 20141026: Permission refused for a change of use of lands to dry car storage and associated site works. Refused due to posing an unacceptable risk of pollution to the New Ross water supply and the inadequate Natura Impact Statement submitted with the Planning Authority not satisfied that the proposal would be unlikely to have a significant impact on the River Barrow and River Nore SAC.
- 5.2 20120310: Permission refused for an end of life (ELV) processing unit and change of use of lands to dry car storage. Refused due to posing an unacceptable risk of pollution to the New Ross water supply. The Planning Authority was not satisfied that the proposal would not exacerbate the risk of flooding at this location.
- 5.3 20110616: Permission granted for retention of existing palisade fencing and change of use of a garage to an end of life (ELV) processing workshop.
- 5.4 901602: Permission granted for an extension to a garage for car and lorry repairs.

6. PLANNING POLICY

- 6.1 The relevant plan is the Wexford County Development Plan 2013-2019.

7. GROUNDS OF APPEAL

- 7.1 A first party appeal has been lodged by IE Consulting on behalf of Patrick Byrne (Byrne Motors Ltd), Ballywilliam, Ballyanne, Co. Wexford. The grounds of appeal are as follows...

- It is noted that use of the OPW PFRA maps and the Councils SFRA maps is not appropriate to assess flood risk on a site specific basis. It is noted that the applicant submitted a detailed Stage 2 and Stage 3 site Specific Flood Risk Assessment. This assessment has determined that areas of the site would be subject to flooding however not to the extent illustrated on the indicative flood maps. It is noted that the development proposal entails no development

within Flood Zone A or B with all development limited to Flood Zone C and such includes all elements of the attenuation except for an outfall pipe.

- The recommendation of the Environment Section does not appear to reference the Environmental/Risk Assessment report submitted with it noted this report assesses the risk to the New Ross water supply. It is noted that the existing operation has no recorded prosecutions or pollution events and the proposal entails an upgraded stormwater systems. It is noted that the existing operation is carried out based on best practice guidance for such uses and that the proposal entails a new upgraded stormwater system including a bypass oil interceptor and silt trap prior to discharge to the adjoining river.
- The appellants note that the Council has permitted a development recently 1.2km up gradient of the water supply intake that includes a sewage treatment plant and discharge of stormwater to the Pollmounty River (2006175).

8. RESPONSES

8.1 Response by Wexford County Council.

- The Council notes the reports and recommendation of Environment Section and EHO and considers the proposal unsafe on public health grounds and contrary to the sustainable development of the area.

9. ASSESSMENT

9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/development plan policy

Adjoining amenity/visual amenity

Appropriate Assessment

Flood risk assessment

Water supply

Traffic

9.2 **Principle of the proposed development/development plan policy:**

- 9.2.1 The relevant plan is the Wexford County Development Plan 2013-2019. The site is in the small settlement of Ballywilliam, which based on the settlement hierarchy under County Development Plan, would be classified in the 'Smaller Villages and Rural Settlements' tier. There is no plan or development boundary for the settlement given its small scale and rural nature. The proposal is for an extension of an authorised operation, which entails the depollution of end of life vehicles (ELVs). Permission was granted for such under ref no. 20110616. This was restricted to storage of 39 ELV's on site. It is noted that the applicant is currently storing up to 200 ELV's on site and that

they wish to increase this to at least 378 to make the business viable. The applicant is proposing to expand the operation and seeks to provide for a dry car storage area in a field to the west of the existing workshop that will provide 334 individual bays for end of life vehicles in addition to 49 within the curtilage of the existing workshop. Given the fact that the proposal is an extension of an existing authorised development, the principle of the proposal is acceptable. I would note that such is however contingent on the proposal having a satisfactory impact in regards to its environmental impact, impact on adjoining amenities, visual amenities of the area and traffic impact. Such aspects are to be explored in the following sections of this report.

9.3 Adjoining amenity/visual amenity:

9.3.1 As noted in the previous section the proposal entails the extension of an existing authorised use at this location. The site of the extended area is currently in agricultural use. In regards to adjoining development the nearest dwellings are located to the north of the site, on the opposite side of the public road. Also to the north of the site, there is existing industrial development in the form of the Glanbia co-op. There is a degree of separation between the remainder of the settlement and the site due to a river running along the southern edge of the site with a number of existing dwellings located to the south of this. I would consider that subject to the appropriate conditions such as noise emission limits in accordance with EPA standard, the operation of the proposed development would be unlikely to be detrimental to the amenities of adjoining properties.

9.3.2 In relation to visual amenity, the site is located in a small rural settlement. The proposal consists of the change of use of an existing field to a storage area for dry storage of end of life vehicles with a sizeable area of the site to be surfaced with hardcore material and used to store up to 334. It was notable at the time of the site visit that there were several vehicles stored within the existing curtilage including the stacking of vehicles. The current proposal seeks to increase the capacity of vehicles to be dealt with a separate storage bay for each vehicle. Although such would eliminate the need to stack vehicles, I would have concerns regarding the scale of development in the context of its rural setting. The storage area is of a large scale and would without question have a disproportionate and obtrusive impact on the visual amenities of what is essentially a rural area despite its location within a small settlement. The site is also elevated in relation to lands to south of the river and is likely to have hugely significant and adverse visual impact at this location.

9.4 Appropriate Assessment:

9.4.1 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the

(European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public". The Board as a competent authority is "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment.

9.4.2 In terms of screening there are two Natura 2000 sites within 15km of the appeal site.

River Barrow and River Nore SAC (site code 002162).
Blackstairs Mountains SAC (site code 000770).

The Blackstairs Mountains SAC is remote from the site (located approximately 5km from the site). It is designated an SAC on account of containing Wet and Dry Heath habitats. Given the remote location of the site from such and the fact that site does not drain into the habitat in question (site is lowland area in comparison to the designated SAC), and having regard to the nature and scale of the proposed development and its proximity to the designated Natura 2000 site, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the designated site in question in view of the conservation objectives of said site.

9.4.3 In the case of the River Barrow and River Nore SAC (site code 002162), the designated site is located abutting the western boundary of the site with the designated area coinciding with the Aughnacrew River and intervening lands in some cases and with its eastern limit coinciding with the western boundary of the site. The qualifying interests of the site (attached) include a number of habitats and species including estuaries, mudflats, alluvial forests, freshwater pearl mussel, brook lamprey, river lamprey, Atlantic salmon (full list attached). The nature of the designated SAC is an aquatic environment and the good conservation status of such is dependent on maintaining and protecting water quality. The proposal provides for a larger dry storage area for end of life vehicles (ELV's) associated with a workshop that carries out de-pollution of such vehicles. Given the proximity of the site to the Aughnacrew River as well the fact that the site is within the drainage catchment of such as well as the

intention to discharge stormwater drainage to the existing watercourse, there is the potential for discharge of suspended solids, hydrocarbons and other materials to the watercourse which would reduce water quality and subsequently have a detrimental impact on the conservation status of the habitats and species for which reason the site has been designated as an SAC. Having regard to such I would consider that a Stage 2 Appropriate Assessment is required.

- 9.4.4 It is notable that the Development Applications unit made a submission noting that the proposal has the potential either on its own or in combination with other activities to have a significant adverse impact on the River Barrow and River Nore SAC (Site Code 002162). The submission noted that the "Environmental Report/Risk Assessment" does not constitute a record of screening for Appropriate Assessment in compliance with guidance and as such it does not provide sufficient information to form a conclusion in relation to screening for Appropriate Assessment. The Development Applications Unit recommended that the applicant be requested to submit a screening for Appropriate Assessment and/or a Natura Impact Assessment as further information. The information on file does include an Environmental Report/Risk Assessment, which was referred to by the Development Applications Unit. The documents on file also include a separate Natura Impact Statement report that was not referred to in the Development Application Units submission.
- 9.4.5 The Natura Impact Statement (NIS) uses a radius of 2km from the site to identify all Natura 2000 sites within the zone of influence of the site. It identifies one such site, which is the River Barrow & River Nore SAC (Site Code 002162). The designated site abuts the western boundary of the site and coincides with the Aughnacrew River, which runs along the southern boundary of the site (extent of SAC coincides with the western boundary of the site). The NIS sets out the qualifying interests of the designated site including details of the species and habitats. The report notes consultation carried out with the Development Applications Unit and Inland Fisheries (only response was from Inland Fisheries). The NIS also details site surveys to establish the ecological characteristics of the site itself. The NIS notes that the bulk of the River Barrow and River Nore SAC is made up of lowland rivers and their associated riparian habitats. The NIS notes that one of the greatest risk is to the status of the SAC is deterioration of water quality. It is noted that the nearest upstream monitoring point indicates that water quality is currently assessed as Q4, 'good'. The NIS includes an analysis of the project including details of the operation, which entails de-pollution of end of life vehicles (ELV's). It is noted that waste contaminants are stored in a separate bunded area on site within the existing workshop. The proposal is for a hard surfaced area with an impermeable subsurface connected to open drainage channels,

which will pass to a Class I oil/grit interceptor, attenuation pond, hydrobrake control and subsequently to the Aughnacrew River. The system in this case has been designed to minimise the risk of contamination to the river and the documents submitted also include a risk analysis to the drinking water supply (New Ross). It is noted the construction phase will entail excavation works and measures including a silt fence constructed along the boundary of a 20m buffer zone to be put in place prior to excavation works. It is also noted that there is no requirement for water as part of the operation and no wastewater streams. The NIS includes an analysis of other plans and projects. Under a Section entitled determination of significance, it is noted that the subject site is not within the River Barrow and River Nore SAC or within the zone of influence of any other Natura 2000 site. The proposal will not result in any direct loss of habitat and will not impact on the riparian zone along the river. It is noted there is a hydrogeological link between the site and river with the good water quality status noted as well as the measures to be put in place during construction and operation to prevent a deterioration in water quality. It is concluded that subject to the mitigation measures proposed during construction and operation that significant effects are not likely to arise to the integrity of the River Barrow and River Nore SAC as a result of the proposal.

- 9.4.6 The NIS submitted contains a significant amount of relevant detail in regards to assessing the impact of the proposal in regards to the status of the River Barrow and River Nore SAC. There is no question that there is significant connection between the appeal site and the designated site in regards to drainage characteristics and that this link has the potential to impact upon the the water quality of the SAC and therefore the conservation status of the habitats and species that are the reason for the Natura 2000 designation. I would note the NIS has provided details of measures to be put in place during both the construction and operational phase to prevent the discharge of suspended solids, hydrocarbons or other polluting materials to the Aughnacrew River. Notwithstanding the information submitted I would consider that having regard to the extent and nature of development proposed and its proximity/hydrogeological connection to the Aughnacrew River and subsequently the River Barrow and River Nore SAC, the risk of contamination and reduction of the water quality of the adjoining water course and subsequently the designated SAC is high. I consider it reasonable to conclude on the basis of the information available that the proposed development, individually and in combination with other plans and or projects would adversely affect the integrity of the River Barrow and River Nore SAC.

9.7 Flood risk assessment:

- 9.7.1 The applicant submitted a site specific Flood Risk Assessment (FRA). The assessment identifies fluvial flooding as the only potential type of flooding that may impact on the site (Aughnacrew River). The assessment outlines flood

map data for the area with it noted that parts of the site are within Flood Zone A and B based on the Wexford Draft County Development Plan Strategic Flood Risk Assessment. The FRA includes a section assessing flood risk through prediction of peak flow and hydraulic modelling. Based on modelling a flood zone delineation is produced that indicates that approximately 17.5% of the total site area may be subject to inundation during a 1 in 100 year/1 in 1000 year flood event concerning the Aughnacrew River. The FRA includes a Flood Zone Map delineation with each zone based on the flood risk assessment of the site. It is noted that this is generally in accordance with the OPW PFRA maps but less than identified under the Council's SFRA maps. It is recommended that development does not take place within Flood Zone A and B and is confined to Zone C. The FRA notes the recommendations of the relevant guidelines, 'Planning System and Flood Risk Management Guidelines' (2009) and notes that no development is proposed in the areas identified as Flood Zone A and B.

9.7.2 I would acknowledge that the applicant has submitted a Flood Risk Assessment (FRA) that provides a significant degree of detail including details of flood mapping for the area (OPW, Wexford County Council) and providing a site specific flood map that indicates that no development is proposed in Flood Zone C. The FRA shows that a part of site running along the northern bank of the river is located within flood zone C. It would appear that all of the development is outside of this area apart from the discharge point and hydrobrake. Notwithstanding the conclusions of the FRA, I would consider that the appeal site is a particularly environmentally sensitive location. As noted in the previous section the site has a significant connection to a designated Natura 2000 site. Despite the conclusions of the FRA this area and the site itself is susceptible to flooding. I would consider that having regard to the location of the site in such an area and having regard to the nature and extent of development, which includes a high risk of discharge of polluting materials to the adjoining watercourse, that the location of the proposed development would be wholly inappropriate at this location.

9.8 Water supply:

9.8.1 One of the reasons for refusal relates to concerns that the proposed site is a short distance upstream of the New Ross water intake and it is considered that the risk that this site presents is not compatible with the proper protection of the public water supply. The applicant submitted an Environmental Report/Risk Assessment Report as part of the application that attempted to address such concerns, which have been a reason for refusal for past applications concerning the existing operation at this location. The abstraction for the New Ross water supply is from the Pollmounty River 2km downstream from the site. The report submitted outlines the geology and hydrogeology of the site and adjoining area. It notes that the existing operation is well

maintained and that there have no incidences of pollution events from such. The nature of the proposed development is outlined with it noted that it is proposed for dry storage of decontaminated vehicles with the site to be covered with an impermeable surface. It is noted that a stormwater drainage system is to be implemented. The report also outlines details of surface water and sediment sampling with results indicating that the existing operation is having no adverse impact on the Aughnacrew River. The report outlines source pathway receptor linkages between the operation of the existing and proposed development and the surface water and groundwater receptors, concluding that subject to provisions for an impermeable surface and the stormwater drainage system the risk of pollution is low.

9.8.2 I would reiterate the issues raised in the previous section of this report. The appeal site is a particularly environmentally sensitive location. As noted in the previous section the site has a significant connection to a designated Natura 2000 site, in addition the appeal site and surrounding area have been subject to flooding incidences with part of the site subject to past and future flood risk. I would consider that having regard to the location of the site in such a location and having regard to the nature and extent of development, which includes a high risk of discharge of polluting materials to the adjoining watercourse, that the location of the proposed development would be wholly inappropriate at this location in the context of its location in close proximity to a significant public water supply with potential risk of contamination of such as a result of the proposed development.

9.9 Traffic:

9.9.1 In regards to traffic issues, I would note that the proposal is an extension of an authorised development, albeit the proposal is for a significant intensity in development. Based on the information on file the permitted development has a restriction for storage of 39 end of life vehicles on site. It is proposed to be able to potentially store up to 383 vehicles between the existing curtilage of the workshop and the new storage area proposed. There is little information on file regarding traffic levels currently generated or likely to be generated by the proposal. It would be beneficial to know the extent of and type of traffic generated through the delivery of ELV's to the site. It is notable that the site layout submitted does entail a reorganisation of the curtilage of the existing site with provision of a more defined car parking layout along the eastern elevation of the existing workshop. I would note that alterations to the existing curtilage indicated on the site layout plan are not part of the development description or included within the red line boundary of the site. In regards to vehicular access there is the existing access to the site from the public road running along northern boundary with an internal access to be provided between the existing curtilage of the workshop and the extended storage area. In addition there is to be a new vehicular entrance directly from the

public road into the storage area. I am not satisfied that sufficient information is available to fully assess the proposal in regards to traffic impact and would note that if the Board is minded to grant permission they may wish to seek additional information in this regard. Notwithstanding such there a number of environmental issues that pose a major concern in regards to the appropriateness of the proposed development that render the traffic issue immaterial at this stage.

RECOMMENDATION

I recommend refusal based on the following reasons.

REASONS AND CONSIDERATIONS

1. Having regards to the nature and scale of development proposed, it's location on a site subject to significant flood risk, and also located within the drainage catchment of an adjoining environmentally sensitive watercourse that drains over a short distance into a designated Natura 2000 site (River Barrow and River Nore SAC), as well as being located a short distance upstream of the intake for the New Ross water supply (Pollmounty), the proposed development would pose a significant risk to the water quality of the adjoining watercourse. The proposed development would represent an inappropriate location for the proposed development and would constitute an unacceptable environmental risk and be prejudicial to public health. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature, scale and characteristics of the proposed development, the proximity of the facility to an adjoining watercourse (Aughnacrew River) which forms part of the River Barrow and River Nore SAC (Site code: 002162), the proposal would pose an unacceptable risk of contamination of the adjoining watercourse and subsequently a deterioration of water quality and conservation status in the designated Special Area of Conservation. It is reasonable to conclude on the basis of the information available that proposed development, individually and in combination with other plans and or projects would adversely affect the integrity of the River Barrow and River Nore SAC (Site code: 002162).

3. Having regard to the nature, scale and location of the proposed development on the edge of a small rural settlement, the proposed development would represent an excessive scale of development, would be detrimental to the rural character of the area, and would have a disproportionate and obtrusive impact on the visual amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Colin McBride
10th March 2016