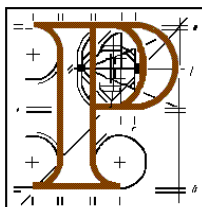


An Bord Pleanála



Inspector's Report

Roadside entrance, removal of outcrops and filling of lands with clean insert soil and stones (EU Waste Class 17 0504) with a view to using lands for agricultural purposes. An application for a waste disposal permit will be sought post planning at Ballycraddock, Kilmeaden, Co. Waterford.

Planning Application

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|------------------------------|---|
| Planning Authority: | Waterford City and County Council |
| Planning Authority Reg. | 15/629 |
| Applicant: | Tony Kirwan Civil Engineering Contractors Ltd |
| Type of Application: | Permission |
| Planning Authority Decision: | Grant Permission with Conditions |

Planning Appeal

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|--------------------------|-----------------------------------|
| Appellant(s): | Residents of Raheen and Kilmeaden |
| Type of Appeal: | 3 rd Party Vs Decision |
| Observers: | No |
| Date of Site Inspection: | 27 th of July 2016 |

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site is 1.96Ha and it located to the south of the R681 within a rural area south of Kilmeaden Co. Waterford. It is located approximately 9km south west of Waterford City. There is a large concrete bell-mouth entrance to the site off the Regional Road. There are two unsurfaced farm tracks from this entrance leading to a wider farmland.
- 1.2 The site slopes to the east and north-east and it is dissected by a small river close to the northern site boundary. The site area is overgrown with ferns and is a wasteland. It rises sharply southwards and has outcrops along the higher southern axis.
- 1.3 It is bounded to the west by an agricultural roadway which leads to a wider grazing area which is punctuated by rock outcrops.

2.0 PROPOSED DEVELOPMENT

- 2.1 According to the revised public notices submitted to the planning authority on the 10th of March 2016 the proposed development consists of:

Permission for a new roadside entrance, removal of rock outcrops and filling of lands with clean inert soil & stones (EU Waste Class 17 05 04) with a view to using lands for agricultural purposes.

3.0 SUBMISSIONS RECIEVED

- 3.1 *Department Arts, Heritage and the Gaeltacht* - Southern boundary to be retained.

- 3.2 Objections from local residents citing:

- Poor sightlines
- Poor road
- Health
- Trucks
- Restrictions for hours of operation and tonnage per year
- Contamination of wells
- Noise, Dust

4.0 TECHNICAL REPORTS

Planning Section:

It is noted form the planning Reports on file there is a shortfall of information regarding the proposed entrance and potential impact on the ground water in the area. Additional Information was requested on a number of occasions. Following the final submission, it was stated that Consultant's Report indicates

only one of the 9 private water supplies in the area is located within the groundwater contribution zone of the site (well9). There are no significant residual impacts expected to local wells, and any groundwater that does leave the site will discharge to surface waters before leaving the site. The site levels and the entrance details are satisfactory. A bond of €10,000 is recommended. A Waste Permitted from the environment Section is required, issues relating to rock breaking, hours of operation will be dealt with under the Permit.

5.0 FURTHER INFORMATION

5.1 The planning authority requested further information on the 16th of December 2015. The following items were requested:

- (i) a site layout with existing and proposed levels at the new entrance, and design to ensure no runoff into stream
- (ii) Demonstrate that there will be no impact on groundwater.

5.2 A response was received on the 13th of January 2016 which was basic information and a more detailed response was required as requested under the clarification of further information issued on the 1st of February 2016.

5.3 On the 2nd of March 2016 a Hydrological / Hydrogeological Assessment was submitted by the applicant and it was prepared by *Hydro Environmental Services*. In addition, more detailed drawings of new access/ roadway were submitted , followed by a new public notice which was received by the planning authority on the 10th of March 2016.

6.0 PLANNING AUTHORITY'S DECISION

Waterford City and County Council granted permission for the proposed development subject to 8No. conditions:

1. Standard Condition that the development shall be carried out in accordance with submitted documents.
2. Mitigation Measures contained in the Hydrology/ Hydrogeology shall be implemented
3. Advanced warning signs
4. Roadside drainage , Entrance, Road widening, and road levels.
5. Waste Permit Licence to be applied for

6. Avoid spread of Non-native species
7. Testing of 9No. wells for colour, turbidity, ammonia, iron, coliforms, ecoli
8. Security Bond of €10,000
9. The southern field boundary shall be retained and no development to occur in the vicinity of the Recorded Monument.

7.0 APPEAL GROUNDS

7.1 The appeal submission has 26No. signatures from residents of Raheen, Kilmeaden. The following are their grounds of appeal:

- The nearest house is less than 100metres from the site and the remainder of the houses to the east are in close proximity. The prevailing winds will carry dust, noise, and it is an inappropriate development in close proximity to dwellings.
- The previous planning application, 15/227 was withdrawn because the council was of the view that greater detail was required in the request for further information.
- The Mitigation Measures outlined in the Hydrology/ hydrogeology Assessment Report should be implemented
- It will constitute an unacceptable traffic hazard
- Although the Waste Permit application may deal with such matters as days and hours of operation, number of trucks per days etc. the Board is asked to impose conditions or appropriate restrictions on such issues as the development is going to be disruptive.
- An EIA is required.
- The sum of €10,000 is totally inadequate for cover any material degradation of the water quality in the area.

8.0 RESPONSES

8.1 *Planning Authority*

- Having regard to the proximity of private boreholes, and the potential impact on surface and ground water, a Hydrology/ Hydrogeology Assessment was prepared. Mitigation Measures were prepared by an

export in the area and a condition has been attached regarding the testing of wells.

- The applicant shall apply for a Waste Permit from the Environment Section
- The proposal will not give rise to a traffic hazard, having regard to the scale of the development and the number of weekly traffic movements.
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9.0 SUBMISSIONS

9.1 *Department of Arts, Heritage and the Gaeltacht.*

The site is located north west of two Recorded Monuments identified as WA016-54 enclosure and WA016-055 enclosure which are subject to statutory protection . Landfill Area 2 is 20metres of the RM and 53m north-west of other recorded monument.

The National Monuments Service states the proposed landfill works are located an adequate distance from the recorded Monuments and should not cause disturbance.

The southern field boundary must be retained to ensure the protection of the National Monument.

10.0 PLANNING HISTORY

10.1 15/227

A planning application for a similar development by the same applicant was withdrawn following a request for further information to the east of the existing entrance was proposed, however this could not be considered part of the existing application at the time as a new application was required.

11.0 PLANNING POLICY

The site is zoned A – Agriculture in the Waterford County Development Plan 2011-2017.

There are no designated Natura 2000 sites within 1Km of the site.

There are a number of National Monuments in the vicinity of the site.

12.0 ASSESSMENT

12.1 The subject site is 1.96Ha of agricultural wasteland with the main vegetation on the site is ferns and scrub. The proposed development involves excavating approximately 250sq.m. of bedrock and importing 6,150cubic metres of inert soil and stone (EU Waste Class 17 05 04) . According to Article 2 of the Landfill Directive this type of waste is defined as follows:

'Inert Waste – means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact with in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of the surface water and/ or groundwater. '

The subject site is an unused piece of land within an agricultural landholding with outcrops along the southern sharp incline, and a watercourse along the northern axis of the site. The proposed depth of the imported infill over the site will be approximately 1 metre.

12.2 There is a new site entrance proposed off the Regional Road (R681), as the sightlines to the east are severely restricted at the existing site entrance. The entrance will have a concrete surface similar to the existing entrance. The planning authority, following a protracted additional information process regarding the proposed entrance, site levels and a hydrological/ hydrogeological report, granted the development subject to 9No. conditions, including a bond of €10,000 to be made payable to the local authority to ameliorate any deterioration in water quantity or quality in the area. There are no subsurface works proposed, the proposed development proposes filling with subsoil to a level of 1metre maximum over the existing ground level. The areas of existing rock outcropping will also be removed in advance of the landfill works.

12.3 A number of residents in the area have taken this third party appeal against the planning authority's decision to grant permission for the proposed development. Their concerns are that there is a house within 100metres of the site and a number of other dwellings in close proximity, and the prevailing winds will carry noise and dust, the mitigation measures contained in the Hydrology/ Hydrogeology Assessment Report should be implemented, the proposal is a traffic hazard, there are no restriction regarding the number of trucks and hours of operation, and the development should be the subject of an EIA. The third party appellants also considered the bond for €10,000 was insufficient to any material degradation of the water supply.

12.4 There is linear development to the north east of the subject site. However there is a dense buffer of vegetation between the dwellings and the subject site. In landfill terms, the development is small scale and inoffensive by nature of the material to be imported onto the site. I note the planning authority did not impose a time limit on the permission. In my opinion, this is not acceptable as

the reinstatement of the site and its use for agricultural purposes could take many years and it would be unsightly. In addition, the amenities of the proximate residents must be taken into consideration, and a reasonable time frame be imposed on the applicant should the Board decide to permit it. Under the planning authority's decision to grant, the applicant can be given an indefinite time to complete the development. I consider five years to be a reasonable time frame to commence and complete the development.

12.5 In terms of the potential impact on surface and groundwater, the general area is highly sensitive. The groundwater path is shallow, and there are streams to the north and east of the subject site. The primary concern is the underlying bedrock aquifer, local wells and local surface waters. With the bedrock protruding from the ground and a very shallow ground cover, the groundwater is classified as extremely vulnerable at this location. The local groundwater movements are highly influenced by the stream which flows along the northern axis of the site via a spring located in a field to the north of the site. The accompanying report states the proposed development involves a relatively shallow excavation and infilling over a small area of ground, therefore the impacts on groundwater will be qualitative and not quantitative. The material is inert and there is a low risk of contaminants to water supplies. The proposed site is not located in the groundwater contribution zone to the wells at the north/ northeast of the site, and there is no potential to impact on the existing wells from the proposed development.

12.6 The accompanying report recommends a number of mitigation measures:

- The excavation and infilling works should be undertaken over the summer period when there is less prolonged heavy rainfall.
- Silt fencing should be embedded into the northern and eastern site boundaries to prevent silt flowing into the stream
- If high levels of silt are noted in the surface water run off entering the stream, runoff will be collected in a temporary sump and pumped to a proposed percolation area on flat, low lying ground to the east of the site within the applicant's landholding.
- The entire percolation area shall be enclosed by a perimeter of double silt fencing
- No surface water run-off will be allowed to flow into any watercourse without passing through either a silt or silt bag
- The entire infill area will be seeded for the establishment of grassland at the soonest opportunity to avoid erosion.

I believe these mitigation measures should be included in the conditions should the Board decide to permit this development.

12.7 The relocation of the proposed entrance east of the existing entrance will provide greater sightlines and improved safety. The existing entrance has

severely restricted sightlines to the east. The proposed recessed entrance and proposed levels are acceptable in traffic safety terms and the road serving the locality is a Regional Road, which has a carrying capacity capable of associated traffic without a material impact on the road. I note in particular drawing No. 104 submitted by way of further information on the 2nd of March 2016. The relocation of the entrance onto the acute bend ensures approaching traffic will be slowing down and aware of any vehicles turning into the site. If the existing access were to be used oncoming traffic approaching from the east would not see a truck or machinery turning into the site.

- 12.8 The third party appeal claims the application should be the subject of an EIA process and during the course of the planning application it was claimed the applicant had received more than 25,000 tonnes of waste onto adjoining lands. I do not know which lands the appellants are referring to as this claim is unsubstantiated with any technical details or maps. EIA requirements derive from EU Directive 85/337/EEC (as amended by Directive 97/11/EC) on the effects of certain projects have on the environment. The primary objective of the EIA Directive is to ensure that projects which are likely to have significant effects on the environment are subject to an assessment of their likely impacts. Ireland has set mandatory thresholds for each of the projects classes in Annex II. The need for sub-threshold EIA is limited. The general area has no conservation sensitivity or designation, it is not a SAC, SPA or NHA, and it is not a designated area of high amenity. The receiving environment is a small area of rural wasteland with outcrops and it is intended to utilise the 1.96Ha site area as agricultural land when the area is filled with inert material and stone. Given the nature and scale of the proposed development, the content of the appeal file, I consider the proposed development is unlikely to cause significant environmental effects to warrant an Environmental Impact Assessment of this particular case because of the overall limited scale of development and nature of the receiving environment, and it will not result in significant changes to the environmental conditions.
- 12.9 Appropriate assessment (AA) considers whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. The requirements for AA stems directly from Articles 6 (3) and 6 (4) of the Habitats Directive 92/43/EEC. Having regard to the nature and scale of the proposed development sought together with its separation from any designated European site I would not consider that an NIS or Appropriate Assessment is necessary in this case.
- 12.10 The proposed development is a temporary permission. The proposal, in the longterm, will benefit the area in terms of agricultural productivity.

- 12.11 In accordance with the recommendations of *Department of Arts, Heritage and the Gaeltacht* the southern site boundary hedgerow shall be retained.

13.0 RECOMMENDATION

I recommend the permission be granted for five years only in accordance with the above assessment.

REASONS AND CONSIDERATIONS

Having regard to the existing condition of the site and the proposal to remediate the site and restore it to beneficial agricultural use, it is considered that the proposed temporary use for the importation of soil and stone to fill the ground subject to compliance with the conditions set out below, be in accordance with Waterford City and County Development Plan, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would, and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the planning authority as amended by the further plans and particulars received by the planning authority on the 6th of November 2015, 12th of December 2015, 13th of January 2016 and the 2nd of March 2016, except as may otherwise be required in order to comply with the following conditions. In particular the development shall be carried out, completed and maintained in accordance with mitigation measures set out in the Hydrological/ Hydrogeological Assessment Report lodged with the planning authority on the 2nd of March 2016 and subsequent documentation received from the applicant except where altered by conditions of this permission.

Reason: In the interest of clarifying the terms of this permission.

2. The development shall be carried out and completed within five years (5) of the date of this permission. Prior to commencement of any development the applicant shall submit for the written agreement of the Planning Authority a revised phasing plan and restoration sequence for the proposed development in accordance with this revised timeframe of five years.

Reason: In the interests of the proper planning and sustainable development of the area and adequate development management.

3. No materials shall be deposited on this site except those classified in the European Waste Catalogue (2002 edition) code 17 05 04 soil and stones other than those mentioned in 17 05 03.

Reason: In the interest of clarifying the terms of this permission.

4. The hours of operation, shall be limited to 08.00 -17.00 Monday to Friday and 08.00 -13.00 Saturday.

Reason: In the interest of residential amenity.

5. (a) Prior to the commencement of the development a system of advanced warning signs shall be erected along the regional road as agreed with the planning authority prior to the commencement of development.
- (b) A wheelwash facility shall be installed at the exit of the site. The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

6. Prior to the commencement of the development the applicant shall agree in writing with the planning authority details of the culverting of the proposed entrance, roadside drainage proposals, gradients of the proposed entrance and access road, sightlines, wing walls, roadside boundary setback and fencing.

Reason: In the interest of traffic safety.

7. Prior to the commencement of the development the applicant shall submitted to and agree in writing arrangements to test the nine wells identified in the Hydrological/ Hydrogeological Assessment Report to provide baseline water quality and quantity conditions. The tests shall be carried out annually following the commencement of the development.

Reason: In the interests of public health.

8. The southern field boundary ditch shall be retained and maintained throughout the entire development to ensure the preservation and protection of the Recorded Monuments located in the general vicinity of the site.

Reason: In the interests of the proper planning and sustainable development of the area and adequate development management.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance of the land restoration/aftercare plan for this site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of the land restoration/aftercare plan. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

Note: Prior to the commencement of the development the applicant shall apply to the local authority for a Waste Permit.

Caryn Coogan

Planning Inspector

03/08/2016