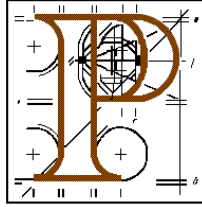


An Bord Pleanála



Inspector's Report

Appeal Ref. No:	PL18.246558
Proposed Development:	Extension to side of storage shed and construction of storage shed for storing de-polluted used vehicle parts. Removal of condition 12 of ABP decision on PL18.242814 and realignment of parking.
Location:	Sra, Ballybay, Co. Monaghan
Applicant:	Sragh Dismantlers Limited
PA Reg. Ref:	15/303
Planning Authority:	Monaghan County Council
P.A. Decision:	Grant
Appeal Type:	Third
Appellants:	Kaspers & Margaret Zusters
Date of Site Inspection:	29 July 2016
Inspector:	Una Crosse

1. SITE AND SURROUNDINGS

The appeal site is located c.3 km to the south east of Ballybay in a rural area known as Sra. The site is located in close proximity to a junction between the R180 and the L71001 with existing access to the lands currently available from both roads. The site is located within an undulating landscape of drumlins and there is a significant fall from the site towards the north and the R180. The stated area of the site is 1.68 hectares and the site spans both sides of the L71001 local road. The applicant also owns additional lands to the north, north east and east of that part of the site that lies to the north of the L71001. Lands to the south of the local road are also within the applicant's ownership including a dwelling and cluster of outbuildings. There are a number of dwellings within the vicinity of the site. Most dwellings, in the vicinity, are located on the southern side of the local road however the property that is in the ownership of the appellants is located on the northern side of the local road and to the east of the site. There is a recently constructed poultry facility located to the west of the site.

The appeal site is currently laid out as an end of vehicle car dismantling and recycling facility and the existing ELV facility is located on the northern side of the local road with an office/trade counter located on the road edge open to the public. The boundary is fenced with parking taking place along the local road adjacent to this boundary fence. The area of the site to the north of the road is accessed via the local road and contains a shed building in the form of an agricultural type structure with a main shed to the centre and smaller scale lean to elements on either side. The main part of the shed houses a parts storage area and an area containing bays for the depolluting of vehicles. The existing buildings have a stated area of 520sq.m. The area to the front of the vehicle de polluting bay is a hard surfaced concrete slab with the balance of the area comprising compacted hardcore. There is a new access road through the site from the north west exiting at a new entrance onto the R180. This access was locked. The car dismantling use is subject to Waste Facility Permit WST/MM/10/006/01.

2. PROPOSED DEVELOPMENT

2.1 As Submitted

The proposed sheds have a total area of 667m². The proposed extension to the existing storage shed has an area of 369 sq.m with an overall height of 8.4 metres. The proposed new storage shed has a proposed height of 7.9metres and has a pitched roof structure with an area of 298 sq.m. The customer car parking area is stated to have an area of 370m² and existing structures on the site measuring 1073m² with the remaining area for storage of cars, 2,926 sq.m. The report notes that the proposal is required to enable the permitted use of the site to operate in a commercially viable manner. It is stated that due to the site restrictions and work restriction practices placed upon the business by the An Bord Pleanála decision that new efficiencies are required with the 2 proposed sheds necessary to facilitate same. Condition 12 restricts the stacking of cars. The proposal for same was put forward by the applicant on the understanding that it would apply to the entire site and not the much reduced site area approved. The Boards decision to grant permission for a reduced site area, the financial implications of conditions 3, 5, 9, 13 & 14 and

the imposition of Condition No. 12, it is stated, constrain and make the business unviable.

It is stated that given the need to access stacked cars by forklift that the calculated unstacked capacity of the site is c.100 cars less than one-third the capacity required. A letter from the applicant's accountant is attached. Stacking, it is stated, must be catered for within the site to enable the business operate viably. It is explained that carcasses can be stacked to a height of 3-4 with depolluted cars stacked at 2 units. This would allow the site to increase its accommodation without any significant impact. The proposed sheds will screen the site with stacking not creating a significant visual impact. It is stated that there are three types of ELV (End of Life Vehicle). The non-depolluted cars are held on a concreted portion of the site (751 sq.m) awaiting depollution; the rest of the site is hardcored with an area of 2,926 sq.m with the potential to accommodate 100 cars and carcasses. The storage sheds proposed are stated to have limited capacity with the hardcore area required to be available to accommodate spillover.

2.2 Revisions in Response to Further Information

In response to a request for further information a number of amendments were made which include: the addition of 9 car parking spaces on lands to the south of the local road for staff. The extension to the existing storage shed on site is reduced by 107 sq.m with the area of the proposed extension now 262 sq.m. The reduction is proposed to facilitate additional parking within the site with 22 no. parking spaces proposed within the site boundary adjacent to the extension to the storage shed and on the opposite side of the local road. A justification for the stacking of cars was also enclosed.

3. PLANNING HISTORY

Ref. 13/154 - PL18.242814 – Permission granted on appeal for permission and permission for retention of a treatment facility for end of life vehicle recovery, recovery of vehicles and storage of scrap metals and a trade counter for the sale of second hand vehicle parts, new HGV entrance/exit from the R180 and closure of gates along the L71001 currently facilitating HGV's, car parking spaces and a wastewater treatment plant. The Order notes that in deciding not to accept the Inspectors recommendation to refuse permission that regard was had to the planning history of the site and notwithstanding non-compliance with development plan policy it was considered that it would be unreasonable to refuse permission for a development reduced in scale so that it would be broadly in keeping with the scale of the original development.

- Condition No. 2 required that the entire northern portion of the site (existing Yard No. 2) should be omitted from the proposal, the reason for which being to limit the scale of the proposed development.
- Condition No. 12 states that there shall be no stacking of cars within the site.

Ref. 12/107; ABP Ref. PL18.241200 – permission granted by the Planning Authority and refused on appeal for a development described as the retention and upgrade of vehicle end of life facilities requiring integrated pollution

prevention operated under a waste permit . Permission was refused by the Board for three reasons that can be summarised as follows,

- 1) that the significant additional traffic flows at the R180 / L71001 junction would endanger public safety,
- 2) that the Board was not satisfied that there would not be a serious injurious impact on residential amenities and
- 3) that the applicant had not demonstrated that the proposed treatment system would be consistent with the maintenance of water quality at the nearest residence to the north east.

Ref. 11/189 - withdrawn to retain and upgrade vehicle end of life facilities requiring integrated pollution prevention operated under a waste permit was withdrawn on 29th February 2012, following the receipt of further information and the issuing of a draft refusal. The reasons cited for this refusal pertained to noise and foul drainage arrangements.

Ref. 98/71: Description: "open a car dismantling business". Permission was granted on 24th August 1998, subject to 10 conditions, the second of which states: *Use of the site as a car dismantling yard to be discontinued prior to 1st August 2000 unless prior to that date a permission for its continuance for a further period has been granted by the planning authority or by An Bord Pleanála on appeal.*

Reason: To allow the planning authority to assess the impact of this development on the environment of the area in order to ensure a satisfactory standard of development.

Enforcement - The applicant has been issued with warning and enforcement notices in respect of the development on the site.

Waste Permit – WFP-MN-10-0006-01

Neighbour/Appellant

Ref.15/160 - PL18.246181 permission granted on appeal to the Board for the retention of shed, front entrance wall, piers, gates and all associated development works.

4. PLANNING POLICY FRAMEWORK

4.1 COUNTY PLANNING POLICY

The relevant plan in operation is the Monaghan County Development Plan 2013- 2019. The most significant policies in the context of the proposed development are considered to be as follows: Section 15.17 and policies INP2, INP3, INP4, INP5 of the County Development Plan which relate to industrial development.

Policy INP 2 states that industrial development should generally be located in or adjacent to settlements.

Policy INP3 Permission shall normally be granted for new industrial uses or the expansion of existing industrial uses within settlements where the development complies with the following criteria:-

- It is of a high specification and is compatible with the character of the surrounding area and adjacent land uses, especially housing.
- It provides adequate access, car parking and manoeuvring areas.
- It respects the scale and nature of activity in the locality.
- It will not harm the character or setting of the settlement, or the amenity of local residents.
- Provision is made, where appropriate, for external storage which is adequately screened from the public road/domain and adjoining residential properties.
- The proposal must deal satisfactorily with all emissions, including effluent, noise, odour, light, etc.

Policy INP4 sets out criteria whereby permission for small scale indigenous industrial development will be permitted in rural areas. In addition to meeting the criteria in INP3 it must also ensure: good design blending into the landscape; not generate inappropriate traffic; not harm character or appearance of the countryside;

Policy INP5 provides that the Council will facilitate the expansion and development of existing rural based industrial and manufacturing businesses subject to the criteria set out in Policy INP3 in Chapter 15 of the Monaghan County Development Plan 2013-2019. Such development should not unduly impact on the residential amenity of existing properties.

The **North East Region Waste Management Plan 2005 – 2010** expired on 31st December 2012 and its replacement has yet to be published. This Plan addressed the subject of End of Life Vehicles (ELVs) and set out a series of undertakings on the part of local authorities within the region with respect to the same.

5. PLANNING AUTHORITY DECISION

The Planning Authority decided to grant permission subject to 6 conditions which include the following:

No. 3 – Stacking of vehicles or stored parts in external yard areas shall not exceed a height of five metres above existing ground levels, unless consent is otherwise granted by the Planning Authority or An Bord Pleanála.

No. 4(a) – visibility splays of 50 metres provided in each direction.

No. 5(a) – provision of kerbing along the roadside boundaries of the car parking areas to ensure entry/exit from the car park areas is solely via the entrance point approved;

No. 5(b) car parking spaces proposed to be provided prior to any use of the development approved;

Planners Report

The Planners Report outlines the points raised in the submissions and the planning history. It is stated in the assessment that stacking of cars is taking place within the site with car parking provisions conditioned and works related to same outstanding. Noted that a new entrance point to serve HGV access was created and was being completed. It is stated that Section 15.17 and policies INP1, INP4, INP5, IND7, INP8, INP9, INP10 of the County

Development Plan are relevant. It is stated that given that the development is an authorised commercial development it is not considered necessary for justification to be submitted pursuant to the policy test in INP4 with assessment based on works associated with an established and authorised facility. It is considered that policy INP 5 applies in that regard subject to the criteria set out in policy INP3.

The report then undertakes a test of the policy criteria which notes that given the site context the proposed works would not adversely affect the visual amenity of the area and further information is considered necessary in respect of car parking spaces. No issues arise in terms of design and the layout provides that the external yard area will be screened from public views. It is stated in respect of emissions that the use is in keeping with the existing activities on site and will not result in any emissions not already being created on site with no matters of concern arising. In respect of policy INP9 it is stated that no issues arise given site boundaries and associated separation distances from third party dwellings are not being altered. In relation to the removal of Condition No. 12 it is noted that the proposed sheds will screen public views from the local road, the northern portion of the site no longer in use with views not impacted from the R180 to the north, views confined to the actual road frontage, existing boundaries matured to c.3-6metres providing adequate screening from stacked vehicles. It is considered that a restriction should be imposed such that the stacking of vehicles does not exceed 4.5metres ensuring stacking does not result in visual intrusion, ground levels in the yard where stacking proposed lower than road level, boundary planting improved. It is considered that the site area proposed for storing of vehicles can be utilised to stack a maximum of 3 vehicles (c.4.5m) with additional landscaping considered necessary.

In terms of residential amenity it is stated that the site area is not being enlarged, the building works are not considered to be of a scale which would adversely affect amenity, the site area as exists used to store vehicles shells and related parts with the proposed sheds moving same indoors, and the provision of a revised parking area would not impact on amenity. Further information is required in respect of turning radius for HGV's. No issues arise in respect of effluent treatment. Access details in respect of Condition 5h of the previous permission and the layout are outlined. In terms of appropriate assessment the site is not located within 15km of any Natura 2000 site neither is an EIS required given the scale of the proposal.

Internal Consultations

Roads – applicant not proposing any alteration to existing access points and therefore no objection.

Environmental Report – no objection subject to conditions;

Water Services – notes that the average daily recorded use is 0.16m³. Proposal will not impact on any existing Irish Water assets and no required for water services to complete an observation. Conditions proposed;

Environmental Health Officer – No objection subject to compliance with all previous planning conditions granted in relation to the development;

External Consultations

No external consultees

Third Party Submissions

A number of submissions were received including one from the staff of the facility supporting the proposal and an objection, the issues within which, are summarised in the grounds of appeal below.

Further Information Request

A request for further information issued on 6th October 2015 and included the following:

- Car parking of 24 no spaces required as per Table 15.2 of Monaghan County Development Plan 2013-2019 – details/revised site layout required demonstrating how the car parking required is to be provided within the site area in conjunction with provision of related turning areas for such vehicles clear of the public road.
- As previously approved car parking layout details have not been implemented as per the requirements of Condition 5(c) of PL18.242814, in interest of orderly development and traffic safety applicant requested to demonstrate how car parking provision is provided at present;
- Revised site layout with provision of a turning radius for HGV movements within the site area and demonstrate how access to the site area is to be provided;
- Justification required for the stacking of cars in the context of reasoning provided by ABP in its report. This may include comprehensive site landscaping plan for the site with screening.

Planners Report following Further Information Submission

The details of the response are summarised. It is noted that the parking proposed in the revised layout meets the requirements subject to the delineation of spaces and provision of kerbing and is considered a planning gain. Details in respect of sight distances of 50mx3m are considered satisfactory. HGV turning radii within the site are detailed. Additional landscaping to two boundaries considered appropriate. It is noted that the submission was deemed to be significant and the development was re-advertised. The concerns raised by the third party are outlined and addressed and refers to separate enforcement proceedings related to the unauthorised stacking of cars and parking of lorry trailers with the fence referred to exempt development under Class 4 of Part 3 of the Exempted Development Provisions. In conclusion it is stated that the extension and new shed are acceptable and third parties not impacted as boundaries not impacted. It states that car parking has been addressed and the removal of condition 12 is appropriate subject to a restriction to 5 metres.

Third Party Submissions following Further Information Submission

A further submission was received from the appellants with the issues raised outlined in the grounds of appeal below.

6. APPLICANT'S GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- Live immediately to the southeast of appeal site and while discommoded are most concerned about failure of applicants to comply with ABP conditions and attempt to roll back on the conditions of the permission;
- Conditions imposed by the Board were included to protect the amenities of the area from a 'bad neighbour' in land use and Development Plan terms;
- Proposed access to the R180 not constructed as approved with the access at a location where there is poor visibility and road is liable to flooding and unsuitable for an access;
- Previously approved parking layout not been implemented with the requirements of the condition not met;
- Condition 5 relating to new entrance onto R180; Condition No. 2 omitting northern portion of the site; and Condition No. 3 waste water treatment system; Condition No. 6 and No. 7 relating to closure of existing entrances; Condition No. 9 – hours of operation; Condition No. 12 stacking of cars not complied with;
- Justification sought by PA for stacking of cars was financial and wrongly accepted by the PA allowing cars be stacked up to 5m;
- Boards justification for overruling inspector in previous decision was due to reduced scale of development which would be broadly in keeping with the scale of the original development;
- Applicants financial advisors claim that viability of the business threatened by the Board decision and should be allowed to grow;
- Suitable sites available for the growth of the development in serviced urban industrial sites;
- The Boards decision clearly states that the scale of the development is limited by condition;
- Issuing a grant of permission with conditions requiring compliance submissions not appropriate given planning history of the site;
- Location of stream adjacent the R180 requires it should be culverted with adjacent sloping site exacerbating flooding;
- Unacceptable that 3 existing/previous enforcement notices have not been enforced by the Council;
- Major element of the development is a car parts sales facility which should have been discontinued following previous decision of the Board;
- Sequential test justifying location requested by the PA was not complied with and report submitted did not address non-compliance with development plan policies;
- Proposal does not comply with Policies INP4, INP2, INP3 or INP5 and should be refused;
- Intensification of development would dramatically increase activity on site;
- Waste permit specifies maximum number of ELV's (end of life vehicles) to be accepted on an annual basis.
- Measures required to facilitate the visual improvement of the development were not undertaken;
- Rodent management and implementation plan is inadequate;
- Forklift operations regularly in extended part of the site;
- Current application did not include a noise report with proposal intensifying the existing use with noise mitigating measures proposed in previous application not undertaken;

- Impact of the proposal on the environment not properly assessed in current application;
- Field to southwest of appellant discharges water into appellants property during heavy rainfall;
- Proposed new access onto the R180 would not result in improved traffic safety with a requirement for a road and traffic safety audit;
- Existing access onto the R180 not being used and padlocked;
- Not clear where effluent from oil and petrol interceptors are stored;
- Out of hours trading including retail sales continues daily including bank holidays;
- Concern that parts are being stored outside on gravel with water running directly onto their property;
- Large shipping containers and articulated lorry trailers used for storing spare parts which are part of the retail activity rather than recycled;

7. RESPONSES

7.1 PLANNING AUTHORITY RESPONSE

No response has been received.

7.2 Applicants Response to Third Party Appeal

The applicants response to the grounds of appeal are summarised as follows:

- Reference is made to the Boards previous decision which they state reduced the size of the site area, required a new wastewater treatment system and new entrance at significant expense and removed the stacking of cars;
- Whilst works undertaken to comply with Boards decision realisation that permitted site area without stacking is not viable commercially;
- Clearing lower yards for which permission refused required additional storage with Condition 12 a significant obstacle to viability and required to be removed;
- With no storage on site the business cannot improve working methods and without stacking storage limited to 100 vehicles limiting amount of vehicles which can be accepted with many vehicles required to be refused;
- Site and storage constraints on site with limited ability to store parts and vehicles;
- Suggestion in previous appeal to remove stacking to mitigate visual impact was based on use of the entire site which now is much reduced;
- Reference is made to the requirement for a condition to be necessary;
- Stated that reason for imposition of Condition 12 overcome by current proposal as proposed sheds will effectively screen majority of the site from the public roads and appellants property screened by high hedging;
- Any requirement for additional screening could be conditioned;
- Entrance onto R180 completed in accordance with revised design agreed with Monaghan County Council with no works proposed to the entrance;
- No evidence provided to support claim that location of entrance an accident black spot;
- Issues relating to visibility and flooding at the entrance relate to previous application;

- Issues relating to compliance not considered significant as only 6 conditions included and not considered to warrant a public forum;
- Development proposed has no impact on the stream;
- Matters relating to enforcement outside remit of the Board and concern Monaghan County Council with business still dealing with fallout from the previous permission which has imposed serious restrictions on the site and operation;
- Matter relating to car part sales has been addressed in previous permission and not relevant to current application;
- First point in further information request related to car parking with no reference to the rural location of the site with the matter addressed in previous application;
- The question of compliance with INP4 and the location of the site in a rural area have been addressed in the previous application;
- Matter relating to the rodent management plan considered in previous application;
- No business being operated in the part of the site omitted from the permission previously granted by the Board with the only works in this area those related to the removal of all vehicles from the area;
- Noise emissions will be improved with further buffers created by the proposed shed and extension;
- Impact of proposal on the environment assessed as part of waste permit which facilitate 300 vehicles per year at the facility with the previous application including reports detailing the impact of the proposal;
- Matters relating to the drainage in the field to the southwest of the appellants detailed in the previous application with no works related to the proposal occurring in this field;

8. ASSESSMENT

This assessment will consider the following;

- Principle of Proposal and Compliance with Policy
- Compliance and Enforcement Issues
- Stacking of Cars
- Other Matters
- Appropriate Assessment

8.1 Principle of Proposal and Compliance with Policy

I note the concerns raised by the appellant in respect of the compliance of the proposal with policy considerations in the current County Development Plan. The relevant policies are outlined in the appeal document and specific reference is made to policies INP2, INP4 and INP5 which the appellants consider the proposal contravenes. I also note the extensive consideration given to policy in the previous Inspectors Report. I would also refer the Board to the planning history of the site which extends back to Ref. No. 98/71 where permission was granted for a car dismantling business for a limited period of time, that being, 1st August 2000 whereupon the use would cease unless prior to that date a permission for its continuance for a further period had been granted by the planning authority or by An Bord Pleanála on appeal. This permission related to what is referred to as the southern portion of the site. It

is noted that the current permission on the site PL18.242814 conditioned that the extent of the site is limited to this southern area. Therefore the principle of the proposed development has been established on the site in question and in this regard I do not consider that it is reasonable to revisit the principle of the proposal on the site. I would therefore propose to examine policy as it relates to the intensification/extension of the use on the permitted site. In my opinion policies INP2 and INP4 relate to the creation of a new use on a site and are not relevant to the consideration of the intensification/extension of an existing use.

I would suggest that Policy INP5 is relevant as it makes provision for the facilitation of the expansion and development of existing rural based industrial and manufacturing businesses. Policy INP5, in my opinion, seeks to provide for the expansion of authorised activities. While I address the issue of compliance with conditions and enforcement below, I consider that it is the principle of the permission pertaining on the site that is of relevance in this case and such a permission exists. In addition, it is noted that permission for such expansions is subject to compliance with the criteria set out in Policy INP3. Policy INP3 sets out criteria where industrial development or expansion of same within settlements would normally be granted. The 6 criteria include being compatible with the character of the surrounding area; adequate access, parking etc; respects scale and nature of activity in the locality; will not harm character or setting of the settlement or amenity of local residents; provision for external storage adequately screened; deal satisfactorily with emissions such as light, noise, effluent and odour.

Therefore, the applicant is required to demonstrate, in my opinion, that they meet the criteria outlined in INP3 which I will address in turn.

The first criteria or test requires that the development is of a high specification and is compatible with the character of the surrounding area and adjacent land uses, especially housing. I consider that the proposed sheds are acceptable within the context of the existing site, comprising an extension to an existing structure and a new structure located adjoining the site boundary to the southwest. The second test requires that the development provides adequate access, car parking and manoeuvring areas. I consider that the matters of access were addressed in the previous permission. In respect of car parking, the revisions made at further information provide parking in an area of land owned by the applicant across the local road within an area of ground not currently used. I consider this is acceptable. Manoeuvres within the site by large vehicles such as HGV's has been outlined in the revised site layout and is appropriate. Thirdly, it is required that the proposal respects the scale and nature of activity in the locality. The proposed development has an existing permission which allows the use operate within a defined site area. The proposal seeks to increase the buildings within the defined site area and will, it is suggested, screen the site from public view. I consider that the elements proposed in the current permission including stacking of cars, which I address separately below, is acceptable within the context of the permitted development and permitted site.

The fourth criteria provides that it will not harm the character or setting of the settlement, or the amenity of local residents. I consider that the permitted site area is sufficiently separate from the appellant's property such that there would not be any adverse impacts. The appellant's property is separated from the permitted site area by a field with the nearest points of the two sites 55 metres. I would note that the screening along the appeal site prevents any views of the development other than the top of the existing shed which is visible but not detrimentally so. Such structures are common within an agricultural setting to facilitate farming activities and therefore I do not consider that the rural setting is adversely impacted by the proposal. The fifth test requires that provision is made, where appropriate, for external storage which is adequately screened from the public road/domain and adjoining residential properties. I consider that the proposal herein seeks to screen areas of external storage and the appellant's property is well screened from the proposed site by way of the screening on the applicant's boundary.

Finally, the proposal must deal satisfactorily with all emissions, including effluent, noise, odour, light, etc. I note that the appellant's reference to the absence of a noise study, with the proposal intensifying the existing use and noise mitigating measures proposed in previous application not undertaken. I would note that, while the proposal did not include a noise report as quite rightly pointed out by the appellants, the proposal seeks to provide buildings on the site within which to accommodate much of the work undertaken currently outside. In this regard the buildings will naturally attenuate noise from the development. In addition given the site area comprises the southern area of the site the distance to the appellants boundary provides sufficient separation distance, in my opinion to provide that there would not be an adverse impact from noise.

While I can appreciate that the appellants feel that the previous Board decision clearly states that the scale of the development is limited by condition, I would contend that the condition limits the site area rather than the scale of development permissible within that site area. Additional development requiring permission, such as that subject of this appeal, requires an assessment to determine appropriateness and this is what is before the Board. While the applicant cites financial issues and the viability of the development as justification for the proposal, the Board are required to consider the proper planning and sustainable development of the area.

Reference is made to the requirement of a sequential test justifying location requested by the PA which it is claimed was not complied with and the report submitted did not address non-compliance with development plan policies. I would note that no such sequential test or justification for location was requested and as I note above, the principle of the development has been permitted by the board and therefore the proposal to intensify/extend the permitted use does not, in my opinion, need to address the issues of principle. Concerns that the impact of the proposal on the environment was not properly assessed in the current application are considered premature pending the consideration of the proposal by the Board whose assessment will take the impact on the environment into account. It is claimed that the intensification of

the development would dramatically increase activity on site. While the proposal seeks to increase activity, I would refer the Board to the Waste permit which relates to the site which specifies the number of ELV's (end of life vehicles) which can be accepted on an annual basis. This provides a limit on the site of 300 ELV's per year and the current stated number of vehicles accepted at c.114 ELV's per year is well below this limit.

8.2 Compliance and Enforcement Issues

The appellants raise a large number of issues related to the enforcement of conditions included in the previous grant of permission. These relate to the access onto the R180, parking, waste water treatment, hours of operation, existing entrances and the stacking of cars, which I deal with separately in the next section. Issues are also raised about the storage of shipping containers and articulated lorry trailers on the site, which I acknowledge are unsightly, and do not appear to be reasonably associated with the business for which the waste permit has been granted. However, the Board is not an enforcing authority and therefore has no role to play in the compliance with conditions or enforcement of conditions or other matters. This is a matter for the Planning Authority of Monaghan County Council. With particular reference to the new access onto the R180 which it is stated would not result in improved traffic safety with a requirement for a road and traffic safety audit and then states is not being used and padlocked, I note that the entrance was locked. I noted a notice at the entrance to ring the office to facilitate access with room for large vehicles to wait in the splay off the public road. While the access as arranged appears to me to be acceptable and was constructed to the requirements of the Planning Authority I would suggest that it should remain open to facilitate the permitted access to the site.

8.3 Stacking of Cars

In relation to the matter of the stacking of cars, it is noted that the permission granted by the Board under PL18.242814 included Condition 12 which stated that *'there will be no stacking of cars within the site'*. The current proposal seeks to remove this condition from the permission granted by the Board. Cars still remain to be stacked on the site and I would note that they are stacked with two or three vehicles in general. The planning report submitted with the application notes that carcasses are stacked at 3-4 and depolluted cars awaiting recycling are stacked at 2 cars. The stacking currently on site was at 2/3 cars/carcasses. This stacking is screened from view by the existing screening on the site boundary. In their Notification of Decision to Grant permission, the PA included a condition (No. 3) which states that cars may be stacked on site not exceeding 5 metres in height.

The appellant's claim that the justification sought by the PA for stacking of cars was financial and wrongly accepted by the PA allowing cars be stacked up to 5m. I would suggest to the Board that the figure of 5 metres arrived at by the PA appears to be included without sufficient regard to the scale of stacking which could be generated by such a figure. I would suggest that it would have been more appropriate to condition the number of cars which it considered would be appropriately stacked. There was little consideration by the PA of how many cars could be stacked within a 5metre height envelope. I

note in the Planners report reference to 3 cars being 4.5m but it is not clear whether they are carcasses or cars awaiting recycling. The provision of a height is also difficult to enforce given the difficulty in measuring 5 metres on the site. Finally I would note that there was no consideration undertaken of the potential visual impact that stacking up to 5 metres would have on the site and the ability of the screening along the site boundary to absorb this height. While I note that the boundary screening is referred to as being between 3 and 6 metres in height, I would suggest to the Board that there is a considerable difference between 3m and 6m in screening terms particularly if cars are being stacked to 5m.

The applicants contend that their business has been hampered by the inability to stack cars particularly as the site area of the development has been reduced, to what I might add was the original permitted site area. I consider that an element of stacking would be acceptable from a visual amenity perspective given the existing screening and proposed buildings. However I do not consider that stacking up to 5 metres would be acceptable and I would recommend to the Board that if they are minded to permit the proposal that a condition limiting stacking to not more than 3 vehicles where the vehicle is a carcass and 2 vehicles where the vehicle awaits recycling is included.

8.4 Other Matters

The appellants raise a number of other matters which I will address in turn. They refer to the location of the stream adjacent to the R180 which they consider should be culverted with the adjacent sloping site exacerbating flooding. I do not see any rationale for such a proposal as the open drain facilitates greater storage of rainfall and runoff. There is no technical evidence submitted to support this claim and in this regard I do not consider it has merit. In relation to the rodent management and implementation plan which it is considered is inadequate, again there is no evidence to support the claim. The concern expressed that the field to southwest of appellant discharges water into appellants property during heavy rainfall is not within the site boundary and provides a buffer between the appellants and the applicant.

8.5 Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development and proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and 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 a European site.

9. CONCLUSION

While I acknowledge the concerns raised by the appellants, the development proposed is located within a defined site area with a permission granted by the Board for use as an end of vehicle life facility. The proposed development is proposed within the confines of the permitted site and the nature of the development would assist, in my opinion, to screen the proposal from public roads. The matters of concern regarding compliance with conditions and enforcement of matters relating to conditions and other matters is not one

which the Board has a role and therefore it is a matter for Monaghan County Council. Subject to compliance with the conditions of the parent permission and any conditions which the Board may decide to include, I consider that the proposal would accord with the proper planning and sustainable development of the area and permission should therefore be granted.

10. RECOMMENDATION

Having regard to the foregoing I recommend that permission is granted subject to the conditions outlined below.

REASONS AND CONSIDERATIONS

Having regard to nature of the proposed development and to the existing use of the site, it is considered that, subject to compliance with the conditions set out below the development would not seriously injure the amenities of property in the vicinity of the site or the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would 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 as amended by the further plans and particulars submitted on the 16 day of March 2016 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. All conditions as previously granted under planning register reference number **13/154** (PL18.242814) shall be complied with, unless superseded by plans approved under this permission or conditions attached to this permission.

Reason: In the interest of clarity and orderly development.

3. Prior to the commencement of development the requirements of the Planning authority in respect of visibility splays at the entrance to the proposed car parking area shall be submitted for their written agreement.

Reason: In the interest of traffic safety.

4. Stacking of cars on the site shall not exceed more than 3 vehicles in height where the vehicle is a carcass and 2 vehicles where the vehicle awaits recycling.

Reason: In the interest of visual amenity.

5. (a) Within eight weeks from the date of this order, the facility operator shall make an application to the planning authority for a review of waste facility permit WFP-MN-10-0006-01 to take account of all changes on site.

(b) Any excess construction spoil from construction of the proposed structures or any other site works shall be disposed of at an authorised permitted facility.

Reason: In the interest of environmental protection.

6. The developer shall ensure and enforce, that no parking associated with the development takes place at any time during the day/night along the boundary of the site adjacent to the Local Road LT-71001 in the interest of road safety.

Reason: in the interest of traffic safety

7. (a) The facility hereby permitted shall operate between 0900 hours to 1800 hours (Monday to Friday) and 0900 hours to 1600 hours (Saturday). There shall be no business operations within the site area on Sundays or Public Holidays.

(b) Operations as detailed under part (a) of this condition are hereby defined to include use of all machinery within the site and there shall be no deliveries to and from the site outside these hours.

The site shall not be open for any business purposes outside these hours.

Reason: In the interest of orderly development and residential amenity.

8. Any external lighting shall be directed away from the public road and not towards any neighbouring dwellings.

Reason: In the interest of traffic safety and residential amenity.

9. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the buildings or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 interests of public safety and residential amenity.

12. 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 until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. 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 referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

13. 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, as amended. The contribution shall be paid within three months from the date of this order 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 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.

Una Crosse
Senior Planning Inspector
August 2016