



An
Bord
Pleanála

Inspector's Addendum Report PL.16.246632

Development	Revisions to P12/455 for construction of waste facility comprising relocation of access onto site, relocation of weighbridge and increase of building height.
Location	Moneenbradagh, Castlebar, Co Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	16/155.
Applicant	McGrath Industrial Waste Limited
Type of Application	Permission / Retention (as modified).
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Abbey Alainn Limited Health Service Executive
Observer(s)	Abbey Breeze Maureen Collins Triona Brennan and others.
Date of Site Inspection	28 th July 2016
Inspector	Dolores McCague.

This report is an Addendum Report and should be read in conjunction with the previous Inspector's Report

1.0 **Development**

- 1.1. The development is for revisions to P12/455 for construction of waste transfer facility and ancillary works, comprising relocation of access into site from that previously granted; relocation of weighbridge consequent of revised access location; and increase of building height by 1m over previously approved height.

2.0 **Since Previous Report**

- 2.1. I refer to the previous inspector's report dated 11th October 2016 recommending that planning permission be refused.

- 2.2. The Board wrote to the applicant (and notified other parties) in accordance with Section 132 of the Planning and Development Act 2000 requesting a new set of dimensioned as-constructed drawings indicating clearly the elements for which retention permission is being sought and requesting, in accordance with Section 142(4), new notices stating: (a) that the application is for retention; (b) the increase in height of the transfer building, and (c) the annual tonnage of waste involved.

2.3. **Receipt of Additional Documents**

- 2.4. Additional documents were received on 11th January 2017: drawings - site layout and elevations; photographs and an accompanying letter.

2.5. **Request for Publication of Notices.**

- 2.6. The Board requested the publication of notices in the form it prescribed by letter of 23rd February 2017; and notified other parties.

2.7. **Receipt of Revised Notices.**

- 2.8. The Board received revised notices on 8th March 2017; and notified other parties on 23rd March 2017.

3.0 Further Submissions

3.1. First Party

- 3.2. Kennedy Associates submitted a response to the additional documents, (received) 15th March 2017, on behalf of the first party. The submission has attached a legal opinion by Mr Dermot Flanagan SC, and a letter and attachments from Mr Michael Collins of Abbey Alainn Ltd. The submission includes:

The waste transfer facility as constructed has been completed without planning permission and in their opinion constitutes unauthorised development.

The third party has suffered serious injustice and has been presented with a fait accompli.

The planning authority has taken no effective action and the Board is now treating the case as retention and appears to be in the process of regularising the unauthorised development.

They refer the Board to the legal opinion and the accompanying letter for their attention and repeat issues raised in their previous submissions.

3.3. Letter from AbbeyAlainn Ltd Board of Directors

- 3.4. A letter from AbbeyAlainn Ltd Board of Directors, dated 15th March 2017 includes:

3.5. Setting out the background again regarding their planning history vis a vis McGrath's permission on the adjoining site.

3.6. At the time of the application to Mayo County Council the application was not, nor could it have been, for retention.

3.7. Through planning decision P16/155 Mayo County Council granted McGrath's planning permission to construct a waste transfer facility (WTF) with a licence for up to 100,000 tons of waste.

- 3.8. In response to queries raised, Mayo County Council issued a letter dated 15th July 2017, stating
- On 26/04/2016 Mayo County Council issued its decision to grant permission for P16/155. On 23/05/2016 the Council's decision was appealed to An Bord Pleanála. On 13/06/2016 Mayo County Council issued a Warning letter to (McGrath's) for non-compliance with the existing permission P12/155, when it became clear that the structure being built was in fact the building under P16/155 which is currently under appeal.
- 3.9. Any building constructed by a developer by reference to a planning decision of a planning authority under appeal before An Bord Pleanála is an unlawful and unauthorised development.
- 3.10. McGraths have opened and commenced operation at the WFT of its waste business without effective intervention by Mayo County Council.
- 3.11. McGraths appear to hold a waste licence from Mayo County Council by reference to the decision on P12/155 and a fire certificate granted 7/06/2016.
- 3.12. They refer to the Irish Constitution and their rights under same and to the Board's mission statement.
- 3.13. The Board has not issued a decision upholding or dismissing their appeal.
- 3.14. They have read notices requested to be published by the Board
- 3.15. A copy of the notice was provided to Mayo County Council but not to the third party.
- 3.16. The letter to McGrath's states that the Board have made a decision that the application is for retention but was incorrectly described as permission for development. They request clarification on how, when additional information was being requested, to enable a determination by An Bord Pleanála, a decision could have been made; and which was communicated to McGrath's and Mayo County Council, but not to the third party, and which objectively in law and in effect purports to change unilaterally the nature of the third party's engagement of An Bord Pleanála's appellate jurisdiction.
- 3.17. The planning decision appealed is a permission decision, for determination in strict compliance with the Act and in accordance with administrative and constitutional justice.

3.18. Two letters were issued on 23rd February 2017:

one addressed to the third party's advisers requiring a submission by the end of March 2017, on information received from the first party on 10th January 2017 (by reference to the Board's deadline of 31 January specified in the Board's letter of 28 November 2016);

the other (a copy of a letter sent to McGrath's requiring them to erect a notice before 13th March 2017.

3.19. In light of the confusion created by the letters and the two deadlines for submissions - 15 March 2017 and 7th March 2017; they seek immediate clarification of the legal and statutory basis on which An Bord Pleanála reached its purported decision of 28th November 2016 to treat McGrath's application for planning permission as a retention application and the reasons therefor.

3.20. A decision granting retention is a decision other than the subject matter of the decision of Mayo County Council in P16/155.

3.21. AbbeyAlainn and its shareholders have suffered injury in consequence to the foregoing and reserves its position accordingly.

3.22. A copy of the letter from Mayo County Council referred to is attached.

3.23. A photograph showing the premises in operation is attached

3.24. **Legal Opinion**

3.25. The legal opinion by Mr Dermot Flanagan SC, dated 14 March 2017, is attached to the submission. It includes:

3.26. They have requested the Board to carry out a determination as to whether or not EIA and AA is required, prior to any determination of the Appeal.

3.27. Section 142 of the Act is referenced.

3.28. The proposed development under 16/155 is described as:

'Revisions to P12/455 for construction of waste transfer facility comprising relocation of access onto site, relocation of weighbridge and increase in height by 1m over previously approved height.'

3.29. The purported planning by reference to the site notice as so directed by the Bord is described as:

'Retention of development comprising relocations of access into the site from that previously granted; Relocation of weigh-bridge consequent of revised access location; Increase in Building height by 1 metre over previously approved height.

The annual tonnage of waste involved in the transfer facility will not exceed 24,000 tonnes.'

3.30. The reference to 24,000 tonnes per annum is in the legal sense a hugely significant new issue. This tonnage does not appear on the planning application form or the site notice. It does not appear to be reference in the planning documentation submitted by the Developer. It is not for example referenced in the EMP.

3.31. If this development was for the disposal of waste, the threshold for mandatory EIS is 25,000 tonnes per annum. There is no longer any question but that with an annual tonnage of 24,000 tonnes, there is a mandatory requirement to screen for EIA.

3.32. Furthermore, such a screening exercise is mandatory in circumstances where Mayo County Council granted a Permit for up to 100,000 tonnes annually.

3.33. It is now clear that the works carried out are entirely unauthorised and could not have been carried out pursuant to P12/455.

3.34. It is a fundamental aspect of administrative decision-making that the principles of constitutional and natural justice infuse the decision-making process. In the writer's opinion it is a fundamental requirement that a letter containing a decision on the validity of an application for planning permission, going to the jurisdiction of An Bord Pleanála, is circulated to all affected parties, including the Appellant. For reasons that remain unexplained, this letter of 28th November 2016 was not enclosed and should have been. The appellants have since obtained a copy of the letter from Mayo County Council website. The request is predicated on a decision having been made to proceed with the appeal as a retention application; the Board has decided that the public notices do not comply with Articles 17-19 and Schedule 3 of the Planning Regulations; the Board then refers to Section 142(3) of the Act.

3.35. Mr Flanagan comments that the Board having decided that the developer has not complied with the mandatory obligations of the Planning Regulations, pursuant to

Article 26(3), (4) and (5), as a matter of law the application is invalid and cannot be further considered.

- 3.36. There is no provision either under S142 or otherwise to convert an invalid planning application into a valid one arising from Articles 17-19 of the Planning Regulations.
- 3.37. There is no power conferred on the Board to convert an invalid application for retention into a valid application during the course of the appeal. To do so is further in breach of the principles of constitutional and natural justice.
- 3.38. The Board has no jurisdiction to consider this appeal as a retention application. Same is invalid ab initio. There is no power to consider a retention application, unless it has been considered by the Planning authority.
- 3.39. The developer's response of 10th January accepts that unauthorised development has been carried out during the course of the planning appeal process.
- 3.40. The provisions of article 18, 22, and 23, forms 1 and 2 of the Regulations are referred to, and Section 37 of the Act. The Board is obliged to determine the application as if it had been made to the Board in the first instance. S 142 entitles the Board to invite an application to submit revised plans or other drawings in respect of 'the development to which the Appeal relates.' In Mr Flanagan's opinion the development described in the site notice and published notice and in the planning application, is the development the subject matter of the appeal.
- 3.41. The power purportedly invoked by An Bord Pleanála under S142(4) provides for public notice. However S 142 cannot be construed as circumventing the obligations of the Applicant for planning permission under Planning Regulations to comply with the requirements to state whether or not the application is for permission or retention permission.
- 3.42. The application is invalid ab initio.
- 3.43. In Mr Dermot Flanagan's opinion the Board has no power to require a site notice to be erected, the effect of which is to entirely change the nature of the application before it into an application for retention permission. To do so is to circumvent mandatory requirements.
- 3.44. This has the effect of predetermining, without jurisdiction, that the application can proceed as a retention application, the purpose of which is to regularise

unauthorised development, in circumstances where the application was and is an application for prior authorisation.

- 3.45. The Bord must determine the application as applied for and has no option but to refuse permission.
- 3.46. S34(12) is cited. Where an application for retention permission is made, there is a mandatory obligation on the planning authority at first instance and An Bord Pleanála in due course to consider, in the context of the EIA Directive and the Habitat's Directive, the consequences of such development.
- 3.47. The significance of EIA and AA screening is now established by the fact, not previously disclosed in the application or appeal, that the proposed annual tonnage is proposed at 24,000 tonnes; the context of the waste permit licence for annual tonnage not to exceed 100,000 tonnes must be considered.
- 3.48. The developer cannot rely on p12/455 in circumstances where no EIA was carried out on foot of that permission.
- 3.49. To do other than refuse would be for the Bord to condone unauthorised development in flagrant disregard of the procedural and substantive requirements of the Planning Acts, of stakeholders and third parties, and the constitutional and natural justice requirements enshrined in the Planning Legislation. They further rely on the ECHR (European Court on Human Rights) in this regard.
- 3.50. A determination must be carried out in accordance with the provisions of S34(12) and the provisions of S34(12)(a) do not apply because the entirety of the modifications relate to both the use and increased height of the building together with the revised access arrangements and its relationship to the footprint of the building together with the implications of the use and works including access/egress for the receiving environment; and in the context of the now disclosed 24,000 tonnage of waste.

3.51. Observations

3.52. AbbeyÁlainn Ltd.

3.53. A further letter, dated 3/4 /17, was received from AbbeyÁlainn Ltd, which includes:

3.54. They understand that there are two planning procedures relating to the same development currently affecting AbbeyÁlainn:

AbbeyÁlainn's engagement of ABP's appellate jurisdiction by reference to the appeal of which they were invited to make submissions prior to 15th March 2017; and

The application being made by McGraths by reference to site notice and in respect of which observations are requested within four weeks after 7 March 2017.

3.55. Running two simultaneous planning procedures relating to the same development is confusing and damaging to AbbeyÁlainn.

3.56. The state should not permit and should adopt no decision granting the retention by McGraths of the unauthorised WTF currently located and operated (with state tolerance) at Moneenbradagh, Castlebar.

3.57. Through publishing a notice referring to retention, McGraths have acknowledged that the construction of the supersized WTF is unauthorised and unlawful.

3.58. No state entity should permit its retention beside a health centre.

3.59. The waste facility permit granted by Mayo County Council in May/June 2013 purportedly by reference to P12/455 is not objectively compatible with the planning conditions attached by Mayo County Council in several respects, especially with regard to the quantity and type of waste material acceptable at the facility.

3.60. The permit purports to permit disposal, recovery & transfer of waste material. Disposal and recovery activities include crushing, compacting, shredding, soil cleaning and recovery of construction / demolition waste.

3.61. The Waste Permit has been presented as waste facility permit - a class 10 recovery of waste (limited to annual intake 7,500 tonnes).

3.62. P12/455 permitted a waste transfer – class 11.

- 3.63. The site notice erected on 7 March states that application for retention is being made. The annual tonnage of waste involved in the transfer facility will not exceed 24,000 tonnes.
- 3.64. Mayo County Council's Waste Facility Permit WFP-MO-13-0030-01 of 4 June 2013 between P12/455 and P16/155, has already permitted McGraths an annual tonnage of up to 100,000 tonnes for recovery. It is absolutely unclear what precisely McGraths have applied to retain, given the discrepancies between what is presented in the various MCC acts and the information put forward by McGraths.
- 3.65. In the Waste Permits MCC has allowed McGraths at the unauthorised facility to accept hazardous waste as covered by Class 1 and as listed to include 160209: transformers and capacitors PCBs, 160601: lead batteries, and 170301: bituminous mixtures containing coal tar. The development is otherwise than was envisaged by P12/455 and should be not be retained.
- 3.66. A planning authority cannot accept an application for retention for any development which would have required an EIS, or a determination as to whether or not such EIS was required. MCC has failed at all material times to date, to screen for the necessity of an EIS at the applicable time, and precludes consideration of any application for retention of this unauthorised development.
- 3.67. The original planning application for a WTF of non-hazardous class 11 waste transfer, with a limit of 7,500 tonnes per annum. The unauthorised development being operated holds a Waste Facility Permit allowing 100,000 tonnes per annum to include hazardous waste and use for recovery and disposal as well as transfer.
- 3.68. ABP must take cognisance of the inherent deviations from the planning decision P12/455 through its Waste Facility Permit when considering any application for retention.
- 3.69. The Bord must adhere to appropriate environmental law requirements and assessments and such mandatory requirements must be respected, particularly given the dichotomies between 7,500 tonnes per annum, 24,000 tonnes per annum, and the permit referencing 100,000 tonnes per annum. They ask the Bord to address environmental impact.

3.70. AbbeBrees

3.71. The Bord received a letter from AbbeBrees Limited, dated 3/4/17 which includes:

3.72. They understand that there are two planning procedures relating to the same development currently affecting Abbey Alainn Limited (AbbeyÁlainn):

AbbeyÁlainn's engagement of ABP's appellate jurisdiction by reference to the appeal of which they were invited to make submissions prior to 15th March 2017; and

The application being made by McGraths by reference to site notice and in respect of which observations are requested within four weeks after 7th March 2017.

3.73. Running two simultaneous planning procedures relating to the same development is confusing and damaging to their interests. The points made and previously referred to in AbbeyÁlainn's submission are repeated in the submission made by AbbeBrees.

3.74. The submission states that the document: Appendix A – Environmental Management System Moneenbradagh Waste Facility (copy attached to their submission), which was submitted to the Board date stamped 21st June 2016 shows that all references to compliance are with reference to a Waste Facility Permit and therefore an Environmental Impact Statement was/is required at all times. At page 14 it states 'activities that will be undertaken at the facility will involve waste acceptance, segregation and recovery/disposal. Other activities off-site must be considered such as waste collection and transporting to and from the waste facility'. Through the submission of the aforementioned document, received by ABP, an Bord Pleanála is fully aware since 21 June 2016 that the McGraths facility includes waste recovery and disposal activities entirely different than authorised by Mayo County Council Planning decision P12/455. They are alarmed that this is the first time this information has been known to the public. An application for retention should be precluded.

3.75. Triona Brennan and others

3.76. The Bord received a letter, dated 3rd April 2017, from Triona Brennan countersigned by 36 others which refers to their opposition to a waste facility beside a health facility and post office. They have no option but to use the public health facility and post

office for their health care and postal needs and are very concerned that no EIS has been prepared and there are serious dangers to public health and traffic, especially for young people and older adults as a result of this new waste business within the bounds of Castlebar.

3.77. Maureen Collins

3.78. The Bord received a letter from Maureen Collins, dated 3rd April 2017, which includes:

The notice 7th March 2017 states 24,000 tonnes

The current waste permit 2013, waste permit WFP-MO-13-0030-01 of 4 June 2013 allows annual tonnage not to exceed 100,000 tonnes.

This permit has allowed the facility to accept hazardous waste Class 1 as listed to include:

16.02.09 transformers & capacitors PCB's

16.06.01 lead batteries

17.03.01 bituminous mixtures comprising coal tar.

The permission P16/155 stated in condition 2 that all relevant conditions of P12/455 be complied with. P12/455 included as condition 2 the development on this site shall be used for general transfer/sorting facility in accordance with documentation submitted to Mayo County Council on 22/11/2012 and 19/12/2012...The documentation on the file are from Earth Science Partnership to MCC received 22nd Nov 2012 and 19th Dec 2012. The correspondence dated 22nd Nov 2012 states '*on collection of the skips the drivers will inspect the contents to ensure that no hazardous materials are present. On reaching the transfer/sorting facility the skips are again checked at the gate of the facility. Any skips that contain unacceptable material are redirected to the landfill for disposal.*'

P12/455 was for a waste transfer facility. WFP-MO-13-0030-01 allows for the activities of both disposal and recovery of waste material, in addition to the activity of waste transfer.

Disposal & recovery include crushing, compacting, shredding, soil cleaning and recovery of construction demolition waste

The principal activity noted in the permit is class 10 recovery of waste. The transfer of waste is a class 11 permitted activity, which has an annual intake limit of 7,500 tonnes. The Bord is requested to be clear and unambiguous in their decision in regards the retention request to allow 24,000 tonnes in so far as the intended activity relating to this tonnage.

The conditions attached to P12/455 (specifically no. 13) required a 3m wide and 2m high berm. The current plans omit this berm. As this is a condition of the original permission that would mitigate the visual impact on the observer's property they would expect this condition to be complied with.

They are concerned that the current development is something other than what was intended in the original application p12/455. From a waste transfer facility of non-hazardous waste, being delivered in skips with a limit of 7,500 tonnes/annum - Class 11, to a waste permit allowing 100,000 tonnes/annum to include hazardous waste for both disposal and recovery. The deviations from P12/455 in the waste permit should be taken into account when consideration if being given to P16/155. The proper assessment of traffic movements and requirements for environmental assessment are mandatory requirements that should be fulfilled. If the development is allowed to proceed they require the activities to be clearly defined and the tonnages allowed. They have forwarded their submission to Mayo County Council as they would understand that they would be dealt with planning application and or retention applications and also to ABP.

4.0 Policy Context

4.1. Development Plan

4.2. Castlebar & Environs Development Plan 2009-2014 remains in force, following the Local Government Reform Act 2014, until 2020.

4.3. Relevant provisions include:

4.4. Zoning – zoned enterprise and employment. It is an objective to provide for the improvement of retailing, enterprise and industrial employment needs of the town. This zoning allows for a more varied and flexible number of land uses.

4.5. **Natural Heritage Designations**

The nearest Natura site is the River Moy SAC (Site Code 002298) some 5km from the site.

5.0 **Further Assessment**

5.1. In the previous inspector's report, the fundamental objection to the development, was that the development, having been carried out, could not be considered as an application for development, and could only be considered as an application for retention. Arising from the Board's direction that new notices be published, the application is now for retention. A new issue arises as a result of the section 142 notice: the validity of the application before the Board. The other issues to be considered are whether or not the Board should consider the waste transfer facility de novo, the modifications (the amendments to the previous permitted development which are the subject of the application for retention), appropriate assessment and environmental impact assessment.

5.2. **Validity of the Application**

5.3. The application now before the Board is an application for retention. The third party and observers consider that the application cannot be changed from an application for permission to an application for retention while being considered by the Board; and a legal opinion to that effect is provided by the third party. They state that an application for retention would need to be considered by the planning authority initially, prior to consideration by the Board; and in this case the planning authority considered only an application for permission.

5.4. Section 132 of the Planning and Development Act 2000 as amended, gives the Board power to invite and enable an applicant to submit revised plans or other particulars and Section 142 subsection 4 specifically refers to further notices,

therefore in my opinion the Board can consider the application now before it for the retention of modifications to P12/455 for a waste transfer facility comprising relocation of the access onto site, relocation of the weighbridge and increase of the building height by 1m.

5.5. De Novo Consideration of the Waste Transfer Facility

- 5.6. The issue of whether or not consideration of this appeal should be restricted to considering the amendments to P12/455 or should include the principle of locating a waste transfer facility at this site have been addressed in some detail by both the first party and the third parties, in each case they make their arguments supported by legal opinion; and these arguments have been referred to in the previous inspector's report.
- 5.7. The carrying out of the development and the need to apply for retention is a further complication, which has led to further submissions regarding legal and procedural matters.
- 5.8. In my opinion, it is appropriate to accept that permission exists for a waste transfer facility on the site, granted under P12/455, such that the principle of the development is established. The application before the Board, originally for modifications to that permitted development and now for retention of the modified development, does not allow for the Board's enquiry into the principle of the development.
- 5.9. I note that the Board requested the first party to include in the published notice the annual tonnage of waste involved. In my opinion the volume of waste is not part of this application. The modifications proposed for retention do not affect the throughput of the facility.
- 5.10. I note the first party's inclusion in the published notices that the volume of waste involved in the transfer facility will not exceed 24,000 tonnes annually. The volume of waste has not formed any part of my consideration of this appeal/application. I have regarded the matters the subject of this appeal/application as the modifications of P12/455, listed as: relocation of the access onto site, relocation of the weighbridge and increase of the building height by 1m. I consider that all matters of principle were determined in P12/455.

5.11. **The Modifications**

- 5.12. The modifications to P12/455 which have given rise to this application/appeal are the relocation of the site access, relocation of the weigh bridge and the increase in height of the building.
- 5.13. The relocation of the site access was occasioned by the purchase by the adjoining developer of a portion of road in an attempt to ensure that the waste transfer facility development would not be carried out. The proposed access was previously proposed from an access road running to the west of the site at a point more than half way along the site boundary towards the rear (north). The weigh bridge was to be located to the north of the building. In the modifications submitted the access is located at the south western end of the site and the weigh bridge is located to the west of the building. No objection has been raised to the details of the relocation of the site access, the design of the access arrangements or the location of the weigh bridge. In my opinion the modifications in relation to the site access and weigh bridge are satisfactory and should not be a reason to refuse permission.
- 5.14. The retention includes an increase in the height of the building from that permitted under P12/455. The increase in height is stated to arise as a result of revised operational procedures, that in lieu of the previous proposal to have a floor ramp and an internal floor level up to 2.5m below external ground level, for operational and Health & Safety reasons, the lower internal floor level was eliminated. In the alternative arrangement an increase in building height is required. The increase in building height allows trailers to be parked on a level floor whilst being loaded, using a grab type machine with an adjustable height cab, allowing the operator to be positioned above the height of the trailer. This will eliminate H&S issues associated with the floor ramp. The ramp would have had to extend externally to achieve the required gradient and would have H&S and drainage issues. The modification allows more efficient, effective and cleaner loading operations, and allows for a more flexible building layout which can adapt to future requirements. I accept the rationale put forward for the increase in building height.
- 5.15. The increase in building height is not intended to increase the capacity of the building.

5.16. In my opinion the modifications in relation to the building and the increase in height is acceptable and should not be a reason to refuse permission.

5.17. **Environmental Impact Assessment**

5.18. The Board should note the provisions of S 34 (12), introduced in the Planning and Development (Amendment) Act 2010:

A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—

an environmental impact assessment

(b) a determination as to whether an environmental impact assessment is required, or

(c) an appropriate assessment.

5.19. The planning authority had before it an application for permission for the modifications now the subject of this application for retention, and did not carry out EIA, did not make a determination as to whether an environmental impact assessment is required, and did not carry out appropriate assessment.

5.20. In my opinion the Board is not precluded from granting planning permission, notwithstanding that the application is for retention. Having regard to the nature of the development: retention of modifications to P12/455 for a waste transfer facility comprising: the relocation of the access onto site, relocation of the weighbridge and increase of the building height; there is no likelihood of significant impact on the environment, no requirement for environmental impact assessment, or for a determination as to whether an environmental impact assessment is required, or for appropriate assessment.

5.21. The issue of thresholds, as raised by the third party, has no direct relevance to this appeal/application which refers only to retention of modifications to a permitted development.

5.22. Appropriate Assessment

- 5.22.1. Having regard to the nature and scale of the proposed development, retention of modifications to P12/455 for a waste transfer facility comprising relocation of the access onto site, relocation of the weighbridge and increase of the building height, and the nature of the receiving environment 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.

6.0 Recommendation

- 6.1. In accordance with the foregoing assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

7.0 Reasons and Considerations

Having regard to the principle established by the existing permission, planning authority register reference number P12/455, for a waste transfer facility on this site, it is considered that the modifications proposed to be retained, being of a minor nature, do not unduly impact on the amenities of the area and would, subject to the following conditions, be in accordance with the proper planning and sustainable development of the area.

8.0 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 received by An Bord Pleanála on the 10th day of January 2017 and the notices received on the 8th day of March, 2017, 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. Subject to the modifications herein permitted, the proposed development shall be carried out and completed in accordance with the terms and conditions of P12/455, the permission which supports these modifications.

Reason: In the interest of clarity

Planning Inspector

24 April 2017