



An
Bord
Pleanála

Inspector's Report ABP-300112-17

Development	Commerical unit for sorting recyclable materials, provide associated parking, weigh bridge, Wheel wash, signage and connect to public utilites, together with all associated site works. (Overall floor area is 791 sq.m. and height is 9.4m)
Location	IDA Industrial Estate, Bunree, Ballina, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P16673
Applicant(s)	Connaught Enviro Containers DAC
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Connaught Enviro Containers DAC
Observer(s)	None

Date of Site Inspection

6th February 2018

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in an IDA industrial estate, on the eastern side of Ballina town, in Co. Mayo. The industrial estate is served by a single access road, accessed from the eastern side of Bunree Road, with industrial/warehouse units located on both sides of this access road.
- 1.2. The site, which has a stated area of 0.61ha, is an undeveloped green field site at the eastern end of the industrial estate, at the end of the existing access road and positioned south of it. The site is bound to the west by an existing industrial unit, occupied by a company called Handy Hut Hire; to the north by a undeveloped greenfield site (in the ownership of the applicant and within the industrial estate zoning), beyond which is Greenhills residential estate, which extends along the northern boundary of the industrial estate. To the south of the site is an ESB substation. To the east of the site is a narrow paved road, which is blocked just north of the site by bollards and is for pedestrian use only beyond this point. This route leads to the Brusna River to the north, terminating at Downhill Road north of the Brusna River. This route provides access to a small number of dwellings at the southern end, the ESB substation and access to agricultural fields. The boundary to this route comprises primarily of overgrown vegetation/hedges/low walls.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a commercial unit for sorting recyclable materials.
 - The commercial unit measures 36m wide by 20m deep, with an overall height of 9.37m. The unit comprises a large floor area, with double height space, subdivided into holding bays for various categories of waste. It also comprises a canteen/office/reception/toilet facilities at the western end of the unit, and above this a small first floor level comprising 2 offices and a store. Empty skip storage is provided for along the southeast and southern boundary of the site.
 - Extension of industrial estate access road to serve the site.

- Weigh bridge, wheel wash, signage and parking facilities.
- 3m high palisade security fence and gates around the site.
- Landscaping plan.

The floor area of the new build is stated to be 791sqm.

3.0 Planning Authority Decision

3.1. Decision

REFUSED, for the following reason:

The site is zoned primarily for Industrial/Commercial (IC) in the current Ballina Town and Environs Development Plan 2009-2015 (as extended), which zoning is considered reasonable. Having regard to this zoning designation, which does not specifically provide for development comprising of the sorting recyclable materials, it is considered that the proposed development would contravene materially an objective of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report sought Further Information on 19th October 2016 in relation to a number of issues which are summarised hereunder:

- Assessment required under Article 6 of the EU Habitat Directive.
- Clarify the waste streams which are proposed to be dealt.
- Provide specific details regarding the exact nature of the recyclable materials to be received on site.
- Clarify if the proposed activity relates solely to materials disposed of in private skips for hire or if it relates to domestic recycle wheelie bin collection materials.

- Clarify who the facility will accept recyclable materials from and provide criteria for acceptance of the same; or is the sole contractor the developer in this instance.
- Detail; the processes that will take place on site.
- Submit a timescale for storage of sorted materials on site and collections/deliveries associated with same.
- Clarify whether any external storage areas, yards are proposed.
- Clarify the amount of HGV/truck movements per day and the amount of skips or other means of accepted materials at the facility on a daily/weekly basis.
- Submit details regarding the noise, dust and odour levels associated with the process and activities on site. Submit a detailed report regarding measures for the protection of residential amenity of adjoining residential and commercial/industrial properties.
- Submit a landscaping scheme along all site boundaries, including heavy screen planting of semi mature deciduous tree species and any other proposals to minimise visual and noise impact on the surrounding area.

3.2.2. Further Information Received

Further information was received on 23rd February 2017. The following was submitted and stated by the applicant:

- Habitat Assessment submitted, in compliance with Article 6 of the Habitats Directive.
- The recyclable waste streams to be dealt with are timber, metals, glass, cardboard, paper and plastic. Other non-recyclable materials are concrete, textiles, mattresses, white goods, soil and stone, plaster boards, tiles, slates and insulation. Other mixed materials are to be removed to a permitted facility on a daily basis as required.
- Activity will relate to private and commercial skips only. No domestic recycle wheelie bin collections will be accepted.
- C&D recyclable materials from builders, domestic, industrial and commercial will be accepted.

- A flow diagram was submitted and description of activities as follows: Skips lorries will collect recyclable/mixed waste builders materials which will be driven into the facility, skip will be tipped in designated area in the building, large items will be lifted with 'fuch' grappler into the relevant storage bay and smaller lightweight materials will be manually sorted. Once there is sufficient quantity in each bay, material will be loaded into containers or trailers for delivery. Loading and delivery will take place on the same day. All non-recyclable material will be removed to a permitted facility at the end of each day.
- For capacity to be reached in each bay, estimate one month for timber, metals, glass, and cardboard; two months for paper and plastics. Collection/deliveries will be approx. 4 to 8 per day, with a daily average of 6.
- The maximum amount of waste to be stored in the commercial unit at any one time is 109.25 tons of waste. It is stated that it will take one month to achieve maximum capacity for the waste streams of timber (16 ton), metal (16 ton), glass (26 ton) and cardboard (26.60 ton), and it will take two months to achieve maximum capacity for waste streams of paper (8 ton) and plastics (7 ton). Empty skips will be stored at the rear of the site as indicated on the site layout plan. All filled skips on arrival will be immediately deposited internally within the building and all sorting activities will take place within the building. All recyclable materials will be stored internally within the building until ready for loading and final delivery. The loading and delivery will take place on the same day.
- Amount of HGV movements per day is anticipated as follows: Collection of shipping containers/trailers containing recyclable materials will be twice per month. Truck movements associated with delivery and collection of skips: 4-8 per day for delivery and 4-8 per day for collection, with a daily average of 6 per day. Truck movements associated with removal of non-recyclable material to the landfill is 2 per day (to and from the landfill facility). The anticipated amount of skips being received at the facility is 30 per week. The exact number will depend on the demand for the service. The facility is sites on an end site within an industrial estate which would have similar traffic movements and noise generation.

- Hours of operation: 8am-6pm Monday to Friday; 8am-2pm Saturday. Closed on Sundays and bank holidays. The nearest house is 121m from the facility building.
- All filled skips that are transported to the facility will be covered with a netting to prevent any accidental loss of material. Activity will be confined to within the building, with the exception of trucks arriving and departing. There will be no nuisance odours. Practically all recyclable materials are inert. Skip materials will be placed in the building on arrival so any issue in relation to dust is not applicable.
- A 3m high palisade fence is proposed around the entire site, including the site north of the appeal site, which is in the applicant's ownership and a landscaping plan has been submitted. Laurel hedging is proposed along the south and south east boundaries due to presence of ESB wires above and below ground.

3.2.3. Clarification of Further Information

On 15th March 2017 the applicant was requested to submit the following Clarification of Further Information:

- In relation to the waste stream, the applicant states 'non-recyclable' materials, some of which are recyclable. Clarify if it is intended to dispose of some recyclable material to landfill.
- The applicant shall clarify the relationship between Connaught Enviro Containers Dac and G&N Loftus & Sons Recycling Ltd.
- Provide details of the permitted facilities intended for use by Connaught Enviro Containers Dac in the operation of its proposed facility at Bunree. Clarify if the proposed 'permitted' facilities are classed as 'Landfill' or 'Recovery' sites.
- Submit details of specific mitigation measures to address litter, odour, and dust, and detail noise measurement and control measures to be implemented.

3.2.4. Clarification of Further Information was received on 30th June 2018:

The planning authority granted an additional period of three months to the applicant to respond to the clarification of further information, which was received on 30th June 2018:

- Materials that are not being processed within the facility but which are recyclable, will be removed to an EPA approved recycling centre.
- G&N Loftus & Sons operates a domestic and commercial wheelie bin collection service and also a skip hire service from their existing facility at Killala Business Park. It is intended to separate the wheelie bin service and the skip hire service. Connaught Enviro Containers Dac will be taking over the skip hire end of the business. Both will be owned by the same director. The operation will cease at Killala Business Park. The wheelie bin service will be directed to an approved EPA licensed material recovery/transfer facility which has yet to be decided. No wheelie bin service will operate from IDA industrial estate at Bunree.
- The permitted facilities referred to are classed as recovery sites.
- A noise report was submitted and a list of mitigation measures relation to noise, odour and dust submitted. An environmental management system will be implemented as required by the Recycling Management Facility Permit, if and when it is granted by the EPA.

The Planning Officer's Report recommended a grant of permission, which it is stated would materially contravene the industrial/commercial land use zoning objective. The application was therefore brought before the councillors.

3.2.5. **Material Contravention was brought to the councillors on 3rd October 2017**

A motion to materially contravene the development plan in order to grant permission for a commercial unit for sorting recyclable materials was rejected by the councillors. Permission was consequently refused by the Planning Authority for the proposed development as it would materially contravene the development plan.

3.2.6. **Other Technical Reports**

Architect Report: No objection subject to signage conforming to Ballina Municipal District signage byelaws' specifications and 2.1m high block wall with plaster finished should enclose the exterior of the entire site to prevent littering and in the interest of

visual amenity. The block wall is to be set back 900mm to allow for laurel hedge planting.

Road Design Office Report: No objection, subject to conditions of report dated 22.11.16. [this report is not on file]

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of third party submissions were received, the primary issues are summarised as follows:

- Impact on Greenhills housing estate
- Noise, odour, dust issues
- Impact of lorries
- Devaluation of property
- Zoning is for light commercial/industrial uses and not for a recycling unit.
- Potential use of applicant's land north of the site for waste disposal
- EIA not submitted
- Impact on existing businesses
- Lack of information in the application about types of waste and where waste is being transferred to.

4.0 Planning History

14602 – Permission GRANTED for construction fencing (3m high) around three sites within the industrial estate, including the site subject of this appeal. The following condition is of note:

C3:.....The proposed fencing along the rear boundary of 'Area 3', eastern boundary, shall be set back a distance of 5 metres and this area/strip shall be

planted with semi-mature trees along its length. Details of proposed species and landscaping layout shall be submitted to Mayo County Council...

Reason: In the interests of residential amenity.

I note the planner's report states the set back is required to acknowledge the reasonably well used walking route to the rear, which will probably be linked to urban walking routes in the future and a landscaped edge would be appropriate.

5.0 Policy Context

5.1. Mayo County Development Plan 2014-2020

- 5.1.1. Within the settlement strategy, Ballina and Castlebar are identified as linked hubs. The Castlebar-Ballina linked hub and Westport each have separate stand-alone statutory Development Plans which incorporate Core Strategies for these towns and their environs. These development Plans are consistent with the Regional Planning Guidelines.

5.2. Ballina Town and Environs Plan 2009 -2015 (as extended)

- 5.2.1. Section 2.13.2 states the broad Land Use Zoning Categories within the plan. IC, Industrial/Commercial, relates to the appeal site and is defined as follows: 'To provide for industry, employment and retail warehouse/warehouse/bulk goods outlets'.
- 5.2.2. Section 2.13.6 states the Land Use Zoning Categories set out the principle function of each use zone. Proposals for uses not referred to will be considered where they do not conflict with the stated purpose of the zone and where they do not undermine the primary function of another zone. Uses ancillary and complimentary to the principle use will be considered on their own merits. Industrial/Commercial zoning category is further defined as follows:

'Primarily for Industrial/Commercial (IC)

- To provide for retail and other warehousing
- To provide for manufacturing and office based industry
- To provide for bulk retail development'

5.2.3. Developments on Lands in the Vicinity of the Moy SAC and Killala Bay and Moy Estuary SAC:

- Any proposed development on lands in the Vicinity of the Moy SAC and Killala Bay and Moy Estuary SAC and which have the potential to impact on the ecology of these SACs shall be subject to appropriate environmental assessment.

5.3. **Natural Heritage Designations**

The nearest Natura site is the River Moy SAC (002298) and Killala Bay/Moy Estuary SAC (000458). The River Moy is approx. 217m north and 850m west of the appeal site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- No material contravention of the development plan exists and this process should not have been entered into by the council.
- The plan allows for other uses in principle under section 2.13.6 within Industrial/Commercial zoning. It is not a prohibited development or one that fundamentally contravenes the zoning objective.
- The zoning objective is 'to provide for industry, employment, and retail warehouse/warehouse/bulk goods outlets'. Industry and employment are clearly provided for.
- A list of existing uses within the industrial estate is given. The proposed use will not prejudice those existing facilities. The operation of a commercial unit for sorting recyclable materials does not result in substantial environmental effects. Processing operations will be entirely indoors, carried out over the course of normal business hours and at a substantial distance from sensitive receptors.
- On examination of the range of zoning categories in Ballina, there is no other zoning more appropriate than the IC zoning.

- The council permitted a similar case for a waste transfer facility under 12/455 on land with an enterprise and employment zoning objective.
- Proposed development is located in a wholly appropriate industrially zoned area and its location is ideal from a land-use planning perspective.
- The proposed use will not impact on other permitted uses within the IC zoned lands and there is no other zoning category more suitable for this use.
- Location is appropriate in light of the catchment area for skip hire.
- Ballina is the principal town in this area of County Mayo and the site is well served by the road network, particularly to facilitate transfer of the sorted materials onward to suitably licensed premises in Galway, Roscommon, Louth, Swinford etc., principally for recycling.
- No nuisance will arise to neighbours. Proposal is of a modest scale with good separation distances to residential areas. Nearest house is over 100m away.
- No household waste will be taken in at the facility.

6.2. Planning Authority Response

- Zoning is Industrial/Commercial (IC), where the principal use is specified as:
Primarily for Industrial/Commercial (IC)
 - To provide for retail and other warehousing
 - To provide for manufacturing and office based industry
 - To provide for bulk retail development
- A sorting facility for recyclable material is not one of the primary uses for this zoning.
- A preamble to the zoning states 'Proposals for uses not referred to will be considered where they do not conflict with the stated purpose of the zone and where they do not undermine the primary function of another zone. Uses ancillary and complimentary to the principle use will be considered on their own merits'.

- In the council's view the operative phrase for other uses proposed in this zone is 'where they do not conflict with the stated purpose of the zone'. The proposed use does not meet the three uses specified under the heading 'Primarily for Industrial/Commercial'. The industrial component of the heading relates to manufacturing, as set out in the bullet point. Recycling does not come under manufacturing. The council considers the bullet points to be the meaning of the heading and not subsidiary to the heading and therefore a material contravention would be required. Had the heading been interpreted on its own then a material contravention would not be required, as recycling falls within the meaning of industrial process defined in section 5 of the Planning and Development Regulations 2001-2017. It was the council's opinion that, given the ambiguity of the heading of the zoning objective and bullet points under that heading, the most prudent approach was to deal with the application as a material contravention. The use is not considered ancillary or complimentary to the principal use.
- The waste transfer facility referred to by the applicant for a different application came under a different zoning objective for Castlebar, 'Enterprise and Employment', the wording of which was not as restrictive as that for Ballina and therefore the planning authority is of the view that these are not comparable.
- Council is of the view that the proposed use is an acceptable and appropriate use at this location.
- The proposed development would not give rise to environmental concerns regarding noise, odour, litter and dust for the residents of Greenhills subject to the planning conditions attached.
- A list of planning conditions accompanies the planning authority's submission on the appeal.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. The proposed development is for the construction of a commercial unit on a undeveloped greenfield site within an IDA industrial estate, for the sorting of recyclable materials from private and commercial skips only, with no domestic wheelie bin collections to be accepted. All waste storage and sorting is to take place within the building. It is stated that the maximum amount of waste to be stored in the commercial unit at any one time is 109.25 tons of waste. It is stated that it will take one month to achieve maximum capacity for the waste streams of timber (16 ton), metal (16 ton), glass (26 ton) and cardboard (26.60 ton), and it will take two months to achieve maximum capacity for waste streams of paper (8 ton) and plastics (7 ton). Based on the figures submitted, assuming the facility operates year round and receives the maximum amount each month as predicted, I estimate the annual tonnage of material received by the facility to be approx. 1105 tonnes.

7.2. The primary issues for assessment include;

- Use within Industrial/Commercial (IC) Zoning and Material Contravention
- Activities Proposed and Impact on Amenities
- Other Matters
- Appropriate Assessment

Use within Industrial/Commercial (IC) Zoning and Material Contravention

7.3. The Ballina and Environs Plan 2009-2015 (as extended) states the broad land use zoning category Industrial/Commercial (IC) is 'to provide for industry, employment and retail warehouse/warehouse/bulk goods outlets'. The principle function of the zoning category is as per the following three bullet points:

Primarily for Industrial/Commercial

- To provide for retail and other warehousing
- To provide for manufacturing and office based industry

- To provide for bulk retail development

- 7.4. Section 2.13.6 states the Land Use Zoning Categories set out the principle function of each use zone. Proposals for uses not referred to will be considered where they do not conflict with the stated purpose of the zone and where they do not undermine the primary function of another zone. Uses ancillary and complimentary to the principle use will be considered on their own merits.
- 7.5. The response to the appeal from the planning authority elaborates on why the planning authority considered the proposed use would materially contravene the development plan, which the councillors did not consent to accept when presented with a motion in relation to this issue. It is stated that, in the council's view, the operative phrase for other uses proposed in this zone is 'where they do not conflict with the stated purpose of the zone'. It is stated that the proposed use does not meet the three uses specified under the heading 'Primarily for Industrial/Commercial'. The industrial component of the heading relates to manufacturing, as set out in the bullet point. Recycling does not come under manufacturing. The council considers the bullet points to be the meaning of the heading and not subsidiary to the heading and therefore a material contravention would be required. Had the heading been interpreted on its own then a material contravention would not be required, as recycling falls within the meaning of 'industrial process' defined in article 5 of the Planning and Development Regulations 2001-2017. It was the council's opinion that, given the ambiguity of the heading of the zoning objective and bullet points under that heading, the most prudent approach was to deal with the application as a material contravention. The use is not ancillary or complimentary to the principal use. The waste transfer facility referred to by the applicant for a different application came under a different zoning objective for Castlebar, 'Enterprise and Employment', the wording of which was not as restrictive as that for Ballina and therefore the planning authority is of the view that these are not comparable.
- 7.6. The applicant considers the council erred in considering the application to be a material contravention. Section 2.13.6 allows for uses other than those specified in the bullet points to be considered. The proposed use does not conflict with other uses within the industrial estate and does not undermine the function of other zones. The applicant considers that the scale and location of the business will not impact on

adjoining users or on neighbouring residential dwellings, given it is over 100m from the nearest house.

- 7.7. I have considered all the zoning categories set out within the development plan for Ballina. There is no zoning matrix listing the various use classes and types of uses permissible/open for consideration within each zoning category. Uses other than those listed in the bullet points can be considered, as stated with section 2.13.6 of the Ballina and Environs Development Plan.
- 7.8. The broad zoning objective for IC is stated 'to provide for industry, employment and retail warehouse/warehouse/bulk goods outlets'. I consider the bullet points referred to as a guide to the primary types of uses open for consideration within the zoning objectives. I do not consider the bullet points should be utilised to specifically limit exclusively the uses open for consideration and I would consider such an approach an unreasonable interpretation of the zoning objective. I note that under the zoning category Industrial, there is a bullet point the same as that stated for the Industrial/Commercial zone 'to provide for manufacturing and office based industry'. If the uses were to be limited solely to those indicated in the bullet points, then no recycling would be permitted in Ballina. However, the preamble to the zoning clearing states proposals for uses not referred to will be considered where they do not conflict with the stated purpose of the zone and where they do not undermine the primary function of another zone.
- 7.9. I have considered further whether the proposed use would conflict with the stated purpose of the zone or would undermine the primary function of another zone, taking account also of the broad zoning objective of IC, which is 'to provide for industry, employment and retail warehouse/warehouse/bulk goods outlets'. The proposed use, in my view, does not undermine the broad purpose of the zone, which is titled Industrial/Commercial. The process as outlined by the applicant involves the sorting of recyclable waste within a large unit. There will be truck movements associated with the operation of the business, which one would expect within an industrial zone. Overall the proposal will not give rise to excessive noise or result in nuisances over and above that associated with the existing land uses in the vicinity, which includes Handy Hut Hire (portaloos suppliers), Collins plastics manufacturer, and Oasis (manufacturer of water coolers and related equipment). I do consider that this use would conflict with a manufacturing type industry, as described in the bullet point, nor

any other zone adjoining this zone (agricultural and residential uses), given the distance of this unit from neighbouring land uses. Furthermore, the proposal constitutes an employment generating activity and as such accords with the broad zoning objective for the area.

7.10. I am of the opinion that the use of the term 'materially contravene' is not justified. I consider the refusal reason of a material contravention of the zoning objective to be an erroneous interpretation of the development objectives in the development plan, and therefore the Board should not consider itself restrained by section 37(2).

7.11. Should the Board not be satisfied that this is the case, then the matter must be considered in the context of section 37(2)(b) of the Planning and Development Act 2000 (as amended). Section 37(2)(b) states that the Board may only grant permission where it is considered that:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.12. I am of the view that, in examining section 37(2)(b), (i) and (iii) do not apply, however I consider that point (ii) is applicable, and the objectives as they relate to this zoning category are not clearly stated. The bullet points 'primarily for industrial use' are referred to as the 'principle function of each use zone' and the bullet point states 'to provide for manufacturing and office based industry' however, to limit the industrial zoning within the plan to uses relating to manufacturing only is not specifically stated or clearly interpreted from the zoning title, broad zoning objective or bullet points.

Activities Proposed and Impact on Amenities

- 7.13. The applicant, following a further information request and clarification of further information request from the planning authority, clarified that the proposed operation involves the separation and storage of recyclable goods, with all the sorting activity taking place within the proposed building. The skips will be emptied on arrival at the facility, and those skips indicated on the site layout plan to the rear of the building will be empty. The types of materials to be recycled and the processes as described by the applicant are such, in my view, as not to cause a high impact on the environment in terms of noise, dust or emissions, particularly as the storage and separation of waste is to take place indoors. It is stated that there will be no household waste sorted at the facility, therefore issues in terms of odour and vermin are limited. Furthermore, given the distance of the nearest residential property approx. 94m north of the site boundary, I do not anticipate undue impacts on residential amenity in terms of noise, dust or emissions.
- 7.14. The Board in determining the application must be satisfied that the development is in accordance with the zoning provisions and development plan policy as it relates to the application and is in accordance with the proper planning and sustainable development of the area. I am overall satisfied that the proposal complies with the zoning provision and will not impact on the amenity of the area.

Other Matters

EIA/EIS Requirement

- 7.15. It is stated that the maximum amount of waste to be stored in the commercial unit at any one time is 109.25 tons of waste. It is stated that it will take one month to achieve maximum capacity for the waste streams of timber (16 ton), metal (16 ton), glass (26 ton) and cardboard (26.60 ton), and it will take two months to achieve maximum capacity for waste streams of paper (8 ton) and plastics (7 ton). Based on the figures submitted, assuming the facility operates year round and receives the maximum amount each month as predicted, I estimate the annual tonnage of material received by the facility to be approx. 1105 tonnes.
- 7.16. The proposed development falls below the threshold for projects which would require an EIS as set out in Schedule 5 of the Planning and Development Regulations 2001 (as amended) which provides that an EIS is required for installations for the disposal of waste (which includes waste recovery operations) of 25,000 tonnes per day. The

proposal does not require a stage 2 appropriate assessment, is not in a sensitive environment and it is not considered that the proposed development would be likely to have a significant effect on the environment. An EIA is not required.

Boundary Treatment

- 7.17. Under planning reg ref 14602, permission was granted by the Planning Authority for construction of fencing (3m high), which included the site boundary subject of this appeal. A condition was attached to that permission to set back fencing a distance of 5 metres from the eastern boundary and incorporate additional planting, in recognition of the pedestrian use of the route to the east of the site, which is rural in character. The planner's report states the 5m set back is required to acknowledge the reasonably well used walking route, which will probably be linked to urban walking routes in the future and a landscaped edge would be appropriate.
- 7.18. Having inspected the site, I note that the surfaced route to the east of the site was being utilised by walkers and is rural in character with the edge adjoining the site overgrown and occupied by ESB pylons and overhead wires. Given this route is acknowledged by the Planning Authority as a reasonably well used walking route, and given the rural character which exists along this route, in addition to its biodiversity value, I consider the proposed palisade fencing at the edge of the path would detract from the green character and general amenity of this route. I consider a condition, similar to that previously imposed by the Planning Authority under reg ref 14602, would be warranted in this instance.
- 7.19. The existing access road is to be extended eastwards by the developer to a point mid-way along the frontage of the site to facilitate access to this site and the site to the north. Palisade fencing, 3m high, is proposed along the eastern, southern, western and northern boundary of the site, on both sides of the new road.
- 7.20. The existing access road to the industrial estate has primarily low boundaries with landscaping and provision of a footpath on both sides of the road. I note a newer unit has recently been permitted palisade fencing along the front boundary edge. The creation of an attractive environment for businesses is important in industrial estates and the creation of high palisade type boundaries to the road, in my view, detracts from the environment and detracts from the landscaped edge which is part of the original design of this estate. I am of the view that the proposed palisade boundary

along the northern and southern sides of the extension to the access road should be omitted and replaced with a lower post and rail landscaped boundary, similar to what exists along the access road, with provision of a landscaped edge inside this boundary. A footpath on both sides of the road should also be provided, linking into the existing footpaths, details of which can be agreed with the planning authority.

Appropriate Assessment

- 7.21. The town of Ballina is adjacent to the River Moy SAC (002298) and Killala Bay/River Moy SAC (000458). The overall conservation objective is to maintain or restore the favourable conservation status of habitats and species of community interest.
- 7.22. The applicant has submitted an Appropriate Assessment Screening Report with the application. The River Moy SAC is identified as being within the impact zone of the development. The report concludes that no significant impacts are predicted.
- 7.23. The River Moy SAC comprises almost the entire freshwater element of the River Moy and its tributaries including both Loughs Conn and Cullin. The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes): [7110] Raised Bog (Active)*; [7120] Degraded Raised Bog; [7150] Rhynchosporion Vegetation; [7230] Alkaline Fens; [91A0] Old Oak Woodlands; [91E0] Alluvial Forests*; [1092] White-clawed Crayfish (*Austropotamobius pallipes*); [1095] Sea Lamprey (*Petromyzon marinus*); [1096] Brook Lamprey (*Lampetra planeri*); [1106] Atlantic Salmon (*Salmo salar*); and [1355] Otter (*Lutra lutra*).
- 7.24. North of Ballina town, the River Moy flows to the sea via a long, narrow estuarine channel. The Killala Bay/Moy Estuary is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes): [1130] Estuaries; [1140] Tidal Mudflats and Sandflats; [1210] Annual Vegetation of Drift Lines; [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts; [1310] Salicornia Mud; [1330] Atlantic Salt Meadows; [2110] Embryonic Shifting Dunes; [2120] Marram Dunes (White Dunes); [2130] Fixed Dunes (Grey Dunes)*; [2190] Humid Dune Slacks; [1014] Narrow-mouthed Whorl Snail (*Vertigo angustior*); [1095] Sea Lamprey (*Petromyzon marinus*); and [1365] Common (Harbour) Seal (*Phoca vitulina*).

- 7.25. The proposed development is on a serviced greenfield urban site. The site is proposed to be connected to public wastewater and water systems. It is proposed to connect to the existing surface water drain which connects to the Brosna Stream (part of the SAC). A silt trap and petrol/oil interceptors are proposed as part of the surface water drainage.
- 7.26. I am satisfied that standard construction management practices would be sufficient to avoid an indirect effect on water quality during construction. I consider that adequate measures are proposed within the site during the operational phase to prevent surface water contamination and therefore the potential for impact on the water quality within the designated sites is remote. In addition, the proposal for connection to the public foul network would mitigate any potential for impacts from wastewater.
- 7.27. It is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002298 (River Moy SAC) and No. 000458 (Killala Bay/River Moy SAC), or any other European Site, in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Permission is recommended, subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective, the nature and scale of the proposed development, in addition to the pattern of development in the area, it is considered that subject to compliance with conditions below, the proposal would not seriously injure the amenities of the area or of property in the vicinity and would not materially contravene an objective of the development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The palisade fencing proposed along the northern boundary of the site and the southern side of the access road shall be omitted and replaced with a post and rail type fence, or suitable alternative to be agreed in writing with the planning authority, no greater than 1.2m high, with an adjoining landscaped strip.
 - (b) The extension of the access road shall comprise a footpath on both sides and shall be finished to the same standard as the existing access road and to the requirements of the planning authority.
 - (c) Details of the access gate to the site shall be submitted to and agreed in writing with the planning authority.
 - (d) The palisade fencing proposed along the eastern boundary of the site shall be omitted from the location indicated. Fencing shall be provided along the eastern boundary, which shall be set back a distance of 5 metres from the boundary of the site and positioned to the east of the existing overhead ESB lines. The area/strip of land east of the fencing shall be planted. Details of the materials to be used in the fence, its revised location and a revised landscaping plan shall be submitted to and agreed in writing with the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity.

3. Details of the materials, colours and textures of all the external finishes and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. No waste sorting/loading of any nature shall be carried out outside the confines of the waste recovery building.

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

5. The development shall be operated and managed in accordance with an environmental management system (EMS) which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to the commencement of development. This shall include for the following:

- Proposals for the suppression of on-site noise.
- Proposals for the suppression of dust on site.
- The management of all landscaping.
- Monitoring of surface water quality in any discharges.
- Details of site manager contact numbers (including out of hours) and public information signs at the entrance to the facility.

Reason: In order to safeguard local amenities.

6. The hours of operation of the proposed facility shall be restricted to 0800 to 1800 Mondays to Fridays inclusive and 0800 to 1400 on Saturdays. No activities shall take place on Sundays or Bank Holidays and no deliveries of materials for recycling either to the site or from the site shall take place before 8am or after 6pm.

Reason: In the interest of amenity.

7. Water supply and drainage arrangements, including the disposal of surface

water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

10. 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 prior to commencement of development 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 An Bord Pleanála to determine the proper

application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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 O'Neill
Senior Planning Inspector

8th March 2018