



An
Bord
Pleanála

Inspector's Report

ABP-304352-19

Development	Permission for continuation of operation of waste recycling facility with retention of materials shed and facility building
Location	Ballynaskea, Rathcore, Enfield, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	TA190131
Applicant(s)	OMD Recycling Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party
Appellants	OMD Recycling Ltd
Date of Site Inspection	1 st October 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Ballynaskea, Rathcore, Enfield, Co. Meath, in a rural area about 1.3 km from Rathcore village, 7km north of Enfield and the M4 motorway, 3km south of Rathoylan, 3km west of the R159 which connects Enfield to Trim, and 5.3km north of the R146, the old N4. The access is from a county road which runs east of the site.
- 1.1.2. The road frontage is partly formed by a green palisade fence, within which there is a set back with wing fencing and security gates.
- 1.1.3. The site is identified as also being the full extent of the landholding although there is no boundary separating it from the land to the north which was previously identified as part of the landholding. On the date of inspection there was an open gate at the southern end of the western boundary leading into the field beyond, also not identified as part of the landholding. A stream, which can be seen on the site location map submitted, has been largely covered in. At the north west corner of the site the ground is lower and rough. The remainder of the site has been levelled. The relatively flat ground at the north eastern end of the site is at the highest level. The land falls away from the road to, in excess of 5m below road level. The level difference is most apparent near the road, and at the south eastern boundary where the excavated area is supported by a wall. The site is occupied by two large buildings. The larger building is located to the south of the gateway parallel to the road and is in two parts, the part nearest the gateway has a slightly lower ridge height, given as 9.2089m, and on its northern elevation is divided into two floors. The part to the south is wider and higher, given as 12.616m high. Both parts have a floor level which is c5m below road level. There are large roller shutter entrances on the western (front) elevation. Pedestrian entrances and other openings can be seen on this and other elevations, with the exception of the southern elevation. The second building, given as 10.286m to ridge, is located at right angles to the first, set at about the middle of the site, south of the entrance. Between the two buildings there is a weighbridge, parallel to the eastern building. On the date of inspection some of the doors to the eastern building were open and a single operator was at work. Outside the building there was a large pile of metal waste. Around the site, to either side of a wide passage allowing vehicles to circulate, various items of plant and equipment,

and numerous empty skips were stored, some of the equipment and vehicles appeared not to have been in recent use.

- 1.1.4. North of the site, on land formerly identified as part of the landholding, there is another building of recent origin, post 2012 per OSI aerial photography, with access via the subject site.
- 1.1.5. Apart from the lower ground in the north western corner, there is little evidence of the site's former use as a sand & gravel quarry.
- 1.1.6. The general vicinity is a quiet rural area with small fields surrounded by hedgerows. The roads are narrow, and south of the site a culvert crossing is particularly narrow. There are one off houses of recent construction in the general area.
- 1.1.7. The site is given as 3.179ha.

2.0 Proposed Development

- 2.1.1. The application is for permission for continuation of operation of waste recycling facility with retention of materials shed and facility building.
- 2.1.2. The application was accompanied by a report from Sean Lucy & Associates, Town Planning Consultants; a Technical Report from Byrne Environmental Consulting Ltd (noise); dust deposition test results from BHP; and a Statement of Screening for Appropriate Assessment from Noreen McLoughlin, MSc, Environmental Consultant.
- 2.1.3. The buildings to be retained are given as 1,199.34 sq m. in floor area.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided (3rd April 2019) to grant permission subject to 18 conditions, including:

Condition no. 2

This permission shall be for a period of 5 years from the date of this planning permission. No further recovery / stockpiling shall be permitted without a prior grant of planning permission.

Reason: To allow for further monitoring of the impact arising from the proposed development and the waste management policy.

Condition no. 4

A maximum of 20,000 tonnes of material per annum shall be accepted at the facility. Details of all materials entering the site shall be kept for records and made available to Meath County Council staff on request.

Reason: In the interests of development control and traffic safety.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Report, recommending permission, includes:

- Development Plan provisions are referred to.
- The nearest identified flood risk area is located 80m to the south of the site.
- It is considered that the proposed development complies with economic policies: ED POL 6, ED POL 20 and ED POL 21.
- It is also considered that the proposed development complies with waste management policies: WM POL 1, WM POL 6, WM OBJ 1, WM OBJ 13 and WM POL 7.
- It is also considered that the proposed development complies with the Eastern & Midlands Waste Management Plan.
- Both buildings were granted under TA/900637 but built with larger footprints. The applicant is proposing to retain the buildings as constructed.
- They are c 4m below road level and not highly visible. The storage shed has been constructed with a floor area of 475.34 sq m greater than granted under TA/900637. The ridge height is 10.286m, c3m higher than granted. The waste recycling facility building, constructed with a floor area of 724 sq m greater than granted, includes first floor office and ancillary space, and the ridge height is c4m higher (ridge height 12.616m). Both are finished externally in green sheeting and concrete wall. It is considered that they integrate into the landscape.

- The existing entrance was permitted under TA/900637 and has sight distances in excess of 140 m from a 4.5m back. The sightlines are considered acceptable.
- The TIA under the previous grant of permission, TA/900637, stated the annual intake would be 20,000 tonnes per annum; with trip generation of 16 tonne vehicles, 5 trucks per day in, and 5 trucks per day out: based on 50 weeks, 5 days, 10 hours per day. There will be 12 vehicle movements associated with 6 staff. It would generate 5.4% of the existing average daily traffic on the Local County Rd. which would not have a significant impact on traffic. No objection, in verbal communication with the Roads Section.
- The proposed development is below the class II threshold. The facility operates under a Waste Licence issued by Meath Co Co. The applicant has stated that the proposed development involves the recycling of C&D waste which is in compliance with the Waste Hierarchy and supported by the Regional Waste Management Plan.
- The planning report accompanying the application states that they provide waste recycling services to both residential and commercial sectors through the provision of skip hire and/or grab hire. They deal with all levels of waste from small scale residential to site clearance, excavation and demolition works. Up to 90% of the waste brought to their site is recycled within the two buildings onsite with all non-recyclable waste being removed off-site to a registered waste disposal operator.
- The existing facility has operated for 9 years without any issues. No intensification of use is proposed. No time period for the permission has been sought. It is thought appropriate to permit continuation for a further 5 years, which will allow for further monitoring of the development and waste management policy.

3.2.3. Other Technical Reports

Environment Section, which includes:

- The activity is operated under a Waste Facility Permit which is under review.
- No objections subject to condition:

- Importation of material from outside the site which activity will require authorisation under Waste Management (Facility Permit and Registration) Regulations Statutory Instrument SI 821 of 2007 as amended. No material can be imported to the site until the requisite authorisation is in place. The applicant will be required to liaise with the Environment Section Meath Co, Co to ensure compliance with the aforementioned regulations.

4.0 Planning History

PA Reg Ref TA 901888 application from OMD Waste Recycling for construction of materials storage shed and all associated site works, granted subject to nine conditions, including: 1 - the conditions attaching to TA 9030637 shall be fully complied with; 3 not for maintenance of any other vehicles or machinery.

PA Reg Ref TA 9030637 application from PFD Plant Hire Ltd. for: a) demolition of a recessed entrance gateway and concrete apron; b) the setting back of the existing fence/hedgerow on each side of the entrance gateway; (c) a construction and demolition waste recycling facility (consisting of a materials processing building 8.2 metres in height, a materials storage building with office/canteen accommodation 8.3 metres in height and a maintenance/canteen building 6.1 metres in height, to be operated in accordance with the approved Waste Management Permit, WMP 2003/44, of Meath County Council; (d) a vehicle parking area; e) an effluent treatment system and associated percolation area, all at Ballynaskea, Rathcore, Enfield, County Meath, granted by the PA 12/8/2009, subject to 26 conditions, including:

1 - in accordance with the plans and particulars.

2 - for a period of 10 years.

24 - restoration plan to be submitted within 6 months. If the facility has ceased for a period of twelve consecutive months and the applicant/ developer can offer no reasonable grounds, the PA can activate the restoration works.

25 - a fund for restoration.

26 - contribution to PA based on tonnage of waste.

The planning report includes: the crushing of concrete (for) recycling represents a compatible land use with quarrying, given that it would be similar to typical rock crushing.

The TIA refers to proposed sightlines of 140m north and 160m south from 4.5m back from the nearside edge of the carriageway. The applicant operates an authorised plant depot approx. 450m to the north, shown on map. The proposed intake is 20,000 tonnes per annum. All waste sorting and storage will take place within the proposed plant buildings. The site is subject to a Waste Permit WPM 2003/44.

Per condition no. 2, the permission expired on the 11th August 2019.

PL 17.228732, PA Reg Ref TA 800134, application from PFD Plant Hire Ltd for development consisting of (a) the setting back of the existing fence/hedgerow on each side of the entrance gateway, (b) a construction and demolition waste recycling facility (consisting of a materials processing building, 8.3 metres in height, a materials storage building, 8.3 metres in height and a maintenance/canteen building, 7.5 metres in height) to be operated in accordance with the approved Waste Management Permit, WMP 2003/44, of Meath County Council, (c) an effluent treatment system and associated percolation area and (d) the retention of a recessed entrance gateway and concrete apron, all at Ballynaskea, Rathcore, Enfield, County Meath; refused by the Board for 4 reasons:

- 1 - remote from the source of waste, would injure the rural character of the area.
- 2 - traffic and carrying capacity of the road network.
- 3 - traffic hazard due to narrow road and poor visibility at the access junction.
- 4 - wastewater treatment system prejudicial to public health

The previous refusal reasons by the Board for development on the site had not been overcome.

PL 17.207133, PA Reg Ref TA 30304 application from PFD Plant Hire Ltd for the development of a construction waste recycling facility, consisting of a materials storage area with integral concrete sump and interceptor, materials processing area using existing mobile plant and processed materials storage area, a machinery store and repair workshop, recessed entrance and access road, well, septic tank and percolation area and associated works. The development includes for the retention

of a new security fence and access gate, concrete area and the use of stored stone in the construction works. The development will take place within the confines of an existing sand and gravel extraction facility. Revised drawings include for a revision in the site boundaries from those previously submitted. A part of this development also requires a waste management permit in accordance with the 1996 Waste Management Act and the 1998 Waste Management (Permit) Regulations. The PA decided to refuse. The Board refused permission for 4 No. reasons:

- 1 - traffic and carrying capacity of the road network.
- 2 - traffic hazard due to narrow road and poor visibility at the access junction.
- 3 - impact of machinery storage/repair on the proper development of nearby industrial areas.
- 4 - remote from the source of waste, would injure the rural character of the area.

The inspectors report includes:

It is proposed to accept construction and demolition waste (CDW) for separation and recycling and to export the separated waste off the site. The original submission indicated that the annual tonnage of waste accepted would be in the region of 1,000-3,000 tonnes, depending on the amount of CDW available in any one year. Following a request for additional information, the applicant indicated that the annual intake could rise to 10,000-12,000 tonnes at full production. The Board requested the applicant to comment on the possible need for an EIS in connection with the application. The response submission referred to a further possible increase in intake to 20,000 tonnes per annum and pointed out that this was still less than the threshold, 25,000 tonnes per annum, set down at Class 11 (b) of Part 2 of the Fifth Schedule of the Planning & Development Regulations 2001.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Meath County Development Plan 2013-2019 is the operative plan. The Development Plan review which commenced in 2017 was paused in accordance with the provisions of the Planning and Development (Amendment) Act 2018 pending the

National Planning Framework and the requirement to develop and adopt a Regional Spatial & Economic Strategy (RSES). Following the adoption of the RSES by the Eastern & Midland Regional Assembly on Friday 3rd May, 2019, Meath County Council recommenced the review of the Draft Meath County Development Plan.

5.1.2. Relevant provisions include:

WM POL 1 To adopt the provisions of the waste management hierarchy and implement policy in relation to the county's requirements under the current or any subsequent waste management plan. All prospective developments in the county will be expected to take account of the provisions of the regional waste management plan and adhere to the requirements of the Plan. Account shall also be taken of the proximity principle and the inter regional movement of waste as provided for under appropriate Minister Directives from time to time.

WM POL 6 To encourage the development of waste infrastructure and associated developments in appropriate locations, as deemed necessary in accordance with the requirements of the Regional Waste Management Plan.

WM POL 7 To encourage the recycling of construction and demolition waste and the reuse of aggregate and other materials in future construction projects.

WM OBJ 1 To facilitate the provision of appropriate waste recovery and disposal facilities in accordance with the principles set out in the appropriate Waste Management Plan applicable from time to time made in accordance with the Waste Management Act 1996.

WM OBJ 13 To support the development of facilities to cater for commercial waste not provided for in the kerbside collection system such as WEEE, C&D type waste and hazardous materials in accordance with the requirements of the North East Waste Management Plan.

ED POL 21 To permit development proposals for industrial or business enterprises in the countryside where generally the following criteria are met:

- (i) the proposed use has locational requirements that can more readily be accommodated in a rural location than an urban setting and this has been demonstrated to the satisfaction of Meath County Council;
- (ii) the development will enhance the strength of the local rural economy,

- (iii) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area;
- (iv) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations;
- (v) the proposal is in accordance with the policies, requirements and guidance contained in this plan,
- (vi) it is demonstrated to the satisfaction of Meath County Council that the proposal would not generate traffic of a type and amount inappropriate for the character of the access roads or would require improvements which would affect the character of these roads. This policy shall not apply to the National Road Network.

5.2. **Eastern-Midlands Region Waste Management Plan, 2015 – 2021**

Executive Summary, includes:

The economic recession impacted on the generation of wastes in the region, specifically wastes from the building sector, with annual records showing a steady decline in quantities for major waste streams. Since the beginning of 2014 the economy has shown signs of sustained recovery, and this is expected to continue, which will likely lead to growth in waste generation over the period of the plan. The continued management of wastes in a safe and sustainable manner will be a real challenge into the future.

The strategic approach of the plan places a stronger emphasis on preventing wastes and material reuse activities. The plan will also focus on enhancing the collection of quality materials from discarded waste to build on the positive progress made in recycling. The plan will strive to improve the recovery and generation of energy by maximising the resource value of the materials and energy embodied in residual wastes. Finally, the plan will seek to further reduce the role of landfilling in favour of higher value recovery options.

Three strategic targets have been set in the plan, providing a clear focus and a transparent measure of success for the region. The targets cover the areas of prevention, recycling and landfilling, and their delivery will require the local authorities and industry to work together. The plan has also looked forward to 2030,

demonstrating a long-term commitment to the strategic vision, with further goals set down including reaching a recycling rate of over 60%. The realisation of the strategic vision and targets requires investment in the waste sector by public authorities and industry. It has been estimated that public authority expenditure of over €60 million will be required each year of the plan period, at a minimum, and any shortfall will impact on the delivery of plan policies. In addition, up to €300 million of potential investment by the private sector in new waste treatment infrastructure has been identified for the region. Improving our waste infrastructure is a clear policy ambition of the waste plan. The policy aim is for the region and the State to become more self-sufficient, in terms of treating the wastes we generate and are currently exporting.

The role of the waste industry, alongside the authorities, is fundamental to the delivery of the plan. Industry will be responsible for the delivery of collection and treatment infrastructure required in the region. A collaborative relationship between waste operators and the authorities is required to ensure that progress on the plan is maintained.

5.3. Planning & Development Act 2000 as amended

S139 – re. appeal against conditions: if the Board is satisfied, having regard to the nature of the conditions, that the determination by the Board as if it had been made to it in the first instance would not be warranted, it has discretion to give the planning authority directions regarding the conditions.

5.4. Planning & Development Regulations 2001

Schedule 5 Development requiring EIA, includes:

Part 2, 11(b)

Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

5.5. Development Management Guidelines

5.5.1. Section 7.5 - Temporary permissions

The grant of a temporary permission will rarely be justified where an applicant wishes to carry out development of a permanent nature that conforms with the provisions of the development plan. It is undesirable to impose a condition involving the removal or demolition of a structure that is clearly intended to be permanent. It must be remembered that the material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one. The reason for a temporary permission can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area. If the amenities will certainly be affected by the development they can only be safeguarded by ensuring that it does not take place. An application for a temporary permission may, however, raise different material considerations from an application for permanent permission. In the case of a use which may possibly be a “bad neighbour” to uses already existing in the immediate vicinity, it may sometimes be appropriate to grant a temporary permission in order to enable the impact of the development to be assessed, provided that such a permission would be reasonable having regard to the expenditure necessary to carry out the development. A second temporary permission should not normally be granted for that particular reason for it should have become clear by the expiration of the first permission whether permanent permission or a refusal is the right answer. In other circumstances, an application for a second temporary permission may be quite genuine and should be dealt with on its merits. For example, where a temporary permission has been granted for a structure which is inherently impermanent, an application for a permission for a further limited period could reasonably be made if the structure has been well maintained and there has been no other change in circumstances relating to the proper planning and sustainable development of the area concerned.

5.6. Natural Heritage Designations

- 5.6.1. The nearest Natura site is River Boyne and River Blackwater SAC 002299, located 4k straight line distance to the north.

5.7. EIA Screening

- 5.7.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The appeal against two conditions of the decision has been made on behalf of the first party by Sean Lucy & Associates Ltd. The grounds includes:
- 6.1.2. Having regard to the nature of the conditions the determination by the Board of the application is not warranted.
- 6.1.3. Appeal against condition no. 4:

The decision limits the amount of material accepted annually at the site to 20,000 tonnes however the waste permit issued by Meath County Council, under which the recycling facility has operated for the past 10 years, sets a limit of 50,000 tonnes per annum. They refer to Conditions 7 & 10 of the permit and enclose a copy of the permit with the grounds.

Condition no. 7 of the permit

Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding land improvement or development) where

- a) The annual intake shall not exceed 50,000 tonnes, and
- b) The maximum quantity of residual waste consigned from the facility for collection, onward transportation and submission to disposal at an authorized facility shall not exceed 15% of the annual intake.

Condition no. 10 of the permit

The recovery of waste (not mentioned elsewhere in this part of the third schedule), other than hazardous waste, where

- a) The annual intake does not exceed 50,000 tonnes, and
- b) The maximum quantity of residual waste consigned from the facility for onward transportation and submission to disposal at an authorized facility shall not exceed 15% of the annual intake.

The planning condition undermines the terms and conditions of the Waste Permit.

There is no need for condition 4 as the facility is already limited by the more relevant statutory waste permit.

The condition was imposed based on the Traffic Impact Assessment figures lodged as part of the original planning application in 2009, which undertook its calculations based on an annual intake of 20,000 tonnes, however it was not attached as a condition.

No issues have arisen either in respect of environmental issues or traffic issues which warrants the imposition of a significant restriction on the operation.

Neither the planner's report nor the Environmental Section report identify any issues.

They request amendment of condition 4 to the following:

The facility shall operate within the terms of their Waste Permit. Details of all materials entering the site shall be kept for records and made available to Meath County Council staff on request.

Reason: In the interests of development control and traffic safety.

6.1.4. Appeal against condition no. 2:

The imposition of a second temporary permission is not warranted. Per the Development Management Guidelines S 7.5 no issues have arisen either in respect of environmental impact over the past 10 years. They request to have condition no. 2 removed.

They request the Board to use their powers under S145(a)(1) of the Act to instruct the planning authority to reimburse their client the costs of making the appeal. If it was not for condition 4 they would not have appealed condition 2.

Attached to the grounds are copies of:

The subject decision

Ta9000637

Waste Permit WEP/MH/09/0008/01, issued 20th January 2010.

6.2. **Planning Authority Response**

The Planning Authority has responded to the grounds of appeal, including:

- This facility may not have operated at full capacity during the economic downturn.
- In the permission TA190131 (TA900637 is elsewhere referenced in the submission), it was clearly stated by the applicant that 20,000 tonnes was the maximum limit per annum and per condition no. 1, the applicant must abide by this limit.
- In the current application, no mention was made of increasing the intake limit to 50,000 tonnes per annum.
- In accordance with the P&D Regulations 2001-2018 installations for the disposal of waste with an annual intake greater than 25,000 tonnes per annum requires Environmental Impact Assessment. If this facility is accepting 25,000 tonnes of waste per annum a new planning application with an accompanying EIA would be required.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are: appropriate assessment, the principle of the development, its de novo consideration, condition no. 2, condition no. 4 and S145(a) and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and 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.

7.3. Principle of the Development

- 7.3.1. The subject development came before the Board on two previous occasions: in 2008 under ref PL 17.228732, referred to earlier in this report, and in 2004 under ref PL 17.207133. On both occasions the Board decided to refuse permission for reasons including: remoteness from the source of waste and injury to the rural character of the area; the traffic generation and limited carrying capacity of the road network; traffic hazard due to the narrow road and poor visibility at the access junction; and that the wastewater treatment system would be prejudicial to public health.
- 7.3.2. In my opinion these reasons are still applicable and the proposed development should therefore be refused.

7.4. De Novo Consideration

- 7.4.1. The grounds of appeal states that having regard to the nature of the conditions the determination by the Board of the application is not warranted.
- 7.4.2. S139 of the Planning Act 2000 as amended provides that in an appeal against conditions; if the Board is satisfied, having regard to the nature of the conditions, that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted, it has discretion to give the planning authority directions regarding the conditions.
- 7.4.3. In my opinion the conditions appealed are fundamental to the assessment of the proposed development and therefore it would not be appropriate for the Board to confine its consideration of the appeal to the conditions referred to in the grounds.

7.5. Condition no. 2

- 7.5.1. Condition no 2 permits temporary continuation of use for 5 years, to allow for further monitoring of the impact arising from the proposed development and the waste management policy.

- 7.5.2. The grounds of appeal states that the imposition of a second temporary permission is not warranted and is in breach of the Development Management Guidelines. It is stated that no issues have arisen in respect of environmental impact over the past 10 years. They consider that there should be no time limit on the proposed development.
- 7.5.3. The Development Management Guidelines state that the reason for a temporary permission can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area, and that if the amenities will certainly be affected by the development they can only be safeguarded by ensuring that it does not take place.
- 7.5.4. In the subject case the previous permission was a temporary permission in order to enable the impact of the development to be assessed. The grounds of appeal states that no issues have arisen in respect of environmental impact over the period of the temporary permission and that neither the planning report nor and Environment Section report record objection to the proposal. It should be noted in this regard that the permission granted in 2009 coincided with the severe downturn in the economy, which has resulted in very limited building activity and as a result in very limited generation of construction / demolition waste, in the intervening period.
- 7.5.5. The Eastern-Midlands Region Waste Management Plan, 2015 – 2021 states that the economic recession impacted on the generation of wastes in the region, specifically wastes from the building sector, with annual records showing a steady decline in quantities for major waste streams.
- 7.5.6. In my opinion the impact of waste recycling of 20,000 tonnes per annum at this site has not been experienced during the period of the temporary permission and therefore the temporary permission previously granted did not achieve its objective of monitoring impact arising from a development recycling 20,000 tonnes per annum. For this reason, should the Board be minded to grant permission, I consider that, as in the planning authority's decision, a temporary permission is appropriate in this case.

7.6. Condition no. 4

- 7.6.1. The grounds of appeal states that the specified maximum intake of 20,000 tonnes of material per annum is inappropriate; that the facility operates in accordance with a waste permit issued by Meath County Council, under which it has operated for the past 10 years; which sets a limit of 50,000 tonnes per annum. They consider that there should be no limit on the intake and that the waste permit is the appropriate control. They have drafted a condition for the Board's consideration.
- 7.6.2. The planning authority response is that this facility may not have operated at full capacity during the economic downturn; in the permission TA/90131 (this should be TA900637 as stated elsewhere in their submission) it was clearly stated by the applicant that 20,000 tonnes was the maximum limit per annum and per condition no. 1 the applicant must abide by this limit; no mention was made in the application of increasing the intake limit to 50,000 tonnes per annum; and installations for the disposal of waste with an annual intake greater than 25,000 tonnes per annum require Environmental Impact Assessment. If this facility is accepting 25,000 tonnes of waste per annum a new planning application with an accompanying EIA would be required.
- 7.6.3. The issue of scale, and the possible need for Environmental Impact Assessment, was raised in a previous application and appeal, PL17.207133; and is referred to in the inspector's report, as follows:

It is proposed to accept construction and demolition waste (CDW) for separation and recycling and to export the separated waste off the site. The original submission indicated that the annual tonnage of waste accepted would be in the region of 1,000-3,000 tonnes, depending on the amount of CDW available in any one year. Following a request for additional information, the applicant indicated that the annual intake could rise to 10,000-12,000 tonnes at full production. The Board requested the applicant to comment on the possible need for an EIS in connection with the application. The response submission referred to a further possible increase in intake to 20,000 tonnes per annum. It was pointed out that this was still less than the threshold 25,000 tonnes per annum set down at Class 11 (b) of Part 2 of the Fifth Schedule of

the Planning & Development Regulations 2001, which indicates thresholds for the submission of an EIS:-

Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

- 7.6.4. The existence of a waste permit does not alter the planning permission granted for the subject site, now expired. A waste permit could not circumvent the need for EIA. No Board direction to the planning authority in relation to this condition could operate to avoid the requirement for EIA.
- 7.6.5. Should the Board be minded to grant permission, I consider it appropriate to confirm the planning authority's decision to limit the intake to 20,000 tonnes per annum.

7.7. **S145**

- 7.7.1. In the grounds of appeal Sean Lucy & Associates Ltd have requested the Board to use its powers under S145(a)(1) of the Act to instruct the planning authority to reimburse their client the costs of making the appeal.
- 7.7.2. S 145 (a) provides the Board with absolute discretion to direct the planning authority to compensate an appellant for the expense of making an appeal.
- 7.7.3. In my opinion there is nothing in the application or appeal to suggest that such direction would be appropriate.

8.0 **Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

9.0 **Reasons and Considerations**

1. By reason of its location in a worked out sand and gravel pit which is in a rural area remote from the source of raw materials on which the operation depends (construction and demolition waste) and served by a poor road network, and having regard to the provisions of the current development plan for the area, it is considered that the proposed development is an inappropriate land-use at this

location, which would seriously injure the rural character of the area, would be inconsistent with the policies contained in the development plan and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Taken in conjunction with existing and permitted development in the area, it is considered that the proposed development, by reason of the extra traffic movements and manoeuvres generated, would reduce the carrying capacity and efficiency of the road network in the area and would therefore endanger public safety by reason of traffic hazard.

3. The proposed development would endanger public safety by reason of serious traffic hazard because the accommodation road is very narrow and its junction with the public road has poor visibility, notwithstanding the local improvements submitted by the applicant relating to the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The Board is not satisfied that the proposed waste recycling facility can be adequately drained by means of a private wastewater treatment system having regard to the ground conditions on site and the nature and scale of the proposed development. The proposed development would, therefore, be prejudicial to public health.

Planning Inspector

8th October 2019

Appendices

Appendix 1 Photographs

Appendix 2 Meath County Development Plan 2013-2019, extracts.

Appendix 3 OSI aerial photograph of site area.