



An  
Bord  
Pleanála

## Inspector's Report ABP 304584-19

### Development

Extension of roof and provision of new supporting wall to existing materials recovery facility building, partial demolition of roof on 2<sup>nd</sup> building and erection of new roof and supporting columns and erection of new roof and supporting columns over portion of existing yard.

### Location

The Kerries, Lahercannon, Tralee, Co.Kerry.

### Planning Authority

Kerry County Council

### Planning Authority Reg. Ref.

19/248

### Applicant

Dillon Waste Unlimited

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

3<sup>rd</sup> Party v. Grant

### Appellant(s)

Jerry & Dawn Clifford

### Observer(s)

None

**Date of Site Inspection**

12/08/19

**Inspector**

Pauline Fitzpatrick

## 1.0 Site Location and Description

The site which has a stated area of 0.4194 hectares is accessed from a local road known as Spa Road in The Kerries which is c. 1.8 km to the west of Tralee town centre. The site is currently operating as a materials recovery facility. The main building is along the southern boundary with open storage occurring to the east of same. Delineated open storage bays are immediately to the north of the main building elevation. A further area of open storage for materials was noted against the western site boundary between the main building and a long established shed which appears to be used for maintenance purposes etc. The office, weighbridge, public recycling area and car park are to the front (north) of the site.

There is a two storey dwelling immediately to the west of the site with a shed to the east. Further one off housing, accessed from a local road bound, the site to the east.

The local road serving the site is narrow and was noted to be relatively well trafficked. The 50kph speed limit applies.

## 2.0 Proposed Development

The proposal entails:

- (a) Extension of roof and provision of new supporting wall to the existing materials recovery building over the loading bay.
- (b) Partial demolition of roof on maintenance building and erect new roof and supporting columns to the building.
- (c) Erection of new roof and supporting columns over portion of the yard area.

The purpose of the works is so as to provide cover and dry working conditions for general operations.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant subject to 3 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's report considers the principle to be acceptable in the context of the grant of permission under ref. 07/307491. The visual impact is acceptable in the context of the existing development. The proposal would not generate additional traffic. Enclosing the operation currently carried out in the yard may result in reduced noise levels. A grant of permission subject to conditions recommended.

#### **3.2.2. Other Technical Reports**

None.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised are comparable to those set out in the 3<sup>rd</sup> party appeal summarised in section 6 below.

## **4.0 Planning History**

PL81.228558 (7491/07) – permission granted in February 2009 for demolition of buildings and erection of materials recovery facility, office building, stormwater holding tank and public recycling centre subject to 16 conditions.

PL81.118872 (5753/249/99) – permission granted for change of use of existing store to office, toilet, store and retention and completion of same.

4320/178/93 – permission granted for building for use as a recycling and transfer facility.

## 5.0 Policy Context

### 5.1. Tralee Town Development Plan 2009-2015 (extended)

The site is within an area zoned M4 as per variation no.5 to the plan

It is the policy of the Planning Authority to protect and improve existing /developed/residential areas and to provide facilities and amenities incidental to those areas. There is a range of additional uses open to consideration within these areas where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area.

#### *Section 11.4 Existing Residential/Town Centre Area/Built Up Areas (R2/M2/M4)*

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas shall not be permitted.

*WMPO1* Implement in conjunction with Kerry County Council the provisions of the Waste Management Plan, 2006-2011

*WMPO3* Provide for additional waste prevention and recycling initiatives facilities including a civic amenity site

*WMPO5* Facilitate and co-operate with private operators in the provision of waste facilities.

### 5.2. Natural Heritage Designations

Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 002070) c. 1km to the south.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The submission by Ger O'Keeffe Consulting Engineers Ltd. on behalf of the appellants can be summarised as follows:

- There is an obligation on the applicant and the Planning Authority to respect the amenities of neighbouring properties.
- Any additional development on such a contentious site should have been appropriately assessed by the local authority. No report was received from the Environment Section.
- An Environmental Report should have been requested.
- The documents are basic and are inadequate.
- They are concerned that the covered areas are so as to facilitate an increase in the capability of the facility to accept increased quantities of waste.
- The following details should be required, and conditions incorporated to ensure no intensification of use on the site:-
  - waste tonnages entering and leaving the site
  - traffic and road safety report including traffic flows in and out of the site.
- There are issues of compliance in terms of file ref. PL81.228558.
- The local roads in the vicinity are inadequate to cater for the vehicles using the facility which may not have been envisaged in the 2007 application. There are ongoing issues with drivers not complying with the routes specified in the Board's decision.
- It is important that up dated Traffic Management and Control Plans with parking area designations are incorporated as part of this application and assessment.
- A timber shredder proposed at the western edge of the site has not been the subject of a planning application or decision. It is referenced on the drawings.
- The waste permit licence should not take precedence over planning matters.

- There are issues with the nature and quantity of waste, operating procedures, emissions and monitoring.

## 6.2. Applicant Response

The submission by RPS on behalf of the applicant can be summarised as follows:

- The drawings are compliant with the requirements of the Planning and development Act 2000, as amended.
- The purpose of the development is to provide greater shelter to waste loading operations and to provide cover and dry working conditions for the general operations which currently take place in the areas to be roofed, thereby improving the safety and welfare of site operatives. No intensification of the existing permitted activities is being sought nor is permission being sought for the facility to accept additional quantities of waste.
- The facility is operated under Waste Facility Permit Number WFP-KY-10-001.
- The proposal will not result in any increased waste traffic movements. Therefore, no traffic/road safety reports or traffic counts are required. There will be a small number of additional vehicle movements during the construction phase.
- The issues raised in relation to the previous permission are not the subject of the instant application.
- A timber shredding area as shown on the plans was granted permission under ref. 07/7491. Timber shredding has not been undertaken at the facility in the last 7 years.
- As noted in the planner's report the enclosing of the operations would serve to reduce noise levels from the yard.
- No disposal of solid or liquid waste occurs on the site. Liquid waste is not permitted at the facility and is not accepted.
- The referenced public areas are outside the development boundary.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

## 7.0 **Assessment**

I note that the red line delineating the boundary of the site to which this application refers includes the main building, the open storage area along the western boundary and part of the shed to the north of same, only, and excludes all other buildings and yard areas within the overall facility.

Notwithstanding and in order to assist in the assessment of the proposal I consider that it is beneficial to set out the nature and extent of the development as permitted and existing on the overall site. Regard is had to the particulars and documentation on file ref. PL81.228558 for which permission was granted on appeal for a materials recovery facility and recycling centre in 2009. A waste recovery and transfer facility has been in operation on the site since 1993.

The materials recovery building is located to the south of the site and is constructed in accordance with the permitted plans. The permission allows for a timber shredder and output storage area. The recessed arrangement along the eastern elevation was proposed consequent to a further information request arising from concerns about potential infringement on the zone of influence around a recorded monument located to the east (Iron Age Hillfort KY0029-112). A public recycling area with associated car parking is located in the north-eastern corner to the front of the site with an office building and weighbridge in north-western corner. The office building on site appears to be marginally different from that permitted.

As noted on day of inspection open storage of materials was evident to the front and side of the recessed eastern section of the materials recovery building with bays provided along the front elevation to provide for further open storage. Another area of open storage was noted along the western site boundary between the recovery



building and the shed to the north. The said shed does not appear to be used for materials recovery and is used for maintenance purposes.

These open storage areas were not delineated on the relevant site layout plans or referenced in the EIS. Indeed, I note that the EIS stated that all recovery operations were to take place within the main shed. The carrying out of the proposed material recovery activities internally was further emphasised by the agent for the applicant in both its appeal response and its response to the Board's Section 137 notice issued during its assessment of the appeal. As per section 2.1 of the EIS the proposed building was so as to allow for the increase in the amount of material passing through the facility to 20,000 tonnes per annum over what was previously handled on the site (14,000 tonnes). It is reasonable to assume that the building was sized so as to accommodate this tonnage.

By reason of condition 1 attached to the Board's decision requiring the development to be carried out in accordance with the plans and particulars, the permission would have allowed for up to 20000 tonnes per annum throughput, only.

Waste Facility Permit WFP-KY-10-0001-04 applies to the facility, a copy of which is attached for the Board's information. Condition 4 attached to same states that the total quantity of waste accepted and processed at the facility annually shall not exceed 49,999 tonnes unless otherwise agreed or directed by Kerry County Council. This is more than twice the tonnage which would have been considered by the Board in its assessment of the application. I also note that condition 1.4 states that waste shall be processed within the waste transfer building or externally on a hard-standing surface.

The agent for the applicant, whilst stating that the works are so as to provide cover and dry working conditions for the operations which currently take place in the areas with no intensification of use arising, does not address the fact that such open storage did not form part of the plans as permitted. It is also unclear as to what tonnage figure is the basis on which it is contended that no intensification would arise. The fact that the waste permit allows for a significantly greater annual tonnage throughput does not negate the fact that permission exists for a facility with a maximum tonnage of 20,000, only.

As per the details accompanying the application the additional area to be roofed as part of the materials recovery building is calculated as being 276.30 sq.m. The proposed demolition of part of the existing shed and provision of a new roof profile over same in addition to a roof over the area currently used as open storage (and up to the corner of the existing materials recovery building) would imply that an area greater than what currently prevails in this part of the site is to be used for such purposes. On this basis and as per the details provided in the application documents this would cover an area of 540 sq.m. I estimate that the roofing of the above areas would equate to an approx. 10% increase in covered areas on the site.

On the basis of the above it is my opinion that the proposed works essentially equate to an extension to the materials covered facility. Whilst not subject of this application I note the storage bays provided to the front of the building.

I consider that such a proposed extension may give rise to material planning issues for which due assessment and consideration would be required. Of particular note would be issues arising in terms of tonnage accepted per annum, traffic generation, impact on amenities of nearby properties and cultural heritage, notably the recorded monument to the east. The proposed extension to the main building would breach the 25 metre buffer which was to be maintained by the approved building design.

Should the applicant seek to pursue the works as proposed a revised application which fully addresses the above issues would be required. I would recommend that any assessment should have regard to the activities on the site in its totality.

Therefore, on the basis of the above, it cannot be confirmed that the proposal would not facilitate an intensification of use of the facility for which no grant of permission has been sought or granted. Thus, to allow the proposed development could be considered to contravene condition 1 attached to the parent permission which required the development to be carried out in accordance with the plans and particulars which did not provide for open storage areas or a throughout in excess of 20,000 tonnes per annum.

Matters of compliance or otherwise with conditions attached to the existing permission are a matter for enforcement by the Planning Authority.

### *Appropriate Assessment*

Having regard to the nature and extent of the development as proposed, the receiving environment, the distance to the nearest European site and the extent of existing development in the intervening area it is considered that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

Having regard to the nature and extent of the proposed development and the submissions made in connection with the planning application and appeal and the planning history on the site, notably permission granted under reference number PL81.228558 for a materials recovery facility with a stated capacity of 20,000 tonnes per annum, the Board is not satisfied that the proposed development would not facilitate an intensification of use of this existing material recovery facility for which no grant of permission has been sought or granted. The proposed development would, therefore contravene materially a condition attached to an existing permission for development, namely, condition number 1 attached to the permission granted by An Bord Pleanála on the 4<sup>th</sup> day of February, 2009 under appeal reference number PL81.228558.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**September, 2019**