



An
Bord
Pleanála

Inspector's Report ABP 304735-19

Development	Inert landfill and construction and demolition waste recovery facility.
Location	Ballinclare. Kilbride. Co. Wicklow.
Planning Authority	Wicklow Co. Council.
Applicant(s)	Kilsaran Concrete.
Type of Application	Seventh Schedule
Date of Site Inspection	29 th July 2019.
Inspector	Breda Gannon.

1.0 Introduction

- 1.1. On June 21st, 2019, a request was received by the Board to enter into pre-application discussions with respect to the proposed development under section 37B of the Planning and Development Act 2000, as amended.
- 1.2. The Board's representatives met with the prospective applicant on November 13th, 2019.
- 1.3. The prospective applicant formally requested closure of the pre-application consultation process by letter on December 20th, 2019.

2.0 Site Location and Description

- 2.1. The site is located in a rural area c 2.5km north west of the village of Kilbride and c 2.5km south west of Glenealy in Co Wicklow. It is located to the west of the M11 motorway and c 6km east of the village of Rathdrum. The site consists of a large disused quarry and associated plant and infrastructure. It is accessed by a network of local roads with the L1113 forming the boundary to the west and the L1157 forming the boundary to the south. Vehicular access to the site is from the L1157. The overall landholding extends to c 36 hectares and includes a compound/yard area in the north-western corner (outside the quarry site) which is leased to Wicklow Co Council (Carrigmore Depot). The site is screened from its surroundings by existing berms and trees. There is elevated ground to the north and south west.
- 2.2. The wider area consists of undulating agricultural land with forestry. The pattern of development is dispersed, consisting of one-off rural houses along the road network. Potters River flows to the north of the site and turns south-eastwards flowing to the east of the landholding, discharging into the sea at Brittas Bay. Deputy's Pass Nature Reserve SAC is located approximately 1.6 km to the north-west of the site and Glenealy Woods pNHA is located c 1km to the north-west. Kilmaccuragh National Botanical Gardens are located c 1km to the south-west. Access to the site was not available at the time of inspection.

3.0 Proposed Development

- 3.1. The proposal is to backfill and restore the existing quarry void with imported inert waste and to operate an inert landfill (with clay liner at base and sides to protect groundwater). The backfilled lands will then be restored to long-term beneficial agricultural land use. The inert wastes to be imported will comprise soil, stone and rock waste from construction projects. Waste accepted at the facility will comply with the waste acceptance criteria for inert landfills.
- 3.2. As part of the development, suitable uncontaminated natural, undisturbed soil waste and/or soil by-product which conforms to an engineering specification will be imported for re-use in the construction of the basal and side clay liners required for the inert landfill.
- 3.3. Some uncontaminated topsoil waste and/or topsoil by-product will be imported for use in the final restoration of the backfilled landform. Top soil will be temporarily stockpiled at the landfill as required pending its re-use as cover material.
- 3.4. The landfill development and the backfilling of the quarry will take place on a phased basis, working progressively from west to east. Restoration of the final landform will also be undertaken on an ongoing, progressive basis and will entail placement of cover soils and seeding to establish a heathland/ grassland habitat similar to that which existed prior to quarrying.
- 3.5. The development also proposes the establishment and operation of a construction and demolition (C&D) waste recovery facility across the footprint of the existing concrete blockyard at the quarry. The principle wastes to be recycled at this facility will include concrete (ready mixed, reinforced, blocks and/or pavement slabs, bricks and bituminous mixtures (hardened asphalt returns and road planings). C&D waste recovery activities will continue for the duration of landfilling operations and reviewed thereafter.
- 3.6. The proposal also provides for the continued use of established site infrastructure and services including, site office, staff welfare facilities, weighbridge, workshop, wheelwash, hardstand areas, and fuel and water storage tanks to service the proposed development.

- 3.7. It is proposed to decommission remaining fixed plant and infrastructure associated with former rock processing and with aggregate, concrete and asphalt production activities at the site. An industrial shed (portal frame structure) will be constructed in the former blockyard area to process/recycle C&D waste and house the required crushing and screening equipment. The remaining external paved area surrounding the C&D waste processing shed will be used for the external handling and storage of both processed and unprocessed C&D wastes. There will be separation and segregation of any intermixed C&D waste (principally metal, timber, PVC pipes and plastic) inadvertently imported, prior to removal off-site to authorised waste disposal or recovery facilities.
- 3.8. An existing storage shed will be used as a dedicated waste inspection and quarantine facility to inspect and store suspect waste consignments as required. There will be upgrading and on-going maintenance of the established haul roads across the site. There will be temporary stockpiling of topsoil pending re-use as cover material for final restoration of the site. Environmental monitoring of noise, dust, surface water and groundwater will be conducted for the duration of the site backfilling and restoration works and for a short period thereafter.
- 3.9. It is envisaged that the annual waste intake will be up to a maximum of 800,000 tonnes per annum, consisting of 750,000 tonnes of soil and stone and 50,000 tonnes of C&D waste per annum. The combined annual intake of 800,000 tonnes per annum is equivalent to an average of
- 16,000 tonnes per week (assuming 50 weeks in a working year)
 - 2,900 tonnes per day (assuming 5.5 days in a working week)
 - 290 tonnes per hour (assuming 10 hours in a working day)
- 3.10. It is anticipated that the duration of the landfilling operations will be 8.2 years (minimum) to 17.6 years (+), depending on the landfilling rate. It is assumed for the purposes of a planning application that C&D recovery activities are likely to continue indefinitely at the site. The development will require a waste licence from the EPA.
- 3.11. The traffic movements generated by the combined annual waste intake of 800,000 tonnes per annum will be comparable to the previously permitted limit of 150 HGV

trips per day when the site was operating as a quarry. Haul roads within the site will be constructed of recycled aggregate.

3.12. A wetland area of approximately 3.8 ha will be provided to facilitate passive treatment of discharges prior to discharge to Potters River.

4.0 Planning history

4.1. The planning history as detailed in the submission to the Board's representatives on 13th November 2019 is as follows:

- Quarry activity pre-dated Planning and Development Act, 1963.
- Quarry registered under section 261 of the Planning and Development Act in 2005.
- 07/45 – planning permission granted in February 2008 for a period of 20 years for quarry operation, including the continued working of the existing quarry (over 6.6 ha), deepening to 25mOD and extension of 10.6 ha to the west.
- Section 261A review compliance with EIA and Habitats Directive determined no further action required.
- 14/2118 – planning permission granted in February 2016 subject to 23 no. conditions for the continued use of the existing quarry permitted under 07/45 for a further 25 years. It included deepening of the quarry to 1mOD over 16.5 ha, an increase in output to c 150 HGV/truck loads per day (c 800,000 tonnes per annum), new aggregate washing plant and concrete block manufacturing plant/concrete block yard.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2020.

The **National Planning Framework (NPF)** which was published in 2018 is a strategic plan to guide development and investment out to 2040. It is envisaged that the population of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands that growth will place on the environment and

the social and economic fabric of the country. The Plan sets out 10 goals, referred to as National Strategic Outcomes.

Under National Strategic Outcome 9 – the emphasis is on the sustainable management of water, waste and other environmental resources. It expressly provides in relation to waste that it will require:

‘Adequate capacity and systems to manage waste, including municipal and construction and demolition waste in an environmentally safe and sustainable manner’.

The NDF supports circular economy principles that minimise waste going to landfill and maximise waste as a resource.

National Policy Objective 56 states:

‘Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, re-use, recycling and recovery to support a healthy environment, economy and society’.

- 5.2. The **Eastern and Midland Regional and Spatial Economic Strategy**, which came into effect on June 28th, 2019, builds on the foundations of Government policy in Project Ireland 2040. It seeks to determine at a regional scale how best to achieve the shared goals set out in the National Strategic Outcomes of the NPF and sets out 16 Regional Strategic Outcomes (RSO's) which set the framework for city and county development plans. It supports the circular economy to make better use of resources and become more resource efficient.

Regional Strategic Outcome 7 -Sustainable Management of Water, Waste and other Environmental Resources states;

‘Conserve and enhance our water resources to ensure clean water supply, adequate waste water treatment and greater resource efficiency to realise the benefits of the circular economy’.

The **Eastern-Midlands Region Waste Management Plan 2015-2021** at Section 16.4.4 notes that backfilling activities make up a significant treatment capacity in the region at both local authority authorised sites and EPA licensed sites. It notes that due to depressed activity in the construction sector (figures from 2012) capacity exceeds current demand. Relevant policies include:

Policy E13: Future authorisations by local authorities, the EPA and An Bord Pleanála must take account of the scale and availability of existing backfilling capacity.

Policy E14: The local authorities will co-ordinate the future authorisations of backfilling sites in the region to ensure balanced regional development serves local and regional needs with a preference for large scale restoration sites ahead of smaller scale sites with shorter life spans. All proposed sites for backfilling activities must comply with environmental protection criteria set out in the plan.

5.2.1. The Strategy refers to Construction and Demolition Waste at Section 11.2.

‘Traditionally the recovery of much of the C&D waste stream has been managed by placing it in a variety of land use applications. This treatment, collectively known as backfilling includes landfilling, improvement or infill works. The largest fraction of the C&D waste is soil and stones, which (if uncontaminated) typically undergoes little if any treatment prior to recovery at these sites’.

‘Given the sharp decrease in the number of operational landfills nationally, which has been a significant outlet for C&D waste in the past, alternative recovery options will be required to facilitate the recovery of C&D waste arising in future years. It needs to be considered if the placement of inert waste at many of the types of infill sites used in the past is an appropriate land-use strategy or indeed best use of a potentially recyclable material. Concrete, stone and other masonry-type waste can be crushed and screened and used as a substitute for virgin quarry stone material in a variety of engineering applications if the appropriate technical criteria have been met, e.g road construction, access tracks for agricultural or forestry holdings. Quarries also frequently require large quantities of soil material to fill voids and for other remediation and landscaping applications’.

5.3. **The Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity** report was published in December 2016. It was commissioned on behalf of the regional waste authorities to analyse the national waste capacity market for the safe treatment of soil wastes, defined as clean inert soil and stone waste arising from construction activities. It reviewed existing soil recovery facilities and quantified the capacity available to meet current and future market demand. It confirms that the capacity available to recover soil and stone wastes is an issue in each region.

5.4. It is concluded that there is a lack of licensed capacity nationally and in particular in the Greater Dublin Area to meet current and forecasted growth. The change in waste arisings from construction activities has been abrupt and the excess capacity reported at the time of the regional waste plans has been eroded. While waste facility permits and CoR's are available at low volumes to the market they are not considered long terms solutions. The preferred solution is providing secure and longer term outlets for soil waste recovery. Locations which are considered to offer these benefits include exhausted quarries or pits. It is noted in the report that this approach is favoured by the regional waste management plan with policy preference for large central sites which require restoration through the placement of clean soil returning the site back to its original profile.

5.5. **Development Plan**

The operative development plan is the **Wicklow County Development Plan 2016-2022**. Section 9.3 is concerned with Waste & Environmental Emissions. The overall strategy is:

'To promote and facilitate best practice in prevention, re-use, recovery, recycling and disposal of all waste and environmental emissions in the county'.

Relevant policies include;

WE3: To facilitate the development of existing and new waste recovery facilities and in particular, to facilitate the development of 'green waste' recovery sites.

WE6: To facilitate the development of sites, services and facilities necessary to achieve implementation of the objectives of the Regional Waste Management Plan.

6.0 **Strategic Infrastructure-Legal Provisions**

Strategic Infrastructure is defined in the **Seventh Schedule** of the 2006 Act and under *Environmental Infrastructure* as:

-A waste installation for –

(a) The incineration, or

(b) The chemical treatment (within the meaning of Annex IIA to Council Directive 75/422/EEC under heading D9), or

(c) The landfill,

of hazardous waste to which Council Directive 91/689/EEC applies (other than an industrial waste disposal installation integrated into a larger industrial facility).

-A waste disposal installation for-

(a) the incineration

(b) the chemical treatment (within the meaning of Annex IIA to Council Directive 75/442/EEC under heading D9),

of non-hazardous waste with a capacity for an annual intake greater than 100,000 tonnes.

-An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

Section 37A of the Planning and Development Act, 2000, as amended sets out the conditions under which Seventh Schedule development is considered to constitute strategic infrastructure for the purposes of the Act,

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

(b) the development would contribute substantially to the fulfilment of any of the objectives of the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate.

(c) the development would have a significant effect on the area of more than one planning authority.

7.0 Submission to the Board.

The proposed development of an inert landfill and C&D waste recovery facility is covered by the following class of development identified under the heading of 'Environmental Infrastructure' in the Seventh Schedule of the Planning and Development Acts 2000-2018:

Development comprising or for the purposes of any of the following

- *An installation comprising for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.*

The proposal which has a planned maximum intake of 800,000 tonnes per annum falls with the class and threshold of development identified in the Seventh Schedule. Notwithstanding this, the developer is of the opinion that the proposed development does not fulfil any of the three criteria set out in section 37A(2)(a) to qualify as strategic infrastructure. The reasons are set out below:

- a. *the development would be of strategic economic or social importance to the State or the region in which it would be situate,*

Neither inert landfill development nor C&D waste recovery facilities or any waste projects of similar type and scale are identified in general terms in any plan or programme as being of strategic economic or social importance to the State, or to the GDA (of which Wicklow is a part). While the proposed development will meet a market demand for inert waste outlets, it is not of a nature, scale or complexity to warrant it being identified as Strategic Infrastructure in any current national or regional level economic or social plan/programme, including the recently published National Planning Framework, the current Regional Planning Guidelines for the Greater Dublin Area, the current Wicklow Co. Development Plan 2016-2022 or the Eastern Midland Region Waste Management Plan 2015-2021.

- b. *the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate.*

There are no specific aims and objectives set out in the current spatial planning or economic strategies to promote, support, direct or facilitate the planning and delivery of inert waste landfills or C&D waste recovery facilities, neither in general or at specific locations and neither at a national or regional level.

Neither the proposed development, nor the management of the inert waste streams which will be accepted at the facility, are specifically identified as being necessary to achieve any strategic spatial planning or economic objectives.

As noted by the prospective applicant, other than identifying it as necessary and desirable that such facilities are available to the market and are operated in an environmentally safe and sustainable manner, current spatial planning and economic strategies appear largely content to leave it to market participants/market forces to identify and respond to the demand for these waste facilities on a merchant basis, rather than through any form of top-down spatial land-use or economic planning.

c. the development would have a significant effect on the area of more than one planning authority.

The proposed inert landfill and waste recovery facility is located within the existing footprint of an existing quarry. Whilst the planned development will generate some localised impacts on the surrounding area, the scale and significance of those impacts will be limited and will be entirely confined within the functional area of the local planning authority, Wicklow Co Council.

The conclusion reached by the prospective applicant is that the proposed inert landfill and C&D waste recovery facility:

- (i) is not of strategic importance to the State or the Greater Dublin Region,
- (ii) would not contribute substantially to the fulfilment of any objectives in the National Planning Framework or any regional spatial planning or economic strategy.
- (iii) Would not have a significant impact on more than one planning authority.

and accordingly, does not constitute strategic infrastructure development in accordance with the requirements of section 37A (2) of the Planning & Development Acts 2000-2018 and that the application should be made to Wicklow Co Council under section 34 of the Planning and Development Acts 2000-2018.

8.0 Assessment

8.1. Seventh Schedule

The proposal is to backfill the existing quarry void using inert soil waste and to establish a C&D waste recovery facility. The landfill will be lined and accordingly the development will be classed as a landfill. The proposed development with a

proposed input of 800,000 tonnes per annum comprises Seventh Schedule development as it exceeds the threshold being:

Development comprising or for the purposes of the following

An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.

8.2. **SID Qualifications under Section 37A(2)**

Section 37 of the Act, as amended, requires that development falling under the Seventh Schedule of the Act in order to constitute strategic infrastructure should comply with one or more of the three conditions set out in section 37A(2)(a)(b)(c).

Section 37A(2)(a) – Development would be of strategic economic or social importance to the State or the region in which it would be situate.

On the basis of the information presented by the prospective applicant, the preliminary opinion of the Board's representatives was that the proposed development did not constitute strategic infrastructure. I would draw the attention of the Board to the '*Construction & Demolition Waste: Soil and Stone Recovery/Disposal Capacity*' report published in December 2016. This report was not referenced by the applicant. It was commissioned on behalf of the three waste regions to analyse the national waste capacity for the safe treatment of soil and stone waste from construction and demolition processes. The report updated the information contained in the waste management plans for this waste stream.

The main conclusions of the report are as follows:

- Based on the extensive review of waste and capacity data available there is a lack of licensed capacity available for the recovery of soil and stone waste nationally and in particular the GDA to meet current and forecasted growth.
- The capacity available to recover soil and stone wastes is an issue in each region. The capacity shortfall is particularly acute in the market serving the Dublin area.
- The change in waste arisings from construction activities has been abrupt and the excess capacity reported at the time of the regional waste plans has been eroded.

- There is a clear need to bring additional capacity on stream to alleviate the current shortfall as well as providing security over the medium to long-term.
- The waste plans support the development of new capacity with a preference for larger restoration sites, which would provide secure and longer-term outlets for soil waste recovery and would typically require a waste licence. Locations which offer these benefits include exhausted quarries or pits.

The report highlights the significant planned expenditure on public infrastructure and social housing within the State. It notes that the development of these projects would generate significant volumes of soil waste and the lack of adequate recovery capacity available may prejudice their realisation.

‘The recent growth in construction activity has brought to a head an unexpected supply chain issue. There is a significant shortfall in the provision of recovery sites for excavated soil and stone to enable the planned infrastructure and housing strategy to be realised’¹.

The projected population increase will generate demand for additional homes and infrastructure which will increase the demand for suitable recovery sites. Whilst the waste plans do not identify specific sites suitable for the development of soil recovery activities, they do support the development of new capacity with a preference for larger restoration sites. With a proposed annual intake 800,000 tonnes the proposed development would be one of the largest restoration sites to be developed for this purpose both within the region and the State. It would make a significant contribution towards the identified capacity issues faced by both the Greater Dublin Region and the State.

Whilst the *‘Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity Report’* is not an adopted plan /programme and does not contain specific strategies or objectives, it informs the regional waste plans. It identifies a deficit in facilities for the management of this waste stream regionally and nationally, which planning authorities, the EPA and An Bord Pleanala are required to have regard (Policy E13 of the waste plan.)

Having considered the *‘Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity* report, which clearly identifies a shortfall in recovery

¹ Page 2

capacity and the potential impact of this deficit on planned infrastructural projects within the State, which are essential to the achievement of a number of National Strategic Outcomes of the NPF, I consider that the proposed development, which would address a significant capacity issue would be of strategic economic or social importance to the State and the region in which it is situate. I conclude, therefore that the development is of strategic importance by reference to the requirements of condition (a) of Section 37A (2).

Section 37A(2)(b) – The development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect to the area or areas in which it would be situate.

The proposed development accords with National Strategic Outcome 9 of the NPF as it will provide *‘capacity and systems to manage construction and demolition waste in an environmentally safe manner’*. This is a large site, possibly the largest in the country, which if permitted has the potential to significantly contribute to national and regional deficits in capacity for recovery of C&D waste. The provision of an outlet for this waste stream will facilitate the realisation of the National Policy Objectives of the NPF which proposes significant infrastructural, regeneration and housing proposals to cater for increased population growth within the State.

I consider that the development would contribute substantially to the fulfilment of objectives in the National Planning Framework in respect to waste management and I conclude, therefore, that the development is of strategic importance by reference to the requirements of condition (a) of Section 37A (2).

Section 37A(2)(c) – the development will have a significant effect on the area of more than one planning authority.

It is contended by the prospective applicant that as the proposal will be located within an existing quarry within the functional area of Wicklow County Council, there will be no significant effect on any other planning authority. The proposal is not proximate to other planning authority boundaries and the majority of the soil and stone is likely to be sourced from the Dublin area where most construction activity is taking place. Whilst the development will result in an increase in traffic movements

associated with the transport of materials, it is not considered that this would result in significant effects on the area of any other planning authority.

I accept prospective applicant's argument that the development is not considered to be of strategic importance by reference to section 37A(2)(c)

9.0 Planning & Environmental Issues

The following matters were discussed during the pre-application meeting:

- Potential impacts associated with Naturally Occurring Asbestos (NOA) present in the bedrock which only has environmental implications when it becomes airborne. Consultation with Health & Safety Authority when it was discovered in 2016.
- Site is located over a 'Poor' aquifer. Clay liner at the base and sides of the proposed landfill being installed to future proof the project having regard to future restrictions that will be required by the EPA.
- Discharges from the site will be via a wetland area with off-site discharge to Potters River which in turn flows into Brittas Bay. Discharges will be covered under EPA licence.
- Similar traffic volumes will be generated to previous quarry operation and the same one-way system of traffic movement will operate on the local road network.

10.0 Conclusion

10.1. The proposed development with an intake of 800,000 tonnes per annum would exceed the threshold of 100,000 set out in the Seventh Schedule of the Strategic Infrastructural Act, 2006, as amended.

10.2. It is my opinion that the proposed development falls within the parameters of section 37A(2)(a) and (b) of the Planning and Development Act 2000, as amended and constitutes strategic infrastructure.

11.0 Recommendation

I recommend that Kilsaran Concrete Limited be informed that it is the Board's opinion that the proposed development consisting of an inert landfill facility and construction and demolition and recovery facility at Ballinclare. Kilbride. Co. Wicklow as set out in the plans and particulars received by An Bord Pleanala on the 21st of June, 2019, falls within the scope of section 37A(2)(a) and (b) of the Planning and Development Act, 2000, as amended, and constitutes strategic infrastructure necessitating an application directly to the Board.

Breda Gannon
Senior Planning Inspector

20th, January 2020

Appendix 1

The following is a schedule of prescribed bodies considered relevant in this instance for the purposes of Section 37E(3)(c) of the Act.

1. Minister of Culture, Heritage and the Gaeltacht.
2. Minister for Communications, Marine and Natural resources
3. Wexford Co Council
4. Inland Fisheries Ireland
5. EPA
6. Bord Failte
7. An Taisce
8. Health Service Executive
9. Transport Infrastructure Ireland

The following are not Prescribed Bodies for the purposes of Section 37E(3)(c) but are bodies which applicant should notify:

1. Health & Safety Authority
2. Eastern-Midlands Waste Regional Authority
3. Geological Survey of Ireland