



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307914-20

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<b>Development</b>	For a pay-to-use waste portable compactor for dry recyclables and a pay-to-use portable waste compactor for residual waste and food waste
<b>Location</b>	Circle K Service Station , Limerick Road , Clonroad More
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	20117
<b>Applicant(s)</b>	Kollect on Demand Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	SLR Consulting Ireland
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	06/11/2020
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

- 1.1.1. The subject site refers to a Circle K service station on the eastern side of the Limerick Road (R458), approx. 600 north of the N85 roundabout south of the town centre of Ennis.
- 1.1.2. The cite currently comprises a dual entrance serving a fuel station forecourt and shop, parking to the side and rear and an access to the rear to a car-wash facility. The area to the north and east comprises housing. To the south and west is an undeveloped field (Hogan's Field) that is the subject of a recent planning permission.

## 2.0 Proposed Development

- 2.1.1. On the 20<sup>th</sup> February 2020, planning permission was sought for the erection of two pay-by-use portable waste compactors (8sq.m. each), one for dry recycling and one for residual and food waste, on a site occupied by a fuel service station (1.89ha).
- 2.1.2. The application was accompanied by a letter of consent to the making of the application and details of the BigBin waste compactors, including maintenance and customer agreement.

## 3.0 Planning Authority Decision

### 3.1. Planning Authority Reports

- 3.1.1. **Environment Department:** The proposed development requires a Certificate of Registration (CoR) to comply with the Waste Management Act 1996 and Regulations 2007. No application made to the Environmental Section of Clare County Council yet. If permission is granted, a condition requiring a CoR. Proposed development must achieve the same level of compliance with the relevant regulations as 'kerbside' collectors. The applicant must demonstrate compliance with the Waste Management (Facility Permit and Registration) Regulations 2015. Insufficient information provided regarding fly tipping / littering, potential emissions from the unit, liquid leachate which can reach storm drains. FI should be requested.
- 3.1.2. **Planning Report:** Proposed development would be visible from the permitted housing estate (Planning Authority. Reg. ref. 18-1007) to the south and east. Issues regarding leachate, vermin control have not been adequately addressed. FI should be requested.

### 3.2. **Prescribed Bodies**

3.2.1. None on file.

### 3.3. **Third Party Observations**

3.3.1. One objection to the proposed development was submitted by the current third-party appellant. Details as per the subject appeal, discussed in section 6 below.

### 3.4. **Further Information**

3.4.1. On the 1<sup>st</sup> April 2020 the Planning Authority requested the applicant to address the proximity of the proposed compactors to the permitted housing estate, the potential emissions from same and the limited supervision of the site. The applicant was requested to

- reduce the scale of the proposed operation,
- revise the hours of operation,
- demonstrate compliance with Part VII of the Waste Management (Facility Permit & Registration)(Amendment Regulations 2015,
- outline measures to ensure prevention of waste management offences
- outline proposed spill prevention and corrective measures to address spillages including oil leaks and leaching of liquids,
- waste collection permit details of the authorised waste collector
- details of appropriate waste facilities, including permit / licence references of where waste shall be directed to,
- details of vermin control measures.

3.4.2. The applicant responded to the FI request on the 15<sup>th</sup> June 2020. The response can be summarised as follows:

- Revised location of proposed compactors – to the rear of the existing shop,
- Tickets to be bought from the shop 08.00- 21.00, seven days a week. Compactors shut down by a timer outside these hours.
- Details of how the proposed development complies with the Waste Management Facility Permit

- CCTV and existing shop prevents fly tipping. Service staff can dispose of waste if litter is found. Collect on Demand staff are responsible for cleaning the area and disposing of fly-tipped waste. Copies of the company's operating procedures are included with the planning application. Non-conforming waste will not occur due to the design of the compactors and surveillance by Circle K staff.
- The PTU compactors are made from welded steel and are fully sealed. Leachate from waste cannot leak out. The compactors are regularly maintained. An 'Inspection Procedure' and a 'Service & Maintenance Procedure' were included with the application. It is in the applicants interest to maintain a good working relationship with the service station.
- Waste collection permit details provided for the operators engaged to collect waste and the facility to which they will be taken for emptying.
- Vermin control measures are not required as the units are fully sealed and there is no access for vermin.

3.4.3. **Environment Section Email:** Adequate response to issues raised. Section 16.4.10 and Policy E23 of the Southern Regional Waste Management Plan 2015-2021 makes reference to pay-by-use compactors. This should be considered when Planning Authority make a determination on the application.

3.4.4. **Planning Report following submission of FI:** Revised location is acceptable as it addresses adverse impacts. Details of hours of operation are acceptable. Compliance with waste management regulations acceptable but notes that a grant of permission does not prejudice a subsequent licence application. Notes that similar development was granted by the Planning Authority in Shannon (P14-573) for a temporary period but was never implemented. A temporary permission would allow the ongoing assessment of potential issues that may arise. Recommends a grant of permission subject to conditions.

### 3.5. **Decision**

3.5.1. On the 21st July 2020, the Planning Authority issued a notification of their intention to GRANT permission subject to 5 no. conditions. Condition no. 2 restricts the life of the permission to 5 no. years.

## 4.0 Planning History

4.1.1. None on the subject site.

4.1.2. To the immediate south and east (forming an L-shape around the subject site) permission has been granted for 25 no. houses (Planning Authority reg. ref. 18-1007).

## 5.0 Policy Context

### 5.1. Southern Region Waste Management Plan 2015-2021

5.1.1. The plan target of the southern region WMP is to 'achieve a recycling rate of 50% of managed municipal waste by 2020.' The plan provides definitions to many of the terms used in waste management, of relevance to the subject proposal are:

- Pay-to-Use (PTU): Waste compactor units that members of the public can pay to use to deposit their municipal residual waste, which are primarily located on garage forecourts and parking areas of supermarkets and other retail outlets.
- Recyclables: Waste materials that may be subjected to any process or treatment to make them reusable in whole or in part
- Recycling: Means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.
- Waste Management Facility: A site or premises used for the recovery or disposal of waste

5.1.2. Regarding PTU, **section 7.1.1** of the plan (household waste) states that Waste collected through pay to throw units (PTUs) was recorded in 2012 for the first time. The future use of PTUs as part of the waste collection system will be a requirement of the new household waste regulations and the waste collection permit regulations. A reported 2,212 tonnes was collected using PTUs in the region in 2012 and this represents less than 0.5% of HWM (household waste managed).

- 5.1.3. **Section 9.3.3** of the plan specifically refers to PTU's. The plan notes that PTU waste compactor units entered the household collection market recently, providing an outlet for the disposal of household residual waste, and are primarily located on garage forecourts. The DECLG has indicated that the future activity of PTUs in the household market will be regulated in line with all other household service providers in the collection market. This move is part of a series of regulatory measures being introduced to improve the operation of the household waste collection market. PTU operators will be required to comply with the new mandatory obligations, which will include maintaining a customer register, implementation of the pay by weight (per kilogram) system of charging and provision of separate compartment units for residual, recyclables and, where applicable, organic wastes. PTUs will continue to have a role in household waste collection in certain areas.
- 5.1.4. Referring to Local Authority waste authorisations, **section 16.1** of the plan states that the use of PTU's is increasing. Where kerb-side collection systems do not provide source-segregated options, the plan notes that authorised civic amenity facilities or bring centres provide the next best method of household waste collection.
- 5.1.5. **Policy E22a** the plan supports the primacy of kerbside source segregated collection of household and commercial waste as the best method to ensure the quality of waste presented. **E22b** The plan also supports the use of authorised civic amenity facilities and bring centres as part of the integrated collection system.
- 5.1.6. **Policy E23:** In the absence of kerbside source segregated collection services and where the proximity of the civic amenity facilities and bring centres is prohibitive, the plan supports localised collection solutions such as community drop-off points or pay-to-use systems subject to compliance with the household waste collection regulations.

## 5.2. **Clare County Development Plan 2017 -2023**

- 5.2.1. The subject site is located within the urban boundary of the settlement of Ennis. Volume 3a of the plan refers to the Ennis Municipal District. The Ennis Settlement Plan (Map PLP-18-0001-24) shows the subject site as being zoned 'commercial'.
- 5.2.2. Within commercial zones, composting facilities are not permitted. There is no refuse to waste management facilities in the land use zoning matrix.

- 5.2.3. Section 8.5 of the County Development Plan refers to waste management. CDP8.28 states that “It is an objective of Clare County Council: a To implement the provisions of the Southern Region Waste Management Plan 2015-2021; b To promote waste prevention and minimisation initiatives to target all aspects of waste in the County; c To encourage and facilitate the development of new alternatives and technological advances in relation to waste management; d To promote environmental awareness measures and action programmes to ensure good environmental awareness and practices, the recycling of waste, water management and energy conservation”
- 5.2.4. It refers to the Southern Region Waste Management Plan (section 8.5.1) and to waste transfer and recovery (8.5.2).

### 5.3. **Natural Heritage Designations**

- 5.3.1. The subject site is 0.9km from the Lower Shannon Rover SAC (002165).

### 5.4. **EIA Screening**

- 5.4.1. The proposed development which does not comprise the disposal of waste, is not a class of development to which Part 1 or 2, Schedule 5 of the Planning and Development Regulations apply. Having regard to nature and scale of the development 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. SLR Consulting, a third-party, waste management consultant has appealed the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:
- The proposed PTU compactors are a threat to Irelands recycling efforts and obligations.
  - The provision of such units at the proposed location is contrary to the Southern Region WMP and the Clare County Development Plan.

- The Planning Authority failed to consider the development in the context of the Regional WMP.
- The applicants PTU compactors in Limerick City achieved a 0% recycling rate for MSW (municipal solid waste), despite their CoR requirements to provide units for mixed dry recyclables and food waste. The recycling rate of 10% proposed in the subject application is well short of requirements.
- Kerbside household waste collections in Clare have the highest delivered brown bins in Ireland with 90% of customers.
- The proposed units are a threat to the kerbside source segregated waste collection system in the region. National recycling rates for MSW are 42% and must increase to 60% by 2030.
- The proposed development is contrary to the Southern Region WMP and therefore Objective CDP8.28 of the County Development Plan. Policies E22a, E22b and E23 only support PTU's "in the absence of kerbside source segregated collection services and where the proximity of the civic amenity facilities and bring centres is prohibitive". It is submitted that this is not the case in Ennis.
- Four waste management companies collect source segregated household waste (three bin service) at kerbside in Ennis. Photos submitted showing two providers in proximity to the subject site.
- There are 5 no. civic amenity sites in Clare and 3 no. privately owned recycling facilities that accept household waste.
- It is submitted that the applicants company is only interest in residual waste and have failed to provide the required three bins (residual, mixed dry recyclables and food waste) on their other sites. It is submitted that the operators are in breach of their CoR conditions on 5 no. other sites in Limerick.
- It is submitted that there is no supervision of the applicants other sites in Limerick and this has resulted in a 0% recycling rate. This will allow customers to place mixed waste in either compactor and / or in any compartment. Tickets are not time specific so waste can be disposed of when there is not supervision.



- The applicants suggestion that rubbish cannot be placed in the smaller slot for food waste is not correct as smaller rubbish bags can be used.
- It is submitted that this is not realistic for the staff of the service station to supervise the proposed units at the rear of the shop.
- A small percentage of incorrectly disposed waste can contaminate the recycling units to the point of non-recyclability. This undermines the whole waste collection system.
- It is possible that hazardous waste or WEEE could be deposited in the units. Kerbide waste collection companies can refuse to collect a contaminated bin but a PTU has no ability to trace inappropriate or hazardous waste.
- The proposed PTU's do not appear to weigh food waste, which is a requirement of the legislation.
- The Board is requested to refuse permission on the grounds that the proposed development contravenes the development plan, the Southern Region WMP and that the proposed units will have no control over source segregation.

## 6.2. Applicant Response

- 6.2.1. None on file.

## 6.3. Planning Authority Response

- 6.3.1. The Planning Authority considered that the proposed facility would meet the requirements for a cohort of persons where access to a bring facility was not readily available. The planning issues were addressed in the two planning reports. Having regard to the location, the zoning objective, the intended use, the s28 guidelines, the County Development Plan and the pattern of existing and permitted development in the area, the Planning Authority request the Board to grant permission.

## 6.4. Observations

- 6.4.1. None on file.

## 6.5. Further Responses

- 6.5.1. None on file.

## 7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Waste Management

### 7.2. Principle of development

7.2.1. The proposed development of a commercial nature on a site zoned for commercial development is acceptable in principle, subject to other planning considerations.

7.2.2. Submissions made by the appellant regarding the operation of PTU units on other sites cannot be verified and have not been taken into consideration in the assessment of the subject application.

### 7.3. Waste Management

7.3.1. Initiatives that seek to increase recycling, disposal of waste in a controlled and sustainable manner and additional options to the community to do so are welcome. Given the environmental implications when things go wrong, key to such initiatives however are that they are carried out in accordance with the regulations and guidance on waste management.

7.3.2. Clare County Council has a role in the implementation of the Southern Region Waste Management Plan 2015-2021. Objective CDP8.28 of the plan states that the Council will implement the provisions of the regional WMP.

7.3.3. Regarding pay-to-use (PTU) facilities, policy E23 of the WMP states they are supported 'in the absence of kerbside source segregated collection services and where the proximity of the civic amenity facilities and bring centres is prohibitive'. The applicant has not demonstrated that this is the case in the subject area, nor was this addressed by the Planning Authority. The appellant submits that this is not the case, that three waste collectors provide a three-bin kerbside collection system in the area of the subject site.

- 7.3.4. I share the appellants concern that the revised location of the proposed units at the rear of the subject shop is largely unsupervised. The rear of the site provides car parking, access to the car-wash and the storage of materials associated with the shop. While the area is busy, there is no supervision of the area by staff. I also share the appellants concern regarding the submission of the applicant that non-recyclable waste cannot be deposited into the dry-recyclable waste unit due to the size of the slot. This does not stop waste being deposited in smaller quantities.
- 7.3.5. I note the Regional WMP requires that PTU operators will be required to comply with the new mandatory obligations, which will include maintaining a customer register, implementation of the pay by weight (per kilogram) system of charging and provision of separate compartment units for residual, recyclables and, where applicable, organic wastes. The applicant has not provided details of how they propose to compile a customer register.
- 7.3.6. **Policy E22a** of the regional WMP supports the primacy of kerbside source segregated collection of household and commercial waste, as it is the best method to ensure the quality of waste presented. Policy E23 provides for the use of other options for waste disposal, such as that proposed. The policy is clear however, that services such as localised collection solutions such as community drop-off points or pay-to-use systems are encouraged only “in the absence of kerbside source segregated collection”. That is not the case for the subject site where segregated waste is collected at households.
- 7.3.7. I note the submission of the Planning Authority that the proposed development offers an alternative waste disposal option to those with limited access to civic amenity centres, however the proposed development caters for household waste which is adequately serviced by the existing kerbside waste collection providers.
- 7.3.8. The environmental impacts of inadequate waste disposal are such that the waste management industry is rightfully, highly regulated. It is considered that the proposed development is contrary to policies E22 and E23 of the Southern Regional Waste Management Plan and Objective CDP8.28 of the Clare County Development Plan 2017-2023.

#### 7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the small scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

#### 8.0 **Recommendation**

- 8.1. I recommend permission be REFUSED for the following reason:

- 1 The proposed development, which seeks to provide two pay-to-use portable compactors for the disposal of residual & food waste and dry recyclable waste, in an area served by kerbside source segregated collection of household and commercial waste providers, is contrary to Policy E22a of the Southern Regional Waste Management Plan 2015-2021 which seeks to support the primacy of kerbside source segregated collection of household and commercial waste as the best method to ensure the quality of waste presented, and Objective CDP8.28 of the Clare County Development Plan 2017 -2023 which states that the Council will implement the provisions of the Regional Waste Management Plan. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

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Gillian Kane  
Senior Planning Inspector

16 November 2020