



An
Bord
Pleanála

Inspector's Report ABP-308123-20

Development

Permission to extend storage yard to opposite side of road for storage of agricultural plastic before collection and disposal. The works would consist of a concrete yard area with effluent storage tank and all associated site development works.

Location

Gowran Demesne, Gowran, Co.
Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

20385

Applicant(s)

CTB Recycling

Type of Application

Planning permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party(s) v Decision

Appellant(s)

CTB Recycling

Observer(s)

Joanne Twomey

Date of Site Inspection

16th March 2021

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1 The appeal site is located in the townland of Gowran Demesne, Gowran, County Kilkenny, approximately 0.6 kilometres east of the village centre of Gowran, and outside of the village development boundary as set out within the Kilkenny Development Plan. The surrounding area is primarily agricultural in character. The appeal site comprises a greenfield site on the opposite side of the road to a working farmyard complex which comprises a number of farm buildings to the south and the CTB agricultural plastic transfer facility to the north within the farmyard complex. There is also a farm dwelling located beside the complex of farm buildings. Further north of the appeal site is a plant/agricultural machinery hire, sales, and repair business and to the west is the village of Gowran with a range of residential, community and commercial uses. To the south and west of the appeal site are agricultural lands. Further east of the appeal site is the local pitch and putt course. The appeal site comprises the northern portion of an existing green field that is in pasture. The appeal site is currently accessed via an agricultural field gate, south of and outside of the appeal site boundary. Access is off a local county road, the L6722 which is approximately five metres wide. The 50/80km/h speed control zone for the village is located along the appeal site road frontage.
- 1.2 The appeal site has a stated site area of 0.4 hectares and comprises the northern portion of a greenfield site, approximately 70 metres north-east of the CTB agricultural waste plastic transfer facility. It is stated that the proposed development would provide for the extension of the permitted agricultural plastic waste transfer facility which it is stated will grow over the next number of years.

2.0 Proposed Development

- 2.1 The proposal is seeking planning permission for the following items:
- To extend storage yard to the opposite side of the road for the storage of agricultural plastic e.g., silage wrap, before collection and disposal.
 - A concrete yard with effluent storage tank.
 - All associated site works.

The applicants state that they are proposing a hard surfaced area for the loading and unloading of the silage wrap with an area of approximately 1,680 square metres. The applicants are proposing landscaped areas to the south and north of the site and a planted bank area to the east of the site. The baled silage wrap would be stored to the rear (east) of the site. A slatted effluent storage tank and a soakaway for surface water run-off are also proposed on site. A new gated access to the site is proposed, which would provide for a six-metre-wide sliding access gate.

2.2 The site is enclosed by a combination of fencing and hedgerows.

2.4 The site is served by a connection to the public water mains. No on-site wastewater treatment is proposed. Surface water outfall would be to a soakpit.

3.0 Planning Authority Decision

3.1 Notification of a decision to refuse planning permission for the development was issued by the Planning Authority for two reasons as follows:

Reason number 1:

The development by virtue of its location on the outskirts of Gowran Village, on an open greenfield site, along with the type of commercial enterprise proposed would have a negative visual impact upon this rural area. The proposed activity would fail to integrate with its physical surroundings and would militate against the preservation of the rural environment. The development would represent an unacceptable visual intrusion that would detract from the amenity of and be inconsistent with the visual character of the area and the surrounding land uses.

Reason number 2:

The development represents an expansion of a light industrial/commercial development, located on a separate site from the existing operation on a greenfield site and would result in piecemeal development in a rural area which is deficient in public services. It is the policy of the Planning Authority to direct such development to the serviced centres, where these services can be economically provided. The development is of an excessive scale and an inappropriate land use which would be incompatible with the surrounding land uses and therefore, would be contrary to the proper planning and sustainable development of the area.

4.0 Planning History

On site:

Planning Authority reference number 17/494. In 2017, a proposal on the appeal site and on the remainder of the agricultural field to the south of the appeal site, was refused planning permission for the extension of the waste plastic transfer facility for the storage of agricultural waste plastic before collection and disposal. The development would have comprised the development of a concrete yard and effluent storage tank. Three reasons for refusal relating to the access conflicting with the existing access point to the CTB waste transfer facility directly opposite; commercial development within a rural area and would have an unacceptable visual impact and an expansion of a commercial business on a separate site which has no site specific rural locational requirements.

On the site of the existing CTB transfer facility:

Planning Authority reference number 08/176: In 2008, Planning permission was granted to bale and store agricultural plastics.

Planning Authority reference number 10/102: In 2010, Planning permission was granted for the installation of a weighbridge.

5.0 Policy and Context

5.1 Development Plan

Kilkenny County Development Plan 2014-2020.

The site is located on unzoned lands outside of the designated village boundary of Gowran as set out within the Development Plan.

Section 5.3.3 of the Development Plan pertains to Enterprise and Employment in Rural areas and sets out the following “Certain kinds of industry, especially those which involve natural resources and serve rural communities may, at an appropriate scale, have a role to play in rural development”.

Section 7.7 of the Development Plan pertains to diversification and sets out the following: “The Council will support the development of agricultural related industries, which are environmentally sustainable and considered a suitable use, subject to the protection of heritage and amenities. In particular, the Council will encourage the conversion of redundant farm buildings for appropriate owner-run diversification enterprises.

It is an objective of the Council to enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT based industries and those addressing climate change and sustainability in line the NPF.

Industries that are not directly related to agriculture will however be encouraged to locate to settlements so as to support the creation of economies of scale which will underpin the vitality and vibrancy of these rural settlements”

5.2 Draft Kilkenny Development Plan 2021-2027

Section 5.3.3 Enterprise and Employment in Rural Areas.

”Certain kinds of industry, especially those which involve natural resources and serve rural communities may, at an appropriate scale, have a role to play in rural development.

Section 7.7 Diversification

“The Council will support the development of agriculturally related industries, which are environmentally sustainable and considered a suitable use, subject to the protection of heritage and amenities.”

5.3 Natural Heritage Designations

None relevant.

5.4 Environmental Impact Assessment

See Section 7.5 below.

6.0 The Appeal

6.1 Grounds of first-party appeal

The first-party appeal submission, received from the operators and applicants CTB Recycling have highlighted a number of issues including the following:

Principle of Development:

- The Development Plan supports rural diversification and therefore, the proposals on the appeal site.
- The waste transfer facility was considered acceptable when permitted in 2008 and the proposed expansion would not adversely impact upon the rural character, landscape, or amenity of the area.
- No recycling takes place on site, it is just an authorised regional transfer facility for the handling of agricultural waste plastics.
- Once plastic is baled, the excessive moisture is removed and then the bales are stored pending dispatch to the Bord na Mona national agricultural waste plastics recycling facility in Littleton, Co. Tipperary.
- The proposed use would not be suitable within the settlement of Gowran.
- The proposal is an essential rural service and farmers would have to dispose of the plastic themselves if the expansion of the waste plastic facility is not permitted.
- The applicants are the sole authorised operator for the collection and baling of farm plastic waste from within the south-east region, covering the counties of Kilkenny, Wicklow, Wexford, and Carlow. There are only 5 operators of such facilities in the Country and none of the facilities operate within urban settlements or from industrial zoned lands.

Roads & Traffic:

- The Transportation Assessment Report submitted as part of the planning documentation has concluded that the development would have an unnoticeable impact upon the established local traffic conditions and can easily be accommodated within the local road network.

- There will be no material increase in traffic volumes from plastic being delivered to the site as the applicant plans to expand his collection service to reduce the number of individual farmers visiting the site.
- Farmers have become more efficient at growing, cutting, and baling grass, the amount of plastic generated has increased, but not significantly.
- It is expected that the amount of plastic wrap that will be brought onto the site will increase by approximately 15% over the next four years, and then the plastic intake at the facility will plateau as set out within the Business Plan, submitted as part of the planning documentation.

Other Issues:

- In terms of visual impact, the site is not located within an area of High Scenic Amenity or Visually Pleasant area nor in the line of any protected views as set out within the Development Plan.
- The appeal site is located within a transition area within the County Landscape Character Assessment (LCA) where the landscape has the capacity to absorb the development without adversely impacting upon the landscape.
- Other agricultural related commercial development exist within the area including the Red Mills animal feed factory outside Goresbridge, Kilkenny.
- Substantial planting is also proposed along the northern and southern site boundaries and the storage of the baled plastics would be set back 60 metres from the public road and therefore not visible from the public domain.
- A landscaped earthen mound would be constructed along the eastern boundary adjacent to the local pitch and putt club.
- There are no proposals for a second or third phase of development on site.
- With the baled plastic being moved to the appeal site from the existing site, plastic storage volumes would be reduced on the existing waste transfer site and stored out of sight.
- The applicant would welcome the inclusion of planning conditions restricting the height of stored plastic.
- The development does not require any public services. All staff welfare services (water and wastewater) are available within the existing permitted yard.

- Only baled plastic wrap would be stored on site and no loose plastic wrap would be stored on the appeal site.

6.2 Third party observation

An observer who resides within the locality of the appeal site has raised a number of issues as follows:

Traffic and Access:

- The commercial development and vehicular entrance pose a risk to public road safety creating a traffic hazard and obstruction for road users, particularly when transporting large quantities of waste from both sides of the road across a busy and narrow road.

Residential Amenity:

- The development would encroach and adversely impact on the adjoining residential properties by reason of the excessive noise levels generated on site from loading and unloading, emissions and environmental pollutants which could impact upon human health.

Other Issues:

- The development would have a negative visual impact on the environs of a historical village and adversely impact on the character, landscape, and amenities of the area.
- Loss of hedgerow and habitats would decrease the biodiversity and ecological value of the landscape.
- The commercial development does not constitute sustainable development and would degrade the area and could have a deleterious effect of the local environment.
- Concerns are expressed regarding emissions, surface water drainage capacity, spillages, vermin, dust, litter, and odours from the activities on site. Has an Environmental Impact Assessment (EIA) been carried out?
- The existing facility does not comply with the terms of the Waste Facility Permit in terms of the hours of operation. the quantity of waste stored on site, and the waste materials are not stored or baled in an appropriate manner.

- The level of employment at the facility should be verified to ascertain the purported economic value to the local community.

6.3 Planning Authority Response

The Planning Authority stated that it had no further comments to make in relation to the appeal.

7.0 Assessment

7.1 I consider that the key issues raised within the appeal are as follows:

- Principle of development
- Traffic and Access
- Residential Amenity
- Other Issues

7.2 Principle of Development:

- 7.2.1 The proposal would comprise an expansion of a waste transfer facility that is permitted and operating on a site approximately 70 metres to the south-west of the appeal site, since 2008. The appellant makes reference to the proposals representing a form of farm diversification. It is noted that the existing CTB facility operates from a working farmyard complex and has the benefit of a waste facility permit number WFP-KK-20-002-04, issued by the Local Authority in July 2020. There is little scope to expand the agricultural waste plastic transfer operation on the current site as the farm buildings and farm dwelling make up the rest of the holding. The current proposal would represent an expansion of the permitted activities.
- 7.2.2 Farm plastics are brought to the site by contractors or farmers or collected by the applicants from farms within the south-east region. The agricultural plastics are baled and the excess moisture is removed from them. The plastic bales are now being sent to Littleton, Co. Tipperary, where they are recycled at the Bord na Mona waste plastics recycling facility. Silage wrap is gathered on site and baled and made ready for dispatch off site. The baled agricultural plastic was previously exported to China until 2018 for recycling, and since 2019 sent to the Littleton facility for recycling

- 7.2.3 I am satisfied from the planning documentation submitted that the proposal represents a suitable and sustainable form of agricultural diversification that is intrinsically linked to the agricultural sector. The silage plastic coverings originate on farms within the south-east region and are transported to the site where they are baled before being dispatched for recycling to Littleton Co. Tipperary. I consider that the principle of the use within this farm holding is permitted and established and that its extension would comply with the provisions of the Kilkenny Development Plan in terms of being an appropriate rural use and represents a sustainable form of agricultural diversification subject to the issues of traffic, amenity and environmental considerations being addressed satisfactorily.
- 7.2.4 The applicant has provided details demonstrating that the proposal represents an appropriate form of rural enterprise and farm diversification as encouraged under Sections 5.3.3 and 7.7 of the Development Plan. The applicant has demonstrated the site-specific locational requirements for the current proposal. I do not consider that the sorting, baling and storage of the plastic silage coverings could just as easily be conducted from within an urban settlement boundary, such as in Gowran or Kilkenny City, given that the source of the silage plastic materials is from the rural hinterland and there are no services required to serve the development in terms of watermains or foul sewer.
- 7.2.5 On balance, it is considered that the proposals would be acceptable in principle, supporting a suitable and sustainable rural agricultural related use within a rural area. Therefore, I consider that the principle of the proposal would accord with the proper planning and sustainable development of the area.

7.3 Traffic and Access

- 7.3.1 Access to the site is from a local county road north-east of the village centre. The road currently provides access to the CTB waste transfer facility. The road has a carriageway width of approximately 5 metres, and it would be possible for two vehicles to pass simultaneously. A Transportation Assessment Report was submitted as part of the planning documentation which sets out that the traffic levels would increase by a negligible level as a result of the proposals. This is due to the increased efficiencies achieved on farms, and that the applicant collects some of the farm plastics to bring to the site. The applicant sets out within the Business Plan,

submitted as part of the planning documentation that the increase in agricultural waste plastic volumes received would be by approximately 15% over the next four years, from just over 4,000 tonnes annually to approximately 4.600 tonnes annually. I am satisfied that this modest rate of growth could be sustained within the local roads infrastructure without adversely impacting upon its capacity or safety.

7.3.2 Sightlines of 90 metres in both directions at the proposed access point onto the local county road have been shown. I am satisfied that adequate sightlines have been demonstrated in accordance with the required standards. A six-metre-wide sliding access gate is proposed to access the site. There is an internal circulation area set out within the site which is considered acceptable. I am satisfied that the traffic and access proposals are acceptable and accord with the best practice road safety standards.

7.4 Residential Amenity:

7.4.1 Given the nature of the proposed development, the appellants have raised the issue in respect of impacting on the residential amenity of surrounding properties through excessive noise levels from activity on site and from traffic accessing and egressing the site. Whilst I would acknowledge the observers concerns in this regard and their submission that the operations that would be conducted from the site could adversely impact upon their amenities, it is of relevance to note the separation distance between the appeal site and the nearest third-party residential properties (north of the appeal site) would be approximately 60 metres. The existence of mature hedgerow screening around the perimeter of the appeal site and the proposal to landscape heavily particularly along the northern and eastern site boundaries, would mitigate any adverse impacts. These are matters that can be reinforced by the inclusion of specific conditions.

7.4.2 On the basis of the foregoing, I am satisfied that the development would not adversely impact on the amenities of the area.

7.5 Other Issues

7.5.1 Environmental Impact Assessment

7.5.2 For the purposes of Environmental Impact Assessment, I refer to Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended). The relevant class of development, in the first instance is class 11(b) which relates to Other

Projects (b) “installations for the disposal of waste with an annual intake greater than 25,000 tonnes, not included in Part 1 of this schedule”. It is accepted that the development comprises a class listed in this schedule. In this instance, annual intake at the CTB transfer facility is stated to be approximately 3,500 to 4,000 tonnes of agricultural waste plastic annually. An increase of 15% on the 4,000 tonne figure (as stated out within the Business Plan submitted) would amount to approximately 4,600 tonnes annually.

7.5.3 Class 13 of the Planning and Development Regulations 2001 (as amended) also has to be considered. Class 13 (a) (ii) pertains to development where an extension brings the entire development within a class, the extension must bring the size of the overall development over the relevant threshold. Where the existing development has already been subject to an Environmental Impact Assessment, the first requirement is automatically met. Class 13 (a) (ii) pertains to: any change or extension of development already authorised, executed or in the process of being executed which would result in an increase in size greater than: -

- 25 per cent, or
- An amount equal to 50 per cent of appropriate threshold, whichever is the greater.

A 25% increase in waste tonnage accepted at the transfer facility would amount to 5,000 tonnes. An amount equal to 50% of the appropriate threshold, equates to 12,500 tonnes. The greater of these amounts is the 12,500-tonne figure. The proposed increase in annual agricultural waste plastic tonnage is stated to be 4,600 tonnes over the next four years. The stated increase in annual tonnage increase is clearly below the greater threshold provided under Article 13 (a) (ii). Therefore, I consider the stated increase in annual tonnage would not trigger the requirement to prepare and submit a mandatory EIAR in this instance. I am satisfied, therefore, that a mandatory Environmental Impact Assessment is not required in this instance.

7.6 Appropriate Assessment

Having regard to the nature of the proposed development in the form of an extension to a permitted waste transfer facility with no watermains or wastewater services on site, 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

I recommend that planning permission be granted subject to the following conditions:

9.0 Reasons and Considerations

Having regard to the rural location, the pattern of development in the area, the existence of a permitted agricultural plastic waste transfer facility, the scale of the activity and its distance from neighbouring residential properties, the policies and objectives of the Kilkenny City and County Development Plan 2014-2020 and the Draft Kilkenny City and County Development Plan 2021-2027, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area or of property in the vicinity, is acceptable in terms of traffic safety and convenience, and would, therefore, in accordance with the proper planning and sustainable development of the area

1.0 Conditions.

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 23rd day of June 2020 and by the further plans and particulars received by An Bord Pleanála on the 7th day of September 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development

and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 All loading, unloading and storage of agricultural waste plastics on site shall be conducted on a hard surfaced area. The storage of plastics on site shall not exceed a height of 4 metres above existing ground levels.

Reason: In the interest of visual amenity and to safeguard the amenities of the area.

- 3 The existing CTB waste plastic transfer facility and the current proposal for the baling and storage of farm plastics shall be jointly occupied as a single unit and shall not be sold, let, or otherwise transferred or conveyed save as part of an overall development.

Reason: To restrict the use of this development in the interest of residential amenity.

- 4 Activities at the site shall not give rise to noise levels off-site at noise sensitive locations, which exceed 55dB(A) rated sound level. Prior to commencement of development, the applicant shall agree with the planning authority procedures for the purposes of determining compliance with this limit.

Reason: In the interest of the residential amenities of the area.

- 5 Drainage arrangements, including the disposal of uncontaminated surface water and soiled water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

- 6 Agricultural waste plastics sent off site for recycling, recovery or disposal shall only be conveyed by an authorised and licensed waste contractor and transported from the proposed development site to an authorised and licensed site of recycling/recovery/disposal in a manner which will not adversely affect the environment.

Reason: To provide for the recovery/disposal of waste and the protection of the environment.

- 7 The landscaping scheme shown on drawing number 001-18-10-PD-01, as submitted to An Bord Pleanála on the 7th day of September 2020 shall be carried out within the first planting season following substantial completion of construction works].

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 8 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or,

in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Fergal Ó Bric

Planning Inspectorate

28th June 2021