



An
Bord
Pleanála

Inspector's Report ABP 310678-21

Development	Increase in permitted rate of soils and stone intake.
Location	Huntstown South Quarry. Finglas. Dublin 11.
Planning Authority	Fingal Co. Council.
Applicant(s)	Roadstone Ltd.
Type of Application	Seventh Schedule.
Date of Site Inspection	28 th , September 2021.
Inspector	Breda Gannon.

1.0 Introduction

- 1.1. On June 29th, 2021, 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, as amended.
- 1.2. The Board's representatives met with the prospective applicant on October 12th, 2021, and on January 25th 2022.
- 1.3. The prospective applicant formally requested closure of the pre-application consultation process by letter dated 31st January 2022.

2.0 Proposed Development

- 2.1. The proposal is to increase the rate of soil and stone waste intake and recovery from 750,000 tonnes per annum to 1,500,000 tonnes per annum at the south quarry within the existing Roadstone quarry complex.

3.0 Site Location

- 3.1. The site is located c 2.5km north-west of Finglas in Dublin 11 and c 1km west of the interchange between the N2 Dual Carriageway and the M50 Motorway. It extends across the townlands of Coldwinters, Huntstown, Cappogue and Grange in Co. Dublin. It consists of a deep limestone quarry, a network of existing access roads ancillary site infrastructure which is shared with and/or currently used by the existing extraction operations and other backfilling and restoration operations elsewhere with in the Roadstone landholding.
- 3.2. The site lies to the southwest of Dublin airport in a relatively flat landscape. There are several business parks to the west (Northwest, Huntstown, Millenium and Rosemount) and southwest (Stadium). The site has access off the R 135 North Road, which it shares with the Energia AD plant and the Viridian Power station. There are a number of residential properties and other uses (garden centre, veterinary clinic, Dogs Trust Ireland) located along the regional road to the east.

4.0 Planning History

- 4.1. In 1994, a 10-year planning permission was granted for continued quarrying and production of aggregate and concrete materials at the Huntstown Quarry Complex (Fingal Co. Council Reg Ref 93A/1134 and ABP 06F.092622). Condition No 17 provided for quarry restoration.
- 4.2. In 2004, Roadstone was granted planning permission for continuation of quarrying activities at the Huntstown Quarry Complex for a further 10 years (Fingal Co. Council Reg Ref No F03A/1430 and ABP 06F.206789). The restoration plan included in the application/permission was essentially the same as that previously agreed with Fingal Co. Council on foot of Condition No 17 of the 1994 permission.
- 4.3. In August 2014, Roadstone secured planning permission for continuation of quarrying activity for a further 20-year period until 2034 (Reg Ref FW12A-0022 and ABP 06F.241693 refers). The overall development proposal included provision for the restoration of the existing North, West and South Quarries and the planned Central Quarry to their original ground level using imported excess soil and stone from local construction and development sites. The maximum soil waste intake assumed for impact assessment purposes in the EIAR was 750,000 tonnes per annum.
- 4.4. In November 2016, Roadstone was granted permission by Fingal Co. Council under Ref No 16FW/0120) to increase the rate of soil and stone intake from 750,000 tonnes per annum to 1,500,000 tonnes per annum to expediate the ongoing backfilling and restoration of the North Quarry and West Quarry at Huntstown. The application site boundary for the purposes of the application only included the North Quarry and the West Quarry as rock extraction activities were still ongoing at the South Quarry.
- 4.5. The permitted intake at the South Quarry is currently 750,000 tonnes per annum.

5.0 Waste Licencing

5.1. A waste licence issued by the EPA in February 2015 in respect of the backfilling and inert soil waste recovery at the North Quarry (Ref No W0277-01). An amended licence was issued by the EPA in September 2017 (Ref No W0277-02). It permitted

- An increase in the permit maximum rate of intake to the inert soil recovery facility from 750,000 tonnes per annum to 1,500,000 tonnes per annum.
- An extension of the original waste licence area to allow for the backfilling of the West Quarry.
- Additional backfilling of an area at the southern end of the North Quarry which had been recently quarried or was due to be quarried in the years following the waste licence review
- Some minor modifications to the licenced area to take account of changes in land ownership and re-alignment of internal haul roads around the quarry complex.

5.2. An amendment of the existing waste licence would be required for the proposed development.

6.0 Policy and Context

6.1. **National Planning Framework – Project Ireland 2020** - 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’.

- 6.2. 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 wastewater treatment and greater resource efficiency to realise the benefits of the circular economy’.

- 6.3. 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.

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'

6.4. **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 confirmed that the capacity available to recover soil and stone wastes is an issue in each region.

It concluded that there was 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 term 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.

6.5. **Construction and Demolition Waste: Soil and Stone Recovery/Disposal**

Capacity, update Report 2020. The most recent assessment of soil and stone waste recovery was published by the Regional Waste Management Planning Offices in December 2020. The report updates the Soil and Stone Recovery/Disposal Capacity report published in 2016. The quantity of soil and stone managed increased from 2.3m tonnes in 2012 to almost 5m tonnes in 2018. While the Covid-19 pandemic has led to a significant contraction in the economy, growth is expected to continue over the medium to long term in line with the planned delivery of housing and infrastructure projects described in Project Ireland 2040.

In terms of national capacity, the geographical spread of licenced soil recovery facilities is concentrated in the East Midlands Region (EMR) which contains 80% of the active and available capacity. The available annual licenced capacity is 2.4m tonnes.

'The waste licenced facilities in the Region are of the scale required by the market. Six of the ten licenced sites have annual capacity of 300,000 tonnes or more and one facility is licenced to accept 1,500,000 tonnes of waste per year. These large-scale facilities offer certainty to market operators. A healthy supply of licenced capacity for soil wastes is required to support the expected growth in construction activities in the Region in the long-term'.

It is predicted that soil and stone wastes will continue to grow, with a forecast of 8.7m tonnes by the end of 2029. The report states that the EMR has a *'healthy supply of active capacity and substantial new capacity due to come on stream'*. Future capacities (new applications and un-commenced operations) exceed 2.1m tonnes nationally, with 73% of this capacity planned for the EMR. The urban centres of Dublin and Cork which are a focal point for development and construction are (or will be) well served by licenced capacity.

6.6. The operative development plan is the **Fingal County Development Plan 2017-2023**. Section 7.5 is concerned with waste management. It emphasises the need to increase the re-use and recycling of waste streams and to divert waste away from landfill.

Objective WMO2 - Facilitate the implementation of national legislation and regional waste management policy having regard to the waste hierarchy.

With regard to Construction and Demolition waste, it is stated that recovery is managed by placing it in a variety of land uses, such as backfilling. With the move away from landfill, which is a significant outlet for C&D waste, alternative options will be required to facilitate this waste in the future.

Objective WM18 – Ensure that C&D Waste Management Plans meet the relevant recycling/recovery targets for such waste in accordance with national legislation and regional waste management policy.

7.0 Strategic Infrastructure-Legal Provisions

Strategic Infrastructure is defined in the **Seventh Schedule** of the Planning and Development (Strategic Infrastructure) Act 2006 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.

8.0 Prospective Applicants Submission

8.1.1. Development classes under the Seventh Schedule

It is submitted that the proposed increase in the maximum rate of soil waste intake would not constitute Strategic Infrastructure for the following reasons:

- The proposed uplift in the soil waste intake and recovery rate to 1,500,000 tonnes per annum was previously approved by Fingal Co. Council and was approved by the EPA in a subsequent review of the waste licence. Many of the external impacts associated with the proposed rate of backfilling at the South Quarry are already extant. The proposed development provides for the existing planning permission for the North Quarry to be replicated for the adjoining South Quarry to facilitate backfilling at the same rate, by the same operator, within the same landholding, using the same external access point and sharing much of the same existing site infrastructure. When viewed from this perspective the proposed development does not fall within the scope of the Seventh Schedule of the Act.

- The proposal relates solely to a change in permitted annual intake and recovery limits and does not constitute ‘an installation’ within the meaning of the Seventh Schedule.
- Planning permission for ‘the installation’ (the south quarry) is extant and the proposed development does not require any significant change to existing physical site infrastructure or major new development of a nature and scale that could credibly constitute ‘strategic’ infrastructure to facilitate it. In granting permission for the quarry development, An Bord Pleanála considered and conditioned all aspects of the scheme including the backfilling and restoration of each quarry using imported soil and stone and as such does not need to re-visit the issue as Strategic Infrastructure Development.
- In the specific case of the Huntstown quarries, it is arguable that post extraction backfilling to original ground level with imported soil should not be classified primarily as waste activity per se, but viewed as an essential prerequisite for, and requirement of, the existing 20-year extraction permission.

As most of the excess soil available for quarry backfilling purposes is legally classified as waste, the importation and handling of soil must be managed as waste (in accordance with Condition 8(a) of the 2014 extractive planning permission and national waste management legislation generally). The requirement to establish and operate a waste recovery facility at Huntstown to give effect to the restoration proposals should arguably be viewed as a legal/planning compliance obligation rather than as (strategic) waste infrastructure development in its own right. This perspective is consistent with the perspective previously adopted by the local authority and An Bord Pleanála in granting a 20-year permission for continued extraction activity at Huntstown.

8.1.2. Relevant criteria for consideration in relation to Seventh Schedule development

- (a) The development must be of strategic economic or social importance to the State or the region in which it is situated.
- While the increase in waste intake capacity at the South Quarry will continue to address market demand for soil waste recovery capacity in

the Greater Dublin Area, it is not of a nature, impact or complexity which would warrant its being labelled strategic infrastructure.

- There is no explicit reference to need for similar development in any existing national/regional economic or social plan ('strategy') which supports its classification as strategic infrastructure.
- The most recently published assessment of inert soil and stone waste recovery capacity by the combined waste regions states in its conclusions that the East Midland waste management region 'has a healthy supply of active (soil waste capacity) and substantial new capacity to come on stream'.
- The report does not identify any existing or looming soil waste capacity constraints in the Eastern Midlands waste region which would necessitate any 'strategic' planning intervention by any State, Regional or Local Authority to deliver the required infrastructure capacity.
- In the absence of any objective evidence of a 'strategic' need for future soil waste capacity being identified in any spatial planning framework or industry/sector specific analysis, or any other evidence of a comparable nature being identified or referenced, it is not possible to assert that the proposed increase in soil waste intake to Huntstown South Quarry constitutes 'strategic' infrastructure under this test.

(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.

- There are no specific aims and objectives set out in the NPF or the RSES to promote, support, direct or facilitate planning and delivery of soil waste recovery facilities.
- Neither the proposed development, nor the provision of increased soil water recovery capacity more generally, are explicitly identified as essential to fulfil any strategic spatial planning, social or economic objective(s) in either plan.

- There is a low level of risk and complexity attaching to the establishment and operation of soil recovery facilities and few barriers to market entry.
- Other than requiring such facilities to operate in an environmentally safe and sustainable manner, national and regional authorities leave it to market participants to identify and respond to the demand for soil waste recovery capacity on a commercial basis.
- There is currently no identifiable market weakness or failure which would require intervention by national or regional authorities to ensure that sufficient soil recovery capacity is available to fulfil any spatial or economic objective or to promote its delivery through 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 development will have no significant effect on the any other planning authority area as all activities and effects will be entirely confined within the functional area of Fingal County Council.
- Operations will take place within the existing development footprint of the Huntstown Quarry Complex. Many of the development effects are of a similar nature and scale of those which are currently extant.

9.0 Assessment

9.1. Introduction

In determining whether the proposed development constitutes Strategic Infrastructure Development, there are two tests that must be considered:

- Does the proposed development fall within a class of development that is specified in the Seventh Schedule of the Act.
- If the proposed development falls within a class of development specified in the Seventh Schedule, does it fall within one or more of the 3 no. criteria set out in Section 37A (2) of the Act.

9.2. **Seventh Schedule**

The proposal is to increase the rate of permitted soil and stone intake at the existing south quarry. The proposed increase from 750,000 to 1,500,000 tonnes per annum comprises Seventh Schedule development as it exceeds the threshold being:

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

9.3. **Section 37A (2) Act Criteria**

Section 37 of the Act, as amended, requires that development falling under the Seventh Schedule of the Act, in order to constitute Strategic Infrastructure Development, must fall within one or more of the three criteria set out in section 37A(2)(a)(b)(c).

9.3.1. **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**

The proposal involves the use of an existing quarry with an existing permission for restoration by backfilling of the void space using soil and stone material. The proposal will accelerate the rate of infilling of the existing facility but will not result in any additional capacity for soil and stone recovery within the region or the State. On this basis, I consider that it is therefore reasonable to conclude that the proposed development would not be of strategic economic or social importance to the State.

9.3.2. **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 Board issued determinations on a number of similar type proposals involving the use of soil and stone material to backfill quarry voids.

1. ABP 304735-19: Proposed inert landfill and construction and demolition waste recovery facility at a large disused quarry at Ballinaclare. Kilbride Co Wicklow. The proposed intake was 800,000 tonnes per annum over 8 to 17 years. The Board noted that that the proposed intake exceeded the relevant threshold set out in the Seventh Schedule and concluded that the development falls within

the scope of section 37A(a) and (b) and therefore constitutes strategic infrastructure.

2. ABP 306888-20: Restoration by backfilling of Dunleer Quarry in Co Louth with inert soil and stone (360,000 tonnes per annum over 10 years). Board set out a preliminary view that the proposed development would constitute development that falls within the definition of infrastructure in the Seventh Schedule and would be considered to be of strategic importance by reference to the requirements of section 37A(a) and (b) of the Act.
3. ABP 304436 -19: Restoration of a quarry void with soil and stone waste (560,000 tonnes per annum with a duration of 2.5-5 years). The Board determined that having regard to the size, scale, location and limited duration of the proposed development and the proximity of source material, the proposed development constitutes development that falls within the definition of strategic infrastructure but is not considered to be of strategic importance by reference to the requirements of section 37A(2) (a) (b) and (c).

In this case it was considered that the facility would serve primarily local requirements and would not therefore be of strategic economic or social importance to the State or the Leinster Region.

The main difference between the proposed development and these cases is as follows:

- All of the quarries considered in previous determinations by the Board were abandoned and disused and would involve the provision of a new waste facility for soil and stone recovery and significant additional capacity for this waste stream within the State.
- The facility at Huntstown is extant and active and has a live planning permission for restoration using soil and stone material which is on-going at the quarry. There will be no increase in capacity for this waste stream.
- The proposal will increase the rate of infilling in a different geographical area within the quarry complex. The effect will be that the quarry void is filled at a faster rate and the rate of filling proposed is identical to that permitted by the planning authority for other areas of the quarry.

- The facility is already in place to accommodate the increase rate of infilling and the wider environmental effects will be similar to those existing.

While the proposals accord with the provisions of the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region in terms of the sustainable management of waste systems, it would not contribute substantially to the fulfilment of any national, strategic or regional planning objectives due to the extant permission.

Having regard to the particular circumstances of the case I consider that there is sufficient difference between the current proposal and previous proposals determined by the Board for it to conclude that the proposed development does not constitute strategic infrastructure by reference to section 37 A(2)(b) of the Act, as amended.

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

The site is strategically located close to the national road network and while the facility is located entirely within the administrative area of Fingal Co. Council, it lies proximate to other counties including South Dublin Co. Council, Kildare and Meath.

During the meetings held with the prospective applicant confirmed that the majority of the soil and stone material that will be used to infill the quarry void will be sourced from building sites with large excavations north of the Liffey. While this has the potential to result in increased traffic movements in particular locations associated with the transport of materials, this will be short-term and temporary. The main activities and effects associated with the development will be confined within the functional area of Fingal Co Council. I therefore accept the prospective applicant's argument that the development will not have a significant effect on the area of more than one planning authority and is not considered to be of strategic importance by reference to section 37A(2)(c).

10.0 **Conclusion**

The proposed development which proposes an increase in intake of soil and stone and stone material for recovery would exceed the threshold of 100,000 tonnes per

annum set out in the Seventh Schedule of the Strategic Infrastructure Act, 2006, as amended.

It is my opinion that as the existing installation is extant and active and is governed by an existing planning permission which requires restoration of the quarry void, the proposed development does not fall within the parameters of section 37A(2)(a)(b) and (c) of the Planning and Development Act 2000, as amended and does not therefore constitute strategic infrastructure.

11.0 Recommendation

I recommend that Roadstone Ltd be informed that it is the Board's opinion that the proposed development involving an increase of the rate of soil and stone intake and recovery from 750,000 tonnes per annum to 1,500,000 tonnes per annum at the existing Huntstown South Quarry, Finglas, Dublin as set out in the plans and particulars received by An Bord Pleanála on October 12th, 2021, does not come within the scope of section 37A(2)(a)(b) and (c) of the Planning and Development Act 2000, as amended and does not therefore constitute strategic infrastructure. An application should therefore be made directly to Fingal Co. Council.

Breda Gannon
Senior Planning Inspector

01 February 2022