



An  
Bord  
Pleanála

## Inspector's Report ABP-311925-21.

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<b>Development</b>	Pay to use portable waste compactor for residual waste and food waste and dry recyclables. Also, retention permission for a 27/7 external laundromat unit facility.
<b>Location</b>	Circle K, Fermoy Road, Mitchelstown, Co. Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	21/5716.
<b>Applicant(s)</b>	BIGbin Waste Tech Ltd.
<b>Type of Application</b>	Permission & Retention.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Conor Walsh
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	26/01/2021.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located within the urban area of Mitchelstown, and to the rear of the existing Circle K petrol station site, located on the Fermoy Road in the town. The site is currently occupied by the service station and associated shop, with the external laundromat in place to the northern corner of the shop building. The site is located approximately 65m to the south of the junction of the R513 (which runs approximately north - south) and the L1418 which comprises Church Street to the north-west and Brigown Road to the south-east. The wider area comprises a variety of uses including residential to the north and to the east of the R513, and there is a Medical Centre located to the south of the site.
- 1.2. The site has a stated area of 0.59ha and comprises the petrol station forecourt and shop, as well as an undeveloped area to the south and west. The area of the proposed development includes trees an area of trees which currently screen the area of the proposed works from the adjacent residential properties.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for placement of a pay-to-use portable waste compactor for residual waste and food waste and a pay-to-use portable waste compactor for dry recyclables and also retention of a 24/7 external laundromat unit facility on the forecourt of Circle K, Fermoy Road, Mitchelstown, Co. Cork, all at Circle K, Fermoy Road, Brigown, Mitchelstown, Co. Cork.
- 2.2. The application included a number of supporting documents including as follows:
  - Plans, particulars and completed planning application form,
  - Cover letter from applicant
  - Letter of consent from landowner
  - EPA Declaration
  - Photographs
  - Statement of Standard Operation Procedure

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant planning permission for the development subject to 9 conditions.

### 3.2. Planning Authority Reports

#### Planning Reports

- 3.2.1. The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.
- 3.2.2. The planning report notes the two aspects of the proposed development and considers that the proposed retention of the external laundromat unit facility is acceptable in principle. The report notes the provisions of Policy E23 of the SRWMP which, in the absence of kerbside source segregated collection services and where the proximity of civic amenity facilities and bring centres is prohibitive, supports localised collection solutions such as proposed. It is noted that while there are kerbside collection services available in Mitchelstown, there is no civic amenity facility available locally. As such, the principle of the proposed PTU compactors is considered acceptable.
- 3.2.3. In terms of land use and amenity, the report notes the location of the site within the built-up area of the town, and the proximity of houses (within 15m), and other services. The noise from the compactor rises to 70dB when operational and as a code is required to be purchased from the shop, will only operate during normal trading hours. It is noted that the layout submitted does not correspond with the situation on the ground and a revised site layout plan is required. The proposed development also conflicts with the recently sought car-wash facility (permission granted following the preparation of the initial planning report), and a number of car parking spaces for the proposed facility will be required. Further information is required with regard to surface water management. No likely significant effects on the environment are anticipated.

- 3.2.4. The initial Planning Officers report required the submission of further information.
- 3.2.5. Following receipt of the response to the FI request, the planning officer considered all issues raised to be addressed and noted no further concerns and recommended that permission for the proposed development be granted subject to 9 conditions. This Planning Report formed the basis of the Planning Authority's decision to grant permission.

3.2.6. **Other Technical Reports**

**Area Engineer:** Notes that the proposed waste compactors would be located in the position of the proposed car wash area and would block access around the shop building. The location of the external laundromat unit differs in location between both applications. Further information is required in this regard.

In terms of access, there is a well-established entrance in place.

Mains water supply and public sewer are available.

In terms of surface water, the applicant is required to clarify the surface water requirements for the laundromat.

Following the receipt of the response to the FI request, the AE raises no outstanding concerns and recommends that permission be granted subject to 11 conditions.

**Environment Report:** Further information is required with regard to a new connection inquiry to IW, confirmation of the drainage arrangements for any leachate arising from the compaction of wet waste in the compactor, details of intervals of waste collection to ensure that there is no odour nuisance arising and details of measures to ensure no cross contamination between recyclable and non-recyclable waste will occur.

Following the receipt of the response to the FI request, the Board will note that there are 2 Environment reports on file. One report submits that as the proposed site is in proximity to residential areas, and that there is inadequate space to accommodate a pay to use compactor to the rear of the

forecourt, this application site is not ideal for this proposed development.

The second report notes that while there are risks from the development in the operational phase, as a Certificate of Authorisation is required, measures can be put in place to mitigate such issues. There is no objection to the granting of permission for the development subject to the inclusion of 2 stated conditions.

### 3.2.7. **Prescribed Bodies**

None.

### 3.2.8. **Third Party Submissions**

There is 1 third-party submission noted in relation to the proposed development, submitted by SLR Consulting Ireland. The issues raised are summarised as follows:

- The development is contrary to Irelands recycling commitments and is a threat to recycling efforts and obligations.
- The development is contrary to the Southern Region Waste Management Plan 2015-2021.
- 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.
- 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 development is contrary to the Cork County Development Plan.
- The Regional WMP only supports PTUs 'in the absence of kerbside source segregated collection services and where the proximity of the civic amenity facilities and bring centres is prohibitive'. This is not the case in Mitchelstown, and there are several waste management companies operating kerbside collections in the immediate vicinity.

- There are at least 15 civic amenity sites in Co. Cork. The best place to locate PTUs is at civic amenity sites which are staffed to ensure that recyclables are placed in the current containers.
- PTUs give rise to risk of fire and environmental pollution when non-suitable materials are placed in them, including hot ashes and liquid wastes. The units are not leak-proof with leakage visible at the PTU in Watch House Cross in Limerick. Potential for impacts on the River Blackwater SAC and Freshwater Pearl Mussel.
- The applicant has failed to provide a three-bin system in obligated areas, with no segregation at the applicants existing 5 sites in Limerick City, in breach of the CoR conditions. Annual reports for the sites from 2018 and 2019 note zero food waste so the recycling rate for facility is 0%.
- It is understood that the PTUs appear to be equipped to weigh two of the three fractions of waste which falls short of the legal requirement, as food waste is not weighed.

It is requested that permission be refused.

#### 4.0 Planning History

The Board will note that there are a number of applications relating to the subject site which were withdrawn prior to a decision issuing or deemed invalid. The following is the relevant planning history pertaining to the subject site:

**PA ref: 20/5991:** Permission granted by Cork County Council to Fareplay Energy Ltd., for (i) car wash, (ii) car wash plant room, (iii) all associated structures, drainage and site development works and retention of (i) a self-service laundry kiosk (9.2 sq.m) with 2 no. integrated washing machines and 1 no. integrated dryer, associated illumination and facade signage, all at Circle K, Fermoy Road, Brigown, Mitchelstown, Co. Cork.

Permission was granted for the above development, subject to 16 conditions.

## 5.0 Policy and Context

### 5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. Chapter 9 of the NPF deals with Environmental and Sustainability Goals and with regard to managing waste, the Framework seeks to provide ‘Adequate capacity and systems to manage waste in an environmentally safe and sustainable manner’. It is further stated that ‘Ireland is advancing its development as a circular economy and bio economy where the value of all products, materials and resources is maintained for as long as possible and waste is significantly reduced or even eliminated.
- 5.1.2. National Planning Objective 56 seeks to “Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society”.

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

- 5.2.1. 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.

- 5.2.2. 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 were collected using PTUs in the region in 2012 and this represents less than 0.5% of HWM (household waste managed).
- 5.2.3. 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.
- 5.2.4. 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.
- 5.2.5. 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.
- 5.2.6. 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.



### 5.3. Fermoy Municipal District Local Area Plan 2017

The Board will note that Mitchelstown is identified as a main town in the LAP. The site is located on lands zoned 'Existing Built-up Area' within the town.

### 5.4. Cork County Development Plan 2014

5.4.1. The Cork County Development Plan 2014, as extended, is the relevant policy document relating to the subject site.

5.4.2. Chapter 11 of the CDP deals with Water Services, Surface Water and Waste, with Section 11.7 dealing specifically with waste. County Development Plan Objective WS 7-1: Waste Management is relevant, and states as follows:

- a) Support the policy measures and actions outlined in 'A Resource Opportunity' 2012 – National Waste Policy
- b) Encourage the delivery of an effective and efficient waste management service in line with the Waste Management Acts and relevant Waste Management Plan for the County/Region.
- c) Normally require details and formal development proposals of onsite provisions for the management of waste materials that are likely to be generated from the proposed use. The Council will require Waste Management Assessment for projects which exceed thresholds outlined.
- d) Support the incorporation of the recommendation and policies of the National Hazardous Waste Management Plan 2008-12.
- e) Support the sustainable development of the Bottlehill facility for specialised and appropriate uses primarily associated with integrated waste management.

5.4.3. Given the location of the site within an area of Mitchelstown which is afforded the 'Existing Built-up Area' zoning, CDP Objective ZU 3-1 is relevant, and states as follows:

Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built-up areas will be resisted.

## **5.5. Natural Heritage Designations**

- 5.5.1. The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 8m to the south of the subject site. The Galtee Mountains SAC (Site Code: 000646) lies approximately 8.5km to the north-east and the Lower River Suir SAC (Site Code: 002137) lies approximately 8.7km to the east of the subject site.
- 5.5.2. The Carrigeenamronety Hill SAC (Site Code: 002037) lies approximately 10.8km, and the Ballyhoura Mountains SAC (Site Code: 002036) lie approximately 13km to the west of the site.

## **5.6. EIA Screening**

- 5.6.1. The subject appeal does not relate to a class of development which requires mandatory EIA in either Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). Schedule 5 Part 2 of the regulations sets out the class of developments which provide that mandatory EIA is required, and Class 11(b) is noted as follows:

Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule’.

- 5.6.2. The EC Guidance document ‘Interpretation of definitions of product categories of Annex I and II of the EIA Directive’ with regard to Class 11(b) refers back to a definition of ‘disposal’ cited under Class 9 of Part I. This in turn makes reference to the definition of ‘disposal’ contained in Article 3(19) of the Waste Framework Directive as:

‘any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy’.

- 5.6.3. In terms of the proposed development, and while I would accept that the process involves waste, it would not, in my opinion, involve waste disposal, as the development seeks essentially to provide a temporary storage provision, while the

disposal of the waste from the site will occur elsewhere following transportation off site to a waste disposal / recovery facility. The proposed development does not propose any treatment, sorting or any processing of the waste.

- 5.6.4. No treatment or other process is proposed to be applied to the waste collected on site. For this reason, I do not consider that the nature of the proposed development is a class of development that comes within the scope of development for which EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.6.5. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.6.6. In this regard, I refer again to the relevant threshold in respect of Class (b), indicated at 25,000 tonnes. While I note that the information submitted does not provide details in terms of tonnage, I acknowledge that the size of the units is not overly large, and that the EPA certification limits the amount of waste stored at any one time at the site to not exceeding 1,000 tonnes.
- 5.6.7. No capacity in terms of tonnes is provided for the type of collection bins proposed to be installed on site. It is however stated that when the individual unit reaches 75% capacity, a notification is sent to the operations team where collection is arranged. Collection frequency is typically 4 to 6 (presumed weeks – not clearly indicated in the response to the FI response) but with the busiest sites being serviced weekly. It is further noted that there is no odour nuisance as the units are sealed. At these figures, the level of servicing trips generated by the proposed development would be nominal over the course of a year.

5.6.8. Having regard to:

- (a) the nature and limited scale of the development,
- (b) the location of the site within the town of Mitchelstown
- (c) the location of the development, outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

This is a third-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised, reflect those as submitted to the Planning Authority during its assessment of the proposed development, and are summarised as follows:

- The development is contrary to Irelands recycling commitments and is a threat to recycling efforts and obligations.
- The development is contrary to the Southern Region Waste Management Plan 2015-2021.
- There are at least 15 civic amenity sites in Co. Cork. The best place to locate PTUs is at civic amenity sites which are staffed to ensure that recyclables are placed in the current containers.
- PTUs give rise to risk of fire and environmental pollution when non-suitable materials are placed in them, including hot ashes and liquid wastes. The units are not leak-proof with leakage visible at the PTU in Watch House Cross in Limerick. Potential for impacts on the River Blackwater SAC and Freshwater Pearl Mussel.

- The applicants record suggests that they are only interested in residual waste and have failed to provide a three-bin system in obligated areas. 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.

It is requested that the appeal be upheld and that the Board refuse the proposed development.

## 6.2. **Planning Authority Response**

The Planning Authority submitted a response to the third-party appeal noting that the relevant issues have been covered in the technical reports already forwarded to the Board. The PA has no further comments to make.

## 6.3. **Observations**

None.

## 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Waste Management
3. Amenity Impacts
4. Other Issues
5. Appropriate Assessment

## 7.1. Principle of the development

- 7.1.1. The proposed development relates to the placement of a pay-to-use portable waste compactor for residual waste and food waste and a pay-to-use portable waste compactor for dry recyclables and also, the retention of a 24/7 external laundromat unit facility on the forecourt of the Circle K service station within the settlement boundary of Mitchelstown. As such, there are two elements to the proposed development.
- 7.1.2. The Board will note that permission granted, subject to conditions, by Cork County Council to Fareplay Energy Ltd., under PA ref: 20/5991, for a development which included the retention of a self-service laundry kiosk (9.2 sq.m) with 2 no. integrated washing machines and 1 no. integrated dryer at the site. In this regard, I do not consider it reasonable to reject this element of the current appeal.
- 7.1.3. The subject site is located on lands zoned 'Existing Built-up Area' in the town of Mitchelstown, as per the Fermoy MD LAP. As such, CDP Objective ZU 3-1 is relevant, and states as follows:

Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built-up areas will be resisted.

Having regard to the nature and scale of the proposed development, I am satisfied that the development would not threaten the vitality or integrity of the primary use of the site.

- 7.1.4. In terms of the proposed pay-to-use portable waste compactor for residual waste and food waste and a pay-to-use portable waste compactor for dry recyclables, I note that the proposal seeks to provide an alternative waste disposal and recycling offer to members of the public. While I will address the potential impacts associated with the proposed development further below, given the location of the site within zoned lands in the urban area of Mitchelstown, I do not consider it unreasonable to accept the principle of the proposed development at the subject site.

## 7.2. Waste Management

- 7.2.1. The proposed development relates to a waste management facility, albeit of a small scale. The principle of providing adequate capacity and systems to manage waste in an environmentally safe and sustainable manner accords with the provisions of National Planning Framework – Project Ireland 2040 and NPO 56 seeks to “Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society”.
- 7.2.2. The Southern Region Waste Management Plan 2015-2021 sets targets for the region 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 including Pay-to-Use (PTU) which are described as follows:
- 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.
- 7.2.3. The Plan provides that ‘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. The Plan notes that the use of PTUs will be regulated in line with all other household service providers in the collection market and that they will continue to have a role in household collection in certain areas.
- 7.2.4. The following policies of the Southern Region Waste Management Plan 2015-2021 are relevant to the subject appeal:
- **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.
  - **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.

- 7.2.5. The Board will note that the third-party appellant has noted that the best place to locate PTUs is at a civic amenity (CA) site, and that there are 15 CAs located in County Cork, with the closest one to the subject appeal site at Mallow, approximately 28km to the south-west. It is also noted that a number of waste management companies operate a kerbside, source segregated household waste collection service in Mitchelstown. In terms of the proposed development, it might reasonably be argued that the proposed development does not accord with the provisions of Policy E23 of the Southern Region Waste Management Plan 2015-2021, as there are kerbside source segregated collection services available in the town.
- 7.2.6. However, given that the location of the closest bring centre or civic amenity site is approximately 28km from the town of Mitchelstown, and the fact that there is no such facility within the town itself, it might reasonably be concluded that the proximity of the civic amenity facilities and bring centres is prohibitive to the population of Mitchelstown. As such, 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.
- 7.2.7. In terms of the above and having regard to the location of the site and the requirement to secure a Certificate of Authorisation for the compactors, I am satisfied that the proposed development does not contravene the provisions of the Southern Region Waste Management Plan and can be considered acceptable.

### 7.3. Amenity Impacts

- 7.3.1. The proposed units the subject of this appeal include as follows:
- Laundrette: The block includes 3 machines all contained within a frame which rises to 2.4m in height and extends to 4m in length. The units include a drying machine and two washing machines, with different load capacities. The depth of the units is 1.3m
  - Waste compactors: The development proposes to install two PTU Compactors which will rise to approximately 2.2m in height and the width approximately 2m each. The depth of the two units extends to approximately



4.5m and will be located to the north of the proposed laundrette block. The compactors will extend to the front of the laundrette block.

- 7.3.2. In terms of visual impacts associated with the proposed development, the Board will note the presence of mature trees and hedges to the north-west and north-east of the proposed location of the units. The presence of these trees forms a natural backdrop for the units and as such, the visual impact of the proposed development is minimised. In addition, I do not consider that the scale of the proposed development is so significant as to result in any excessively prominent or incongruent feature within this commercial site. I would note that no details of signage have been submitted or indicated in the application. In the event of a grant of planning permission, details of signage would require to be dealt with by way of either condition or a new planning application for same to ensure no visual impact arises from such signage.
- 7.3.3. In terms of residential amenity, the Board will note that the closest residential properties are located approximately 15m from residential property boundaries to the north and the closest house located approximately 20m from the nearest proposed compactor. As such, it is appropriate to consider the potential impacts associated with noise and odour nuisances. The Board will note that the applicant has advised that the compactor units are sealed units and as such, there is no potential for leaks from the units. The units are also emptied before reaching full capacity to prevent stagnant waste building up within the compactor and are inspected, maintained, and cleaned regularly.
- 7.3.4. As referred to above in Section 7.2 of this report, the Board will note that the development will be subject to the requirements of a Waste Facility Permit / Certificate of Authorisation, obtained from the local authority. Such permits are only granted where the local authority is satisfied that the development will not have adverse impacts on the environment in the vicinity of the site and issues relating to the management of the site and the control of odours and other nuisances from the development would be addressed by conditions attaching to the permit. As such, I am generally satisfied that the proposed development would not be likely to have any significant adverse impacts on the wider amenity of the area or the environment in the vicinity of the site.

## 7.4. Other Issues

### 7.4.1. Third Party issues

The Board will note that the third-party appellant has raised several concerns relating to the proposed development, including as follows:

- **Company's Record:** The appellant has suggested that the applicants are only interested in residual waste and have failed to provide a three-bin system, with 0% recycling rate for municipal solid waste from their existing facilities in Limerick, despite their CoR requirements to provide units for mixed dry recyclables and food waste. It is further submitted that waste streams are not monitored to ensure that they are placed in the correct containers and no segregation takes place.

While I acknowledge the third-party submission, I refer the Board to the fact that a Waste Permit Licence / Certificate of Authorisation is required for the development. Such a permit will only be granted where the LA is satisfied that the above issues are satisfactorily addressed.

**Weighing of Waste:** It is submitted that the front of the PTU is equipped with weighing cells, but that the food waste compartment is not. The Regional Waste Management Plan requires that PTU operators comply with mandatory obligations which includes the 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. There is no indication that the applicant does not propose to comply with this requirement.

### 7.4.2. Roads and Traffic

The proposed development site is located within the built-up area of Mitchelstown and within an existing service station. In terms of the traffic generated by the proposed development, I would consider it difficult to project given the nature of the development. However, I am satisfied that the site is not located within an area which has restricted visibility at the entrance to the site, and there is adequate parking provided for within the overall site.

In terms of servicing the proposed units, I note the submission that the bins are to be emptied every 4-6 weeks, or more frequently depending on the usage of the site. In any case, the busiest facilities operated by the applicant are serviced weekly. I do not consider that the development is of a scale which would require the preparation of a traffic impact assessment or a road safety audit. I have no objection to the proposed development in this regard.

#### 7.4.3. **Development Contribution**

The subject development is liable to pay development contribution. A condition to this effect should be included in any grant of planning permission.

### 8.0 **Appropriate Assessment**

#### 8.1. **Introduction:**

- 8.1.1. The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 8m to the south of the subject site. The Galtee Mountains SAC (Site Code: 000646) lies approximately 8.5km to the north-east and the Lower River Suir SAC (Site Code: 002137) lies approximately 8.7km to the east of the subject site. The Carrigeenamronety Hill SAC (Site Code: 002037) lies approximately 10.8km, and the Ballyhoura Mountains SAC (Site Code: 002036) lie approximately 13km to the west of the site.
- 8.1.2. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.3. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site.

- 8.1.4. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.5. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
  - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

- 8.1.6. No AA assessment was submitted as part of documentation for permission for the proposed development to assess the likely or possible significant effects, if any, arising from the proposed development on any European site.

## 8.2. Consultations

- 8.2.1. With regard to consultations, the Board will note that the third-party objector raised concerns with the Planning Authority with regard to AA, and the potential impact of leaks from the PTU compactors on the River Blackwater SAC and Freshwater Pearl Mussel. Surface water management was addressed by the authority in terms of engineering and environmental impacts, and the Board will note that the Planning Officer undertook an AA Screening exercise regarding the proposed development.

## 8.3. Screening for Appropriate Assessment

- 8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any designated site. The closest Natura 2000 sites are the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 8m to the south of the subject site.

The Galtee Mountains SAC (Site Code: 000646) lies approximately 8.5km to the north-east and the Lower River Suir SAC (Site Code: 002137) lies approximately 8.7km to the east of the subject site. The Carrigeenamronety Hill SAC (Site Code: 002037) lies approximately 10.8km, and the Ballyhoura Mountains SAC (Site Code: 002036) lie approximately 13km to the west of the site.

8.3.2. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 5 Natura 2000 Sites occurring within a 15km radius of the site. I am satisfied that following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 4 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Galtee Mountains SAC	000646	Site is located entirely outside the EU site and therefore there is no potential for direct effects.
Lower River Suir SAC	002137	No habitat loss arising from the proposed development.
Carrigeenamronety Hill SAC	002037	No disturbance to species.
Ballyhoura Mountains SAC	002036	No pathways for direct or indirect effects. <b>Screened Out</b>

8.3.3. I consider that the following Natura 2000 site, located within 8km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

**8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence**

8.4.1. The subject development site is located within the urban area of Mitchelstown, Co. Cork and on lands zoned ‘Existing Built-Up Area’ in the Fermoy MD LAP. The site is currently occupied by a petrol station and associated shop and is not located within any designated site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

8.4.2. The following table sets out the qualifying interests for each of the identified Natura site:

European Site	Qualifying Interests
<p><b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b></p> <p>Located approx. 8km to the South of the site</p>	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranuncion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> <li>• <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>• <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>• <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>• <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey) [1099]</li> <li>• <i>Alosa fallax</i> (Twaiite Shad) [1103]</li> <li>• <i>Salmo salar</i> (Salmon) [1106]</li> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> <li>• <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</li> </ul>

### **Blackwater River (Cork/Waterford) SAC (Site Code: 002170)**

- 8.4.3. The River Blackwater is one of the largest rivers in Ireland, draining a major part of Co. Cork and five ranges of mountains. The site consists of the freshwater stretches of the River Blackwater as far upstream as Ballydesmond, the tidal stretches as far as Youghal Harbour and many tributaries, the larger of which include the Licky, Bride, Flesk, Chimneyfield, Finisk, Araglin, Awbeg (Buttevant), Clyda, Glen, Allow, Dalua, Brogeen, Rathcool, Finnow, Owentaraglin and Awnaskirtaun. The portions of the Blackwater and its tributaries that fall within this SAC flow through the counties of Kerry, Cork, Limerick, Tipperary, and Waterford. Nearby towns include Rathmore, Millstreet, Kanturk, Banteer, Mallow, Buttevant, Doneraile, Castletownroche, Fermoy, Ballyduff, Rathcormac, Tallow, Lismore, Cappoquin and Youghal.
- 8.4.4. The site is also important for the presence of several E.U. Habitats Directive Annex II animal species, including Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*L. fluviatilis*), Twaite Shad (*Alosa fallax fallax*), Freshwater Pearl Mussel (*Margaritifera margaritifera*), Otter (*Lutra lutra*) and Salmon (*Salmo salar*). The Awbeg supports a population of White-clawed Crayfish (*Austropotamobius pallipes*). This threatened species has been recorded from a number of locations and its remains are also frequently found in Otter spraints, particularly in the lower reaches of the river. The freshwater stretches of the Blackwater and Bride Rivers are designated salmonid rivers. The Blackwater is noted for its enormous run of salmon over the years.
- 8.4.5. Overall, the River Blackwater is of considerable conservation significance for the occurrence of good examples of habitats and populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive respectively. Furthermore, it is of high conservation value for the populations of bird species that use it. Two Special Protection Areas, designated under the E.U. Birds Directive, are also located within the site - Blackwater Callows and Blackwater Estuary. Additionally, the importance of the site is enhanced by the presence of a suite of uncommon plant species

### **8.5. Conservation Objectives:**

- 8.5.1. The Conservation Objectives for the relevant designated site are as follows:

European Site	Conservation Objectives
<p><b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b></p> <p>Located approx. 8km to the South of the site</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ Austropotamobius pallipes (White-clawed Crayfish) [1092]</li> <li>○ Lampetra planeri (Brook Lamprey) [1096]</li> <li>○ Lampetra fluviatilis (River Lamprey) [1099]</li> <li>○ Salmo salar (Salmon) [1106]</li> <li>○ Estuaries [1130]</li> <li>○ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>○ Perennial vegetation of stony banks [1220]</li> <li>○ Salicornia and other annuals colonising mud and sand [1310]</li> <li>○ Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>○ Trichomanes speciosum (Killarney Fern) [1421]</li> <li>○ Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</li> </ul> </li>   <li>• The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</li> <li>○ Petromyzon marinus (Sea Lamprey) [1095]</li> <li>○ Alosa fallax fallax (Twaite Shad) [1103]</li> <li>○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</li> <li>○ Lutra lutra (Otter) [1355]</li> <li>○ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</li> <li>• The status of <i>Taxus baccata</i> woods of the British Isles [91J0] as a qualifying Annex I habitat for the Blackwater River (Cork/Waterford) SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this habitat.</li> </ul>
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## 8.6. Potential Significant Effects

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated.

8.6.2. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 8km from the boundary of any designated site. As such, there shall be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within the settlement boundaries of the town of Mitchelstown and on a developed site. The environs of the site, while including an area of undeveloped land to the west of the subject site, lies within an urban environment, which includes residential and other commercial uses. No qualifying species or habitats of interest, for which the designated site is so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement

impacts to land based species or habitats for which the identified Natura 2000 site have been designated.

- **Water Quality:** The proposed development relates to the placement of a pay-to-use portable waste compactor for residual waste and food waste and a pay-to-use portable waste compactor for dry recyclables and also retention of a 24/7 external laundromat unit facility on the forecourt of the Circle K service station within the settlement boundary of Mitchelstown. The development will connect to existing public water services in the area, and I note no objections from Cork County Councils Area Engineer in this regard. I note the third-party submission regarding the contention that the units are not leak proof, raising concerns in relation to impacts on the SAC and its associated QIs. The Board will note that the applicant has indicated that the proposed PTU compactors are sealed units and that there is no potential for leaks arising. It is further noted that the units are to be inspected, maintained, and cleaned regularly. I am satisfied that the development will also be subject to Waste Permit Licence / Certificate of Authorisation from the Local Authority.

Having regard to the scale of the proposed development together with the extant permission on the site, I am generally satisfied that the principle of the proposed development is acceptable and that if permitted, is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site.

- 8.6.3. Having regard to the above, I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) site can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

## 8.7. In Combination / Cumulative Effects

- 8.7.1. In terms of potential in-combination / cumulative impacts associated with the proposed development I consider that any potential for in-combination effects on water quality in the Blackwater River can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the

Blackwater River (Cork/Waterford) SAC via rivers and other surface water features are also subject to AA.

## **8.8. Conclusion on Stage 1 Screening**

- 8.8.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## **9.0 Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## **10.0 Reasons and Considerations**

Having regard to the location of the site within the town of Mitchelstown, on lands zoned 'Existing Built-up Area in the Fermoy Municipal District Local Area Plan 2017, the location of the units within the curtilage of an existing filling station, the intended use of the proposed units, the relevant Section 28 Ministerial Guidelines, the policies and objectives of the Cork County Development Plan 2014 (as extended), and the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained and works completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28<sup>th</sup> day of September 2021, 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. This permission shall apply for a period of five years from the date of commencement of the proposed development. The waste compactors shall then be removed unless, prior to the end of the period, planning permission shall have been granted for retention for a further period. The developer shall notify the planning authority in writing on the commencement of development.

**Reason:** To enable the impact of the proposed development to be re-assessed and having regard to changes in waste management policy during the specified period.

3. No development on foot of this permission shall be undertaken until such time as the developer has applied for and received confirmation from the local authority of a waste authorisation (Waste Permit/Certificate of Registration) relating to the development authorised by this permission and is compliant with any conditions that may be attached to such an authorisation.

**Reason:** To ensure the protection of the environment and compliance with the Waste authorisation legislation.

4. The operating hours of the proposed compactor units shall be from 08:00 hours to 21:00 hours Monday to Sunday only.

**Reason:** To protect the amenities of the area.

5. All surface water generated by the proposed development shall be collected and disposed of within the site to the surface water draining system. It shall not be discharged to the adjoining properties or the public roadway.

**Reason:** In the interest of orderly development.

6. The area surrounding the waste compactors shall be kept free from waste at all times.

**Reason:** In the interests of visual amenity and public health and safety.

7. Prior to the commencement of any development on the site the developer shall submit for the written agreement of the planning authority, full details of any signage proposed for the development.

**Reason:** In the interests of 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, as amended. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

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A. Considine

Planning Inspector

24<sup>th</sup> March 2022