



An
Bord
Pleanála

Inspector's Report

ABP-314329-22

Development

Placement of a pay-to-use portable waste compactor for the acceptance of residual and food waste and a pay-to-use portable compactor for mixed dry recyclables. This activity requires a waste collection permit/certificate of registration.

Location

Cosmona, Co. Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

22662

Applicant

Bigbin Waste Tech Ltd.

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Maura Gillooly & Liam Carty & Others

Observer(s)

None

Date of Site Inspection

7th February 2023

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located at Loughrea Shopping Centre, on the northern side of the Athenry Road/R446, c. 1 km north-west of the centre of Loughrea. The lands to the west accommodate a commercial yard/business. A residential development (Cois Furain) is located to the north of the appeal site.
- 1.2. The appeal site comprises part of a surface carpark serving a supermarket and retail units. The northern boundary of the appeal site is formed by a concrete wall c. 2 metres in height, beyond which is a raised embankment. A c. 2 metre high block boundary wall is situated to the rear of this embankment and forms the rear site boundary of the dwellings within Cois Furain. The western boundary of the appeal site comprises a concrete wall with a fence mounted on top.
- 1.3. Pay to use washing machines and recycling clothes bins are also located within the car park, with the latter situated along the northern boundary of the appeal site. A c. 30 metre high lattice telecommunication structure is located to the north of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises 2 no. portable structures (a pay-to-use 'PTU' waste compactor for food waste, and a PTU compactor for dry recyclables) placed side-by-side along the western boundary of the car park. Each PTU unit occupies an area of c. 8 sqm and the units are c. 2.2 metres in height.
- 2.2. The planning application was accompanied by a cover letter/report providing the following information;
 - The proposed development requires a Certificate of Registration (CoR) from the EPA, a condition of which will include that the maximum amount of waste being stored at any one time does not exceed 1,000 tonnes. A CoR will be sought from the EPA on receipt of planning permission.
 - The PTU unit will accept all general domestic waste which is contained in bags and weighed by the PTU unit. The PTU unit accepts a maximum of 2 no. 80L bags per user. Users buy a ticket in the shop, or create an on-line account and receive a code enabling use of the PTU unit. The system offers an alternative

to an annual bin collection service for low usage customers, for people requiring supplementary disposal and for people with holiday homes where a bin collection service is not warranted.

- The PTU unit is completely sealed and weather proof, minimising the production of litter and odour.
- Compartments within the PTU unit are limited in size to minimise the deposition of the incorrect waste stream.
- A flashing beacon and an automatic announcement are activated when the drum of the PTU unit is opening or closing.
- No dust is generated from the waste collected.
- Alerts are provided when units are 75% full and the units are regularly emptied by an authorised waste collector and taken to a permitted/licenced waste facility.
- Noise is only generated by the PTU unit during operation, which lasts between 1-2 minutes per use. The units emit 70dB, the equivalent of a vacuum cleaner or dishwasher and there have not been any complaints regarding the noise levels of any of the existing compactors at other locations operated by the applicant.
- Usage is spread evenly across the day/week, with a typical site expecting up to 20 uses a day, equating to less than 2 per hour. No significant additional traffic is expected to be generated by the placement of the PTU units.
- The PTU units are subject to regular maintenance and inspections, including for leakages and spillages.
- The site where the PTU units are located are monitored by CCTV and the PTU units are not accessible outside opening hours of the site to prevent unsupervised use.
- The landowner/operator is required to report any incidences of fly-tipping to Bigbin and Bigbin are responsible for the disposal of any fly-tipped waste. The applicant operates a number of PTU sites in Ireland and has not experienced issues of litter or illegal dumping, due to the location of these sites at busy,

monitored locations. A fly-tipping hotline is also operated where complaints can be made.

- The PTU units attempt to divert waste, which would ordinarily go to landfill, and recycle the waste for compost or for recovery for energy production.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 14th July 2022 subject to 4 no. conditions. Condition no. 3 requires that the exact siting and location of the proposed units relative to existing recycling units/banks be agreed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes that the nature of the development is considered compatible with the overall shopping centre use on site and that the Planning Authority have no objection to the proposal.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

Two observations/submissions were received by the Planning Authority. The observations/submissions raise concerns in relation to the PTU units attracting pests; the creation of odour; noise during the collection of the bins; the potential for dumping and antisocial behaviour to occur, which it is contended would devalue property; and the requirement for the proposal.

4.0 Planning History

Appeal Site

PA. Ref. 08/2505 – Permission GRANTED for retail/commercial development comprising two buildings. (Building no. 2, the location of which overlaps with the appeal site, was never constructed).

In Vicinity/Overlaps with Appeal Site

PA. Ref. 17/1448/ABP. Ref. 301212-18 – Permission REFUSED for filling station. Refusal reasons concerned impact on existing and proposed residential development and foul sewer issues.

PA. Ref. 17/1447/ABP. Ref. 301208-18 – Permission REFUSED for 2 no. drive-thru restaurants. Refusal reasons concerned impact on existing and proposed residential development, foul sewer issues and car parking.

5.0 Policy Context

5.1. Development Plan

5.1.1. The relevant Development Plan is the Galway County Development Plan 2022-2028. Where settlements have a Local Area Plan (LAP), specific land-use zonings are provided in the applicable LAP. The Loughrea Local Area Plan 2012 (which had previously been extended) expired in July 2022. The appeal site is not subject to any land-use zoning.

5.1.2. The appeal site is located within an 'Urban Environs Landscape' (see Map 1) for the purpose of landscape type, which is described as having a 'low' sensitivity to change.

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The grounds for appeal can be summarised as follows;

- The location of the proposal has not been specified. Should the bins be located along the rear boundary of the site, they would be 40 feet from the back doors of 43-47 Cois Furain, with the potential for vermin to use the tiered area between the car park and residences.
- The site notice was not placed at the location of the proposed bins until one week before the end of the consultation process.
- The visit from a representative from the Bigbin was inappropriate.
- The car park is open 24 hours per day and the facility could be used for dumping between 11pm and 6am.
- The proposal will not serve residents in the area.
- CCTV is not currently in operation at the clothing bins and photographs have been provided showing items discarded at this location.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

7.1. I consider the main issues in relation to this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity
- Traffic Impact/Safety (New Issue)
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The appeal site is not subject to any specific land use zoning in the Galway County Development Plan 2022 – 2028. Given the nature of the proposed development, and its location within the car park of a shopping centre, I consider the principle of the proposed development to be acceptable.

7.3. **Impact on Residential Amenity**

7.3.1. The third party raise concerns in relation to the potential impact of the proposed development on the amenity of dwellings within Cois Furain. The third party contends that the location of the proposed development is not clear and as such could be located within 40 feet of dwellings, in particular numbers 43-47 Cois Furain. The primary concerns of the third party relate to the potential for dumping to occur at the proposed bins, and the potential for the proposal to attract vermin.

7.3.2. Ambiguity regarding the location of the proposed PTU units may have arisen on foot of Condition no. 3 of the Notification of Decision to grant permission, which requires that the exact siting and location of the proposed units be agreed in advance of development¹. I note however that the location of the proposed PTU structures were

¹ This issue is further addressed at paragraph 7.5.2.

clearly depicted on the Site Layout Drawing. The PTU structures will be located c. 25 metres from the rear boundary of the closest property, and c. 37 metres from the closest dwelling, 43 Cois Furain. I note the information submitted with the planning application in relation to the nature of the PTU units, in particular that they are sealed, emptied in advance of reaching full capacity and emit low levels of noise. Having regard to the separation distance between the proposed PTU units and the closest residence, I do not consider that the proposed development would result in any significant impact on the residential amenity dwellings within Cois Furain, or any other residential property in this vicinity. The third party have submitted photographs of a clothing recycling bin with items left adjacent to same. In my opinion, the management of such facilities are a matter for the operator and the landowner and as such is outside the scope of this appeal. That being said, based on the particulars furnished with the application, appropriate measures would in my opinion be in place to address anti-social behaviour, illegal dumping, and to ensure that the units do not leak etc. In summation, I do not consider that the proposed development would result in any significant negative impacts on the residential amenity of property in the vicinity.

7.4. Traffic Impact/Safety (New Issue)

- 7.4.1. The proposal results in the loss of 2 no. car parking spaces however I consider that the loss of 2 no. spaces would be negligible in the context of car parking provision serving the shopping centre.
- 7.4.2. The proposed structures to be located along the western boundary of the appeal site, to the immediate north of pay to use washing machines. There is no parking bay located to the immediate east of the proposed PTU units and as such I consider that the use of the proposal would not interfere with vehicles manoeuvring within the car park and would not therefore result in any obvious traffic safety issues.

7.5. Other Issues

Public Notices

- 7.5.1. The third party appeal submission raises issues in relation to the adequacy of the site notice. In terms of procedural matters, I note that the planning application, including

public notice requirements were deemed acceptable by the Planning Authority and the above assessment represents my de novo consideration of all the planning issues material to the proposed development.

Location of Structures

- 7.5.2. The third party contends that there is ambiguity in relation to the location of the proposed PTU units on the site. Condition no. 3 of the Notification of Decision to grant permission requires that the exact siting and location of the proposed units relative to the public road and the existing recycling units/banks shall be agreed in advance of development, in the interests of traffic safety. From reviewing the drawings submitted with the planning application I note that the location of the proposed structures have been clearly indicated along the western boundary of the appeal site. I am satisfied with the location of the proposed PTU units relative to the internal car park road, adjacent PTU washing machines and existing recycling units/banks. Should the Board be minded to grant permission for the proposed development I recommend that the layout of the proposal should be as indicated on the Site Layout Map.

Planning History

- 7.5.3. From reviewing the planning history associated with the appeal site, I note that Building 2 permitted under PA. Ref. 08/2505, which was not constructed, overlaps with the appeal site. I consider issues of compliance with previously permitted planning permissions to be matters for the Planning Authority and outside the scope of this appeal, and as such I do not consider that the Board are precluded from permitting the proposed development on the appeal site.

Development Contribution

- 7.5.4. I note that the Planning Authority did not include a planning condition in the Notification of Decision to grant permission requiring the payment of a development contribution. Having reviewed the adopted Galway County Council Development Contribution Scheme (as revised 1st August 2019) I note that proposal is not specifically referred to under any specific land use category however based on the information furnished with

the application/appeal I consider the proposal to be a commercial development. Page 3 of the Galway County Council Development Contribution Scheme, states, under Part 2 'Industrial/Commercial and Other Development', that 'all development not listed in the above table will be considered to be included in Group 2 above and will be subject to charges set down above'. Having examined the developments which are exempt from development contributions as set out under Section 4 of the Scheme, I do not consider that the proposed development would fall under any development type referred to and as such I consider that development contributions would apply in this instance. Should the Board be minded to grant permission for the proposed development I recommend that a condition requiring the payment of a development contribution to the Planning Authority is attached.

7.5.5. Depreciation of Property

Whilst not specifically raised in the third party appeal submission, I note that it has been contended in submissions to the Planning Authority that the proposed development would result in the devaluation of property in the vicinity. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of property in the vicinity to such an extent that would adversely affect the value of property.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 **Recommendation**

- 8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity, would be compatible with the layout and operation of the existing car park and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The 2 no. pay-to-use units hereby permitted shall be located as indicated on the Site Layout Map submitted to the Planning Authority on the 24th May 2022.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Within six months of the cessation of the use of the pay-to-use units hereby permitted, the pay-to-use units shall be removed from the site.</p> <p>Reason: To protect the amenity of the area.</p>
4.	<p>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</p>

	<p>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.</p> <p>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.</p>
--	---

Ian Campbell
Planning Inspector

7th March 2023