



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317808-23

<b>Development</b>	Fill and recontouring of lands with retention of fill material and previously filled areas.
<b>Location</b>	Taughmaconnell, Ballinasloe, Co. Roscommon
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	2357
<b>Applicant(s)</b>	Richard Cruise
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First V Development Contribution
<b>Appellant(s)</b>	Richard Cruise
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28/02/24
<b>Inspector</b>	Darragh Ryan

## 1.0 Site Location and Description

- 1.1. The subject site is agricultural land located at the end of a private road, 3km southeast of the village of Taughmaconnell. The site is accessed off a private road for which there is a right way running from local road L75722. The site related to the application is for a total area of 2.897ha.

## 2.0 Proposed Development

- 2.1. The proposed development includes:
- Fill and recontour a portion of the site c2.4ha using soil and stone,
  - Retain existing fill material on site c150sqm.
  - Retain previous filled area c0.37ha.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority issued a decision to grant permission on the **18<sup>th</sup> of July 2023** subject to 9 conditions. There is one condition directly relevant to this appeal.

C8 - The applicant/ developer shall pay 50,225 to the Planning Authority. The charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with Section 48 of the Planning And Development Act 2000.

### 3.2. Planning Authority Reports

- 3.2.1. There are two Planning Reports on file which can be summarised as follows:
- The proposal adheres to County Development Plan policies.
  - A restoration plan for the site has been assessed.
  - A proposal for management of surface water has been submitted.
  - Sightlines have been assessed.

- An invasive species management plan has been submitted and assessed.
- The development falls below the threshold for EIAR
- No Appropriate Assessment issues arise.
- The applicant has indicated that customers will have to pay for the haulage of material to the site. The material that is to be hauled on site is soil and stone from the construction industry. The fill is directly associated with the plant hire business and therefore a commercial operation.

#### 3.2.2. Other Technical Reports

- Athlone Municipal District Office- report of 31<sup>st</sup> of March recommends a refusal of planning permission on the basis of their being a strong potential for conflict with traffic using the existing local road network.
- Road Section, Roscommon County Council – no objection to the proposal
- Environment Section – no objection to proposal subject to conditions being imposed.

#### 3.3. Prescribed Bodies

None

#### 3.4. Third Party Observations

None

#### 4.0 Planning History

None recent

## 5.0 Policy Context

### 5.1. Roscommon County Development Plan 2022 - 2028

ITC 7.59 - Facilitate the transition from a waste management economy to a green circular economy to increase the value recovery and recirculation of resources.

ITC 7.60 - Promote the principles of the circular economy in minimising waste going to landfill and maximise waste as a resource, with prevention, preparation for reuse, recycling and recovery prioritised in that order, over the disposal of waste.

**Roscommon Development Contribution Scheme 2014 (as amended) is the scheme applicable on the date of decision.** This is the scheme that applies to this appeal.

Table 5: Levels of Contributions – Other Categories of Development

	Category	Amount of Contribution
c	Landfilling/raising of sites (inert material) for non-agricultural purposes <sup>14</sup>	€1.75 per m <sup>2</sup>

<sup>14</sup> Land filling to facilitate return of land to agriculture will be exempt

### 5.2. Natural Heritage Designations

Catlesampson Esker SAC – 1.8km northeast

### 5.3. EIA Screening

This is a limited appeal by the first party related to the application of a Development Contribution only. An assessment of EIA is not within the scope of the appeal.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Development Contributions in this instance have been incorrectly levied.
- Per pg. 11 Section 14 of the Development Contribution Scheme - identify landfilling to facilitate the return of lands to agriculture will be exempt from development contribution charges.
- The applicant has submitted details of agricultural activities undertaken on these lands, including herd number, details of stock numbers and clarification of a detailed restoration plan and reinstatement of ground to agricultural use. Based on the above it has been put forward that contributions have been incorrectly levied in this instance.

### **6.2. Planning Authority Response**

The applicant operates a plant hire business and has confirmed that fill already brought to the site originated from construction projects, with future materials sourced from the applicant's plant hire business. The applicant has sought waste authorization from Roscommon County Council in the form of a Certificate of Registration. Considering the volume of material to be imported, the frequency of loads, the continuous landfilling activity planned over five years, and the source material from construction-related activities linked to the applicant's plant hire business, the planning authority is satisfied that development contributions were appropriately levied based on the landfilling activity being a commercial endeavour. The stated agricultural end use of the land is primarily a by-product of the five-year commercial landfilling operation.

### **6.3. Applicant Response**

- States that at pre-planning clearly set out that the proposal was for the fill and recontouring of lands for agricultural use.

- During the initial planning application and further information, the applicant has demonstrated the proposal relates to agricultural lands and their improvement.
- Newspaper notice clearly makes reference to the fill and recontouring of land
- The development contribution scheme is clear in terms of exemptions for filling of land for agricultural purposes.

#### 6.4. **Observations**

None

#### 6.5. **Further Responses**

None

### 7.0 **Assessment**

This is a first party appeal solely against a development contribution condition (condition 8) attached to the decision by Roscommon County Council to grant permission for the proposed development and no other appeals have been lodged.

7.1.1. Section 48 (10)(b) of the Planning and Development Act 2000, as amended, provides that an appeal may be brought against a development contribution condition where the applicant considers that the terms of the General Development Contribution Scheme have not been properly applied. In this instance, the Board, to its consideration of the merits of condition number eight only.

7.1.2. I refer to the Roscommon County Development Contribution Scheme 2014, as the 'scheme', which was amended on the 24<sup>th</sup> of February 2020. I note that the scheme has not recently been reviewed and the Roscommon County Development Scheme 2014 is still currently in force.

#### 7.1.3. **Development Contribution (Condition 8)**

The current proposal refers to permission to

- Fill and recontour a portion of the site c2.4ha using soil and stone,
- Retain existing fill material on site c150sqm.
- Retain previous filled area c0.37ha.

The site is located on agricultural lands accessed off a cul de sac road.

- 7.1.4. According to page 11, Table 5 of the Development Contribution scheme, under the category of "Landfilling/raising of sites (inert material) for non-agricultural purposes," it is specified that landfilling to facilitate the return of land to agriculture will be exempt. In response to a request for further information, the applicant has provided details indicating that the imported soil and stone will aid in improving agricultural use of the land. This includes information on the farmed lands and herd number. The applicant has also clarified to Roscommon County Council that the plant hire business operated serves as a secondary source of income to the farm.
- 7.1.5. Based on the planning authority's response, it is noted that the importation of soil and stone onto the land is considered a commercial endeavour by the planning authority, who charges individuals for this service. As the applicant operates a plant hire business and is involved in construction, the importation of soil and stone over a five-year period constitutes a commercial venture. The applicant has applied to Roscommon County Council Environment Department for a Certificate of Registration/ Waste Facility Permit. The enhancement of the land for agricultural use is seen as a secondary outcome of the applicant's primary commercial activities. It is on this basis that Roscommon County Council deemed it suitable to levy contributions in this case.
- 7.1.6. Upon review of the documentation provided, it is observed that the applicant is part of the farming community, and the importation of soil and stone is intended to enhance agricultural lands. Considering the quantity of soil and stone to be imported (5000 tonnes per annum), I do not automatically categorize the level of importation over a five-year period as a commercial venture. Having regard to the requirement for certificate of registration/waste facility permit, I note that this is an environmental requirement under the Waste Management Act for the importation of material to a site, the requirement for same does not pertain to commercial developments only. Furthermore, the Development Contribution scheme clearly states that

"landfilling/raising of sites (inert material) for non-agricultural purposes" will be subject to contributions, while landfilling to facilitate the return of land to agriculture is exempt. In this case, the filling and recontouring of lands are intended for agricultural purposes, and therefore, development contributions should not have been levied.

I consider that applying development contributions for the recontouring of lands in this instance would be in error and not correct in the context of the above exemption.

- 7.1.7. I am satisfied, therefore, that the levy as proposed, is not warranted and should be removed. The terms of the Galway County Development Scheme have been applied in error in this case, and the appeal should be upheld and condition 8 omitted.

## **8.0 Recommendation**

It is recommended that the Planning Authority be directed to remove condition number 8, for the reasons and considerations hereunder.

## **9.0 Reasons and Considerations**

Having regard to

- (a) the terms of the Roscommon County Council Development Contribution Scheme 2014 (as amended); whereby it is considered that the development is agricultural in nature and the terms of the scheme state that landfilling to facilitate the return of land to agriculture will be exempt.
- (b) the general arrangements regarding payment of development contributions and provided for within the scheme in particular the exemption the filling and recontouring of lands intended for agricultural purposes,

It is considered that the terms of the said scheme have not been properly applied such that Condition Number 8, attached to P.A ref 23/57 should be removed.



I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Darragh Ryan

Planning Inspector

14/03/24