

An
Bord
Pleanála

Inspector's Report

ABP-318997-24

Development	Resource Recovery and Recycling Facility incorporating an Inert Engineered Landfill Facility for Quarry Backfilling and Restoration
Location	Ballinclare Quarry, Co. Wicklow
Planning Authority	Wicklow County Council
Prospective Applicant	Kilsaran Concrete Unlimited Company
Type of Application	Pre-Application Consultation under 37B of the Planning and Development Act 2000, as amended
Date of Site Inspection	10th April 2024
Inspector	Tomás Bradley

1.0 Introduction

Under the provisions of Section 37B of the Planning and Development Act 2000, as amended (PDA), Kilsaran Concrete Unlimited Company (the applicant) has made a pre-application request to An Bord Pleanála (the Board) for the development consisting of a proposed resource recovery and recycling facility incorporating an inert engineered landfill facility for quarry backfilling and restoration in the townland of Ballinclare and Carrigmore, Co. Wicklow. The proposed development is in the local authority area of Wicklow County Council (WCC).

The Board is requested to determine whether the proposed development constitutes Strategic Infrastructure Development (SID). The prospective applicant is of the view that the proposed development constitutes SID.

The Board should note the detail in Section 4.0 Planning History of this report. This application is, as such, a repeat pre-application consultation. In February 2020, the Board decided (Ref: ABP-304735-19) that a comparable development on the same site fell within the scope of section 37A (2) (a) and (b) of the PDA and constituted SID. The corresponding and subsequent planning application (Ref: ABP-309991-21) was refused by the Board in September 2023.

2.0 Site Location and Description

The site is in the townland of Ballinclare and Carrigmore, Co. Wicklow approximately 2.5 km north-west of Kilbride, Co. Wicklow. The site is accessed via the L1157 and L1113 Local Road which meets the M11 Motorway (Exit 18) approximately 3.5 km to the north-east of the site.

This landholding related to the site is approximately 34 hectares (ha). The existing permitted area to which the quarry relates is 24 hectares (ha). In June 2016, activity at the quarry ceased due to the discovery of small quantities of naturally occurring asbestos (NOA) in the diorite bedrock. Following the cessation of quarrying activity, dewatering activities also ceased, and the quarry flooded. The applicant advises it has restarting dewatering activities again and it is likely that the quarry floor will be accessible by summer 2024.

The existing site itself is characterised by the following features:

1. the quarry with an existing floor level of 37 mOD which is currently under water but actively being dewatered.
2. water settlement lagoons, discharge channels water treatment plant to facilitate dewatering.
3. the quarry yard with related plant machinery, stockpiling areas, structures, and buildings; carparks.
4. a surrounding area of trees, dense scrub and berms that screens the site; and
5. ancillary and associated infrastructure including access tracks and utilities.

It is noted that WCC operates a compound, the Carrigmore Depot, on the north-western portion of the site and is not included in the prospective planning application boundary.

The applicant, in Figure 4 of its submission, has provided a map of surrounding land uses and identified key residential and commercial receptors close to the site. The M11 Motorway is located to the east of the site and the National Botanic Gardens, Kilmacurragh are located to the south-west. The settlement of Glenealy and Deputy's Pass is to the north-west. There is a former flooded quarry, Kilmacurra Quarry, to the south of the site. A 220 kV Overhead Electricity Transmission Line passes to the east of the site.

The Potters River which runs to the north and east of the site. The Ballinclare Stream, which meets the Potters Rivers runs to the western boundary of the site. The Potters River eventually discharges into the Irish Sea at Brittas Bay, Co. Wicklow. It is noted the Potters River has a indicative low and medium probability of flooding, although no past flood events are recorded. There are no known flood issues associated with the site itself.

The site is in approximately 1 km to the south-east of Glenealy Woods proposed Natural Heritage Area (pNHA) (Site Code: 001756). This site overlaps with the Deputy's Pass Nature Reserve Special Area of Conservation (SAC) (Site Code: 000717). The site is in the Avoca-Varty Water Framework Directive (WFD) Catchment. There are no built heritage features of note at the site.

There are no zoning objectives in respect of the site.

3.0 Prospective Development

The proposed development will comprise the following:

- i. Installation and operation of a modern and high-tech soil washing plant capable of recovering construction grade sand and gravel aggregate from excess soil and stone generated by construction and development activity (classified as both waste and non-waste by-product). Aggregates recovered from soil waste can be supplied to market once they comply with End of Waste criteria recently published by the EPA.
- ii. Partial backfill and restoration of the western part of the quarry void up to 60 mOD (designated Phase 1A) using
 - a. non-waste soil and stone by-product imported and placed in-situ without any processing (these will comprise heavy or excessively clayey soils which do not lend themselves to soil washing) or
 - b. filter cake produced by washing of by-product materials at the adjoining soil washing plant (these comprise non-aggregate sized particulates ('fines') which have been dewatered and compressed).
- iii. Construction and operation of an inert engineered (lined) landfill facility extending across the eastern and central parts of the quarry void (designated Phase 1B, Phase 2 and Phase 3). The landfill facility will be of smaller scale and reduced intake capacity than that previously applied for in 2021 as it will provide for retention of rock exposures at upper levels to facilitate continued nesting by peregrine falcon. The clay soils used to construct the sidewall and floor liners at the landfill will comprise selected soil by-product materials imported from greenfield sites, placed and compacted in accordance with an engineering specification. The waste intake to the inert landfill facility will comprise:
 - a. a range of inert waste materials, predominantly soil and stone, which will be imported and placed in-situ without processing or
 - b. filter cake generated by the washing of inert (predominantly soil) wastes at the adjoining soil washing plant.
- iv. Establishment of a construction and demolition (C&D) waste recovery facility comprising a large portal frame structure housing mechanical plant to crush and screen solid C&D wastes and an external paved yard for storage of unprocessed intake materials and processed aggregates. As with aggregates recovered from

soil waste at the washing plant, recycled aggregates from C&D wastes can be supplied to market once they comply with the recently published End of Waste criteria; and

- v. Installation of a Constructed Integrated Wetland (ICW) or an alternative, equally robust, water treatment infrastructure capable of treating any potentially contaminated run-off arising at the inert landfill facility and/or the C&D waste recovery facilities, as well as stormwater management infrastructure

Taking all the above into consideration, the indicative maximum annual intake at the site will comprise the following:

- 400,000 tonnes of waste, comprising approximately 350,000 tonnes of inert soil and stone (or other particulate-like) wastes and 50,000 tonnes of C&D waste; and
- 200,000 tonnes of non-waste by-product, principally comprising excess soil and stone from construction and development sites,

This gives a maximum projected **annual intake of the order of 400,000 tonnes of waste per annum**. The indicative cumulative maximum intake of 600,000 tonnes per annum constitutes an effective reduction of 200,000 tonnes per annum on the intake sought in the previous SID planning application (Ref: ABP-309991-21).

The prospective applicant expects any future planning application to incorporate the following changes to that decided in 2023:

- A reduction in the maximum annual intake to 600,000 tonnes, comprising 400,000 tonnes of waste and 200,000 tonnes of (non-waste) by-product.
- Re-positioning of the weighbridge along the inbound access lane and provision of queuing lanes to facilitate queuing of HGV's and articulated trucks within the site at peak times.
- Provision of an additional wheel-wash facility within the site to ensure removal of all mud and soil from truck tyres and underbodies.
- More extensive proposals around management of biodiversity at the site, which will include a remnant rock face for nesting of Peregrine Falcon, retention of settlement ponds and establishment of native / sessile oak plantation.

- More extensive survey and monitoring of local groundwater and drinking water supply wells; and
- Establishment of a community fund for the benefit of local residents who are most likely to be impacted by the proposed scheme.

The particulars submitted as part of the pre-application consultation sets out the prospective development in greater detail.

4.0 Planning History

A review of the WCC Planning Portal and the Board's case files was carried out on the 8th of April 2024 to collate any relevant planning history for the site. These are set out in subsections below.

Should the Board required further detailed planning history for context, they may be found in respective Inspector's Report under ABP-304735-19 (Pre-Application) and ABP-309991-21 (Application).

4.1. ABP-304735-19 (Pre-Application)

In February 2020, the Board made a direction that the prospective development for the intake of 800,000 tonnes per annum for the proposed inert landfill and C&D waste recovery facility at Ballinclare, Kilbride, Co. Wicklow constituted SID.

It is stated in said Board direction that the prospective development:

".....exceeded the relevant threshold set out in the Seventh Schedule of the Strategic Infrastructural Act, 2006, as amended. The Board decided in accordance with the Inspector's recommendation that the development in question falls within the scope of section 37A(2)(a) and (b) of the Planning and Development Act, 2000, as amended, and constitutes strategic infrastructure necessitating an application directly to the Board."

4.2. ABP-309991-21 (Application)

In September 2023, the Board made a direction that the proposed development for the intake for the proposed inert landfill and C&D waste recovery facility at Ballinclare, Kilbride, Co. Wicklow be refused permission.

It is stated in said Board direction that the proposed development:

“..... would be in accordance with European waste policy, the National Planning Framework and relevant provisions of applicable regional and local planning policy and would be acceptable in principle in terms of its contribution to Ireland's national strategic policy on sustainable waste management and the move to a circular economy. However, having regard to the previous use of the site for quarrying and to the lack of survey information submitted with the application and appeal regarding the existing environmental and ecological status of the subject site and surroundings, the Board is not satisfied, on the basis of the documentation submitted with the application and appeal, that it can be demonstrated that adverse impacts on water quality, habitat and species can be avoided, managed and mitigated or that the extent of such impacts have been identified with certainty. In this regard, it is considered that the proposed development would have unacceptable direct and indirect impacts on biodiversity and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Legislative Context

5.1. Strategic Infrastructure Development

In the context of the prospective development, Section 2 (1) of the PDA defines 'strategic infrastructure' as including, *inter alia*:

- (a) *any proposed development in respect of which a notice has been served under section 37B(4)(a)*

Section 37A of the PDA states that:

- (1) *An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.*
- (2) *That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—*
 - (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 in 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 situated,*
- (c) *the development would have a significant effect on the area of more than one planning authority.*

The Seventh Schedule which sets out infrastructure developments for the purposes of Sections 37A and 37B and includes:

Environmental Infrastructure

3.— *Development comprising or for the purposes of any of the following:*

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

5.2. Environmental Impact Assessment

Schedule 5 of the Planning and Development Regulations 2001, as amended (PDR) transposes Annex I and II of the EIA Directive and sets out prescribed classes of development, for which an environmental impact assessment is required.

The following class is noted:

Part 2, Class 11 Other Projects (b)

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

The prospective applicant considers that an Environmental Impact Assessment is required under Part 2, Class 11 Other Projects (b).

5.3. Appropriate Assessment

Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora ('the Habitats Directive') is European Community legislation aimed at nature conservation.

The Habitats Directive requires that where a plan or project is likely to have a significant effect on a European site(s), (and where the plan or project is not directly connected with or necessary to the nature conservation management of the European site), the plan or project will be subject to Appropriate Assessment (AA) to identify any implications for the European site(s) in view of the site's Conservation

Objectives The Habitats Directive is transposed into Irish law by Part XAB of the PDA, and the PDR.

The prospective applicant may submit a Natura Impact Assessment.

6.0 Submission of the Prospective Applicant

- The prospective development is a type of development set out under the heading of “Environmental Infrastructure” in the Seventh Schedule of the PDA - *an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.*
- In view of the planned maximum intake of 400,000 tonnes of material classified as waste per annum at the proposed waste facility, the project clearly falls within the class and threshold of development identified in the Seventh Schedule.
- The prospective applicant is of the opinion that the proposed development could satisfy at least one, if not two of the additional criteria required to qualify as SID under Section 37A (2).
 - Strategic Economic or Social Importance to the State or Region
 - The proposed development aims to manage a variety of materials generated by construction and development activities in the Eastern-Midland Region, including recycling, recovery, re-use, and disposal of inert wastes. This type of resource management facility is not explicitly mentioned in key planning documents for the region, but related waste management and circular economy plans do address similar issues. The current regional waste management plan does not specifically address inert waste landfill facilities but does emphasize the need for large capacity sites for managing soil and stone waste.
 - A review of C&D waste management capacity in 2020 highlighted the importance of facilities for dealing with inert waste and noted existing capacity in the Eastern-Midland Region. However, with no new facilities coming online and the ongoing generation of inert waste, there is a need for additional landfill capacity in the region. The proposed development aligns with national waste policy goals outlined in the Waste Action Plan for a Circular Economy, which aims to shift focus

towards waste prevention, circularity, and creating a market demand for recycled products.

- The development will support waste prevention, resource management, circularity, and meet the demand for enhanced facilities in the region by processing inert soil and stone to remove valuable fractions and landfilling the rest. It will also provide necessary additional inert landfill capacity for disposing of inert C&D waste. Despite not being explicitly referenced in national waste policy, the development can help achieve the goals and objectives outlined in the plan for the construction and development sector.
- Substantial Contribution to Fulfilment of any Objectives in the National Planning Framework (NPF) or any Regional Spatial or Economic Strategy (RSES)
 - The current spatial planning and economic strategies do not have specific objectives for promoting resource recycling and recovery facilities or inert waste landfills. The development and management of these facilities are not seen as necessary to achieve regional objectives. Instead, it is left to market participants to identify and respond to the demand for such facilities. However, the NPF includes objectives related to sustainable waste management and resource efficiency, prioritizing prevention, reuse, recycling, and recovery.
 - The proposed development could make a significant contribution to national policy objectives and sustainable resource management by preventing waste generation, maximizing the use of waste resources through recycling and recovery, and minimizing waste disposal at landfills. This aligns with the goal of supporting the development of the circular economy and sustainable management of resources, especially at a regional level.
- Significant Effect on More Than One Planning Authority
 - The development will be located within the existing quarry footprint and only have limited and localized impacts on the surrounding area. These impacts will be constrained within the functional area of WCC and will not extend beyond one local authority area.

- In summary, the proposed resource recycling / recovery facility and engineered (lined) inert landfill waste facility:
 - i. could be supportive of strategic social and economic objectives set out in the current national waste policy statement.
 - ii. could contribute substantially to the fulfilment of a stated objective (No. 56) and a outcome (No. 9) in the NPF.
 - iii. would not have a significant impact on more than one planning authority.

7.0 Meetings with the Prospective Applicant

A meeting was held with the prospective applicant on the 11th of April 2024. The details of these meetings are set out in the record contained on the file.

8.0 Assessment

The prospective development, which has been set out in sufficient detail by the applicant, is clearly an installation for the disposal, treatment or recovery of waste. The key threshold, therefore, to determine SID in this instance is whether the development will have a capacity for an annual intake greater than 100,000 tonnes.

The prospective applicant in its submission, and on a direct question in the meeting of 11th April, has explicitly set out the prospective development's indicative maximum annual intake, which will include waste and non-waste by-products which would cumulatively amount to 400,000 tonnes of waste per annum. For clarity, the Board should note that the tonnage of non-waste by-product is not counted in this instance.

Having regard to the stated total annual intake of the development, it can be concluded that the prospective development may constitute SID under the Seventh Schedule (Environmental Infrastructure).

8.1. Conditions for SID

Accordingly, under Section 37A (2), the proposed development must fall within one or more of the conditions. These are set out above in Section 5.1 for reference.

The development would be of strategic economic and social importance to the state due to its significant economic contribution to the region and to the country. The development has the potential to have a strategic impact in meeting National

Strategic Outcome (NSO) 9 *Sustainable Management of Water and other Environmental Resources* of the NPF which requires:

- Development of necessary and appropriate hazardous waste management facilities to avoid the need for treatment elsewhere.
- Adequate capacity and systems to manage waste, including municipal and C&D waste in an environmentally safe and sustainable manner and remediation of waste sites to mitigate appropriately the risk to environmental and human health.

In addition, it will contribute to the following National Policy Objectives (NPO) of the NPF:

- **NPO 56:** 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.

The projected population increase as identified in the NPF is generating demand for additional homes and infrastructure which is increasing the demand for suitable recovery sites. Whilst Eastern–Midlands Region Waste Management Plan (WMP) 2015-2021 does not identify specific sites suitable for the development of soil recovery activities, they do support the development of new capacity with a preference for larger restoration sites. With a proposed annual intake 400,000 tonnes the proposed development would be one of the largest restoration sites to be developed for this purpose both within the region and the State. It would make a significant contribution towards the identified capacity issues faced by both the Eastern and Midland Region and the State. Given there is a shortfall in recovery capacity and the potential impact of this deficit on planned infrastructural projects within the State, I consider that the proposed development, which would address a significant capacity issue would be of strategic economic or social importance to the State and the region in which it is situated.

The proposed development accords with NSO 9 of the NPF as it will provide ‘capacity and systems to manage C&D waste’. This is a large site, which, if permitted, has the potential to significantly contribute to national and regional deficits

in capacity for recovery of C&D waste. The provision of an outlet for this waste stream will facilitate the realisation of NSO 9 of the NPF.

I conclude, therefore that the development is of strategic importance by reference to the requirements of condition (a) of Section 37A (2).

Having regard to the above, it is considered that the development would meet relevant NPO 56 of the NPF and would serve to fulfil the relevant regional policy objectives of the Eastern–Midlands Region Waste Management Plan (WMP) 2015-2021 which is supported by the RSES. The development would, therefore, satisfy the requirement set out in section 37A (2) (b) of the PDA.

The site is fully contained within the area of one planning authority, WCC. Whilst the site may receive waste from numerous planning authority, it is not considered the development will have a significant effect on the area of more than one planning authority. The development would not come within the scope Section 37A (2) (c).

8.2. Prescribed Bodies

In view of the nature and location of the proposed development, as described in this report, it is recommended that the prospective applicant should consult with the prescribed bodies listed in the attached Appendix in respect of any future application for approval.

9.0 Recommendation

Based on the foregoing assessment, it can be concluded that the proposed development would exceed the threshold set out in the Seventh Schedule of the PDA, and therefore satisfies Section 37A (1) of the PDA. It can also be concluded that the development is of strategic importance by reference to the requirements of Section 37A (2) (a) and Section 37A (2) (b) of the PDA.

It is recommended that the Board serve a notice on the prospective applicant, pursuant to Section 37 (B) (4) of the PDA stating that it is of the opinion that the proposed development constitutes a SID within the meaning of Section 37A of the PDA.

10.0 Reasons and Considerations

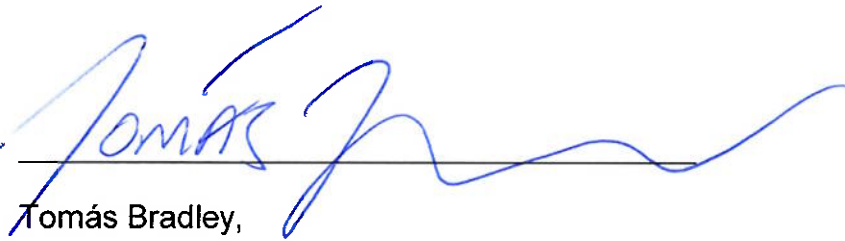
Having regard to the size and scale of the proposed resource recovery and recycling facility incorporating an inert engineered landfill facility for quarry backfilling and restoration associated development an intake greater than 100,000 tonnes per annum it is considered that the prospective development constitutes development that falls within the definition of environmental infrastructure in the Seventh Schedule of the Planning and Development Act 2000, as amended, thereby satisfying the requirements set out in section 37A (1) of the Act.

The proposed development is also considered to be of strategic importance by reference to the requirements of Sections 37A (2) (a) and (b) of the Planning and Development Act 2000, as amended having regard to National Strategic Outcomes of the National Planning Framework in particular.

An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under Section 37E of the Planning and Development Act 2000, as amended.

Professional Declaration

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.

A handwritten signature in blue ink, appearing to read 'Tomás', followed by a long, wavy horizontal line.

Tomás Bradley,

Senior Planning Inspector

14th May 2024

Appendix A

The following is a list of prescribed bodies considered relevant for the purposes of section 37E (3) (c) of the Planning and Development Act 2000, as amended.

- Minister for Housing, Local Government and Heritage (Development Applications Unit)
- Minister for the Environment, Climate and Communications
- Wicklow County Council
- Eastern & Midland Regional Assembly
- Transport Infrastructure Ireland
- An Chomhairle Ealaíon
- Fáilte Ireland
- Inland Fisheries Ireland
- The Heritage Council
- Environmental Protection Agency
- An Taisce – the National Trust for Ireland
- Health Service Executive

The following are not Prescribed Bodies for the purposes of Section 37E (3) (c) but are bodies which applicant should notify:

- Health & Safety Authority
- Eastern-Midlands Waste Regional Authority
- Geological Survey of Ireland