Comhairle Contae Chorcaí
Cork County Council

An Rannóg Pleanála,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891 • Faics: (021) 4276321
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning Department,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891 • Fax (021) 4276321
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie

Ms. Hannah Cullen,
Administrative Assistant,
An Bord Pleanála,
64, Marlborough Street,
Dublin, 1

Your Ref: ABP-303550-19
Ref: EF/17/278

14th February, 2019

Re: Referral to An Bord Pleanala under Section 5(4) of the Planning and Development Act, 2000 in relation to lands at Weir Island, Barryscourt, Carrigtwohill, Co. Cork

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Dear Ms. Cullen,

I refer to the above and to previous correspondence, specifically your letter of 30th January, 2019.

In relation to your questions raised in your letter, please see below;-

i) See attached
ii) There was no declaration application
iii) Land Register Folio 138613F Co. Cork refers – Louis J. O'Regan of Weir Island, Carrigtwohill, Co. Cork is full owner
iv) N/A
v) N/A

I should be obliged for your decision in due course.

If you have any queries, please do not hesitate in contacting the Enforcement Section.

Yours faithfully,

Gráinne Ní Mhuirthile

Gráinne Ní Mhuirthile,
Enforcement Section,
Planning Department

Encl.

In response to the request from ABP in relation to the Planning History on the lands please note the following-

Please note that there have been no planning applications pertaining to the use of the site subject of the declaraiton

Pl Ref No. 93/2317 - Atlanta Screening Limited – permission refused for the construction of Screening Plant for two reasons – impacts on the views and prospects from the scenic routes and secondly traffic hazard.

Pl Ref No. 08/9734- Permission sought by Euromix Concrete Ltd for retention and continuance of use of a readymix concrete batching plant, consisting of 3 no. feed hoppers, 2 no. horizontal silos, conveyors, discharge hopper, water recycling unit, aggregate storage bays, control room and electrical equipment. This application was refused on the basis of unauthorised development that had occurred on the site (see description below) , contravention of the CDP, visual and environmental impact, traffic impact and impact on Natura 2000 site

Previous Unauthorised Development

The reports prepared as part of the assessment of 08/9734 outlined that a significant amount of unauthorised activity had previously taken place on the site, including quarrying; extraction of sand and gravel and the subsequent filling of these quarried lands with significant amounts of fill material (estimated at between 100,000 to 200,000tonnes). It appears that much of the unathorised quarrying occurred during the 1990's. Other unauthorised activities which have taken place include the construction of an office, a second structure opposite this which appeared to have been used as a dwelling. The existing cottage to the west of the site has been extended into a large courtyard type dwelling. The application lodged under 08/9734 failed to account for the unauthorised development that had taken place (i.e quarrying and infilling of land) thus the application was refused for that and several additional reasons (copy of refusal reasons attached below).

The unauthorised development that had been carried out was subject to an enforcement file (E95/0081) however no prosecution under the planning and development Act 2000 occurred. This land filling was carried out without a waste license and proceedings were taken against the operators under the Waste Management Act of 1996. This prosecution was appealed to the supreme court and the final overall determination is still pending.

–Refusal reasons (08/9834)

	Refusal Reasons
1	The Planning Authority is not satisfied that the application has been made in accordance with the permission regulations for development of land in that the application should have made provision for the retention of the unauthorised development of the lands on which the site is situated including the extraction of aggregates, the raising of the land levels by the disposal of waste materials, all ancillary structures, storage areas, hardstandings, parking areas etc including the upgrading of the access road which serves the site. It is the considered opinion of the Planning Authority that the proposed application does not comply with the Planning and Development Regulations, 2001 - 2007 and hence, to permit same is contrary to the proper planning and sustainable development of the area.
2	The site of the development which requires retention permission is located on lands which are Zoned A2 Greenbelt in the 2003 Cork County Development Plan. SPL 2-2 states that it is an objective to preserve the character of the Metropolitan Greenbelt – as established in this Plan, and to reserve generally for use as agriculture, open space and recreational uses those lands that lie within it. It is also an objective to preserve these areas that define the largely undeveloped nature of those open green belt lands that define the distinctive agricultural setting of the Metropolitan Cork Settlements free from development. It is considered that the Retention and continuance of use of a readymix concrete batching plant, and associated works located on lands which have been substantially altered in character without the benefit of planning permission would materially contravene zoning objectives SPL 2-2 and SPL 2-4 in relation to the preservation of the A2 Greenbelt and accordingly would therefore be contrary to the proper planning and sustainable development of the area.
3	It is considered that the Retention and continuance of use of a readymix concrete batching plant and associated works, located on lands which have been substantially altered in character through the importation and disposal of waste materials and ancillary structures and works without the benefit of planning permission would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve in accordance with objective ENV 3-3 of the Cork County Development Plan 2003. The site is located in an open exposed prominent landscape. The proposed development would materially contravene this objective to preserve the visual and scenic amenities of those areas of Natural Beauty identified as Scenic Landscape. Furthermore, the proposed development would interfere with views and prospects obtainable from scenic routes in the area contrary to objective ENV 3-5. The proposed development is therefore contrary to the proper planning and sustainable development of the area.
4	The planning authority considers the information provided in the submitted

	Environmental Risk Assessment to be inadequate and incomplete. In this context the retention and continuance of use of a readymix concrete batching plant and associated works, having regard to their location on a site which has been subject to a quarrying use and subsequent disposal of waste materials without the benefit of planning permission or proper regulation would be prejudicial to environmental and human receptors in the absence of the required reports on measures required to prevent or limit pollution from the waste which has been deposited on this site. In the absence of detailed analysis on the impacts of the developments on the environment which have been undertaken on the site and adjoining lands, the proposed development is contrary to the proper planning and sustainable development of the area.
5	The proposed development is accessed off the L3619, a section of this road which is subject to an upgrade by the Non National Roads Design Office and also off a private road. It is considered that the proposed development would endanger public safety by reason of traffic hazard, because the private road is narrow and substandard in surface and width and where sightlines are severely restricted and the sight lines at the junction of the access road with the public road are also severely restricted. The proposed development is premature pending the upgrading of the L3619 and in the absence of information in relation to the impacts of the proposed development on roads in the vicinity and junction upgrades and appropriate access by all vehicles using the site. Accordingly the proposed development is to contrary to the proper planning and sustainable development of the area.
6	The proposed development lies immediately adjacent to the Great Island Channel Special Area of Conservation (SAC site code 001058) and the Cork Harbour Special Protection Area.(SPA site code 30). In the absence of the required appropriate assessment of the likely impacts of the proposed activity on the SAC and SPA designations and also having regard to the impacts of the unauthorised quarrying activities and waste disposal, the proposed development is contrary to the proper planning and sustainable development of the area.

Comhairle Contae Chorcaí
Cork County Council

An Rannóg Pleanála,
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Web: www.corkcoco.ie

AN BORD PLEANÁLA
LDG- 011871-19
ABP-
23 JAN 2019
Fee: € 110 Type:
Time: By:

An Bord Pleanála,
County Cork Section,
64, Marlborough Street,
Dublin, 1

22nd January, 2019

Re: Referral to An Bord Pleanala under Section 5(4) of the Planning and Development Act, 2000 in relation to lands at Weir Island, Barryscourt, Carrigtwohill

Confirmed 28/1/19

A Chara,

I refer to the above and ask you to consider the attached referral pursuant to Section 5(4) of the Planning and Development Act, 2000 relating to this matter.

The questions for An Bord Pleanala under Section 5(4) of the Planning and Development Act, 2000 are as follows:

(1) Whether the laying out and use of the land for car drifting events is/is not development and is/is not exempted development for the purposes of the Act
(2) Whether the use of the existing structure for offices/toilets related to car drifting events is/is not development and is/is not exempted development for the purposes of the Act?
(3) Whether the use of a hut in the "pit area" as a tyre business related to car drifting events is/is not development and is/is not exempted development for the purposes of the Act?

In that connection, I am enclosing the following documents:

- Land Registry Folio showing the owner of the lands to be Mr. Louis J. O'Regan
- A copy of the warning letter WL.18.18 issued on 22nd January, 2018
- A copy of correspondence from Mr. Louis O'Regan dated 14th February, 2018 in response to the warning letter
- A copy of correspondence to Louis O'Regan dated 19th February, 2018 acknowledging receipt of his correspondence

- A copy of correspondence to Louis O'Regan dated 6th June, 2018 advising that the development is not exempted development and seeking proposals. This letter was sent by both ordinary post and registered post. The registered post letter was returned by An Post on 18th June, 2018 and marked "not called for", a copy is included
- A copy of correspondence from Louis O'Regan dated 8th June, 2018 restating his assertion that the development is exempted and also undertaking not to hold any further events until the matter had been resolved. Mr. O'Regan's correspondence was acknowledged on 19th June, 2018 and a copy of same is included.
- 2 no. aerial photographs of the site dated 19th April, 2018
- Report of Enda Quinn dated 7th December, 2018, setting out the 3 no. questions to be referred under Section 5 of the Planning and Development Act, 2000.

I am attaching cheque dated 17th December, 2018 in the sum of €110 which has been made payable to An Bord Pleanála.

I should be obliged for your decision in due course.

If you have any queries, please do not hesitate in contacting the Enforcement Section.

Yours faithfully,

Niamh Crowley
Enforcement Section
Planning Department

AN BORD PLEANÁLA
23 JAN 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Land Registry

County Cork Folio 138613F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	The property shown coloured Red as plan(s) B9NMX on the Registry Map, situate in the Townland of BARRYSCOURT, in the Barony of BARRYMORE, in the Electoral Division of CARRIGTOHILL containing 2.54 hectares. The Registration does not extend to the mines and minerals	From Folio CK37201N

Land Cert Issued: No

Collection No.:

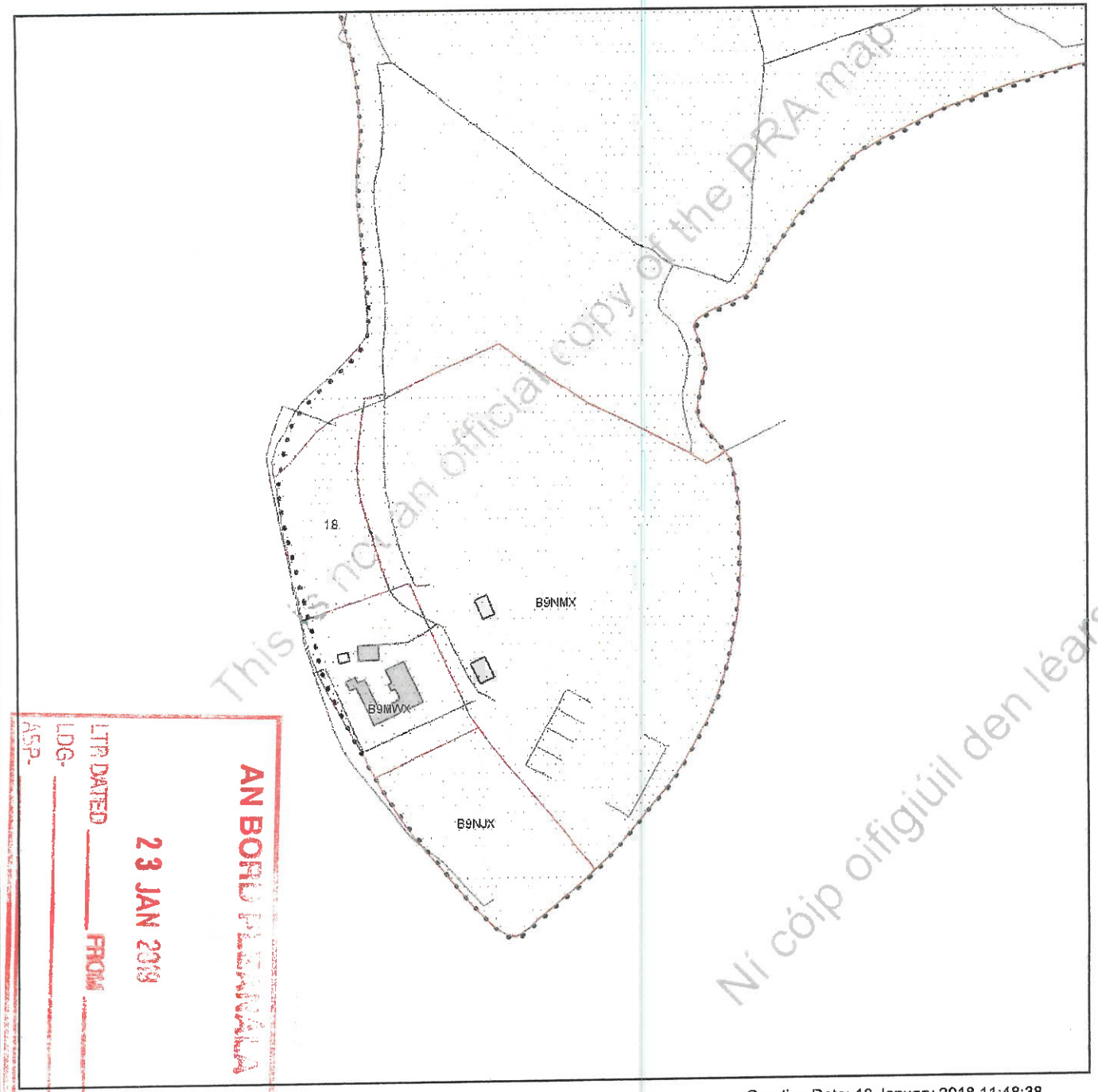
Land Registry

County Cork Folio 138613F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	16-MAY-1996 D2008CK030624H LOUIS J. O'REGAN of Weir Island, Carrigtwohill, County Cork is full owner.



Creation Date: 10 January 2018 11:48:38

The Property Registration Authority
An tÚdarás Clárúcháin Maoine

Official Property Registration Map

This map should be read in conjunction with the folio.

Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale accuracy is limited to that of the original OSi Map Scale.

For details of the terms of use, and limitations as to scale, accuracy and other conditions relating to Land Registry Maps, see www.prai.ie.

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(ii) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

N

Mr. Louis J. O'Regan,
Weir Island,
Barryscourt,
Carrigtwohill,
Co. Cork.

By Registered Post

Date of Issue of Letter: 22nd January, 2018 **Ref: EF17278**

WARNING LETTER PURSUANT TO SECTION 152 OF THE PLANNING AND DEVELOPMENT ACT, 2000. [WL/18/18]

Re: Alleged unauthorised use of lands / site for car drifting located at Weir Island, Barryscourt, Carrigtwohill, Co. Cork.

Dear Sir,

It has come to the attention of the Planning Authority that unauthorised development described above may have been, is being or may be carried out on the said lands.

Any person who has carried out or is carrying out unauthorised development shall be guilty of an offence pursuant to Section 151 of the Planning and Development Act, 2000.

However, please note that this matter may be the subject of investigation by the Planning Authority.

When a Planning Authority considers that unauthorised development has been, is being or may be carried out, an Enforcement Notice may be issued.

Officials of the Planning Authority may at all reasonable times enter on the above premises for the purposes of inspection of the alleged unauthorised development.

Any person served with this letter may make submissions or observations in writing regarding the purported offence to the Planning Authority not later than 4 weeks from the date of service of this letter. Any such submissions or observations received will be considered by the Planning Authority in deciding whether to issue an Enforcement Notice pursuant to Section 154 of the Planning and Development Act, 2000.

Cont'd.

A person who is guilty of an offence under Sections 151 and 154 of the Planning and Development Act, 2000 shall be liable to the penalties set out in the Schedule 1 attached hereto.

In addition, any costs reasonably incurred by the planning authority in relation to enforcement proceedings may be recovered from a person on whom an Enforcement Notice is served or where court action is taken.

Finally, please note that Cork County Council will consider all written submission or observations made by you within the prescribed time period of 4 weeks of the date of the service of this letter, and other material considerations in deciding whether to proceed with enforcement action against you in the form of an Enforcement Notice described above, and/or to initiate legal proceedings against you. Accordingly, it is in your own interest to make such submissions or observations within the time allowed.

The foregoing is **WITHOUT PREJUDICE** to all and any proceedings and actions which the Council may consider appropriate and expedient to take in relation to this matter.

Please quote Ref. No. EF/17/278 in any correspondence or direct contact with the Enforcement Section.

Yours faithfully,

Niamh Crowley
Enforcement Section
Planning Department
Cork County Council,
County Hall,
Cork.

AN BORD PLEANÁLA
23 JAN 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

SCHEDULE 1
CONSEQUENCES OF NON-COMPLIANCE & PENALTIES FOR OFFENCES
PLANNING AND DEVELOPMENT ACT, 2000, as amended
by the PLANNING AND DEVELOPMENT (AMENDMENT) ACT, 2010

1. Pursuant to Section 156(1) of the Act a person who is guilty of an offence under Sections 151 and 154 shall be liable-
   a) On conviction on indictment, to a fine not exceeding €12,697,380.78 or to imprisonment for a term not exceeding two years, or to both, or
   b) On summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding six months, or to both.

2. Pursuant to Section 156(2) of the Act, where a person is convicted of an offence referred to in No. 1 above and there is a continuation by him or her of the offence after his or her conviction, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable-
   a) On conviction on indictment, to a fine not exceeding €12,697.38 for each day on which the offence is so continued, or to imprisonment for a term not exceeding two years, or to both, provided that if a person is convicted in the same proceedings of two or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed two years or
   b) On summary conviction, to a fine not exceeding €1,500 for each day on which the offence is so continued or to imprisonment for a term not exceeding six months, or to both, provided that if a person is convicted in the same proceedings of two or more such further offences the aggregate term of imprisonment to which he or she shall be liable shall not exceed six months.

3. Pursuant to Section 156(3) of the Act, where a person is convicted of an offence referred to in No. 1 above involving the construction of an unauthorised structure, the minimum fine shall be-

   a) On conviction on indictment, the estimated cost of the construction of the structure or €12,697.38, whichever is less, or
   b) On summary conviction, the estimated cost of the construction of the structure or €2,500, whichever is less, except where the person convicted can show to the court's satisfaction that he or she does to have the necessary financial means to pay the minimum fine.

4. Pursuant to Section 156(8) of the Act, on conviction of an offence under Section 154 of the Act, the court may, in addition to imposing the penalties specified in Nos. 1 and 2 above, order the person convicted to take all or any steps specified in the relevant enforcement notice within such period as the Court considers appropriate.

Weir Island,
Barryscourt,
Carrigtwohill,
Co Cork

14th February 2018

Niamh Crowley
Cork County Council,
Planning Department,
Carrigrohane Road,
Cork

Your Reference EF17278

Dear Niamh,

Thank you for your letter of the 22nd January last.

My understanding is that the holding of events for less that 30 days of the year is an exempted development and does not require planning permission and I would be obliged if you could advise accordingly.

Yours Sincerely

Louis O Regan

Mr. Louis O'Regan,
Weir Island,
Barryscourt,
Carrigtwohill,
Co. Cork.

Date: 19th February, 2018 **Ref: EF/17/278**

Re: Alleged unauthorised use of lands / site for car drifting located at Weir Island, Barryscourt, Carrigtwohill, Co. Cork.

Dear Sir,

I refer to the above-mentioned alleged uanuthorised development and to previous correspondence in the above regard.

I acknowledge receipt of your correspondence dated 14th February, 2018 and a copy has been referred to the A/Senior Executive Planner for his consideration and I will revert in due course.

Yours faithfully,

Niamh Crowley
Enforcement Section
Planning Department

AN BORD PLEANÁLA
23 JAN 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Mr. Louis J. O'Regan,
Weir Island,
Barryscourt,
Carrigtwohill,
Co. Cork.

Date: 6th June, 2018 **Ref: EF/17/278**

Re: Unauthorised use of lands / site for car drifting located at Weir Island, Barryscourt, Carrigtwohill, Co. Cork.

Dear Mr. O'Regan,

I refer to the above-mentioned unauthorised use of lands / site for car drifting and to previous correspondence in the above regard. Furthermore I refer to Warning Letter WL/18/18 dated 22nd January, 2018 and your response to said Warning Letter received on 15th February, 2018.

The site was recently inspected by the A/Senior Executive Planner for the area. Your response in relation to the Warning Letter citing Class 37, Schedule, Part 1 of the Planning and Development Regulations, 2001 has been considered. Section 4 of the Planning and Development Act, 2000 sets out the framework for Exempted Development including the provision for the laying out of the classes of exemption listed under Schedule 2, Part 1 of the Planning and Development Regulations, 2001:

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

The site lies immediately adjacent to the Great Island Channel Special Area of Conservation and the Cork Harbour Special Protection Area. As significant effects on these Natura sites cannot be ruled out, it is likely that an Appropriate Assessment is required. In addition, please note Schedule 5 of the Planning and Development Regulations, 2001 which lists the categories of development where a mandatory Environmental Impact Assessment Report is required. In particular, please note Part 11 of said Schedule *"All permanent racing and test tracks for motorized vehicles"*.

The track that has been laid is a permanent structure composed of tarmacadam. Therefore as the development that has occurred on the site would have required both (i) appropriate assessment and (ii) a mandatory EIS, no exemption can be claimed. The setting out and use of the lands as a motorpark clearly represents unauthorised development.

Having regard to Section 34(12) of the Planning and Development Act, 2000, as amended, given that works now being undertaken on site would likely have required Appropriate Assessment and an Environmental Impact Assessment, the option of retention is now unavailable. It was noted on the date of inspection, 11th April, 2018, that further development works were underway.

You are hereby notified that the development carried out is not exempted development and you are requested to submit a written undertaking to cease the unauthorised development *within 14 days* of the date herein. Failure to comply with the foregoing request may result in the Planning Authority considering Injunctive Proceedings under Section 160 of the Planning and Development Act, 2000, as amended.

The foregoing is **WITHOUT PREJUDICE** to all and any proceedings and actions which the Council may consider appropriate and expedient to take in relation to this matter.

Please quote Ref. No. EF/17/278 in all correspondence or direct contact with the Enforcement Section.

Yours sincerely,

Niamh Crowley
Enforcement Section
Planning Department

AN BORD PLEANÁLA
23 JAN 2019
LTR DATED _____ FROM _____
LDG-
ABP-

In order to process this matter, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at https://www.corkcoco.ie/privacy-statement-cork-county-council

D.I.B
Dáta/Date 07/06/18
Bealach Route
Am/Time 1045
Inisealacha Initials

Planning Department
18 JUN 2018
Cork County Council
County Hall
Cork.

SEOL AR AIS CHUIG AN SEOLTÓIR
RETURN TO SENDER
RETOUR
CN15
POST
Níl ag an seoladh seo Unknown at this address Inconnu
Gan bhailiú Not called for Non réclamé

RLB - Roscommon Case ID: 8201722 Meter: PB602358

0424453
CORCAIGH 06.06.18
EIRE 0800
POSTAS
PB602358
SÍNIÚ / SIGNATURE REQUIRED
R
RegisteredPost
RL 6816 8004 1IE
Scanadh / Scan
Síniú / Signature
GLACADH AN CHUSTAIMÉARA CUSTOMER ACCEPTANCE
TAGAIRT CUSTAIMÉARA CUSTOMER REFERENCE
POST

CORK COUNTY COUNCIL
Water Bill Unit, Floor 5
Extension, County Hall
Cork
Co. Cork
T12 R2NC

Re: Unauthorised use of lands / site for car drifting located at Weir Island, Barryscourt, Carrigtwohill, Co. Cork.

Dear Mr. O'Regan,

I refer to the above-mentioned unauthorised use of lands / site for car drifting and to previous correspondence in the above regard. Furthermore I refer to Warning Letter WL/18/18 dated 22nd January, 2018 and your response to said Warning Letter received on 15th February, 2018.

The site was recently inspected by the A/Senior Executive Planner for the area. Your response in relation to the Warning Letter citing Class 37, Schedule, Part 1 of the Planning and Development Regulations, 2001 has been considered. Section 4 of the Planning and Development Act, 2000 sets out the framework for Exempted Development including the provision for the laying out of the classes of exemption listed under Schedule 2, Part 1 of the Planning and Development Regulations, 2001:

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

The site lies immediately adjacent to the Great Island Channel Special Area of Conservation and the Cork Harbour Special Protection Area. As significant effects on these Natura sites cannot be ruled out, it is likely that an Appropriate Assessment is required. In addition, please note Schedule 5 of the Planning and Development Regulations, 2001 which lists the categories of development where a mandatory Environmental Impact Assessment Report is required. In particular, please note Part 11 of said Schedule *"All permanent racing and test tracks for motorized vehicles"*.

AN BORD PLEANÁLA
23 JAN 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Recycled

Weir Island
Barryscourt,
Carrigtwohill,
Co Cork

Ms Niamh Crowley,
Enforcement Section,
Cork County Council,
Planning Department,
County Hall,
Cork

08th June 2018

RE : Site for car drifting located at Weir Island, Barryscourt, Carrigtwohill, Co Cork
Your Reference – EF/17/278

Dear Ms Crowley,

Thank you for your letter of the 06th June last in relation to the above referenced file.

With respect your correspondence is very vague and you have not given a definitive direction as to whether an EIS is required or not. In addition you have proceeded to prejudge any application which may be made for retention on the basis of an EIS which may or may not be required. In any event we believe that this is an exempted development.

Your officials are well aware that there has been tarmacadam on this site since 2008. This site was well inspected by your colleagues in 2008 and there is ample evidence to prove this matter.

I undertake not to carry out any further works or not to hold any further events until the matter has been resolved as I have been asked by you to do so. In the event that the works are considered exempted works I will be applying to Cork County Council for the resulting loss of revenue.

You advise in your letter that an inspector entered onto my property without notice on the 11th April 2018. Please advise why I was not notified of the inspection. I have co-operated and answered all your correspondence in relation to this matter and I wish to know under what legislation did your inspector enter onto my property without notice. Please let me hear from you in this regard.

Yours faithfully

Louis O'Regan

Mr. Louis J.O'Regan,
Weir Island,
Barrysourt,
Carrigtwohill,
Co. Cork.

Date: 19th June, 2018 **Ref: EF/17/278**

Re: Unauthorised use of lands / site for car drifting located at Weir Island, Barrycourt, Carrigtwohill, Co. Cork.

Dear Mr. O'Regan,

I refer to the above-mentioned and to previous correspondence in the above regard and in particular to your letter dated 8th June, 2018 and received on 12th June, 2018.

The contents therein are noted and are currently under consideration, I will revert in due course.

Please quote Ref. No. EF/17/278 in all correspondence or direct contact with the Enforcement Section.

Yours sincerely,

Niamh Crowley
Enforcement Section
Planning Department

In order to process this matter, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at https://www.corkcoco.ie/privacy-statement-cork-county-council

Report on Enforcement File EF 17-278

Re: Alleged unauthorised use of lands/ site for car drifting at Weir Island, Barryscourt, Carrigtwohill

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Description

Complaints received to state that lands identified at the address above were being used for motor sports/ car drifting. Based on the details submitted, the activity seemed to take place on Sundays. The new use appeared to have occurred in late 2017. A warning letter was subsequently issued (3/1/2018).

I visited the site on the 11/4/2018. A subsequent aerial photo (dated 19/4/2018) has also been acquired to provide context. The site photos and aerial photos are attached to Appendix A. While no motorsport activity was occurring on date of inspection, the site has been set up for such a use and there are advertisements to this effect across the site "Weir Island Motorpark". The existing buildings on the site were in use as offices related to the unauthorised use and there were ladies and gents toilets therein. There was also an associated tyre business operating out of a small hut in what is described as the "pit area" though it would appear this tyre business is only operational when the wider track is operational. Some vehicles were parked in this pit area on date of inspection. There was an excavator working on a boundary/berm on date of inspection

Planning History/ Site Background

Please note that there have been no planning applications pertaining to the use of the site as alleged in the warning letter.

Pl Ref No. 93/2317 – Atlanta Screening Limited – permission refused for the construction of Screening Plant for two reasons – impacts on the views and prospects from the scenic routes and secondly traffic hazard.

Pl Ref No. 08/9734- Permission sought by Euromix Concrete Ltd for retention and continuance of use of a readymix concrete batching plant, consisting of 3 no. feed hoppers, 2 no. horizontal silos, conveyors, discharge hopper, water recycling unit, aggregate storage bays, control room and electrical equipment. This application was refused on the basis of unauthorised development that had occurred on the site (See

Appendix B) , contravention of the CDP, visual and environmental impact, traffic impact and impact on Natura 2000 site

Assessment

No permission exists for the unauthorised development. The previous condition of the lands is that that of an unauthorised infilled quarry.

Following the issue of the warning letter, correspondence was received from the site owner (Louis O Regan) citing Class 37, Schedule 2, part 1 of the Planning and Development Regulations, 2001. The applicant has referred an "exemption" for the development as set out on the site

CLASS 37

Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.	1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year. 2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act

Section 4 of the Planning Act 2000 sets out the framework for exempted development including the provision for the laying out of the classes of exemption listed under Schedule 2, Part 1 of the Planning and Development Regulations, 2001. (S.4 (2) (a).

Fundamentally S4(4) the Act lays out the following proviso

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

The site in this instance lies immediately adjacent to the Great Island Channel Special Area of Conservation and the Cork Harbour Special Protection Area. The Planning Authority is the competent authority in relation to this assessment and having discussed the matter with the co. ecologist, the development would have required AA. The main concerns in this respect relate to the noise of the vehicles on the birds within the habitat and the potential negative impact of oils/ fuels etc on same.

In addition, I note Schedule 5 (Planning and Development Regulations, 2001) which lists the categories of development where a mandatory EIAR is required. In particular I note part 11 of said schedule
"All permanent racing and test tracks for motorized vehicles".

The track that has been laid is a permanent structure i.e. it is composed of tarmacadam thus it is not moveable/ demountable. Therefore as the development that has occurred on the site would have required both (i) appropriate assessment and (ii) a mandatory EIS, no exemption can be claimed for this development. The setting out and use of the lands as motorpark clearly represents "unauthorised development"

- ⇨ No exempted development rights exist in relation to the development that has occured

In addition and having regard to the above please also note the provisions of Section 34(12) of the Planning Act 2000 (as amended)

A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of
the following was carried out –
*(a) an **environmental impact assessment,***
(b) a determination as to whether an environmental impact assessment is required,
or
*(c) **an appropriate assessment.***

Given that works now being undertaken on site would likely have required Appropriate Assessment and an Environmental Assessment, the option of retention is now unavailable. Please note that further development works to the site were underway on date of inspection (note the excavator in the images under Appendix A below)

In relation to the building currently used for offices/ toilets, I understand they were originally deemed to be unauthorised development however they appear to have existed on this site pre 2009. As such the planning authority may be statute barred under S157(4) of the Act from pursuing their removal. Notwithstanding, they are now being used for purposed related to the motorpark thus the current use of these buildings could be pursued

Based on the evidence on the file, the motorpark use (i.e. the tarmacadam track), pit area, associated tyre business appears to have first occurred in late 2017. The track was presumably laid around that time

The owner has since ceased operations pending resolution of this issue. The owner is still maintaining that the works are "exempted development" for the purposes of the Act. It is the opinion of CCC that the works/use carried out on the site are not considered to constitute "exempted development" for the purposes of the Act.

As there is a difference of opinion between both parties, it has been recommended that a referral be made to An Bord Pleanala under Section 5 of the Planning and Development Act, 2000.

Therefore and on the basis of the foregoing, the declaration that should be put to An Bord Pleanala should be as follows:

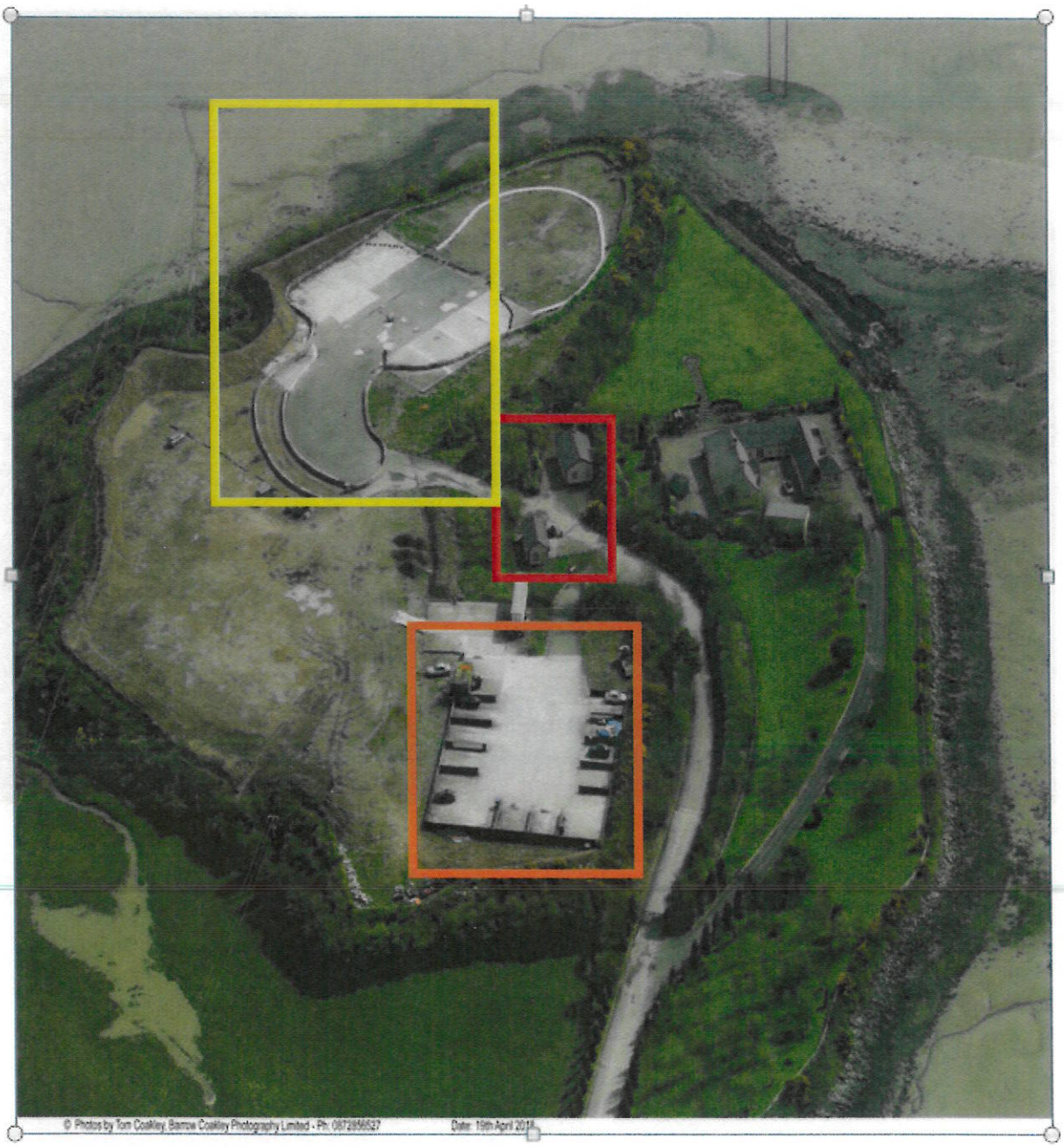
(1) Whether the laying out and use of the land for car drifting events is/is not development and is/is not exempted development for the purposes of the Act
(2) Whether the use of the existing structure for offices/toilets related to car drifting events is/is not development and is/is not exempted development for the purposes of the Act?
(3) Whether the use of a hut in the "pit area" as a tyre business related to car drifting events is/is not development and is/is not exempted development for the purposes of the Act?

Enda Quinn 7/12/18

Enda Quinn
A/ Senior Executive Planner

Date: 7/12/18

Appendix A- Aerial Photo and Site Photos



Aerial Photo (19/4/2018). The main areas are highlighted
Red- Offices and toilets
Orange- Pit area/ tyres
Yellow- Track area

Site Photos-12/4/2018

Access road to the site

Area identified as "Pit Area" complete with two vehicles and associated items

Trailer

Track area. Excavator was functional on date of inspection

Southern end of track area

SE end of the site

3 vehicles adjacent track area

Area North of track

Existing structure used as ladies toilet

Existing structure used as gents toilet/ office "Pit area" to the rear


GENTS

Tyre business within existing container (unmanned on date of visit)

View across pit area towards the office/ toilets

Appendix B – Refusal reasons (08/9734)

	Refusal Reasons
1	The Planning Authority is not satisfied that the application has been made in accordance with the permission regulations for development of land in that the application should have made provision for the retention of the unauthorised development of the lands on which the site is situated including the extraction of aggregates, the raising of the land levels by the disposal of waste materials, all ancillary structures, storage areas, hardstandings, parking areas etc including the upgrading of the access road which serves the site. It is the considered opinion of the Planning Authority that the proposed application does not comply with the Planning and Development Regulations, 2001 – 2007 and hence, to permit same is contrary to the proper planning and sustainable development of the area.
2	The site of the development which requires retention permission is located on lands which are Zoned A2 Greenbelt in the 2003 Cork County Development Plan. SPL 2-2 states that it is an objective to preserve the character of the Metropolitan Greenbelt – as established in this Plan, and to reserve generally for use as agriculture, open space and recreational uses those lands that lie within it. It is also an objective to preserve these areas that define the largely undeveloped nature of those open green belt lands that define the distinctive agricultural setting of the Metropolitan Cork Settlements free from development. It is considered that the Retention and continuance of use of a readymix concrete batching plant, and associated works located on lands which have been substantially altered in character without the benefit of planning permission would materially contravene zoning objectives SPL 2-2 and SPL 2-4 in relation to the preservation of the A2 Greenbelt and accordingly would therefore be contrary to the proper planning and sustainable development of the area.
3	It is considered that the Retention and continuance of use of a readymix concrete batching plant and associated works, located on lands which have been substantially altered in character through the importation and disposal of waste materials and ancillary structures and works without the benefit of planning permission would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve in accordance with objective ENV 3-3 of the Cork County Development Plan 2003. The site is located in an open exposed prominent landscape. The proposed development would materially contravene this objective to preserve the visual and scenic amenities of those areas of Natural Beauty identified as Scenic Landscape. Furthermore, the proposed development would interfere with views and prospects obtainable from scenic routes in the area contrary to objective ENV 3-5. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

4	The planning authority considers the information provided in the submitted Environmental Risk Assessment to be inadequate and incomplete. In this context the retention and continuance of use of a readymix concrete batching plant and associated works, having regard to their location on a site which has been subject to a quarrying use and subsequent disposal of waste materials without the benefit of planning permission or proper regulation would be prejudicial to environmental and human receptors in the absence of the required reports on measures required to prevent or limit pollution from the waste which has been deposited on this site. In the absence of detailed analysis on the impacts of the developments on the environment which have been undertaken on the site and adjoining lands, the proposed development is contrary to the proper planning and sustainable development of the area.
5	The proposed development is accessed off the L3619, a section of this road which is subject to an upgrade by the Non National Roads Design Office and also off a private road. It is considered that the proposed development would endanger public safety by reason of traffic hazard, because the private road is narrow and substandard in surface and width and where sightlines are severely restricted and the sight lines at the junction of the access road with the public road are also severely restricted. The proposed development is premature pending the upgrading of the L3619 and in the absence of information in relation to the impacts of the proposed development on roads in the vicinity and junction upgrades and appropriate access by all vehicles using the site. Accordingly the proposed development is to contrary to the proper planning and sustainable development of the area.
6	The proposed development lies immediately adjacent to the Great Island Channel Special Area of Conservation (SAC site code 001058) and the Cork Harbour Special Protection Area.(SPA site code 30). In the absence of the required appropriate assessment of the likely impacts of the proposed activity on the SAC and SPA designations and also having regard to the impacts of the unauthorised quarrying activities and waste disposal, the proposed development is contrary to the proper planning and sustainable development of the area.