

File With _____

SECTION 131 FORM

Appeal NO: ACP 323993-26

Defer Re O/H

Having considered the contents of the submission dated/ received 3/2/26
from Andrew Cagle

last owner I recommend that section 131 of the Planning and Development Act, 2000
be/not be invoked at this stage for the following reason(s): NO new planning issues

E.O.: Acron request

Date: 11/2/26

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage.

Section 131 to be invoked – allow 2/4 weeks for reply.

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ACP 323 996-28

M _____

Please treat correspondence received on 3/2/26 as follows:

| | |
|---|---|
| 1. Update database with new agent for Applicant/Appellant _____ | 1. RETURN TO SENDER with BP _____ |
| 2. Acknowledge with BP <u>BPRC 20</u> | 2. Keep Envelope: <input type="checkbox"/> |
| 3. Keep copy of Board's Letter <input type="checkbox"/> | 3. Keep Copy of Board's letter <input type="checkbox"/> |

Amendments/Comments

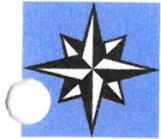
Landowner response to Federal

4. Attach to file

- (a) R/S
- (b) GIS Processing
- (c) Processing
- (d) Screening
- (e) Inspectorate

RETURN TO EO

| | |
|------------------------------|--|
| EO: <u>David [Signature]</u> | AA: <u>David [Signature]</u> |
| Date: <u>3/2/26</u> | Date: <u>03/02/26</u> |
| | Plans Date Stamped <input type="checkbox"/> |
| | Date Stamp Filled in <input checked="" type="checkbox"/> |



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An Coimisiun Pleanála
64, Marlborough Street
Dublin 1
DO1 V902
30th January 2026

| | |
|------------------------------|---------------------------|
| AN COIMISIÚN PLEANÁLA | |
| LDG- | _____ |
| ACP- | _____ |
| 03 FEB 2026 | |
| Fee: € | _____ Type: _____ |
| Time: | <u>6:15</u> By: <u>PJ</u> |

Your Ref: ACP-323993-26

LPA Ref: S525/84

Our Ref: Andrew Coyle Coal Ltd.

RE: Whether the installation of plant/machinery for the segregation of coal and associated use of lands at Bauville and Keeloges, Clonglash, Buncrana is or is not development or is or is not exempted development.

Dear Sir/Madam

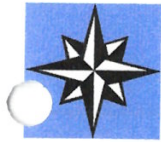
I refer to your letter dated 7th January inst. enclosing a referral under the P&D Act 2000 (as amended) setting out the case that the above development is not exempted development.

On behalf of my client Andrew Coyle Coal Ltd. I wish to have the following observations on the referral appeal considered by the Commission.

The referral by Genesis Planning Consultants sets out five grounds of appeal against the decision by Donegal County Council that the plant machinery is development, but exempted development. These are listed in order below, together with observations from Andrew Coyle Coal Ltd.

1. Article 9(1)(a)(i) of the P&D Regulations 2001-23, applies to the lands under ABP decision 248403. Specifically condition 8 of ABP's decision restricts any materials or equipment on site to not exceed 2.4 metres above ground level.

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2. The structure materially alters the external appearance of the premises or the undertaking and as such would not comply with the conditions imposed under Schedule 2, Part 1, Class 21(a)(iii) of the Planning & Development Regulations 2001-23.
3. Article 9(1)(a)(vi) of the P&D regulations 2001-23 applies to the lands.
4. The use of the plant is inconsistent with the use pertaining to the lands.
5. Appropriate Assessment.

1. Article 9(1)(a)(i) of the P&D Regulations 2001-23, applies to to the lands under ABP decision 248403. Specifically condition 8 of ABP's decision restricts any materials or equipment on site to not exceed 2.4 metres above ground level.

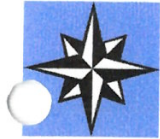
1.1 Ground 1 relates to Article 9(1)(a)(i) of the Planning and Development Regulations 2001-23 (the Regulations), which specifically restricts any exemption under Article 6 of the Regulations, if the carrying out of such development would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

1.2 The restriction in height under condition 8 of permission PL05E.248403, relates to two elements namely (a) storage or stacking of loose or bagged coal or pallets and (b) storage or stacking of any other materials or equipment.

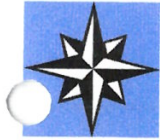
While acknowledging that the restriction in height to a maximum of 2.4 metres above ground level relates to storage of loose coal, stacking of bagged coal on pallets and any other materials or equipment, Andrew Coyle Coal Ltd. considers that this height restriction does not apply to machinery or apparatus, directly associated with the operation of the business.

1.3 In support of this assertion, the Commission's attention is drawn to the Inspector's report on permission PL05E.248403, with which the Board concurred, when reaching its decision to grant permission for the development. The Inspector's report is attached under Appendix A to this response.

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- 1.4 The Inspector's report contains inter alia two elements, which supports Andrew Coyle Coals Ltd. contention that the height restriction does not relate to machinery or apparatus, directly associated with the operation of the business. These are (a) the Board's decision to permit the development, which includes machinery and apparatus, integral to the operation of the business and which exceeds 2.4m in height and (b) the protection of residential amenities of an adjoining dwelling, through a restriction on the storage of loose coal or stacking of bagged coal on pallets.
- Machinery and apparatus, which exceeds 2.4m in height.**
- 1.5 Paragraphs 8.7 and 8.8 in the Inspector's Assessment on case PL05E.248403 relate to the impacts on landscape and residential amenity respectively. These paragraphs are the only ones in the Inspector's Assessment, which make reference to potential visual impacts and associated conclusions, regarding height restrictions. Noise, dust and emissions are addressed under other paragraphs in the Inspector's Assessment and condition No. 7 of the permission, relating to these issues, have been fully complied with to the satisfaction of the Planning Authority.
- 1.6 In paragraph 8.7, the Inspector confirmed that
- The site is in a rural area that is elevated relative to Buncrana and Lough Foyle. However the landscape is relatively robust and its scenic amenity is not particularly vulnerable. The facility upon it could be satisfactorily screened and integrated into the landscape if the existing berm was extended along the southern and eastern site boundary, and the height to which the loose and bagged coal is stacked was limited to less than the height of the berm. This could be required by condition.*
- 1.7 It is significant that the Inspector's Assessment only refers to the stacking height of loose and bagged coal in terms the screening and integration into the landscape and that the reference to other materials or equipment was added into condition 8 in the Inspector's and the Board's reasons and considerations.
- 1.8 The required condition noted by the Inspector (condition 8) was imposed in the grant of permission and states



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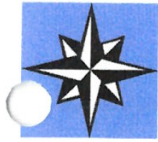
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Within six months of the date of this order, a berm shall be erected along the southern and eastern boundary of the site which shall be at least three metres high, measured from the ground level within the site. The berm shall be landscaped and planted in accordance with a planting scheme which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order. The agreed scheme shall include details of all other planting and boundary treatments on the site. The storage or stacking of loose or bagged coal or pallets, or of any other materials or equipment, on the site shall not exceed a height of 2.4 metres above ground level on the site.

Reason: *To protect the visual character of the area.*

- 1.9 Andrew Coyle Coals Ltd. acknowledges the restriction on the storage or stacking of loose or bagged coal or pallets. However, it is respectfully considered that the reference in condition 8 to the storage or stacking of any other materials or equipment does not relate to plant or machinery directly associated with the business.
- 1.10 In this respect, the Board's planning permission, accepted the principle of the development, when concurring with the Inspector's Assessment in paragraph 8.4 of the Inspector's report.
- 1.11 In addition, it is exceedingly significant that the permitted lean-to extensions to the storage shed and its change of use to coal bagging facility under permission PL05E.248403, complete with associated internal and external machinery and plant/equipment, incorporates two no. loose coal hoppers, as part of the permitted bagging facility, a slack hooper and two further loose coal hoppers for bulk lorry loading. The permitted mechanical coal sorter under permission PL05E.248403, feeds these hoppers. In granting planning permission under permission PL05E.248403, the Inspector and the Board would have been conscious of the hopper feed plant/machinery, essential to the permitted bagging facility and the bulk loose coal filling facility in the permitted lean-to extensions.
- 1.12 These items of external machinery forming an integral part of the coal bagging facility and other coal delivery procedures carried out by Adrew Coyle Coal Ltd., were

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permitted under PL05E.248403 and are shown in drawings 1216-1232-01A and 1216-1232-01B, attached under Appendix B. The loose coal hoppers are 8.3 metres high, while the slack hopper is 5.171 metres high. The mechanical coal sorter would exceed these heights when depositing coals into the hoppers.

- 1.13 If it was the intention of the Board, under condition 8 of permission PL05E.248403, to restrict the heights of all machinery associated with the business to below 2.4 metres, it is reasonable to conclude, that planning permission would have been refused in entirety for the proposed development, as these fundamental and essential pieces of equipment were well in excess of that restricted height of 2.4 metres. Furthermore, the loading of bagged coal on pallets on to delivery HGVs, would not have been reasonably possible, as the fork lift trucks would exceed 2.4m in height, when used to load the delivery HGVs.
- 1.14 Andrew Coyle Coal Ltd. considers that the “ other materials or equipment” identified in condition 8 of permission PL05E.248403, relates to additional items, other than the materials and equipment identified in the planning application. For example it could refer to peat briquettes, timber logs or bags of slack. This is again considered to be a reasonable interpretation of condition 8 of planning permission PL05E.248403, but the insertion of “other materials or equipment” into the condition, can only be clarified by the Commission or rectified by an amended Commission Order under Section 146A(iii) of the Planning and Development Act, 2000 (as amended).
- 1.15 In light of the Board’s decision to grant permission for the retention of all the developments in planning application PL05E.248403, apart from the diesel and home heating oil pumps, it is totally meaningless to claim that condition 8, clearly places a restriction on the height of materials and equipment on the site to 2.4 metres.

Protection of Residential Amenities

- 1.16 Impact on residential amenities, is dealt with in Paragraph 8.8 in the Inspector’s Assessment and confirms that
- Subject to proper control on emissions and the completion of landscaping around the site, such as could be reasonably and practicably required by conditions attached to a*

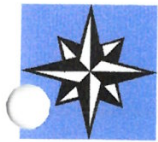


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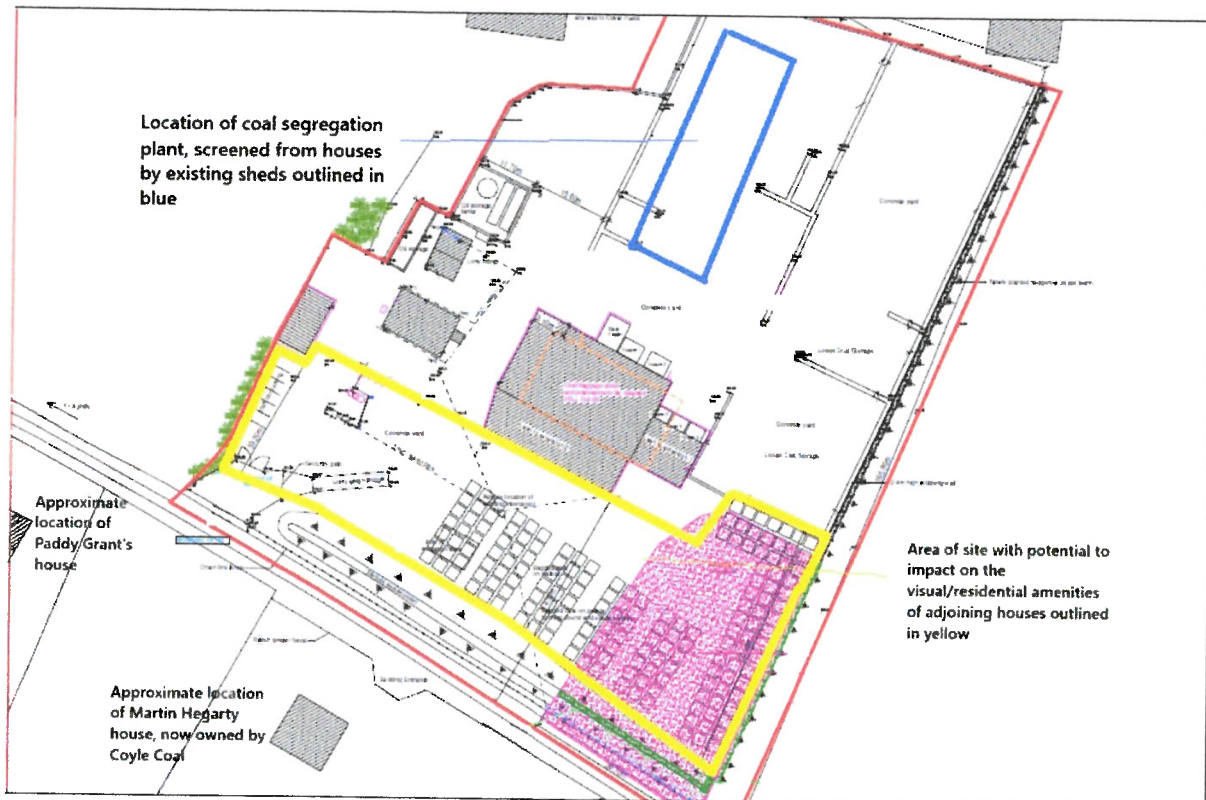
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grant of permission, the development would not have an undue impact on the residential amenities.

- 1.17 The closest residences to the Andrew Coyle Coal Ltd. site, were those belonging to the 3rd party appellants (Hegarty and Grant), located across the public road and to the south of the development site. Accordingly, it is considered reasonable that the coal business activities to the south of the overall yard area, adjacent to those residential properties and the public road, were those, which the Inspector was focused on, when assessing the visual impact on residential amenities. This is demonstrated in the map below.
- 1.18 It is clear from the map, that the existing office block and the shed and its extensions, permitted for the bagging of the coal under permission PL05E.248403, afforded substantial screening of the rear, northern end of the business site.
- 1.19 Furthermore photographs from the first floor of the Hegarty dwelling, since acquired by Andrew Coyle Coals Ltd. directly towards the business yard, confirm that only the area between the public road and the established office block and bagging sheds, would have any visual impact on the residential amenities of that dwelling. The photographs are attached under Appendix C to this response and were taken on Thursday 29th January 2026, when the subject segregation plant/machinery was in situ.
- 1.20 It is further significant that subsequent to the decision on PL05E.248403 in September 2017, a planning permission, 19/51284 was granted in January 2020, which provided for the stacking of bagged coal on pallets up to 4.8m high to the rear of the Andrew Coyle Coals Ltd. site, twice the restricted height of 2.4m in condition 8. If the height restriction imposed under condition 8 of planning permission PL05E.248403, related to height of all locations of future bagged or loose coal, or of future plant and machinery, associated with the business, then permission would not have been granted for the stacking of bagged coal on pallets up to 4.8m high under planning permission 19/51248.



1.21 Accordingly, in light of the above assessments, it is respectfully concluded that the height of the coal segregation plant, would not contravene condition 8 of planning permission PL05E.248403.



Map demonstrating location of adjoining dwellings in relation to Andrew Coyle Coals Ltd. industrial yard and the areas of potential threat to their residential amenities.

2. The structure materially alters the external appearance of the premises or the undertaking and as such would not comply with the conditions imposed under Schedule 2, Part 1, Class 21(a)(iii) of the Planning & Development Regulations 2001-23.

2.1 Andrew Coyle Coals Ltd. is relying on Schedule 2, Part 1, Class 21(a)(iii) of the Regulations, to support its claim that the development of a coal segregation plant is exempted development.



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- 2.2 Ground 2 by Genesis Planning Consultants against this reliance, relates to the structure materially altering the external appearance of the business premises and as such would not comply with the condition 1, imposed under Schedule 2, Part 1, Class 21(a)(iii) of the Regulations confirming that “Any such development shall not materially alter the external appearance of the premises of the undertaking”.
- 2.3 The basis for the Genesis Planning Consultants ground 2, rests on the decision by the Planning Authority under planning application 19/51052, which refused planning permission for the development as set out below.

Application Reference Number: 19/51052

Proposed development: Retention permission for increase of storage/stacking height of loose or bagged coal or pallets within the site from 2.4m as permitted to 4.8m above ground level

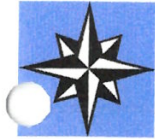
Reason for refusal: *County Donegal Development Plan Policy ED-P-14 requires that any proposal for economic development; **does not harm the amenities of nearby residents**; it is capable of dealing satisfactorily with any emission(s); the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape. Based on information available to the Planning Authority, **it is considered that the development requiring retention does not comply with this policy in terms of; protection of amenities of nearby residents in terms of scenic amenity and overbearance; controlling emission(s) in terms of dust emissions; satisfactory integration into the receiving environment in terms of height of development; adequate screening of areas of outside storage in terms of overall screening.** The development requiring retention does not therefore accord with policy ED-P-14. Accordingly, to permit the development would be contrary to the aforementioned*

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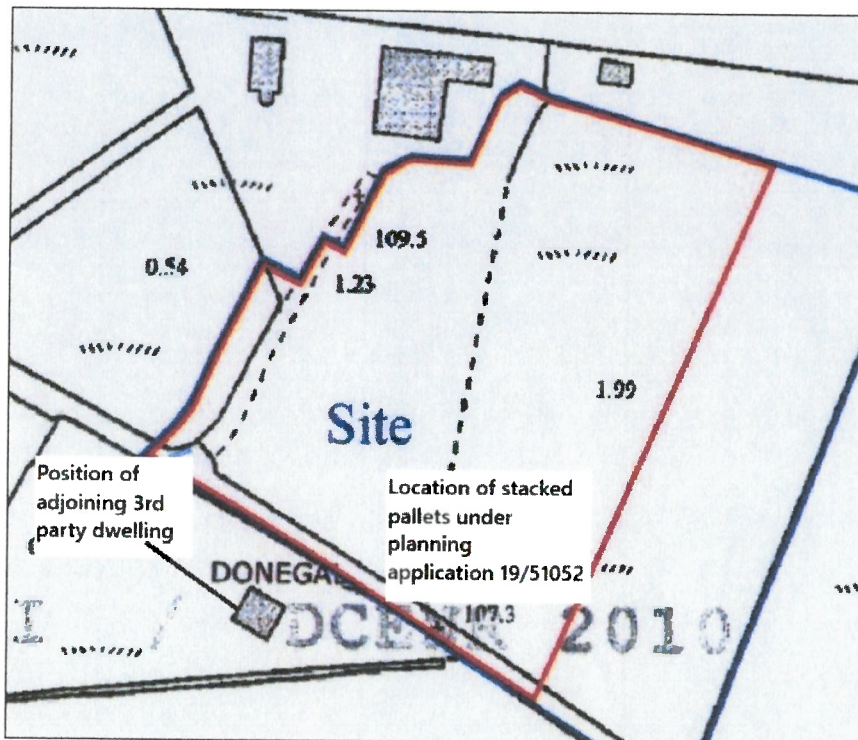
policies of the said Plan and would thereby be contrary to the proper planning and sustainable development of the area.

- 2.4 Andrew Coyle Coal Ltd. considers that the coal segregation plant does not materially alter the external appearance of the business premises, as asserted by Genesis Planning Consultants, because both the nature and location of the development refused planning permission under planning application 19/51052, differ completely from those associated with the coal segregation plant.
- 2.5 The development refused under 19/51052 consisted of the stacking of bagged coal, covered in black plastic, on 204 pallets to a height of 4.8m, located at the southern end of the site, adjacent to the third party dwellings across the road from the business yard and whose occupants objected to the development. The extracts of drawings from planning application 19/51052, attached below, demonstrate that the scale of the development and Andrew Coyle Fuels Ltd. accepts that it did constitute an adverse visual impact on the residential amenities of the objector's dwelling, which as highlighted in bold in the refusal reason above, was the substantive focus of the refusal decision.
- 2.6 However, it is an unreasonable stretch to compare the nature and location of the development refused planning permission under 19/51052, located close to the adjoining dwelling to the southern (front) side of the overall site, with the coal segregation plant, which is located to the rear of the business yard and completely screened from the public road and adjoining dwellings by the permitted office building and the business sheds. The photographs attached under Appendix C to this response and referred to in paragraph 1.19 above, were taken from the first floor bedrooms of the Hegarty dwelling on Thursday 29th January 2026, when the subject segregation plant/machinery was in situ. This dwelling has since been acquired by Andrew Coyle Coals Ltd.



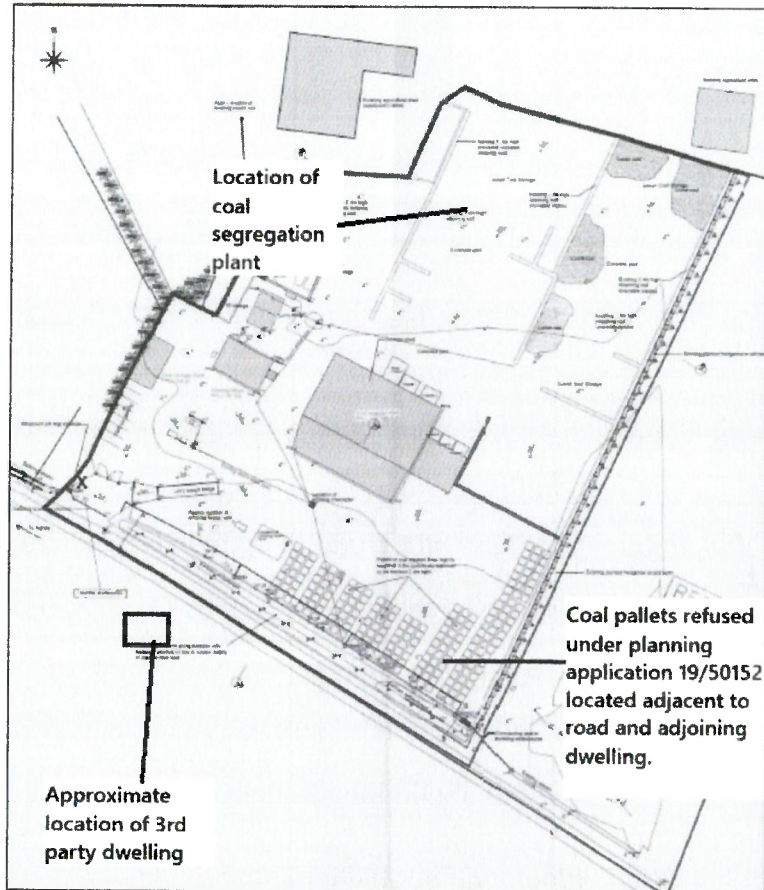
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Extract from Location Map Drawing No. 3001 in planning application 19/51052, demonstrating the location of the bagged coal on pallets 4.8m in height and the adjoining 3rd party dwelling.

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Extract of Layout Plan Drawing No 3002 from planning application 19/51052, demonstrating the location of the bagged coal on pallets 4.8m in height at the southern end of the site close to the 3rd party dwelling

- 2.7 Andrew Coyle Coal Ltd. considers that the refusal on planning application 19/51052, which was based on the protection of the residential amenities of an adjoining 3rd party dwelling, cannot be expanded to confirm, that the coal segregation plant, located to the rear of the business site and screened by the existing office building and sheds, **materially** alters the external appearance of the premises of the undertaking.
- 2.8 Section 3 below elaborates further on the visual impact of the separation unit.



3. Article 9(1)(a)(vi) of the P&D regulations 2001-23 applies to the lands.

- 3.1 Ground 3 by Genesis Planning Consultants relates to Article 9(1)(a)(vi) of the Regulations 2001-23 (the Regulations), which restricts any exemption under Article 6 of the Regulations, if the carrying out of such development would interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- 3.2 Firstly it is noted that there are no views or prospects of special amenity value or special interest, the preservation of which is an objective of the Donegal County Development Plan 2024-30, designated in the vicinity of the Andrew Coyle Coals Ltd. yard. The extract from map 11.1 'Scenic Amenity' from the Donegal County Development Plan 2024-30 below, shows protected views and prospects by blue arrows. It also identifies the Andrew Coyle Coal Ltd. property in relation to the three designated scenic amenity areas in the plan, including the Area of Moderate Scenic Amenity.
- 3.3 Areas of Moderate Scenic Amenity (MSA) are the lowest in the hierarchy of scenic amenity designations, which cover the entire county in the County Donegal Development Plan 2024-30 and are graded below Areas of High Scenic Amenity (HSA) and further below Areas of Especially High Scenic Amenity (EHSA).



The Ministry of Education is pleased to announce the results of the National Examination for the year 2023. The examination was held on the 15th of June, and the results were released on the 20th of June. The Ministry wishes to congratulate all the candidates who have successfully completed the examination. The results are as follows:

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- 3.4 It is respectfully considered that the installation of the plant/machinery does not interfere with the character of the landscape. Furthermore, the installation of the plant/machinery, because of its location to the rear of the site, adjacent to existing agricultural buildings and screened by the industrial yard's office building and sheds, can be absorbed into the moderate scenic landscape and is compliant with Policy L-P-2 in the Donegal County Development Plan 2024-30.

It is noteworthy that in a decision by An Bord Pleanala (PL05E. 248403) on the regularisation of the business, the Board's Inspector dealing with the impact of the depot on the landscape confirmed that "...the landscape is relatively robust and its scenic amenity is not particularly vulnerable".

- 3.5 The photographic evidence presented below, from viewpoint locations within 1km of the Andrew Coyle Coal Ltd site, demonstrate that the plant, which is located within the existing yard and surrounded by industrial and agricultural buildings, does not have an



adverse impact on the landscape. The plant/machinery is not visible from points beyond 1km and from many locations within 1km.

- 3.6 It is concluded that the installation of the plant/machinery is compliant with Policy L-P-2 in the Donegal County Development Plan 2024-30 and is readily absorbed, with no adverse visual impact, into the surrounding landscape of Moderate Scenic Amenity.
- 3.7 The fact that parts of the plant/machinery are visible from some of the viewpoints, does not in itself confirm that it would interfere with the character of a landscape, as the plant/machinery is located within an established industrial yard and adjacent to large agricultural buildings, which already constitute an adverse impact on the character of the landscape.
- 3.8 To support the Andrew Coyle Coals Ltd. position with respect to visual impact on the landscape, photographic evidence was presented to the Planning authority, highlighting that the introduction of the plant/machinery does interfere with the character of the local landscape. This photographic evidence is presented again below and the Commission should note that the photographic evidence was taken with the segregation plant/machinery in situ.

Photographic Evidence of Visual Impact of the Plant/machinery on the Landscape

A series of photographs were taken at strategic locations within 1km of the Andrew Coyle Coal Ltd site, to determine if any adverse visual impact arises from the installation of the plant/machinery on the local landscape, which is designated an Area of Modest Scenic Amenity. The locations of the 9 selected viewpoints are shown on the aerial photograph below. Each viewpoint photograph is shown below with an assessment on the visual impact from each location. Apart from a 55m stretch of road from Viewpoint 7 towards the Andrew Coyle Coal

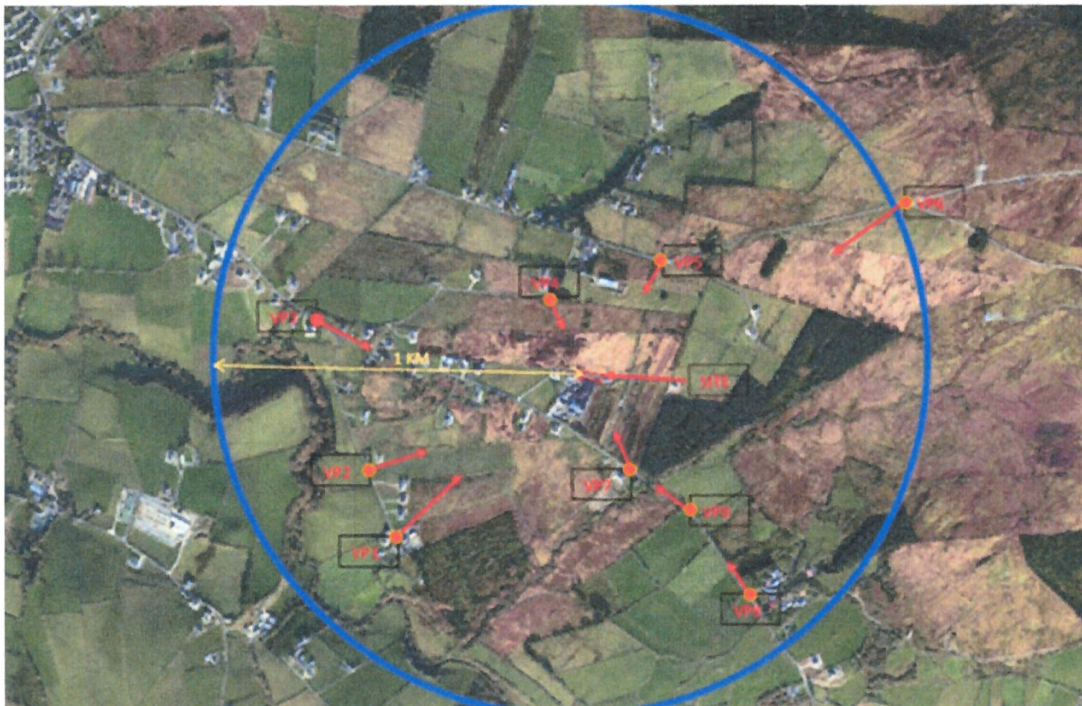


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Ltd. depot, where visual impact of the plant/machinery on the landscape is moderate, it is respectfully considered that overall the visual impact of the plant/machinery is negligible.

Accordingly, it is a reasonable conclusion, that there is no basis for removing the exempted development status of the plant/machinery, because it would interfere with the character of the landscape.



Aerial photograph of viewpoints.

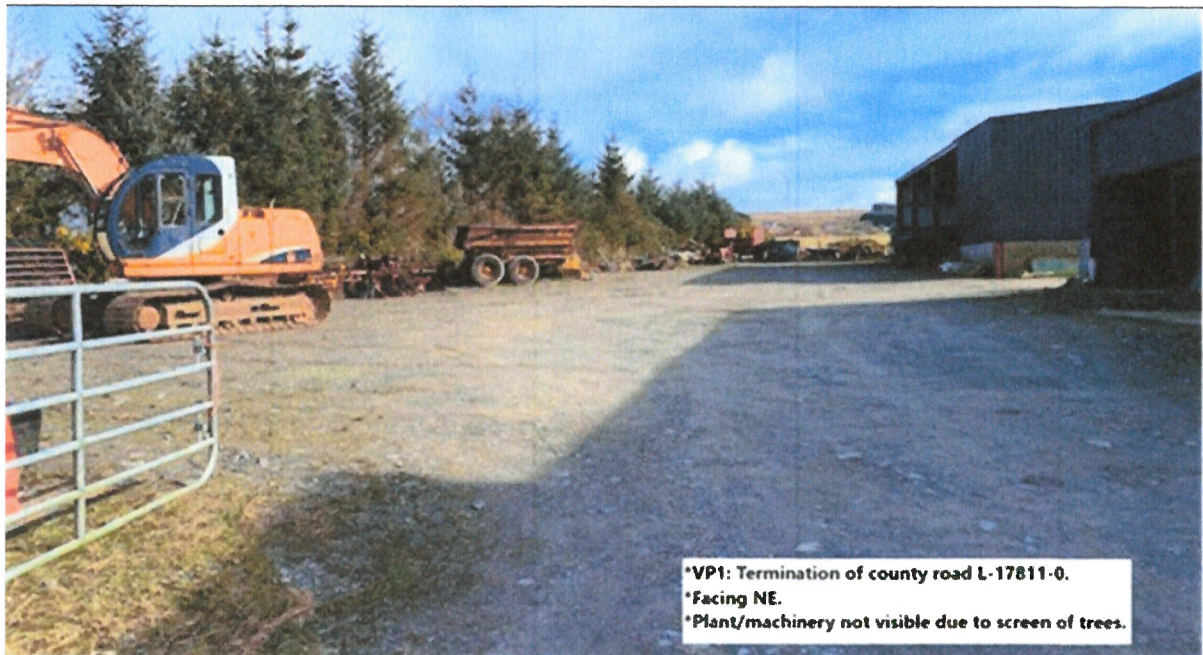
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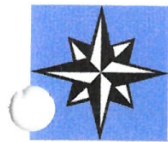
Viewpoint 1:



Viewpoint 1 is located at the termination of county road L-17811-0. No part of the Andrew Coyle Coal Ltd. buildings or the plant/machinery are visible, due to the dense tree stand between the viewpoint and the Andrew Coyle Coal Ltd. depot.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is non-existent.

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Viewpoint 2:



Viewpoint 2 is taken from a point midway along county road L-17811-0 from its junction with county road L-1781-1. No part of the Andrew Coyle Coal Ltd. depot, or the plant/machinery is visible from this viewpoint.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is non-existent.

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Viewpoint 3:



Viewpoint 3 is taken from the junction of county roads L-1781-1 and L-17811-0. No part of the Andrew Coyle Coal Ltd. depot or the plant/machinery are visible from this viewpoint due to the aspect and a bend in the road.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is non-existent.

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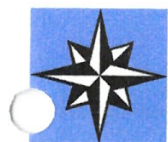
Viewpoint 4:



Viewpoint 4 is taken from a sharp bend on county road L-7121-1. Only the upper tip of the plant/machinery along with the roofs of agricultural buildings adjacent to the Andrew Coyle Coal Ltd. depot, which is located on lower ground.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is negligible.

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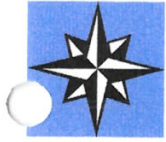
Viewpoint 5:



Viewpoint 5 is taken from county road L-71211-0 on elevated ground directly north of the Andrew Coyle Coal Ltd. depot. The plant/machinery is visible among the industrial yard buildings and adjoining agricultural sheds.

However, it is considered that the impact of the plant/machinery on the landscape from this viewpoint is negligible.

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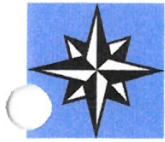
Viewpoint 6:



Viewpoint 6 is taken from county road L-71211-0 at the entrance to the wind farm northwest of the Andrew Coyle Coal Ltd.. depot. The depot and plant/machinery is visible in the distance.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is negligible.

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Viewpoint 7:



Viewpoint 7 is the closest viewpoint to the Andrew Coyle Coal Ltd. depot, approximately 180m along county road L-1781-1 to the east. The plant/machinery, loose coal stacks, the Andrew Coyle Coal Ltd. buildings and adjoining agricultural buildings are visible from this viewpoint. However, they are only visible for a distance of 55m towards the depot from the viewpoint.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is modest to negligible.

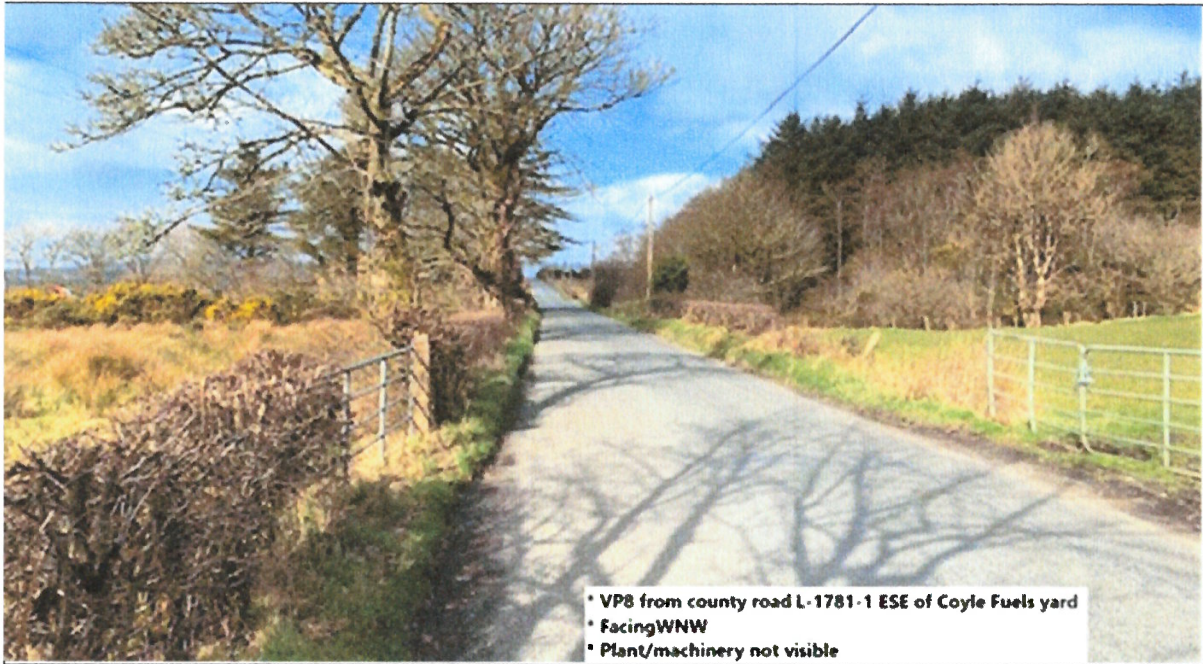
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Viewpoint 8:



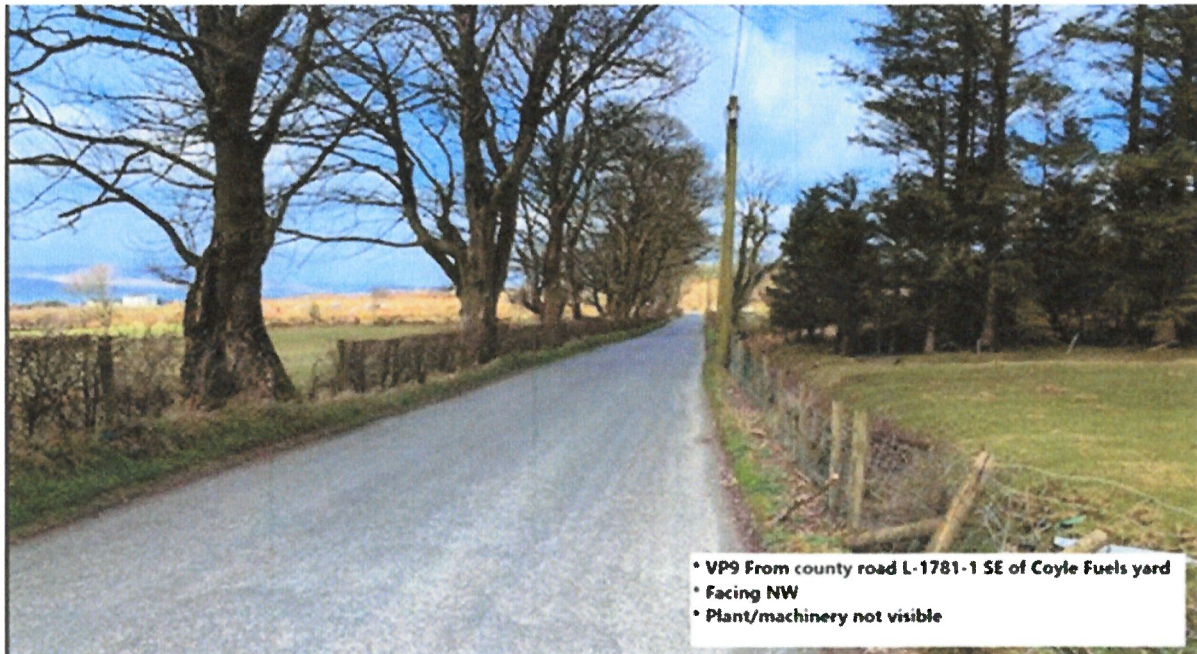
Viewpoint 8 is taken from county road L-1781-1 to the east of the Andrew Coyle Coal Ltd. depot. The depot is not visible from this viewpoint.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is non-existent.

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Viewpoint 9:



Viewpoint 9 is taken from county road L-1781-1 further west from viewpoint 8. Again, the Andrew Coyle Coal Ltd. depot is not visible from this viewpoint.

It is considered that the impact of the plant/machinery on the landscape from this viewpoint is non-existent.

4. The use of the plant is inconsistent with the use pertaining to the lands.

4.1 Ground 4 of the Genesis Planning Consultants submission relates to the use of the plant being inconsistent with the use pertaining to the lands and is to therefore a new use on the lands and constitutes an unauthorised change of use.



Figure 1

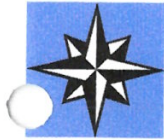


Figure 1: A landscape view showing a large building and surrounding trees, likely a historical site or park.

The image shows a large, multi-story building with a prominent central tower or spire, surrounded by mature trees. The scene is captured from a distance, providing a wide view of the structure and its immediate surroundings.

The building appears to be a significant historical or institutional structure, possibly a university or government building. The surrounding trees are well-maintained and suggest a landscaped area. The overall scene is peaceful and well-kept.

This image is a high-resolution scan of a document page. The text is oriented vertically and is significantly faded, making it difficult to read. The page number '77' and a small symbol '2' are visible in the top right corner. A circular logo is present in the upper right quadrant. The main body of the page contains a large, faded image of a landscape with a building and trees, followed by several paragraphs of text that are also faded.



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- 4.2 Andrew Coyle Coal Ltd. have operated a coal import & wholesale supply business from the site for over twenty years and several planning permissions for the expansion of the business have been granted over that time. The company has always engaged in the processing of coal products through separation and preparation into different qualities, for distribution to outlets throughout the country and to meet the specific needs of customers.
- 4.3 The development permitted to the company under planning permission PL05E.248403, provided for inter alia, internal and external machinery and plant/equipment and a mechanical coal sorter, which are utilised to process the raw coal products, prior to distribution.
- 4.4 Section 4(2)(a) of the P&D Act 2000 (as amended) allows the Minister for the Environment and Local Government, to make regulations, providing for any class of development to be exempted development where the Minister is of the opinion that the carrying out of such development would not offend against principles of proper planning and sustainable development.
- 4.5 In this respect, under Class 21(a) of Schedule 2, Part 1 of the P&D Regulations 2001-23, the Minister confirms that development carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on and for the purposes of any industrial process is exempted development. Developments identified by the Minister include the installation of industrial plant or machinery, by the industrial undertaker. The Minister also included conditions to be adhered to, to ensure that the development would



4- İnceleme ve değerlendirme aşamaları, değerlendirme süreciyle ilgili tüm tarafların katılımıyla gerçekleştirilmelidir. Değerlendirme süreci, değerlendirme komisyonunun başkanlığı altında, değerlendirme komisyonunun üyeleri tarafından gerçekleştirilmelidir. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır.

5- Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır.

6- Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır.

7- Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır. Değerlendirme komisyonu, değerlendirme süreciyle ilgili tüm tarafların katılımıyla çalışmalıdır.



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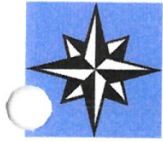
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not offend against principles of proper planning and sustainable development. The issue of compliance with the Minister's conditions, relating to impact on the landscape and height have been addressed above.

- 4.6 Andrew Coyle Coal Ltd. by installing the coal segregation plant machinery is carrying out a use, which enables the company to process coal more efficiently, than heretofore. This is the type of development, envisaged by the Minister, when implementing the exempted development articles in the Regulations, to allow industrial undertakers to install or replace plant/machinery to continue the industrial undertakers' established processes, without the need to go through the development management procedures.
- 4.7 The coal segregation plant, installed by the industrial undertaker, Andrew Coyle Coal Ltd., is an improved method of segregating and sizing coal on the company's site, which has been carried out by the company for years. It is not a change of use.
- 4.8 Accordingly, it is considered that the installation of the machinery, to improve efficiency in the segregation and sizing of coal products is not a change of use.

5. Appropriate Assessment.

- 5.1 Ground 5 of the appellant's submission relates to Appropriate Assessment (AA) and focuses strongly on validity of AA. The appellants commences by directing the Commission to the drainage location from the Andrew Coyle Coals Ltd. yard. This information is incorrect, as the drainage from the main yard area discharges to the eastern end of the property. The discharge at the western end of the site frontage only collects

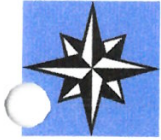


surface water into a drainage channel from the immediate entrance to the yard, in the vicinity of the weigh bridge, to prevent spillage on to the public road.

- 5.2 However, Andrew Coyle Coals Ltd. consider that his business operation has already been fully assessed for AA. In paragraph 8.2 of the Inspector's report on planning permission PL05E. 248403 (see Appendix A), which regularised the entire operation, the Inspector confirmed that

The development is not in or adjacent to any Natura 2000 site and it would not involve processes that would lead to emissions that would have downstream effects on such a site. It would not, therefore, be likely to have significant effects on a Natura 2000 site and is not subject to a requirement for an appropriate assessment.

- 5.3 It is anticipated that the Commission, as the appropriate authority in this appeal case, would concur with the conclusions of An Bord Pleanala.
- 5.4 In terms of AA, the Commission is requested to review any potential threat to a European site from the segregation plant, which is the subject of the Section 5 appeal. In this respect, no liquid waste or water is discharged from this process, which is totally self-enclosed.
- 5.5 The plant accepts multi-grade raw coals, which have already been washed of dust at the company's base in Maydown, outside Derry in Northern Ireland. Raw coal is fed into a reception hopper and delivered by belt conveyor up to a pre-wash screen for removal of super fines, which are compacted, then discharged into water-tight containers in a ground storage bay. These super fines, which have a very low moisture content (-22%), are then transferred to the Maydown base, for processing into briquettes.
- 5.6 The remaining pre-rinsed coal (typically 6mm x 100mm) is fed into a dense medium washer drum, where the better quality coal is separated from the poorer quality coal by a dense medium magnetite media process. This magnetite media is totally contained within the system and recirculated for maximum efficiency. The diluted magnetite media solution is collected and pumped to a wet drum magnet, which recovers the magnetite concentrate for re-use within the dense medium washer system.



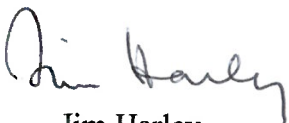
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- 5.7 No liquid waste or water is discharged from this process, which is totally self-enclosed. Only better and poorer quality coal and super fines are discharged from the segregation process. These finished products, as confirmed above, are then transferred to the company's site at Maydown, outside Derry in Northern Ireland for further processing, prior to distribution.
- 5.8 A perusal of planning applications in the vicinity of the Andrew Coyle Coals Ltd site, revealed no significant other developments.
- 5.9 Accordingly, while acknowledging the appellant's information on AA, it is clear that the installation of the segregation plant on to the Andrew Coyle Coals Ltd. site, by itself or in conjunction with other developments, will have no adverse impact on the integrity of any European site.

6. Conclusion

- 6.1 Andrew Coyle Coals Ltd. considers that the installation of the identified plant/machinery on his industrial site at Bauville and Keeloges, Clonglash, Buncrana, County Donegal, is development, but exempted development on the basis of Article 6 and Schedule 2, Part 1, Class 21(a)(iii) of the Planning & Development Regulations 2001-23. The identified plant/machinery, meets the limitations and conditions associated with Class 21(a)(iii). Furthermore, it is considered that none of the restrictions on exempted development set out under Article 9 of the P&D Regulations 2001-23, affect the status of the exemption.
- 6.2 The Planning Commission is respectfully requested to uphold the decision by Donegal County Council and confirm that the installation of the plant/machinery is development and exempted development.


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Environmental Impact Assessment Report

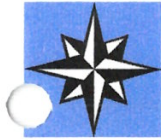
The project is located in the industrial zone of the city of ... The site is currently used for industrial purposes and is surrounded by other industrial facilities. The proposed project involves the construction of a new industrial building and the installation of machinery. The project is expected to have a significant impact on the environment, particularly in terms of air quality and noise. The assessment will evaluate the potential impacts of the project and propose measures to mitigate them.

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[Signature]
[Name]



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APPENDIX A

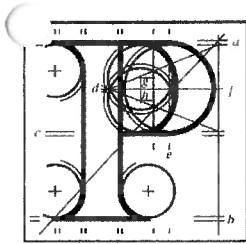
Inspector's report on planning decision PL05E.248403

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APPENDIX A

Inspector's report on planning decision PL056248493



An
Bord
Pleanála

Inspector's Report PL05E. 248403

| | |
|-------------------------------------|---|
| Development | Retain alterations at coal depot |
| Location | Bauville, Keeloges and Clonglash, Buncrana, Co. Donegal |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 16/51749 |
| Applicant | Andrew Coyle |
| Type of Application | Permission |
| Planning Authority Decision | Grant permission subject to conditions |
| Type of Appeal | Third Party vs. Grant & 1 st party vs. conditions |
| Appellants | 1. Martin Hegarty and Paddy Grant 2. Andrew Coyle |
| Observer | None |
| Date of Site Inspection | 2 nd August 2017 |
| Inspector | Stephen J. O'Sullivan |

1.0 Site Location and Description

1.1. The site is in a rural area c3km east of the town centre at Buncrana. It lies on a county road whose carriageway is c5.4m wide. There are numerous one-off houses in the area, including one to the north of the site and another across the road. The site is occupied by coal merchant. The vehicular access to the site is the western end of the front boundary. Car parking and fuel pumps lie on the site near its entrance. A building containing equipment to bag coal stands near the centre of the site, to the west of which is an office building and a smaller storage shed. Loose coal was stored at the rear of the site at the time of inspection, with pallets of bagged coal stacked between the buildings and the front of the site. A berm has been erected along part of the front boundary of the site, while a row of trees stands on part of the western boundary.

2.0 Proposed Development

2.1. It is proposed to retain various alterations at the coal depot, including

- the extension of a shed and its use for bagging coal,
- the extension of a storage yard,
- a concrete boundary wall, bank and fence,
- pumps serving diesel and heating oil to the public, the installation of a mechanical coal sorter,
- signage on an office building and
- another shed on the western boundary where bagged coal is stored.

It is also proposed to extend an embankment along the southern and eastern site boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 20 conditions.

Condition no. 2 required the provision of visibility splays of 70m in each direction from a point 2.4m from the road edge at the entrance to the site, and that the existing embankment at the front of the site be removed and a new one installed to achieve this.

Condition no. 6 required a landscaped berm 3m high to be built along the western boundary of the site.

Condition no. 9 omitted the pumps for diesel and home heating oil from the development and stated that no private fuel sales to motorists would occur within the site. The reason referred to traffic safety, residential amenity and orderly development.

Condition no. 10 restricted the hours of operation to 0900-1800 hours Mondays to Saturdays to cater for orderly development and residential amenity.

Condition no. 15 stated that noise levels measures at the nearest house shall not exceed 40dBa above ambient during the hours of operations to cater for orderly development.

Condition no. 17 required a fire hydrant to be installed on a watermain in the road within 50m of the site to obviate fire hazards.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report refers to the planning history of the site, in particular the original grant under 05/70314, and to policies ED-P-9 and -12 of the development plan. The principle of development was established by 05/70314 that authorised the facility on 0.95ha with 85m of road frontage and a depth of 140m, but without fuel pumps for the public. Subsequent changes require assessment. The bagging facility is acceptable, as is the storage shed, subject to the provision of better visual screening. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Road Design Section stated that adequate visibility splays needed to be demonstrated.

The Fire Officer raised no objection, subject to conditions.

3.3. Third Party Observations

Third parties objected to the development on ground similar to those raised in the subsequent appeal.

4.0 Planning History

Previous planning applications for the site include –

Reg. Ref. 05/70314 – the planning authority granted permission to retain and complete a commercial fuel depot.

Reg. Ref.07/71243 – the planning authority granted permission to erect an office building and storage units on the site

Reg. Ref. 10/70181 – the planning authority granted permission for a storage unit on the site.

Reg. Ref.14/50841 – the planning authority granted permission to retain an extension of a coal storage yard and concrete walls.

Reg. Ref. 15/51584 – the planning authority granted permission to retain and extend the office building on the site.

Reg. Ref. 16/50427 – the planning authority refused permission to retain a storage shed and extensions to a coal bagging shed on the grounds that the bagging shed which had been extended did not have the benefit of planning permission.

5.0 Policy Context

5.1. Development Plan

The Donegal County Development Plan 2012-2018 applies. Policy ED-P-9 of the plan is to permit economic development uses in the countryside of certain types, including the expansion of an existing economic development use in accordance with Policy ED-P-12, which is to permit proposals for the expansion of an existing economic development in the countryside provided the scale and nature of the

Consultant development will not harm the rural character of the area; there is no major increase in the site area of the enterprise; and the existing infrastructure (including the road network) can facilitate the expanded development. Policy ED-P-16 is that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria;

- (a) it is compatible with surrounding land uses existing or approved;
- (b) it does not harm the amenities of nearby residents;
- (c) there is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered;
- (d) the existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems;
- (e) adequate access arrangements, parking, maneuvering and servicing areas are provided in line with standards set out in Appendix B or as otherwise agreed in writing with the planning authority;
- (f) it does not create a noise nuisance;
- (g) it is capable of dealing satisfactorily with any emission(s);
- (h) it does not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites;
- (i) it is not located in an area at flood risk and/or will not cause or exacerbate flooding;
- (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
- (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
- (l) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;
- (m) it does not compromise water quality nor the programme of measures contained

5.2. Natural Heritage Designations

None.

6.0 The Third Party Appeal

6.1. The Grounds of the Third Party Appeal

- There is a history of the operation on the site failing to conform with the requirements of previous planning permissions. This indicates that the conditions on the planning authority's decision are not capable of implementation either, including those relating to visibility splays, drainage, noise and lighting.
- The development would contravene the provisions of the development plan, including policies ED-P-9, 12 and 16 because of the impact that an operation of this scale has on the character of this rural area which is much more significant than that which arose from the facility which was granted permission in 2005 having regard to the public sales, stockpiling of fuel, the mechanical sorting of coal that have since occurred, their visual impact and noise, and to the failure to provide the berms and screening required under the permission. These issues were not properly considered in the planner's report. The development is clearly visible from the public road. There has been a major increase in the size of the site by 0.48ha.
- Inadequate visibility splays have been provided at the site entrance giving rise to traffic hazard.
- Adequate drainage infrastructure has not been provided, with no evidence of silt traps or oil interceptors. Proper information has not been provided regarding water supply or the septic tank system.
- The use should be located in lands zoned for industrial use within the town of Buncrana. It is not appropriate for a rural area and so contravenes policy ED-P-16 of the development plan. The extended hours of operation and the noise and dust which it generates have injured the amenities of local residents and have had a negative impact on the landscape. The infrastructure in the

area is not adequate to support the development with respect to roads, water or drainage.

6.2. Planning Authority's Response

The planning authority did not respond to the appeal.

6.3. Applicant's Response

- The fuel depot is a long established business with 23 employees. The development to be retained is ancillary to the authorised and established business and is mainly concerned with the shed authorised under 10/70181 and the change of use from storage shed to bagging. A wide range of works were undertaken to ensure the operation complies with the relevant statutory requirements which are set out in an attached compliance report.
- A bagging operation is required to maintain the business's viability in a market in which demand is now for smaller quantities of bagged coal rather than for larger bulk deliveries. The applicant has another facility in Derry and the one on the site is not involved in cross-border trade.
- The proposed development does not involve a significant increase in the area of the site. There would be no increase in loose coal storage. It is mainly a proposal for an indoor process and so policy ED-P-16 is not applicable. Its retention would not unduly impinge on the rural character of the area.
- Adequate sightlines of 70m by 2.4m can be provided at the site entrance, as shown on a submitted plan.
- Noise and dust emissions from the development would remain within applicable limits and would not cause significant injury to the amenities of nearby properties, as demonstrated by a submitted monitoring report .

6.4. Further Responses

The third party's response to the applicant's response to the third party appeal can be summarised as follows-

- The existing shed whose use for the bagging of coal is proposed to be retained was originally authorised for storage only under Reg. Ref. 10/70181 and restricted to such by condition no. 2 of the that permission. The subsequent erection of a larger shed in a different location for bagging brought coal processing closer to houses than was approved under the 2005 permission, illustrating the history of non-compliance on this site. An environmental impact assessment is required to assess systematically the environmental impacts of the development that has expanded incrementally over the past decade.
- The appellants do not accept that the impact of the operation on their amenities has been minimal. Policy ED-P-16 is not applicable as it is a 'catch all' planning policy. The development does not meet the requirements of ED-P-12 due to its visual impact, pollution from noise, light and dust and its impact on the rural character of the area. The proposal has resulted in a major intensification in the use and extent of the development. Aerial photos are submitted which, it is claimed, show pallets of coal stored outside the site. Correspondence from the county council and the HSE are submitted which stated that the deposition of more than 350mg/m²/day were recorded at the Hegarty's property. Photographs are also submitted to show coal dust there. These reports should be given more weight than those submitted by the applicant's consultants who only visited the site twice and did not refer to the existing noise limits at the site. Videos are submitted illustrating the generation of noise by the activities at the site and moving vehicles. The proposed development would bring coal processing closer to houses and it is not credible to argue that it would not have a significant negative effect in this regard. Traffic has been coming and going from the site well outside the required operating hours, with HGVs queueing outside the appellants' houses from 7.30 am. There is a particular issue following the unloading of coal boats at Derry. The signage on the site demonstrates that the facility on the site does not observe the required operating hours. Therefore the intensification and piecemeal unauthorised development has created a new planning unit at this location. Conditions requiring compliance with noise and dust emissions have no credibility having regard to the history of the site. Personal letters

from the appellants were submitted describing these nuisances, as well as to a bonfire on the site.

7.0 The First Party Appeal

7.1. The Grounds of the First Party Appeal

- The appeal is against conditions nos. 2, 6, 9, 10 and 17 of the planning authority's decision.
- The required visibility splays of 70m by 2.4m can be provided at the site entrance without the need to dismantle the existing berm and build a new one, as condition no. 2 stipulates. A site plan is submitted to illustrate how this can be done. Condition no. 2 should therefore be amended to retain the requirement to provide the visibility splays but remove the one to demolish the existing berm.
- The requirement in condition no. 6 for a berm on the western site boundary appears to be superfluous and possibly an error. A berm is proposed on the eastern site boundary.
- The pumps on the site which serve diesel and heating fuel to the public are small in scale and long established, and cater mainly to local farmers. Their retention should be allowed and condition no. 9 omitted.
- Normal working hours should begin at 0800 to allow deliveries to be arranged to customers' premises at the start of the working day, and condition no. 10 amended accordingly.
- The water supply for the site is from a well, so the requirement in condition no. 17 for a hydrant on a public watermain is not justified.

7.2. Planning Authority's Response

The planning authority did not respond to the appeal.

7.3. **Third Party Response**

The third party's response to the first party appeal asserted that the planning history of the site illustrated that conditions were not an appropriate means to control the activity there.

8.0 **Assessment**

8.1. The planning issues arising from the proposed development can be addressed under the following headings –

- EIA and AA screening
- Compliance with previous permissions
- The principle of development
- Emissions
- Traffic and access
- Impact on the landscape
- Impact on residential amenity
- Condition no. 17 of the planning authority's decision

8.2. **EIA and AA Screening**

The development does not within the categories set out in schedule 5 of the planning regulations and so is not subject to a requirement for environmental impact assessment. The development is not in or adjacent to any Natura 2000 site and it would not involve processes that would lead to emissions that would have downstream effects on such a site. It would not, therefore, be likely to have significant effects on a Natura 2000 site and is not subject to a requirement for an appropriate assessment.

8.3. Compliance with previous permissions

A planning authority or the board may not use its power to determine applications for planning permission under Part III of the planning act in order to achieve the objectives of Part VIII of the act or to circumvent or replace the enforcement procedures laid down in the latter part. Rather the decision on a planning application needs to be based on whether or not the proposed development would be in keeping with the proper planning and sustainable development of the area. This applies whether the carrying of the proposed development is to be analysed prospectively or retrospectively in cases where EIA or AA is not required. The board's assessment may not be based on assumption that a person would not comply with their legal obligations under the planning act or any permission granted under it. There is a procedure under section 35 whereby past failures to comply with such obligations can be used as a basis for a decision on application for permission. It relies on the planning authority forming an opinion that is subject to review by the courts. It may not be invoked by the board. Given these constraints, the various comments from the third party regarding previous unauthorised development and the likelihood of compliance with conditions attached to a permission that might issue in this case would not justify refusing permission.

8.4. The principle of development

The use of the larger part of the site for a commercial fuel depot is authorised under previous permissions, most notably that granted under Reg. Ref. 05/70314. The current proposal should therefore be regarded as an expansion of an established commercial enterprise to which the development plan policy ED-P-12 applies. Having regard to the relative scales of the authorised business and that whose retention is proposed, it is not considered that the scale and nature of the resultant development would harm the rural character of the area, or that it would involve a major increase in the site area of the enterprise, or that the existing infrastructure of the area including its road network could not facilitate the expanded development, provided controls were placed on it regarding boundary treatments, emissions and hours of operations. The principle of the proposed development is therefore supported by this provision of the development plan. It is noted that policy ED-P-16

Lists out various criteria regarding economic development. However these are generic planning criteria that would apply in any case.

The sale of fuel from the site to visiting customers is a small part of the commercial operation on the site and one that could reasonably be regarded as ancillary to the main operation. The retail use involves the sale of bulky items and would not impinge on the commercial role of the nearby town. As such its retention would be acceptable.

8.5. Emissions

The proposed development would involve the operation of machinery and the sorting of coal. It would therefore have the potential to cause emissions of noise and dust that could impinge on the local environment and the amenities of nearby properties. However the bagging operation would be largely housed within the structure whose retention is proposed, while the coal stored at the front of the site would be bagged with the loose coal at the back of the site. It is therefore considered that noise and dust emissions from the development could be restricted to acceptable levels, and that it would be appropriate to specify such limits by conditions attached to a permission. These limits should refer to emissions from the operations on the site as a whole, as it would not be practicable to distinguish between emissions from different elements that may have been previously authorised.

8.6. Traffic and access

The condition and width of the road serving the site are reasonable. There is a restriction on the forward visibility available to the east of the access to the site. The applicant has submitted proposals to provide 70m visibility in this direction from a point 2.4m to the rear of the carriageway without the need to replace the berm there. On inspection of the site it appeared that this proposal is capable of implementation. Subject to this, the development would not give cause a hazard or obstruction to traffic.

8.7. **Impact on the landscape**

The site is in a rural area that is elevated relative to Buncrana and Lough Foyle. However the landscape is relatively robust and its scenic amenity is not particularly vulnerable. The facility upon it could be satisfactorily screened and integrated into the landscape if the existing berm was extended along the southern and eastern site boundary, and the height to which the loose and bagged coal is stacked was limited to less than the height of the berm. This could be required by condition. The existing belt of trees on the western boundary provides adequate screening in that direction.

8.8. **Impact on residential amenity**

Subject to proper control on emissions and the completion of landscaping around the site, such as could be reasonably and practicably required by conditions attached to a grant of permission, the development would not have an undue impact on the residential amenities. Such conditions should apply to the operations on the site as a whole, as it would not be practicable to differentiate between the impact arising from previously authorised parts of the depot and those elements with which this application is concerned. With regard to the hours of operation, opening at 0800 would not represent a threat to amenity and would be in keeping with the working times commonly required under planning permissions. I note the arguments from the appellants regarding previous failures to implement similar planning conditions. However, as stated in section 8.3 above, the opportunity to make submissions on a planning application or to appeal the decision of a planning authority does not provide an alternative to the enforcement remedies set out in Part VIII of the act that can be sought from the planning authority or the courts, but not from the board.

8.9. **Condition no. 17 of the planning authority's decision**

While the water supply for the site may come from a private source, it would be reasonable for another source to be available close to the site for fire-fighting purposes. The requirement for a hydrant on the public supply in condition no. 17 of the planning authority's decision is therefore reasonable.

9.0 Recommendation

9.1. I recommend that permission be granted subject to the conditions below.

10.0 Reasons and Considerations

The proposed development would involve the expansion of an established commercial operation which, subject to compliance with the conditions below, would not injure the rural character of the area or the amenities of property in the vicinity of the site, and which would be acceptable in terms of traffic safety and convenience. It would therefore comply with policy ED-P-12 of the Donegal County Development Plan 2012-2018, and would be in keeping with the proper planning and sustainable development of the area.

11.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. The business on the site, and all activities occurring thereon, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.

Reason: In order to protect the residential amenities of property in the vicinity.

3. Any exterior lighting on the site shall be arranged to prevent glare or spillage occurring on the public road or at any residential property in the

vicinity, and shall not be lit outside of the operating hours specified under condition no. 2 above.

Reason: In the interests of traffic safety and residential amenity

4. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge).

Reason: To control dust emissions arising from the development and in the interest of the amenity of the area

5. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling or [at any point along the boundary of the site shall not exceed:-

(i) An Leq,1h value of 55 dB(A) during the period 0800 to 1800 hours from Monday to Saturday inclusive.

(ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site

6. Within three months of the date of this order, a monitoring programme for emissions from the site, including noise, dust and light shall be submitted to, and agreed in writing with, the planning authority. The programme shall commence within 6 months of the date of this order and shall provide for the submission of monitoring reports to the planning authority at least once every three months. In the event that adequate monitoring reports are not submitted or the reports indicate that the limits on emissions required under

this permission have been exceeded, the planning authority may order that activity on the site cease until adequate mitigation measures have been agreed with the planning authority and implemented, and the occupier of the site shall comply with any such order.

Reason: To protect the amenities of the area and of property in the vicinity of the site

7. Within 6 months of the date of this order a berm shall be erected along the southern and eastern boundary of the site which shall be at least 3m high, measured from the ground level within the site. The berm shall be landscaped and planted in accordance with a planting scheme that shall be submitted and agreed with the planning authority within 3 months of the date of this order. The agreed scheme shall include details of all other planting and boundary treatments on the site. The storage or stacking of loose or bagged coal or pallets, or of any other materials or equipment, on the site shall not exceed a height of 2.4m above ground level on the site.

Reason: To protect the visual character of the area

8. Within three months of the date of this order visibility splays shall be provided at the entrance to the site from the public road of 70m in each direction, measured from a point 2.4m from the rear of the carriageway at a height of 1.05m, to the satisfaction of the planning authority. In the event that the required visibility splays have not been provided by the required date to the satisfaction of the planning authority, the authority may order that activity on the site cease pending the provision of the visibility splays, and the occupier of the site shall comply with such an order.

Reason: In the interests of traffic safety

9. A BS750 round threaded outlet fire hydrant on a 100mm diameter watermain shall be located within 50m of the proposed development along the verge of the surfaced roadway.

Reason: To obviate fire hazards

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the

planning authority for such works and services. In particular all surface and contaminated waters shall be diverted via silt traps and a petrol interceptor prior to discharge to watercourses. No surface water may discharge onto the public road and the development shall take steps to ensure that no water discharges from the public road onto the site. A detailed scheme demonstrating compliance with this condition shall be submitted and agreed with the planning authority within three months of the date of this order.

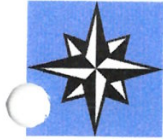
Reason: In the interest of public health

11. 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 within three months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

Stephen J. O'Sullivan
Planning Inspector

15th August 2017



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APPENDIX B

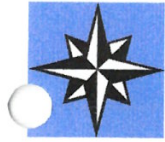
**Drawings 1216-1232-01A and 1216-
1232-01B, permitted under decision
PL05E.248403**

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APPENDIX B

Drawing 1516-1532-01A and 1516-
1532-01B, permitted under decision
PL02R248403



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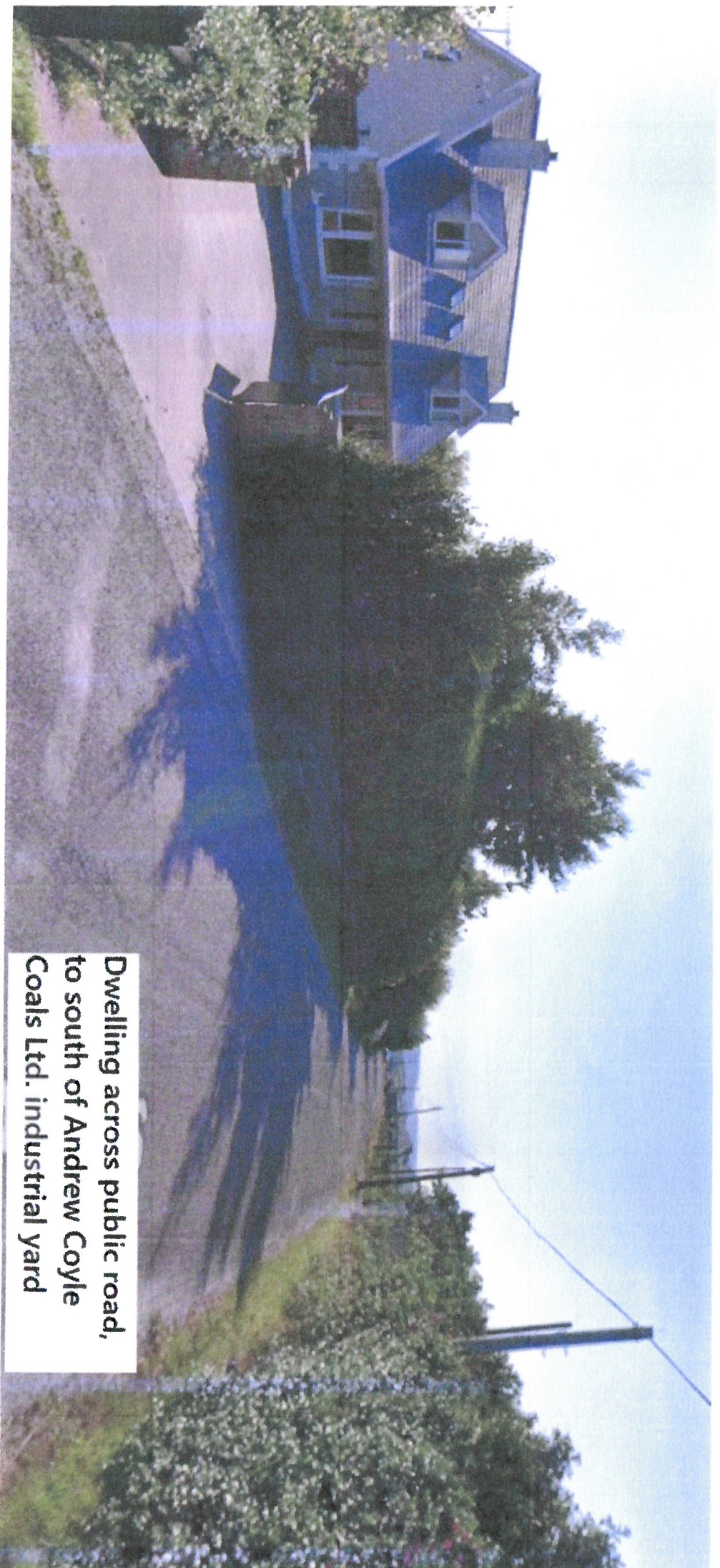
APPENDIX C

Photographs from dwelling to south towards Andrew Coyle Coals Ltd. yard.

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APPENDIX C
Photographs from dwelling to south
towards Andrew Coyle Ltd. yard.

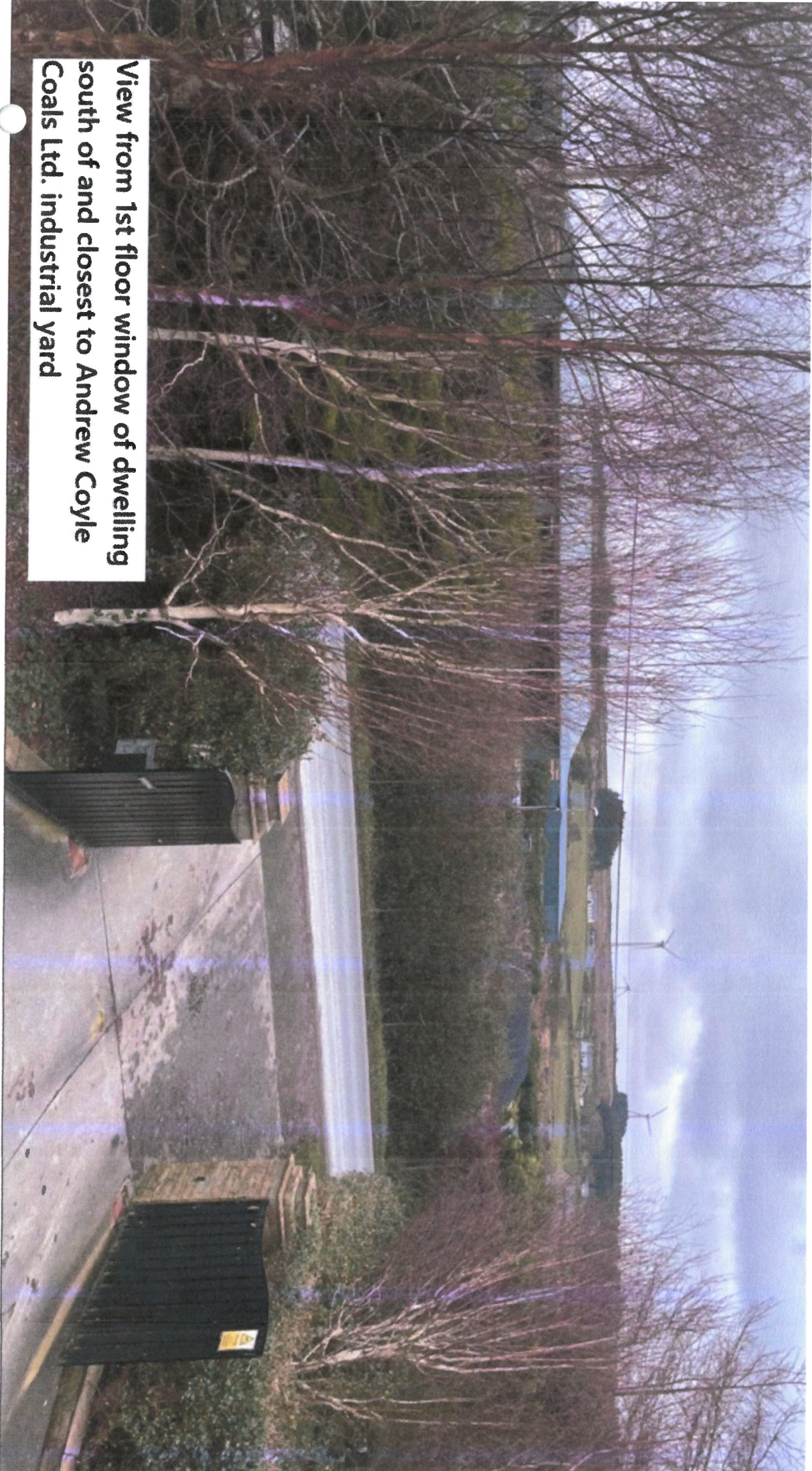


**Dwelling across public road,
to south of Andrew Coyle
Coals Ltd. industrial yard**

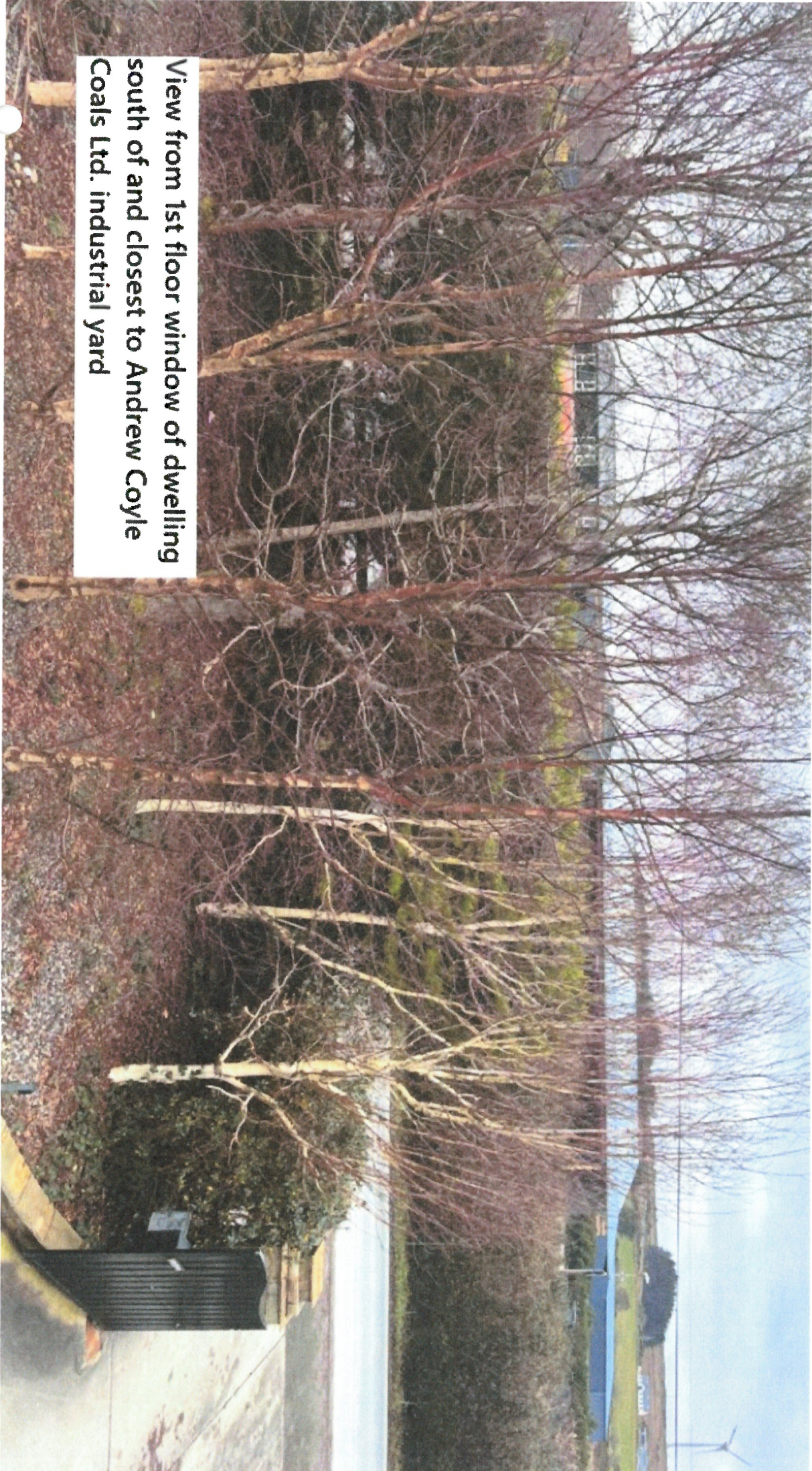


Coyle's industrial yard
 to south of Andrew Coyle
 Dwelling across public road

Andrew Coyle



**View from 1st floor window of dwelling
south of and closest to Andrew Coyle
Coals Ltd. industrial yard**



View from 1st floor window of dwelling south of and closest to Andrew Coyle Coals Ltd. industrial yard

