



An
Bord
Pleanála

Inspector's Report

ABP-320019-24

Development

To extend the area of infilling and to increase the volume of material to be imported from that previously granted under planning registration number 20170177.

Location

Kilcavan (Old Mill), Harristown, Co. Wexford

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20240226

Applicant(s)

Sutton Plant Hire (Wexford) Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Philip Lawlor.

Observer(s)

None.

Date of Site Inspection

7th October 2024.

Inspector

Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Kilcavan (Old Mill), Co. Wexford approximately 2km west of Wellingtonbridge, Co. Wexford. The site comprises of 2.36ha area, which was a disused quarry and has been filled since 2017. There is an existing entrance. The access road is a local narrow road. There are no dwellings either side of the subject site. The site is elevated, and a forest lies to the south of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of permission:
- to extend the area of infilling.
 - to increase the volume of material to be imported from that previously granted under planning registration number 20170177.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 12 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Development assessed against the Wexford Development Plan, section 9.7.5. No impacts on residential amenity noted, as no enforcement issues and the site has been in operation since 2017.
- Further information sought in relation to sightlines.
- Further information submitted, no further issues identified, and a grant of permission recommended.

3.2.2. Other Technical Reports

- Environment: no comment from an environmental perspective.

- Roads: Further information sought in relation to sightlines. Surface water to be disposed of on site. Further information received. Grant recommended with conditions.

3.2.3. Conditions

- Condition 2: The proposed development shall be for the importation of clean inert material over 5 years. This period of infill works shall expire 5 years from the date of this notice. All restoration works and reseeded shall be completed by the end of the following planting season and the use of the site shall return to agricultural use. The site shall be regularly monitored for presence of invasive species for 5 years post capping of the infill area.

Reason: In the interests of orderly development and to ensure that effective control is maintained.

3.3. Prescribed Bodies

- Dept. of Housing, Local Government & Heritage: No report received.
- An Taisce: No report received.
- EPA: No report received.

3.4. Third Party Observations

- A third-party observation was received. The issues raised included:
 - Requests clarification on the proposed and existing height of the site. 2017 application shows different data.
 - Noise and Dust emissions from the site.
 - Increased traffic on a local road. Request a contribution to the amend the damage to the road.
 - Condition 5 of planning reference 20170177 not complied with, which states: "Following completion of infill works the developer shall re-contour the site to ensure all fill has been deposited consistently ensuring no stockpiles remain. The site shall then be reseeded to bring the land back into an agricultural use and to prevent run off and release of sediment. A

completed development contour site survey shall be submitted and agreed with the Planning Authority. Reason: In the interests of protection of the environment and to ensure the intake of fill does not exceed 25,000 tonnes per annum.

- Also, conditions 3 (sightlines), 6 (Noise levels), 7 (Dust levels), 8 (Noise & Dust Monitoring) & 10 (monitor the road and clean road when required) of Planning reference 20170177 not complied with.

4.0 Planning History

20170177: Permission granted for the proposed rehabilitation to agricultural use of a dormant quarry by the importation of inert soils and subsoil to include the following 1. The installation of a new entrance. 2. The re-contouring of land by infilling and 3. Associated site works.

5.0 Policy Context

5.1. Wexford County Development Plan 2022-2028.

Chapter 6, section 6.7.6.5 relates to Aggregate Resources and Extractive Industry.

Objective ED116 To require extractive and processing industries to be appropriately sited, designed and managed to avoid significant adverse impacts on their surrounding environment, amenities, road/public safety, and built and natural heritage. The Council will have regard to “Quarries and Ancillary Activities” (DEHLG, 2004) in its considerations on quarrying (as may be updated in the lifetime of this Plan).

Objective ED119 To ensure that the road network to serve the extractive industry development is adequate in respect of its condition, width and horizontal and vertical alignment to carry the anticipated number and types of vehicles generated by the operation of the development without unduly impacting on the capacity or function of the road and/or effecting the safety of other road users including walkers and cyclists.

Section 8.8 relates to Sightlines which require works.

Section 9.5 relates to Water Supply

Section 9.11 relates to Flood Risk and Surface Water Management.

Volume 2 Development Management:

- Section 5.8 relates to Aggregate Resources and the Extractive Industry.
- Section 5.9 relates to Facilities for Disposal of Inert Materials.

Volume 7 Landscape Character:

- Section 3 relates to Landscape Character Assessment.

5.2. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site. The following Natura 2000 sites are in close proximity to the subject site.

- Bannow Bay SAC – 1.5km to west
- Bannow Bay SPA – 2.5km to the west
- Ballyteige Burrow SAC & SPA – 5.5km to the south
- Seas off Wexford SPA – 5.5km to the south.
- Kennragh Islands SPA – 6km to the south.
- Saltee Islands SAC & SPA – 16km to the southeast.

5.3. EIA Screening

This proposal relates to the infilling of a disused quarry in a rural area. The subject site is not zoned or located within a designated area. Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivities in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 and Form 2 as per Appendix 1 attached.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been received from a neighbouring property. The grounds of appeal can be summarised as follows:

- Changes to the landscape.
- Increase in height which allows direct views into my farmland and house windows. The height far exceeds that of the surrounding ditch, disrupting the natural landscape. It should be aligned with the bottom of the ditch, similar to the field directly opposite the site.
- Impact on privacy and the value of my property and surroundings.
- The Planning Report refers to the proposed development “would not seriously injure the amenity of the area”. This statement implies that some injury to the area is acknowledged, although not deemed serious enough to consider the development unsuitable. It is argued that any injury to the area’s amenity is sufficient grounds for reconsideration.
- Potential development sites for children opposite the development and the excessive height of the development which adversely affect the quality of the site for the family.
- ESB have relocated their poles on site as they are now too low.
- Conditions 4 (only agricultural tractor units/rigid trucks to transport material and should be covered), condition 6 (signage in place), condition 7 (wheel wash facilities and overhead spray) and condition 8 (operation hours) have not been complied with.

6.2. Applicant Response

The applicant has responded with the following comments:

- Planning permission 20170177 permitted rehabilitation to agricultural use of a dormant quarry by the importation of inert soils and subsoils.

- Waste facility permit (WFP-WX-17-0124-01) for total permitted importation of material was 65,000m³.
- Waste Facility Permit Review (WFP-WX-22-0124-02). The total was increased to 74,000m³.
- The total importation of material will be increased from 74,000m³ to 123,000m³.
- To date 66,000m³ has been imported to the facility. These records are submitted to National Waste Collection Permit Office via their Annual Returns Portal.
- The current height exceeds the proposed finished levels due to safety considerations during the unloading process from lorries. The material will be graded downwards using machinery to achieve the intended final levels of the facility later this year. The concerns in relation to privacy and property value are understood and it is important to maintain the surrounding environment. Once the grading process is completed, the facility will be topsoiled and returned to agricultural land.
- The proposed levels will not exceed the height of the surrounding ditch. It is the intention to integrate the development with the existing ground levels on the north, east and south boundaries. For the west (roadside) boundary, the finished ground levels are designed to allow safe maintenance of vegetation along the existing mound, particularly for agricultural activities once the infilling is completed.
- The existing ESB power lines are being relocated to the southern boundary as it is necessary to for both agricultural benefits and safety reasons. By moving the power lines, it will ensure safer and more efficient agricultural operations, as well as enhance overall site safety.

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Visual Impact & Height
- Residential Amenity
- Other Issues – ESB Poles & Conditions
- Appropriate Assessment

7.2. Visual Impact & Height

7.3. The site area comprises of 2.36ha which was a disused quarry, and it has been infilled since 2017. The objective of the applicant is to infill the site and return the land to agricultural use by improving the topography, the infilling will remove the steep banks of the disused quarry. It is estimated that the proposed infilling within both the northern and southern fields will be in the region of 49,000m³. (73,500 tonne using a conversion factor of 1.5). The applicant has stated this will be limited to a maximum of 24,000 tonnes per year. It is estimated that the infilling will take a maximum of five years.

7.4. The filling will be carried out in 200-250mm layers starting from the southern and eastern boundaries. The area will be gradually filled and levelled to match the existing contours of the field to the south and east. The direction of filling will be in a southerly direction. The topsoil will be levelled, rotavated and reseeded. Wexford County Council will be notified that the infill and reinstatement has been completed.

- 7.5. The grounds of appeal have highlighted concerns in relation to the changes to the landscape and that the increase in height will allow direct views into the appellants farmland and house windows. The height far exceeds that of the surrounding ditch, disrupting the natural landscape. It should be aligned with the bottom of the ditch, similar to the field directly opposite the site.
- 7.6. The applicant has submitted a response and stated that the current height exceeds the proposed finished levels due to safety considerations during the unloading process from lorries. The material will be graded downwards using machinery to achieve the intended final levels of the facility later this year. The proposed levels will not exceed the height of the surrounding ditch.
- 7.7. I have reviewed the landscape character area for the subject site, and in accordance with Volume 7, Landscape Character Assessment, the subject site is described as Lowlands. The lowlands landscape is determined as a low sensitivity rating, which means landscapes are more robust landscapes which are tolerant to change and have the ability to accommodate development without significant adverse impacts on the character of the landscape.
- 7.8. Objective L04 requires all developments to be appropriately sited, designed and landscaped having regard to their setting in the landscape, ensure that any potential adverse visual impacts are minimised, and that natural features and characteristics of the site are retained.
- 7.9. Having reviewed the site layout and site sections submitted, the applicant will be increasing the existing site levels at the lower end of the field, the highest point will be c. 50m above sea level, this generally corresponds with the surrounding landscape levels. The highest point to the north of the site is noted as 62m above sea level as per OSI Discovery Map. The levels at the lower end of the site will increase in varying levels, but the highest being c.7m. In any event the levels at the lower end of the site will not exceed the highest level on site at c.50m. The site will be graded southwards, and the levels drop from c.50m to c.30m. The levels are lower beside the existing roadside boundary/hedgerow to the west in order to avoid exceeding the boundary.
- 7.10. The existing topography is undulating, and the site levels rise and fall with the existing road levels, there is a forest to the south of the site at a lower level. I do not

believe, the importation of soil and increase in ground levels will have a negative visual impact on the area. The importation will fill in the lower end of the field and bring the levels closer to the existing levels at the top (north) of the site. Due to the undulating nature of the area and the existing hedgerows, the site is not visible from the public road to the south. There are no properties immediately adjacent to the site and the site is not a protected landscape nor is it close to a scenic route or protected view.

7.11. Having regard to the existing topography of the area, the objective L04, the purpose of the infilling to provide agriculturally usable land, the proposed importation of soil and increase in ground levels will not have a negative visual impact on the surrounding area.

7.12. Residential Amenity

7.13. The subject site is located in a rural area, forest plantation is located directly to the south. The nearest dwelling is located over 80 metres to the west from the southern section of the subject site.

7.14. The grounds of appeal have raised concerns in relation to privacy and the potential negative impact on the value of property and surroundings area.

7.15. The proposal consists of returning an old disused quarry to agricultural land, the proposal does not consist of any building type development. I consider that the use will be consistent with the general area as agricultural land. The only possible resulting overlooking or impact to privacy will be from landowner walking the land, however, this can currently occur and the rise in land levels will not increase this potential impact. In addition, given the distance from the subject site to the appellants dwelling at over 80 metres separation to the west, I do not consider impact on privacy or overlooking will be an issue.

7.16. In regard to the value of property, as stated above, I do not consider the proposed infilling will seriously affect the amenity of the residents. The appellant has not raised any concerns in relation to noise or dust in the appeal, but this was highlighted in the initial submission to the Planning Authority. However, I note the applicant carries out a continuous noise assessment and dust mitigation measures are implemented on site. Given, the separation distance between the subject site and the appellants

dwelling, I do not believe there will be an impact on the property. The impact on property values is not a matter for the Board.

- 7.17. Having regard to the location of the subject site in relation to the closest dwelling located at over 80 metres to the west. There is no potential for overlooking from the subject site to the nearest dwelling given the distance. I am satisfied that the proposed development will not have a negative impact on the residential amenity of the adjacent dwelling in relation to noise or dust. In the event of a grant of permission, appropriate conditions shall be applied in order to provide continuous noise monitoring and dust mitigation measures.
- 7.18. **Other Issues – ESB Poles & Conditions**
- 7.19. There are existing ESB poles and overhead wires on site, the applicant proposes to relocate the poles to the southern end of the site in line with revised increased land levels. The Planning Authority attached a number of conditions in which the applicant shall apply with.
- 7.20. The grounds of appeal have stated ESB have relocated their poles on site as they are now too low. Conditions 4 (only agricultural tractor units/rigid trucks to transport material and should be covered), condition 6 (signage in place), condition 7 (wheel wash facilities and overhead spray) and condition 8 (operation hours) have not been complied with.
- 7.21. The applicant has responded and stated that the existing ESB power lines are being relocated to the southern boundary as it is necessary to for both agricultural benefits and safety reasons. By moving the power lines, it will ensure safer and more efficient agricultural operations, as well as enhance overall site safety.
- 7.22. The applicant has submitted justification for the relocation of the overhead power lines. I accept the overhead lines require relocation due to the new site levels.
- 7.23. In relation to the conditions attached under the previous planning permission, the conditions will be attached to any further grant of permission. It is noted that the works are not completed and will continue under this further planning application. Therefore, it is recognised that not all conditions can be completed. In the event, of planning condition not being complied with, this will be an enforcement issue for the Planning Authority.

- 7.24. Having regard to the ongoing operation on the site and the ongoing monitoring requirements of the previous planning conditions, the conditions will be applied again to the new permission. The Planning Authority have not raised any concerns in relation to the current works on site. Therefore, I have no concerns regarding the implementation of conditions to any further grant of permission on this site.

8.0 AA Screening

- 8.1. Having regard to the proposed development to extend the area of infilling and to increase the volume of inert soil and subsoil to be imported. There is no requirement for connection to public sewer and public water. All surface water will be collected and disposed of within the site. The site is located in a rural area, and there are no known surface water sources. The nearest European site is Bannow Bay SAC (Site code: 000697) and Bannow Bay SPA (Site Code: 004033) which lies approximately 1.5km to the west of the site. Having regard to the separation distance, no requirements for wastewater facilities and the lack of surface water connections to the SAC, it is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site

9.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature & scale of the development located in a rural area of Wexford County, the provisions of Wexford County Development Plan 2022-2028, particularly in relation to Section 5.8 Aggregate Resources and the Extractive Industry and Section 5.9 Facilities for Disposal of Inert Materials. It is considered that the development would not be injurious to residential amenity and would be acceptable in terms of location and visual amenity. The proposed development would, therefore, be in accordance 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, as amended by the further plans and particulars received by the planning authority on the 1st day of March 2024 & 13th day of May 2024, 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. All surface water generated within the boundaries shall be collected and disposed of within the curtilage of the site.

Reason: In the interest of public health.

3. The operator shall monitor the local entry road on a daily basis when the facility is in operation and clean the road surface when required or instructed to do so by Wexford County Council personnel.

Reason: In the interests of amenity and protection of the environment.

4. A wheel-wash facility shall be provided adjacent to the site exit, the location, details and provisions for wash waters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and convenience, and to protect the amenities of the area.

5. Operation hours from 0800 to 1800 Monday to Friday and 0900 to 1400 Saturdays. The infilling, and all activities occurring therein, shall only operate between 0700 hours and 1800 hours, Monday to Friday and between 0700 hours and 1400 hours on Saturdays. No activity shall take place outside

these hours or on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the Planning Authority.

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

6. Noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours 0700-2100 a noise level of 55dB(A) (L_{aeq} 1 hour) and during the hours 2100-0700 and Sundays and Bank Holidays a noise level of 42 dB(A) (L_{aeq} 1 hour). The noise is also not to be impulsive in nature or have any tonal element which is 5dB(A) above the adjacent frequencies.

Reason: In the interests of amenity and the proper planning and development of the area.

7. Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

8. (a) 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). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

(b) A monthly survey and monitoring programme of dust and particulate emissions shall be undertaken to provide for compliance with these limits. Details of this programme, including the location of dust monitoring

stations, and details of dust suppression measures to be carried out within the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any quarrying works on the site. This programme shall include an annual review of all dust monitoring data, to be undertaken by a suitably qualified person acceptable to the planning authority. The results of the reviews shall be submitted to the planning authority within two weeks of completion. The developer shall carry out any amendments to the programme required by the planning authority following this annual review.

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

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

Jennifer McQuaid
Planning Inspector

27th November 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320019-24		
Proposed Development Summary	To extend the area of infilling and to increase the volume of material to be imported from that previously granted under planning registration number 20170177		
Development Address	Kilcavan (Old Mill), Harristown, Co. Wexford.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		Proceed to Q3.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 11(b) installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____

Date: _____

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 320019-24
Proposed Development Summary	To extend the area of infilling and to increase the volume of material to be imported from that previously granted under planning registration number 20170177
Development Address	Kilcavan (Old Mill), Harristown, Co. Wexford
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint with an area of 2.36ha and infill of inert material of 49,000m³. The infilling of a disused quarry will raise the ground level by c5m and comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is situated in a rural area on a disused quarry. The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan. The site is located approx. 1.5km east of Bannow Bay SAC (Site code: 000697). The site is not identified as a flood risk zone.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity)	Having regard to the modest nature of the development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for

and complexity, duration, cumulative effects and opportunities for mitigation).		significant effects on the environmental factors listed in section 171A of the Act.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No

Inspector:

Date:

DP/ADP:

(only where Schedule 7A information or EIAR required)

Date: