

Sonja Smith

To: Bernie Tutty
Subject: RE: W0264-01 Sand & Gravel Merchants Ltd

From: Bernie Tutty
Sent: 22 December 2014 12:53
To: Sonja Smith
Subject: Re: W0264-01 Sand & Gravel Merchants Ltd

Hi Sonja,

I refer your email regarding the above and attach herewith, for your information, response from Kildare County Council.

Kind regards,
Bernie.

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Re: EPA Waste Licence Application Ref. W0264-01 – Site at Thornberry, Kill.

The proposed development as described in the particulars included with the waste licence application is noted as follows:

Sand and Gravel Merchants Ltd, Upper Punchestown, Rathmore, Naas, County Kildare has applied to the Environmental Protection Agency for a waste licence for the continued operation of its existing waste recovery facility on lands at Thornberry Townland, Kill, Co. Kildare.

The nature of the development is the continued phased restoration of a sand and gravel pit using imported inert soils, stone, and recovery of inert construction and demolition waste. Up to 70,000 cubic metres per annum is being accepted to the site and circa 25,000 cubic metres is required to complete the restoration of the site. The original void space was estimate to be c. 180,000 cubic metres on submission of the Waste Management Licence application in 2009. It has been calculated that the void space remaining is only c. 25,000 cubic metres based on the original scheme submitted with the Waste Management Application.

It is considered that it will take approximately 4-6 months to complete the backfilling operations. An additional 6 months to a year should be allowed to complete final restoration to agricultural land. The existing site layout is shown by to Figure B.2.1 - Rev A. The lands are to be restored to agricultural use by importation and recovery of inert materials in accordance with a phased restoration scheme. It is the intention to develop them for agricultural use. A bulldozer is used to appropriately grade and compact the material to the desired profile as shown by the detailed plans and sections (Refer to Figures B.2.4 and B.2.5).

Mitigation measures to alleviate any adverse impacts from the facility on the environment have been incorporated into the design to ensure that the facility can be operated within the accepted standards for this type of development.

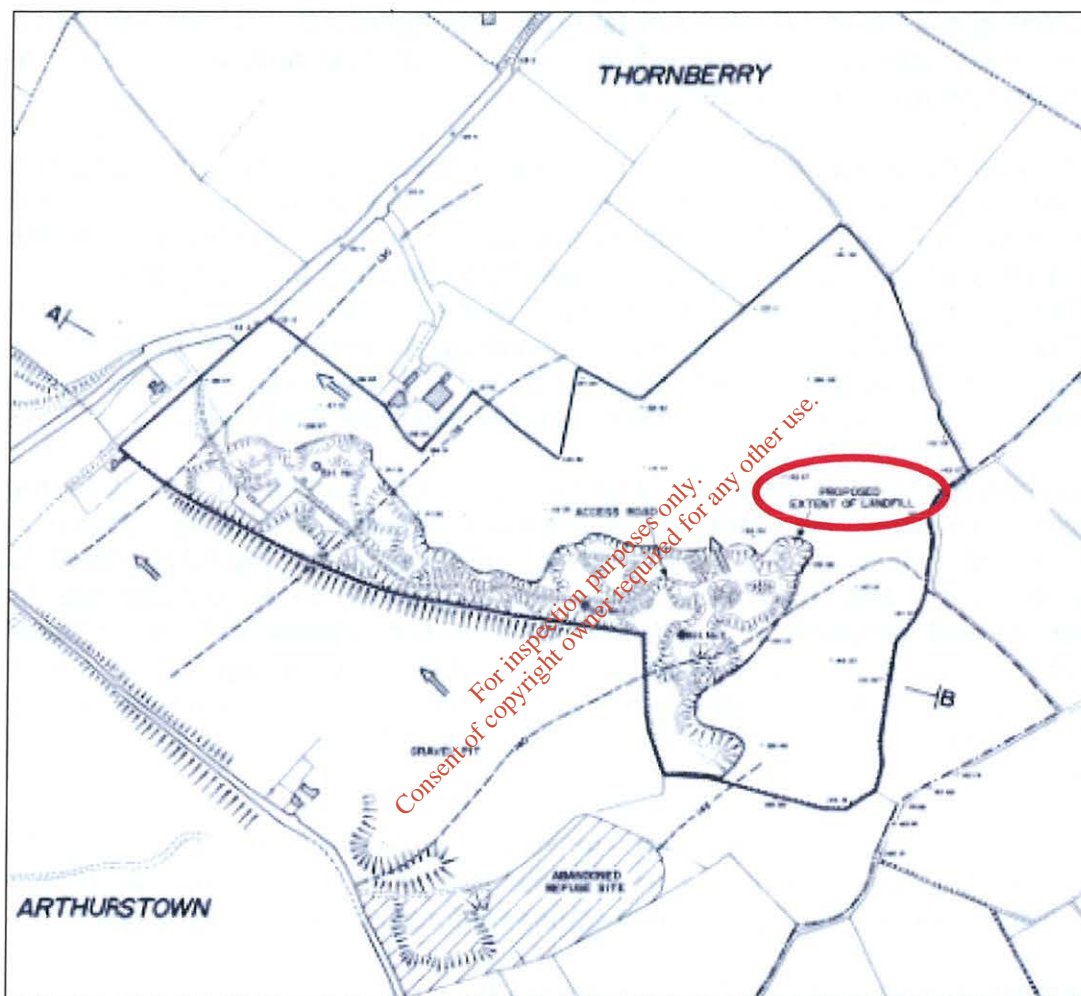
Planning Permission Reg. Ref. 85/771 (PL 9/5/70970)

Please be advised that the only planning permission relating to the site is reg. ref. 85/771 (PL 9/5/70970). This permission was granted on 5th September 1986 by An Bord Pleanala to Axxon Waste Disposal Ltd., to restore approx. 4 hectares of derelict land (disused sand and gravel pit) to agricultural use by a managed land fill scheme using dry non-toxic industrial waste. The An Bord Pleanala decision to grant permission detailed the following:

"...to grant permission for the first phase of the development taking in the lands at the rear or eastern end of the site (area 35,000sq.m approximately) and outline permission is granted for the second phase of the development comprising the central part of the site (area 42,000sq.m approximately)..."

Condition no. 1 of the permission specified that:

“Waste disposal operations on the site shall cease on the expiration of a period of four years from the date land fill operations are commenced in phase 1, unless approval has been granted by the planning authority or by An Bord Pleanala on appeal in respect of phase 2 of the undertaking”.



Proposed extent of landfill under permission reg. ref. 85/771 (PL 9/5/70970)

On the basis of the requirements of condition no. 1 of reg. ref. 85/771 (PL 9/5/70970), waste disposal operations on the site were to cease within four years from the date landfill operations commenced in Phase 1 unless works in Phase 2 were subsequently approved. There was no subsequent planning permission after reg. ref. 85/771 (PL 9/5/70970). In fact in 1991 the council refused to extend the duration of the permission on the basis that “the development does not comply with the terms of Section 4 of the 1982 (Local Govt. Planning & Development) Act and therefore the permission cannot be extended”.

From a review of the particulars included with the waste licence application, no reasons, correspondence or other evidence has been provided to demonstrate why the proposal does not require planning permission, and the permission reference quoted in documentation cannot be relied on as complying with the relevant legislation.

The current proposal to fill the site therefore is outside the scope of what was permitted under reg. ref. 85/771 (PL 9/5/70970).

Section 261 Quarry Registration (Ref. QR41)

The site was registered under Section 261 of the Planning and Development Act 2000 (as amended), on foot of which conditions were imposed on its operation. Any quarrying activities on the site must comply with these conditions.

It should also be noted that condition no.2 of QR41 did not permit the use of the site as a landfill facility. Condition no.33 required a restoration plan to be submitted to the planning authority within six months of the date of decision for QR41.

Section 261A (Ref. QRA-20-001)

The planning authority made a determination and decision under Section 261(A) of the Planning and Development Act 2000 (as amended), which required a substitute consent application and remedial EIS to be submitted to An Bord Pleanala for the quarrying operations that were carried out on the site.

The site owners/operators did not apply to An Bord Pleanala for a review of the planning authority's determination and decision nor did they submit a substitute consent application as required.

The provisions of Section 261A provide that the next course of action for the planning authority is to begin enforcement proceedings.

Current activities on the site

On 28/11/14 it was brought to the attention of the planning authority that the public road network leading to and from the site was littered with debris and was covered in dirt for a number of kilometres from vehicles entering and exiting the site. The planning authority is currently investigating this matter.

Conclusion

- (1) Any current landfill operations on the site do not have the benefit of a planning permission.
- (2) Any quarrying activities on the site must comply with Section 261 conditions under Reg. QR41.
- (3) The site owners/operators did not comply with the requirements of Section 261A.
- (4) The proposal the subject of the waste licence application does not have the benefit of a planning permission and does not come within the scope of reg. ref. 85/771 (PL 9/5/70970).