

Comhairle Contae Chill Dara  
Kildare County Council



Date: 22<sup>nd</sup> January 2016  
Ref: W0264-01

Environmental  
Protection Agency  
25 JAN 2016

Brian Meaney  
Inspector  
Environmental Licensing Programme  
Office of Climate, Licensing & Resource Use  
Environmental Protection Agency  
Headquarters PO Box 3000  
Johnstown Castle Estate  
Co. Wexford Y35 W821

Re: Consultation under Section 42(1)(e)(iii) of the Waste Management Act 1996 as Amended.  
Sand & Gravel Merchants Ltd – Facility at Thornberry, Kill, Co. Kildare.

Dear Mr. Meaney

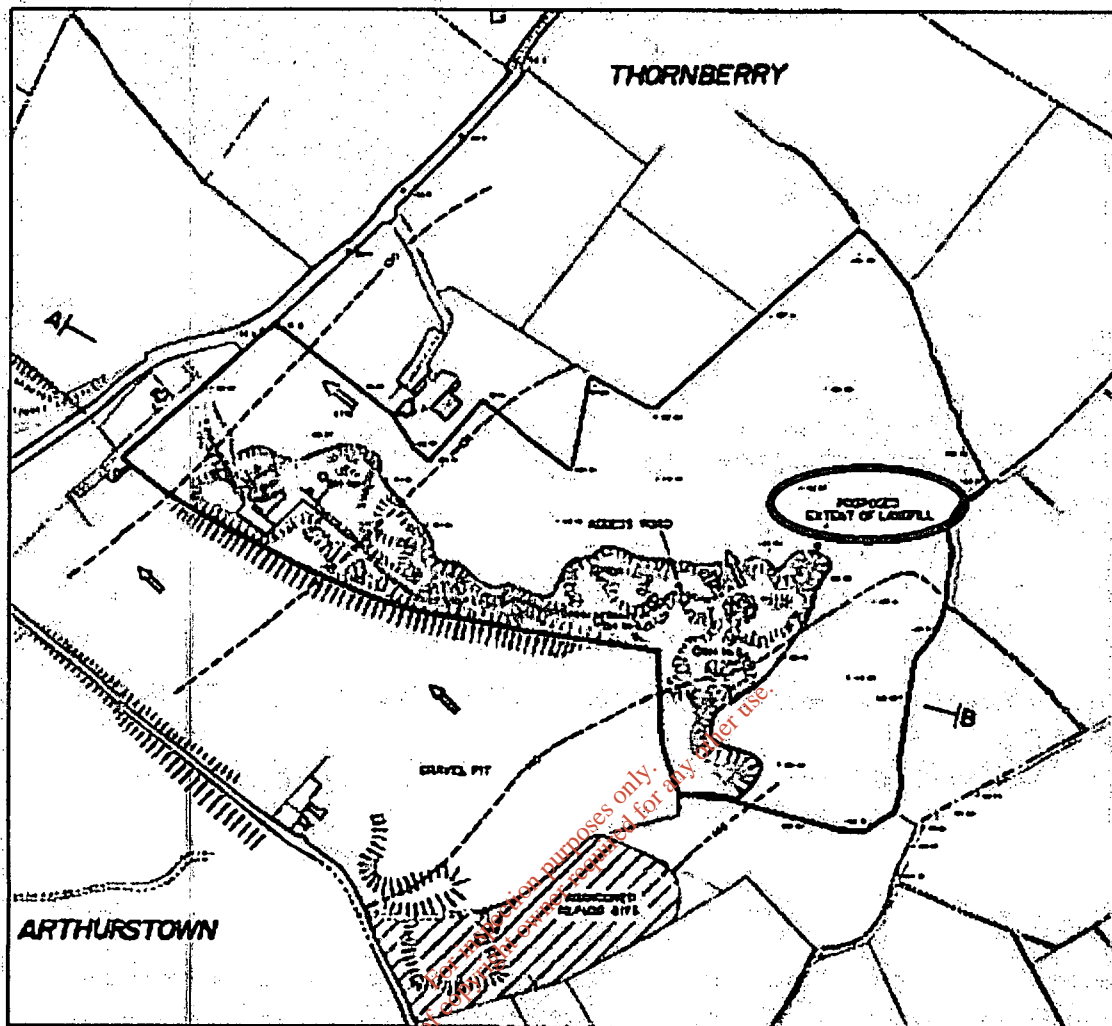
Please again be advised on the basis of the Planning Authority's records that the only planning permission relating to the site is reg. ref. 85/771 (PL 9/5/70970). This permission was granted by An Bord Pleanála to Axxon Waste Disposal Ltd., to restore approx. 4 hectares of derelict Land (disused sand and gravel pit) to agricultural use by a managed land fill scheme using dry non-toxic industrial waste. The An Bord Pleanála 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 Pleanála on appeal in respect of phase 2 of the undertaking".*

The extent of the permitted landfill area is clearly delineated on the map extract provided on the following page.



**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 view of the above, the current proposal to fill the site under a waste licence is outside the scope of what was permitted under reg. ref. 85/771 (PL 9/5/70970) and therefore the proposal does not have the benefit of an extant planning permission.

In addition to the above you are further advised of the following with regard to Section 261 and 261A of the Planning and Development Act 2000 (as amended):

**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.

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Section 261A

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 Pleanála for the quarrying operations that were carried out on the site. The Planning Authority's reference QRA-20-01 refers in this regard.

As previously advised, the site owners/operators did not apply to An Bord Pleanála 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 are such that they provide that the next course of action for the Planning Authority is to begin enforcement proceedings.

To conclude:

- (1) Any current landfill operations on the site do not to have the benefit of a planning permission.
- (2) Any quarrying activities on the site must to 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).

Yours faithfully,

PP (1) Joanne Perival  
Senior Executive Officer  
Planning Department

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