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**An Bord Pleanála
64 Marlborough Street
Dublin 1**

October 16th 2015

Appeal to An Bord Pleanala relating to Faythe Harriers Hurling and Camogie Club

**An Bórd Pleanála Ref. No. PL 26.244574
Local Authority Planning Ref. No. 20141003**

Dear Sirs,

1.1 Introduction:

We refer to yours of October 1st in regard to a submission submitted to the Bórd by Ms. O'Brien Design, dated, August 14th 2015 on behalf of Faythe Harriers Hurling and Camogie Club, in relation to the above proposed development.

The O'Brien Design submission contained the following:-

- Cover Letter O'Brien Design to ABP
- Letter Faythe Harriers Hurling and Camogie Club to ABP
- Cover Letter Malone O'Regan [MOR] to ABP with two public notices attached together with a Submission titled Natura Impact Statement.

We propose to deal with the relevant issues as submitted and request that the Bórd rely on our previous submissions to both ABP and Wexford Co. Co. together with this, our current response. For ease of reference, we enclose copies of our previous submissions enclosed under **Appendix 1-4**, as follows:-

- Seamus F. Maye to Wexford Co. Co, March 24th 2014
- Seamus F. Maye to ABP, April 30th 2014
- Seamus F. Maye to Wexford Co. Co, January 28th 2015
- Seamus F. Maye to ABP, March 9th 2015

1.2 Malone O'Regan Natura Impact Statement prepared on behalf of Faythe Harriers Hurling and Camogie Club, August 2015:

1.2.1 Arising from an examination of MOR's submission, we have examined other reports prepared in regard to the known landfill at and adjacent to the proposed development. In particular, it now appears that the access road to the development is unauthorized. It was built on a known landfill in 2009 and is the subject of a protracted application to the Environmental Protection Agency in 2011 for a Certificate of Authorisation. Gates have been erected blocking access to the road presumably due to the fact that the construction of the road was unauthorized. We submit that Wexford Co. Co. erred in granting

Planning Permission for this development in circumstances where there was no legal access to the development site provided for. We have sought and await legal advice on this matter.

1.2.2 We refer to 2.2 (on pages 4 and 5) of the MOR report. For reasons which we will outline below, this key section is, in our view, misleading. The report states that: - *“The desk-based studies for the site did not identify any historical land use on the site or within the surrounding area that would contribute to contamination of the soil at the site. The findings were validated by the site investigations as no contamination was inedited within the soil. Therefore potential impacts arising from contaminated soil are screened out”*.

These statements suggest that the site and the surrounding area is clean and entirely free of contaminates. Based on the information already in the public domain, these assertions are, in our view, entirely misleading to third parties including ABP. MOR ought to have been aware of this and provided significantly more clarification to ABP in relation to the historical nature of land fill operations on or adjacent to the development site. **Appendix 5** provides some copy documentation in which we have highlighted MOR's various references to the landfill problem.

1.3 Malone O'Regan Report for Roadstone Provinces Ltd, October 2003 – “Infrastructure at Carcur-Park”:

We draw the Bórd's attention to a report produced by Malone O'Regan for Roadstone Provinces Ltd (a subsidiary company of CRH Plc) in October 2003, on foot of the Park-Carcur Area Action Plan, copy of the report is provided in **Appendix 6** and a copy of the area action plan prepared by Murray O'Laoire in May 2003 is provided in **Appendix 7**. The 2003 MOR report included essentially the same ground area that is the subject matter of the new MOR report for FHHCC (August 2015).

1.3.1 We quote from MOR's 2003 report as follows:-

“Based on the access roads proposed in the Masterplan, Malone O'Regan Consulting Engineers organized a geotechnical investigation in July 2003 to assist in preparing budget costs for providing these roads. Five boreholes were carried out on the access road from Redmond Park to Park with a further three on the proposed access to the playing fields. A number of these boreholes encountered domestic fill material to a depth of up to 8m. The domestic fill material appeared in boreholes over a wide area and was of such depth that providing a road along the routes proposed in the Masterplan would prove very difficult”.

Even after due consideration of various options for altering the location of the proposed road, MOR still conceded that: - *“The routes do however cross some areas of fill material and there will be significant cost involved in dealing with these issues”*.

The 2003 MOR report does not appear to consider the fact that the dump was in use since the 1930's (see Fehily Timoney report prepared for Wexford Co. Co. in 2011 – **Appendix 8**). The report relies on an account given by a former Wexford Co. Co. employee who had been in charge of land fill operations at some stage. The employee in question identified that the land fill ran close to the existing laneway used by Roadstone, which he apparently stated was on “original ground”. We would make two points with regard to this assertion, firstly the laneway in question did not exist until circa 1981 though the area had been used as land-fill for over 45 years previously and secondly the lane-way in question dissects part of the present proposed development site before running along the perimeter of same. It must therefore be assumed that the proposed development site contains an as yet unquantified amount of landfill.

1.3.2 Appendix C to MOR's Submission to ABP:

We now draw the Bórd's attention to Section 2.2 on page 2 of Appendix C to MOR's Submission to ABP on behalf of FHHCC. This section is titled Technical Note – Preliminary Site Assessment at Faythe Harriers Park.

MOR provide a map which details the locations of some six trial pits (TP 1-6) the contents of which were tested and it was found that *"the soils in question are not considered to present a risk to the surrounding environment or human receptors"*.

Once again, the approach followed by MOR does not provide a balanced or thorough examination of the site. The map (S 2.2 Appendix C) shows that the trial holes were all selected from one small area and were located close together in an area where the land fill is known to have tapered off. The reason for this is that the area immediately NNE of the proposed development site which includes the new all-weather pitch was originally a sewage treatment plant and therefore was not used as landfill. We found the mapping to be somewhat confusing and were unable to identify the locations of the trial pits. We asked Faythe Harriers Hurling and Camogie Club to clarify the locations of the trial pits but received no response.

In any case, the locations of the trial pits on the map supplied are at one perimeter of the proposed development site and taking account of the extensive landfill history of the area, the trial holes as presented are inadequate and cannot be deemed a representative sample relevant to the current proposal.

Our concerns are fully validated by the findings of Fehily Timoney and Company in its report carried out for Wexford Co. Co. in 2011, titled:-

"Carcur Closed Landfill Site – Application to EPA for Certificate of Authorisation, Application Form Attachments, February 2011" http://www.epa.ie/licences/lic_eDMS/090151b2803ce2cf.pdf (hard copy, **Appendix 8**).

1.4 Fehily Timoney Report 2011 for Wexford Co. Co:

The Fehily Timoney [FT] brief was *to conduct an environmental assessment, risk assessment and restoration plan for the closed land fill at Carcur Wexford*". The FT report goes on to outline the Law in relation to landfills of this type. FT then state that the Carcur landfill site operated from the late 1930's to 1985 and covers an area of approximately 9 hectares (page 1 of 42).

On page 10 of 42, in Table 2.1, FT provide a Summary of Site Investigation / Monitoring Boreholes referenced BH1 – BH16. A map outlining the locations of said bore holes is provided on page 10. A red line on this map outlines the extremities of the area being tested. BH10 is the closest bore hole to the proposed FHHCC development. A depth of 4m of waste was recorded at this point, with waste depth ranging from 8.5m to 4m across the selected site (the full borehole log analysis is provided in Appendix 1).

It is noteworthy that MOR did not carry out any testing on the proposed development site immediately across the road from BH10. In addition the Summary of Site Investigation acknowledges the presence of gases present on site. On page 13 of 42, FT state re Trial Pit No. 3:- *"It was noted during excavation that little cover exists over the waste. During excavation a foul smell was noted.* On page 18 of 42, FT note in relation to Trial Pit No. 9:- *"During excavation it was evident that landfill gas was bubbling to the surface of the water in the trial pit"*.

The trial pit investigation carried out by MOR for FHHCC appears to be on the premise that there was no historic land filling in the area, yet both Wexford Co. Co. and MOR have both separately and

independently reported historic landfilling in the specific area of the proposed development see **Appendix 5 and 6**.

1.5 Faythe Harriers Hurling and Camogie Club Cover Letter submitted with Natura Impact Statement and dated August 14th 2015:

In its cover letter, FHHCC state that *“we feel they have been caught up in a situation here that is not of our making and over which we have no control”*. We submit that this assertion by FHHCC amounts to an admission by the Club of the difficulties with title and confirms the position as previously stated by us. We have already demonstrated to the satisfaction of the other three GAA clubs at Park the extent of the anomalies surrounding land ownership in the area. For the record these clubs are, St. John’s Volunteers, Sarsfields and St. Mary’s. We have also demonstrated the issues to members of FHHCC though not formally as the club has refused to hold any form of dialogue on any of the issues surrounding the current planning application.

We therefore refute the assertion made in the FHHCC letter and in this regard, we enclose the following documentation, **Appendix 9-11:-**

- Seamus F. Maye to Mr. William Murphy, Secretary FHHCC, March 25th 2014
- Seamus F. Maye to Mr. Liam O’Neill, President GAA, April 24th 2014
- Seamus F. Maye to Mr. James A. Murphy, Principle, Huggard Brennan Murphy Solicitors, January 23rd 2015.

It will be seen from this correspondence that we have made every effort to engage with FHHCC on all of the issues raised but have been met with a flat refusal. In all of these circumstances, we reiterate that the applicant, FHHCC has not been in a position to comply with Section 22 (1) (d) of Part 4 of the Planning Regulations and further that Wexford Co. Co. should have invoked Section 8 of the Planning and Development Act 2000.

1.6 Conclusion:

We submit that there are breaches of both Irish and E.U. Law in the manner in which the acknowledged landfill has been ignored by Wexford Co. Co. and also an unauthorized road has been constructed wherein Wexford Co. Co. acted in contravention of Irish and E.U. Law. This unauthorized road is now being proposed as the access route to the proposed development. Further, the MOR Natura Impact Statement is both inadequate and misleading in relation to the gravity of the landfill situation and the likely effects thereof at the proposed site and surrounding area. We further submit that there are issues in relation to land ownership that are relevant under Planning Law in so far as the applicant is unable to comply with its requirements and Wexford Co. Co. should have taken account of this. For all of these reasons together with the other grounds as previously submitted, we submit that our appeal should be upheld by ABP.

Sincerely,

Seamus F. Maye