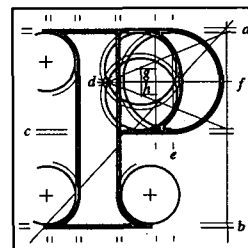


Our Ref: 27.JA0037
P.A.Reg.Ref:

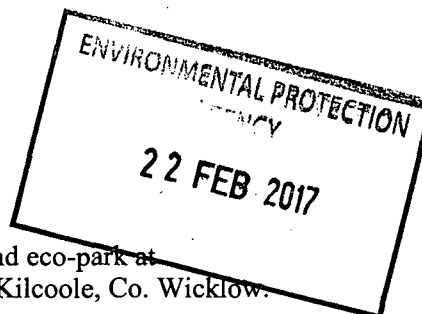
Your Ref:

Sub. no. 15



An
Bord
Pleanála

Dorota Richards
Environmental Protection Agency
Environmental Licencing Programme
Office Environmental Sustainability
P.O. Box 3000, Johnstown Castle
Co. Wexford



21 FEB 2017 Re: Proposed waste soils recovery facility and eco-park at
Pretty Bush, Priestsnewtown townland, Kilcoole, Co. Wicklow.

Dear Madam,


An order has been made by An Bord Pleanála determining the above mentioned case. A copy of the Board Order and Board Direction is enclosed.

In accordance with section 146(3) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,


Sinead McInerney
Executive Officer
Direct Line: 01-8737295

ADHOC/JA0037/13

Tel (01) 858 8100
LoCall 1890 275 175
Facs (01) 872 2684
Láithreán Gréasáin Website www.pleanala.ie
Ríomhphost Email bord@pleanala.ie



64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

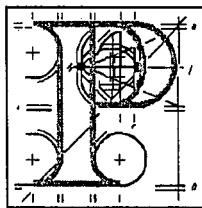
Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

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An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

An Bord Pleanála Reference Number: 27.JA0037

Wicklow County Council

APPLICATION by Wicklow County Council for approval under section 175 of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an environmental impact statement and a Natura impact statement, lodged with An Bord Pleanála on the 29th day of August, 2016.

PROPOSED DEVELOPMENT: Development of a waste soils recovery facility to facilitate the recovery of surplus dredging spoil generated as a result of the River Dargle Flood Improvement Works. Following clearance of vegetation from the site, up to 200,000 tonnes of inert dredging spoil material will be deposited at the site. Upon completion of placement and levelling of material, the site will be developed as an ecopark for public access and use, with an upgraded entrance and other ancillary infrastructure, including temporary and permanent drainage works and dedicated Council yard. In the townland of Priestsnewtown, County Wicklow.

DECISION

REFUSE to approve the above proposed development based on the reasons and considerations set out under.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

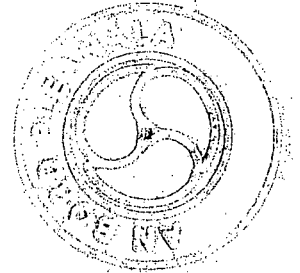
Having regard to:

- the nature and extent of the proposed development,
- the existing nature of the ecology on site,
- the planning history associated with the site and adjacent lands,
- the significant levels of recent urban development in the area, and
- the provisions of the Wicklow County Development Plan 2016-2022, including Objective NH13 which, inter alia, seeks to preserve this site in its existing state,

it is considered that the proposed development would give rise to significant levels of disturbance to the site's vegetation and ecology and introduce concerns in relation to the potential introduction of invasive species. The Board is not satisfied that the design and vision of the proposed ecopark and mini-depot is coherent or would be effective in delivering a high quality and usable local amenity. Furthermore, the Board does not consider that it has

NM

been adequately demonstrated that there are no other suitable alternatives for disposal of dredge spoil from the River Dargle Flood Defence Scheme or that the loss of biodiversity on the site has been adequately justified. It is, therefore, considered that the proposed development would be contrary to the provisions of the Wicklow County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.



Nicholas McSweeney

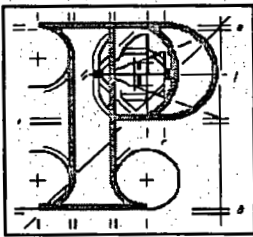
**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 20th day of February 2017.

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Consent of copyright owner required for any other use.

An Bord Pleanála



Board Direction

Ref: 27.JA0037

The submissions on this file and the Inspector's report were considered at a Board meeting held on February 16th, 2017.

The Board decided to refuse permission generally in accordance with the Inspector's recommendation, subject to the amendments to the Inspector's draft reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to:

- the nature and extent of the proposed development,
- the existing nature of the ecology on site,
- the planning history associated with the site and adjacent lands,
- the significant levels of recent urban development in the area, and
- the provisions of the Development Plan including Objective NH13 which, inter alia, seeks to preserve this site in its existing state,

it is considered that the proposed development would give rise to significant levels of disturbance to the site's vegetation and ecology and introduce concerns in relation to the potential introduction of invasive species. The Board is not satisfied that the design and vision of the proposed Ecopark and mini-depot is coherent or would be effective in delivering a high quality and usable local amenity. Furthermore, the Board does not consider that it has been adequately demonstrated that there are no other suitable alternatives for disposal of dredge spoil from the River Dargle Flood Relief Scheme or that the loss of biodiversity on the site has been adequately justified. It is,

therefore, considered that the proposed development would be contrary to the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

Note: The Board noted the Inspector's refusal reason in respect of the potential impacts on Natura 2000 sites arising from invasive species and decided that this matter might have been addressed by means of the submission of further information. Accordingly, and with due regard to the substantive reason set out above, the Board decided not to refuse permission for this reason.

Board Member: Nicholas Mulcahy Date: February 16th, 2017
Nicholas Mulcahy

Please issue copy of direction with order.

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JUDICIAL REVIEW NOTICE

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The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

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Modified 30/11/2011

FÓGRA FAOI ATHBHREITHNIÚ BREITHIÚNACH

Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le hait 13 den Acht um Pleanáil agus Forbairt (Bonnegar Straitéiseach) 2006, le hait 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le hait 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschírteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an cinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cui nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndeonofar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstantiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha i dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirlíne. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús

Athbhreithnithe 30/11/2011