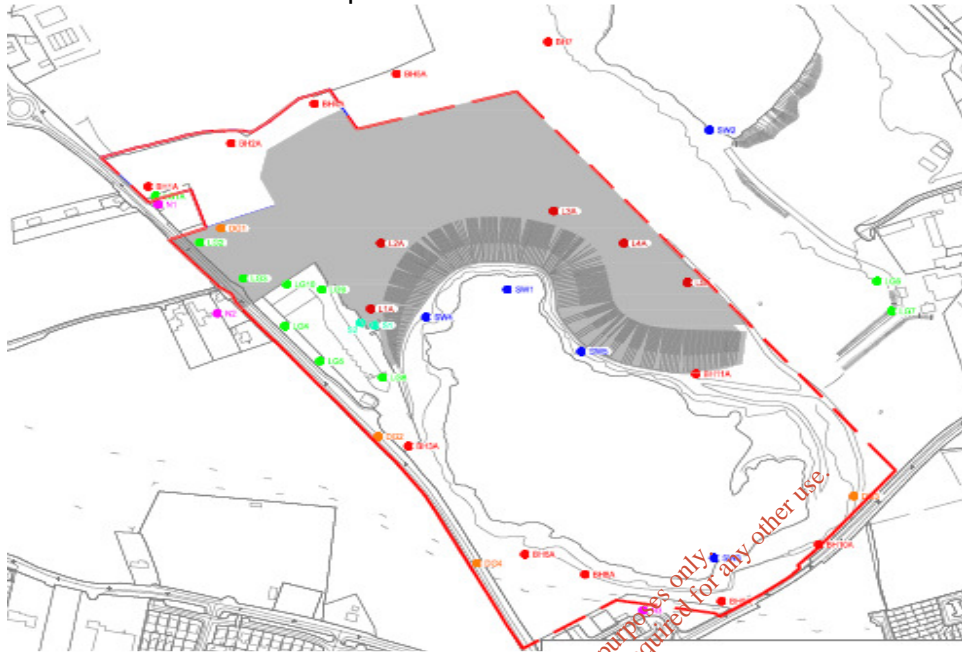


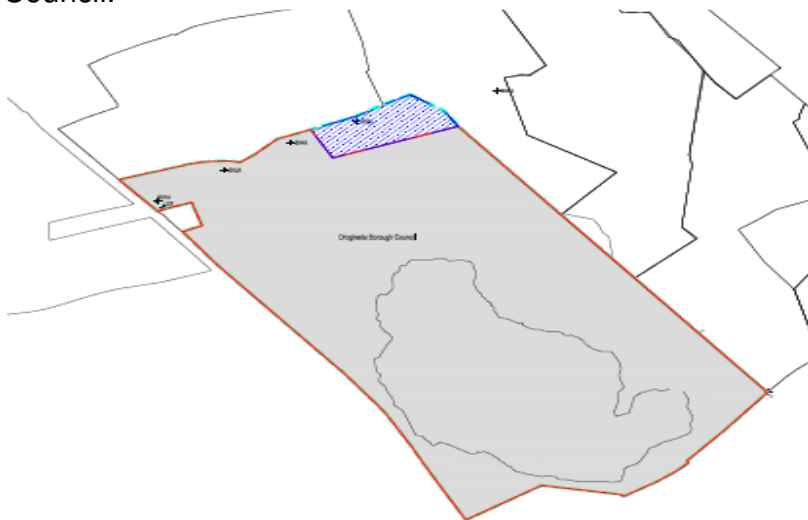
RE: Report on Extension of former landfill site boundary Drogheda

Background:

The site is the former landfill is located to the north of Drogheda and the site boundaries are delineated on the map below.



This was the site of the Drogheda municipal landfill site previously controlled by Drogheda Borough Council but now Louth County Council. The Council has an existing EPA license which covers the extent of the area highlighted in red on the map above. A portion of lands outside the subject red line (hatched in Blue – see map below) was used to dispose of waste pre 1995 which were not under Council ownership. The lands were 3 hectares in size. These lands have since been acquired by Louth County Council.



The Environmental Protection Agency had directed the Council to purchase the lands and to remediate, carry out works such as capping, gas network and surface water control. Environment Section of Louth County Council has submitted engineering works to EPA as required by them.

Status of works:

The EPA will not approve these works until the lands in question are brought within the boundary of the license. In order to change the boundary the EPA require Louth County Council to seek a review of the licence.

RPS consultants are starting the process of review on behalf of the Council. A question has arose as to whether planning permission is required for the boundary change or whether it is exempt from planning.

The original landfill licence was granted by EPA in 1999 and the various works were carried out at this time.

Environment section have sought written consent that planning permission would not be required for including the extended areas and remedial works into the EPA license application.

Legislative Context:

I note previous exemptions under the 1963 Planning & Development Act which provided consents to local authorities. From internal consultations I have established that the landfill in Drogheda operated from 1983 until December 1999 and thus would have operated under the 1963 Local Government (Planning & Development) Act.

Section 4(1)(c) of that Act is relevant as it give powers to Borough Councils to carry out any development.

Exempted Development 4 – (1) The following shall be exempted development for the purposes of this Act

- (a) development consisting of the use of any land for the purposes of agriculture or forestry (including afforestation), and development consisting of the use for any of those purposes of any building occupied together with land so used;
- (b) development by the council of a county in the county health district;
- (c) development by the corporation of a county or other borough in such borough;
- (d) development by the council of an urban district in such district;

On this basis, the landfill which was operated by Drogheda Borough Council, including lands where dumping occurred outside the site would have been exempted development under that Planning Act, but would have required a licence.

I understand that 1963 Act was not superceded until 2000 when the Planning & Development Act 2000 came into being. By this stage the Drogheda landfill site had stopped receiving waste.

The Planning & Development Act 2000 sets out its description of exempted development for the purposes of this Act.

4.—(1) The following shall be exempted developments for the purposes of this Act—

- (a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;
- (b) development by the council of a county in its functional area, exclusive of any borough or urban district;
- (c) development by the corporation of a county or other borough in that borough;
- (d) development by the council of an urban district in that district;

The Planning & Development Regulations 2001 (as amended) set out under article 11 that “Development commenced prior to the coming into operation of this Part and which was exempted development for the purposes of the Act of 1963 or the 1994 Regulations, shall notwithstanding the repeal of that Act and the revocation of those Regulations, continue to be exempted development for the purposes of the Act”.

Appropriate Assessment:

The 2000 Act was similar to the 1963 Act but later amendments to this Act introduced Appropriate Assessment (AA) Guidelines for Planning Authorities 2009 – which stated that it is unacceptable to fail to undertake AA on the basis that it is not certain that there are significant effects.

Consent can only be given for plan/project having ascertained that it will not adversely affect the integrity of the site concerned. Accordingly Louth County Council undertook to carry out an Appropriate Assessment Screening report for the extended lands at Drogheda landfill site. The AA screening report had been carried out by RPS.

The conclusion of the report advises that

“A screening exercise was completed in Section 4 of this report to determine whether or not ‘Likely Significant Effects’ on any European site could be discounted as a result of the proposed development”.

The likely impacts that will arise from the restoration works at the Drogheda site have been examined in the context of a number of factors that could potentially affect the integrity of the river water bodies and associated European sites. It concluded that it is unlikely that the proposed restoration works will result in a significant impact on the water quality in the Tullyeskar_010 and therefore the conservation objectives of the water dependent qualifying features within the hydrologically connected Natura 2000 sites downstream.

The landfill restoration works is unlikely to compromise the water body and will not prevent the achievement of the assigned WFD objectives for the waterbody. Additionally, the operational phase will improve water quality resulting in significant positive impact to downstream European sites, in particular the River Boyne and River Blackwater SAC.

From the findings of the screening stage exercise, the possibility of likely significant water quality and habitat deterioration effects can be discounted for all the downstream European sites due to their hydrologically connectivity.

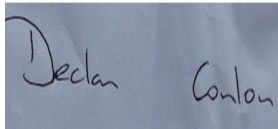
It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in-combination with other plans or projects would not be likely to have a significant effect on the River Boyne & River Blackwater SAC or any other European Site, in view of the site’s Conservation Objectives and a Stage 2 AA (and the submission of a NIS) is not therefore required.

Conclusion & Recommendation:

Having regard to the above I consider that the extension of the landfill site for EPA licensing purposes can be considered as falling under exempt development as provided in the Planning & Development Act 2000. The submitted AA screening report advises that having regard to (remedial works at the landfill site and the potential impact this may have on the water quality and the surrounding Natura 2000 sites), no AA issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

As the competent authority I consider the submitted assessment to be robust and I am satisfied that the proposed development would be unlikely to have a significant effect individually or in combination with other plans and projects on a European site.

Accordingly I wish to advise that the proposed works are considered exempt development under the meaning of the Planning & Development Act 2000.

A rectangular image showing a handwritten signature in black ink on a light-colored background. The signature reads "Declan Conlon".

Declan Conlon
Executive Planner
Date:

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