

An Bord Pleanála
64 Marlborough St.
Dublin 1 DV1 V902

our ref: 1709
date: 12/10/2022

Ref: Tipperary Co.Co. Ref 2260121
Reconstruction and extension of existing agricultural storage structure including use as organic material maturation and extension to existing storage facility, increase in allowed intake of organic material from 50,000 to 75,000 tonnes per annum to the processing facility, air handling bio-filter installation and associated extract and input fans, all necessary site works, an Environmental Impact Assessment (EIAR) will be submitted with the application to Tipperary Co. Co. with the planning application and the proposed development will require a review of the site's EPA Industrial Emissions Licence (W0270-02) at Milltownmore, Fethard, Co. Tipperary, E91X8E8.

Client: Milltown Composting Systems Ltd. Milltownmore, Fethard

Site Location: Milltownmore, Fethard , Co. Tipperary.

Dear Sir or Madam,

On behalf of our client and applicant, Milltown Composting Systems Ltd, we wish to appeal the following conditions relating to financial contributions

7. Prior to the commencement of development, a payment of a financial contribution shall be paid to the Planning Authority in respect of public infrastructure and facilities benefiting development in the administrative area of Tipperary County Council that is provided, or intended to be provided, by or on behalf of the Authority in accordance with the terms of the Tipperary County Council Development Contributions Scheme 2020 made under Section 48 of the Planning and Development Act, 2000 (as amended). The amount of the development contribution under this condition is €68,513.90 which is calculated as follows:

Class	Rate 2020 per sq.m	Area sq.m		Total
8	€23	3566.16	Permission	€82,021.68
Less contribution associated with former agri sheds that are being re-developed - €13,507.78				€68,513.90

REASON: It is considered reasonable that a contribution be made in accordance with the Tipperary County Council Development Contributions Scheme 2020 made under Section 48 of the Planning and Development Act 2000 (as amended).

8. Prior to the commencement of development, the developer shall pay to the Planning Authority a financial contribution as a special contribution in accordance with Section 48(2) (c) of the Planning and Development Act 2000 towards the cost of road widening works at junction of the L1409 and L14028-0. The amount of contribution payable in respect is €23,275. The contribution shall be index linked and shall reflect the developer equitable share of the capital costs.

REASON: It is considered reasonable that the developer should make a special contribution towards the expenditure proposed to be incurred for exceptional (specify type) infrastructure costs associated with and necessitated by the development.

Our reasons for this appeal are as follows;

Condition No 7

The application in this instance was clearly for the extension of an existing Agricultural structure and that agricultural use.

The application fee paid was for an agricultural structure in compliance with Tipperary Co Co schedule of fees @ 1 euro / m2 Class 3

3. The provision of buildings or other structures for the purposes of agriculture or the keeping of greyhounds. (i) In the case of buildings, €80 for each building, or €1 for each square metre of gross floor space to be provided in excess of 50 square metres in the case of a building for the keeping of greyhounds or 200 square metres in any other case, whichever is the greater, (i) In the case of buildings, €240 for each building, or €3 for each square metre of gross floor space to be provided in excess of 50 square metres in the case of a building for the keeping of greyhounds or 200 square metres in any other case, whichever is the greater, (ii) in the case of any other structures, €80 for each structure, (ii) in the case of any other structures, €240 for each structure, subject to a maximum of €300.

An application for a commercial structure under class 4, would have required a fee based on 3.60 euro / m2

The application wording specifically included the use of organic material maturation and extension to existing storage facility. The storage area currently referenced shed 2 and shed 3 are agricultural and have planning consent for that use ref 14600521

The Planning Authority accepted the application and did not question the existing or intended use at any stage of the planning process.

The Planning Authority did not discuss the issue with the applicant or advise on the amount of this contribution which is very significant. The only reference to the alternative interpretation of the application class is in the text box of the contribution calculation.

The text of the Planner's Report clearly states the use as agricultural

The proposal includes for reconstruction and extension of agricultural storage structures. Said structures have a total floor area of 2,955.96 sq m (measurements taken from PI Ref 19600690). The contribution amount applicable to the existing agri building is €13,507.78 (2,455.96 sq m x €5.50 per sq m, 500 sq m allowance under Section 12 allowed for).

I submit that this contribution has been improperly applied by the Local Authority

The correct contribution is the total proposed floor area of 3566 m² less the existing sheds of 2456 m² giving a total additional area of 1110 m².

The contribution scheme discounts the first 200 m²

This leaves 910 m² liable for the contribution of 5.50 / m², a total of 5005 euro.

My clients operate a Composting facility on this site. Part of the process is commercial and is conducted in an area designated as such and under an existing planning permission.

The operation is also subject to inspection under licence from the EPA.

There is also an agricultural element to the process and part of the existing facility operates under planning granted for this purpose

The proposed storage sheds are intended for agricultural only aspects of the enterprise

An understanding of the detail of the operation is essential to resolve this dispute

Please see the attached brief description of the process with photographs.

The application was accompanied by a comprehensive EIAR in relation to the increase in Tonnage throughput, but does not relate to the reconstruction of these agricultural sheds.

Condition No 8

8. Prior to the commencement of development, the developer shall pay to the Planning Authority a financial contribution as a special contribution in accordance with Section 48(2) (c) of the Planning and Development Act 2000 towards the cost of road widening works at junction of the L1409 and L14028-0. The amount of contribution payable in respect is €23,275. The contribution shall be index linked and shall reflect the developer equitable share of the capital costs.

REASON: It is considered reasonable that the developer should make a special contribution towards the expenditure proposed to be incurred for exceptional (specify type) infrastructure costs associated with and necessitated by the development.

The Planning Authority did engage with the applicant on this point.

An explanation of the cost associated with the road widening is not provided and is not possible to understand how the "equitable share" of the cost is calculated.

The application followed an earlier application for the exact same development (21/ 808) which was refused by the Planning Authority for various reasons none of which included reference to the access road or its capacity. My client did, following a request from the Planning Authority, agree to negotiate the required consent of an adjoining land owner to facilitate the County Council in altering the junction in question. However the Planning Authority did not proceed with this option despite my client's assurance on full reimbursement on costs involved.

Following RFI and detail discussions with the applicant the proposed road widening was omitted from the application.

Extract from the Planner's report confirms that my client does not own the area required for the road widening

Therefore no significant environmental impacts arising from traffic movements through operation are anticipated provided the mitigation measures proposed are implemented. As the applicant does not own lands on which road widening is proposed same can be undertaken by the Council. A special development contribution can be sought to cover the cost of same as per the costing provided by the District Engineer.

This however, overlooks the fact that the Council does not own the required area either, and have no certainty of an agreement with the owner. It is unreasonable for the Council to demand a contribution for a special purpose without a breakdown of cost and without any certainty of being able to complete the works.

I submit that the original agreement with the District Engineer would resolve the issue and at significant financial saving to the applicant.

I hope the Bord can consider this appeal favourably and issue a grant with the above conditions removed or amended as suggested.

Please find attached the following, in support of this appeal:

- a) Copy of Decision ref Tipperary 22/60121
- b) Cheque for 220 euro as per A8 schedule ABP
- c) Site Plan Diagram A-01

Please contact this office directly if you have any questions or queries relating to this appeal. Please direct all correspondence to this address.

Yours sincerely,

Ed Walsh FRIAI

PROCESS DESCRIPTION

The main process buildings for the facility consist of the waste reception building and the principal compost process building (i.e., Shed 1). Under Planning Ref. 04188, Shed 1 was changed from an agricultural building to a commercial building based on it being the main process building where composting takes place. Under Planning Ref. 14600521 the reception yard was covered with a roof and became the waste reception shed and is part of the commercial operation along with Shed 1. The composting facility is an in-vessel system that can process a broad range of compostable materials including source segregated household kitchen waste; catering wastes; non-hazardous industrial and municipal waste water sludges and organic fines generated in the treatment of mixed municipal solid waste (MSW).

The composting process, depending on the nature of the source material, can involve initial screening to remove contaminants, blending with bulking agents, composting in separate enclosed tunnels and bays, maturation in windrows and post treatment to remove impurities. Due to the modular lay-out, the tunnels/bays can be operated independently, which provides flexibility in treating the different organic waste streams. The finished product can, depending on quality, be used for horticultural and agricultural purposes, or as landfill cover.

Existing sheds 2, 3 and 4 are agricultural amendment stores (maturation sheds) as outlined in Planning Ref. 14600521 (to construct an enclosure over the reception yard, relocate the communications masts, extend 3 no. agricultural amendment stores, incorporating existing staff facilities and associated site works) where processed organic material is matured following composting in Shed 1 to ensure that full bio-stabilisation of the processed organic material has taken place.

Due to the relatively short time period that the organic material spends in the composting bays during the process phase in Shed 1 and the waste reception shed it is considered that the existing process facility bays will be capable of processing

the increased throughput. However, the capacity to mature the material following processing will require an increase in maturation area at the facility. It is proposed that the old agricultural sheds located to the west of the reception shed would be reconstructed **and used** as maturation sheds 2B and 3B to allow for the maturation of organic material as an extension of the maturation process completed in Sheds 2 and 3.

The proposal under Planning Ref. 2260121 is for the reconstruction of two old agricultural sheds to the west of the existing composting facility buildings (i.e., Reception Shed and Shed 1) as maturation and amendment sheds similar in nature to existing Sheds 2 and 3. The proposed development in Planning Ref. 2260121 includes to increase the throughput of material at the composting facility to approximately 240 tonnes per day (not exceeding 75,000 tonnes per annum) and include for the reconstruction of two old agricultural sheds (i.e., maturation sheds 2B and 3B) as additional maturation capacity for the proposed increased facility throughput.

PROCESS PHOTOGRAPHS AND DIAGRAM

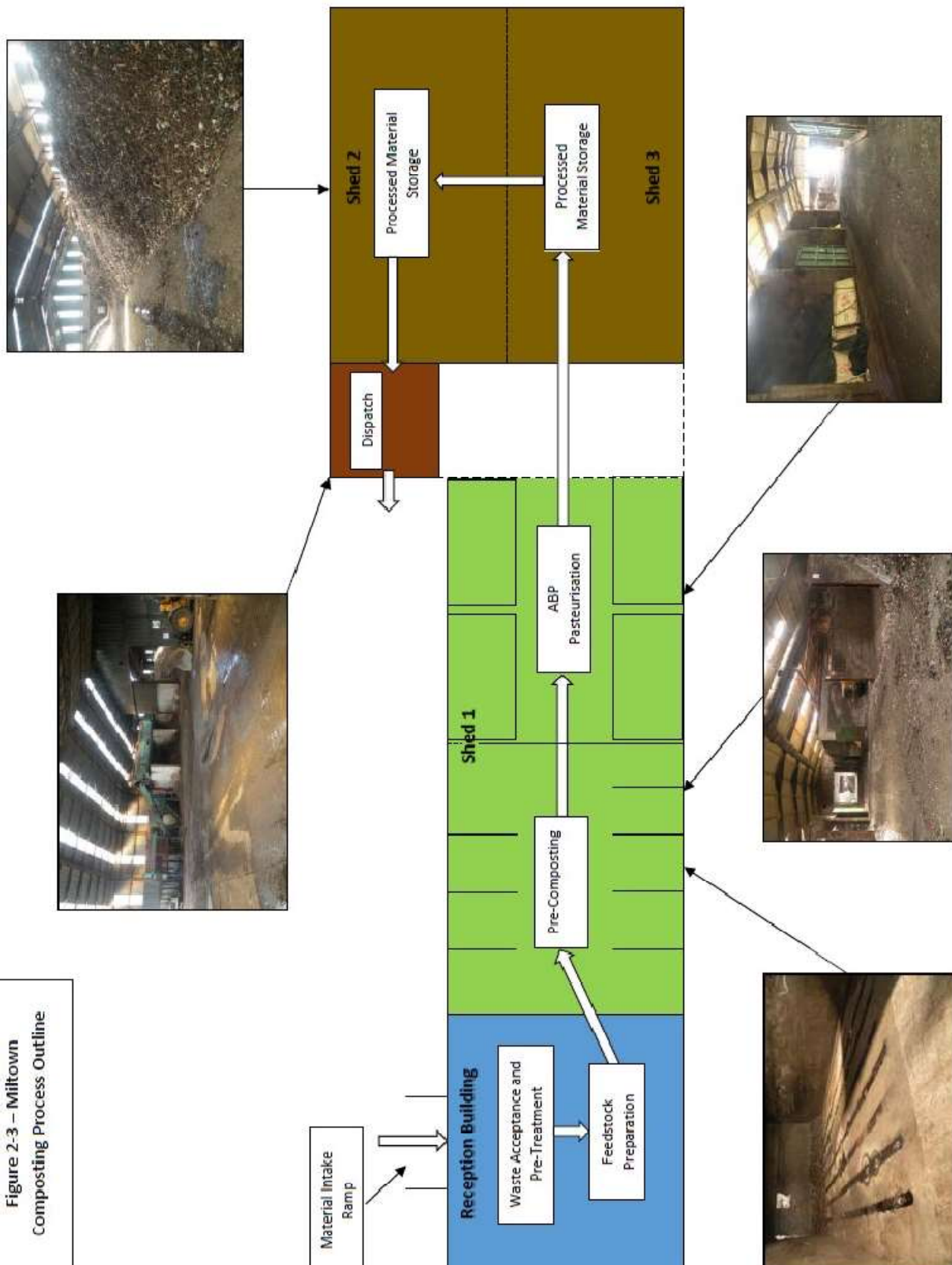


Figure 2-3 – Miltown Composting Process Outline