



MSe Spatial Planning
Proper Planning & Sustainable Development

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to An Bord Pleanála
Marlborough Street
Dublin
Ref. RL 27R 2690

Sunday, 21 February 2010

Dear Sirs,

Thank you for the opportunity to respond to the statement of Frank O'Gallachoir on behalf of Multimetals Recycling Ltd. The Murrough, Wicklow Town.

1. Firstly on behalf of Friends of the Murrough and the River Vartry Protection Society I wish to vehemently **refute any suggestion that this question is vexatious** or that Friends of the Murrough and River Vartry Protection Society have no locus standi.

Friends of the Murrough have received over 2500 signatures on a petition regarding the protection of the Murrough area (not specifically relating to this project but an indication of the interest in the area). We have over 670 signed up members on the facebook site and thousands of hits on the website.

The River Vartry Protection Society is also a local group whose objectives would include the protection of the river that feeds into Broadlough.

This matter has been widely discussed and the querists have been encouraged to take this public interest case. There is no personal issue with the land owner and Friends of the Murrough were quick to remove from our website the personal address of the directors of Multimetals (which was publicly displayed on the front page of their application that we uploaded for information) when asked by their engineer.

The sole concern is to protect this high amenity area, the only civic space of its kind adjoining our town from further degradation thus also protecting the economic value of tourism to the town and to protect the ecosystem of the river and Broadlough..

As you will be aware there is no facility for a third party to comment or appeal the decision of the local authority regarding the original Section 5 query from Multimetals and as the querists were concerned that the Council were in error in determining that this development did not require planning permission they had no choice but to submit their own query to get an independent opinion from An Bord Pleanala.

This appeal is not vexatious but the querists are concerned by the behaviour of the developer. There is a history of unauthorised development and enforcement action on the Blessington site of this business and business has already commenced at this site putting it in clear contravention of many of the conditions attached to the permit granted by Wicklow County Council in December 2009. A letter written by the Friends of the Murrough to the Environment Section of Wicklow County Council is attached. Although the erection of the offices, WC and pay station is not of particular concern to the group it is of concern that the developer has consistently failed to follow the rules and there are real fears for the future of this sensitive site.

2. In the introduction on page 2 of the statement by O’Gallachoir it is stated that this **general industrial use is not suitable in or close to residential areas or a modern industrial park.** This statement has no relevance to the question as to whether planning permission is required to develop this site to recycle end of life vehicles . The rights and wrongs should, the querists believe, be dealt within the context of a planning application however it should be said that there are 4 occupied properties within a few metres of the boundary of this development as well as other habitable properties. See 2 attached

The 2007 Wicklow Town Plan zoned this area for employment use but this was constrained by the specific attributes of the area and limited to light industry or existing use. **In 2007 the existing use was an empty yard attached to an abandoned factory with over grown scrub down towards the water -** . The people in nearby houses could not have anticipated that a noisy dirty metal recycling facility could be developed in their neighbourhood without being able to make a submission to a further planning application.

The development will also impact significantly on the residential amenity of residents of Church Gate who are only around 500m away, uphill and upwind of the site. They have also been denied the opportunity to make a submission.

As stated by O’Gallachoir, there is also planning permission for a modern enterprise centre which was presented as clean light industry in its application.

The developer’s planner appears to admit then that this is not a suitable site for metal recycling as there is residential and potential light industry in the area but their case should be made to the planning authority within the context of a planning application.

3. It is also important in the context of the query to note that, whilst this development does not interfere with any view or prospect listed in the Development Plan (which would automatically preclude the exemption from the need to apply for planning permission) **it will have a significant impact on a very important view from the railway line and the new Port Access Road.** (see attached photos) This location is at the main access point to Wicklow town’s primary tourist asset as stated in the Town Plan and the public realm plan. Entrances to towns are critical to urban design. The visual impact on this important view should be considered in the context of a planning application.

4. Another misrepresentation that distorts this discussion is on page 6 of the developer’s statement where it is stated that “the distance of the site boundary from Broadlough is over 60 metres.” This is not correct. **The steel uprights for the boundary wall are 19 metres from the path around Broadlough and 25 metres from high water mark.** This is critical in terms of the potential for accidents to damage the water quality of Broadlough, a protected site, and the inevitable damage to the amenity of walkers on the path around the lough. The propensity of the developer to make such critical errors is worrying. See photo 3

5. I concede an error in the original appeal. It is acknowledged that this is an industrial process and that Section 10 of the regulations is not applicable: however, it is still maintained that **this is a material change of use.**

Section 3 (2)iii of the Planning and Development Act 2000 states that *where land becomes used for the deposit of vehicles whether or not usable for the purpose for which they were*

constructed or last used, old metal...the use of the land shall be taken as having materially changed.

The querists maintain that the development proposed will include the 'old metal' and 'deposit of vehicles', whether or not the cars have been previously stripped, and as stated in the appeal it is maintained this is a material change of use in accordance with the Act as above.

The developer's case is noted that "*cars are de-polluted and then compacted in a short turn around period*" and that "*no scraps or spare parts are sold from the site*" but are neighbours and concerned residents to accept that this is significantly different from the industrial process that the Act and Regulations seek to control? What was the intention of the original Act? Wasn't the intention of the Act to make sure that a dirty industry that included old cars and their toxic components could not slip into being and avoid the rigours of applying for planning permission? Wasn't the intention of the Act to ensure that such a material change of use was always subject to proper planning? If the language is somewhat dated does that undermine the clear intention of the Act? Clearly, what occurs here involves a deposit of vehicles. It does not matter that vehicles are only deposited temporarily. That is the situation in all facilities of this kind. The key point is that the activity in question falls under the scope of 3(2)iii of the 2000 Act, and this legislation continues to govern the issue.

I contend that the intention of the law is to ensure that this type of industrial process is fully considered whenever it is proposed, whether or not it is on a site that has been used for industrial processes in the past specifically because it is so unpleasant to be near. It can never be exempt and rightly so.

It is materially different from the manufacture of prefabricated buildings because i) there are toxic elements to the end of life vehicles that require de-polluting ii) There are less jobs iii) there are very many more large noisy trucks iv) the process of compacting is very noisy; v) it is very dirty with potentially significant amounts of air born dirt; v) it is very untidy with poor visual amenity

It is materially different because the Act says that the deposit of vehicles and old metal is a change of use.

6 I also note that Part 1 Schedule 2 Class 22 exemptions in the Regulations 2001 are limited : where "*raw materials, products, packing materials, fuel or waste stored are visible from any public road*" the development will not be exempt.

I would particularly like to draw your attention to point 3.4.6 page 8 of the developer's statement. This states that "storage is not visible from any public road". This is not correct Piles of scrap metal are already visible from the Port Access Road. See attached photo 4

7 It is claimed that this is a continuation of use on a very old existing industrial site however at least **a quarter of this site was not part of the old chemical factory site** but until the 1960's was originally an island separated from the chemical works by a channel of water which has since been infilled over time, and now claimed by the current owner. The 'island' part of this site was covered in scrub until around 2000 when the land was levelled and a fence was erected marking the new boundaries of this site in around 2004. Until then around the third of the site nearest the water was idle and accessible to the public as a walk way. The scrub grew back on this part of the Multimetal site and was removed in 2009. See attached old photos 1 & 5 and map 2

In summary, it is accepted that this is an industrial process being carried out on land some of which was previously industrial however we adamantly maintain that this specific industrial process including the de-polluting and compaction of metal including end of life vehicles is a material change of use as described in the Development and Planning Act 2000 and not exempt from the need to apply for planning permission. This development will significantly affect the residential and visual amenity of neighbours and the community at large and should be submitted to the scrutiny of a planning application and appropriate assessment to ensure that there is no possibility that vehicle pollutants could escape along any pathways to the river which is less than 25 metres away.

Judy Osborne on behalf of Friends of the Murrrough and Vartry River Protection Society