

To Planning Department
Wicklow County Council
Wicklow Town

Thursday, 22 October 2009

Dear Sirs,

Section 5 Referral under Planning and Development Act 2000

A question has arisen as to whether or not a metal recycling facility and the construction of a 1.8 metre wall is or is not development and if it is development, is it or is it not exempted development.

I and on behalf of Friends of the Murrough and Vartry River Protection Society request a declaration from the local authority on this matter as set out in Planning and Development Act 2000 Section 5.

A recent declaration on this very same matter (order no. 9655/09) determined that breaking up a vehicle is an industrial process and as such would accord with the current usage of the site. It was decided that external storage and hard surfacing areas are acceptable under class 22.

Friends of the Murrough make the following points in support of our own query:

Is this development ? Yes, we submit that it is development

Planning and Development Act 2000 Section 3 states that *development means the carrying out of any works on, in or under land or making of any material change in the use of any structures or other land.* Section 3 (2) iii 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...the use of the land shall be taken as having materially changed.*

Thus this is a change of use even though it was interpreted by the Planning Officer in the previous query as being a continuation of existing use as an industrial process.

Is this exempted development? No, we submit that it is not exempt.

Planning and Development Regulations 2001 Section 10 (1) states that

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act,

This would include industrial processes

However Section 10 (2) (b) states that

Nothing in any class in Part 4 of the Schedule 2 shall include any use—

(v) as a scrap yard, or a yard for the breaking of motor vehicles,

It is therefore our submission that a proposal for recycling or reclamation of metals and metal compounds, recycling or reclamation of other organic materials, reception storage and

recovery of scrap metal including scrap metal arising from end of life vehicles) and Storage of waste are NOT exempted development and the proposal from Multimetal Recycling DO require planning permission.

Is the proposal for a 1.8 metre high wall exempt from planning permission? No, we submit that a 1.8 metre wall requires planning permission.

Planning and Development Regulations 2001 Schedule 2 part 1 CLASS 11 states that the height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced whichever is the greatest.

The 2 metre limit only applies to walls that are replacing existing high walls.

As the wall currently being built is new, not replacing another structure, it should not be above 1.2 metres without planning permission. The application is for 1.8 metres.

It is therefore submitted that the proposals from Multimetals Recycling at the site along the Murrough does require planning permission and in view of its location beside a protected river, will require Appropriate Assessment.

Yours truly,

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