

#### **4. Development Details:**

Please provide details of the proposed development for which an exemption under Section 5 of the Planning and Development Act is applied for.

(Note: only works and uses listed and described under this section will be assessed under this Section 5 Application. Use additional sheets if required.)

Whether the use of the site for materials recycling and transfer facility is or is not development and is or is not exempt development. Also is minor associated works are exempt development under Class 21 of PDR, 2001 as amended.

#### **5. Legal Interest of Applicant in the Land or Structure:**

<p><i>Please tick appropriate box to show applicant's legal interest in the land or structure</i></p>	<input type="checkbox"/> A. Owner	<input type="checkbox"/> B. Occupier
	<input checked="" type="checkbox"/> C. Other	
<p><i>Where legal interest is 'Other', please expand further on your interest in the land or structure</i></p>	Leasehold	
<p><i>If you are not the legal owner, please state the name and address of the owner</i></p>	Name: Mr. Martin Phelan Address: Sheehane, Roscrea, Co. Tipperary	

Signature of Applicant(s) *David Mulcahy*

Date: 9.4.25

**Note: If the proposed development consists of works to a (Proposed) Protected Structure and/or any structure within the curtilage of a (Proposed) Protected Structure, an application for a Section 57 Declaration may be more appropriate.**

## **GUIDANCE NOTES**

- (1) All queries on the form must be completed and the form must be accompanied by the relevant fee. The amount of the fee is currently **€80.00**.
- (2) This application should be accompanied by **TWO COPIES** of the following documentation
  - o OSI Site Location Map with the site outlined clearly – 1:1000 in urban areas and 1:2500 in rural areas
  - o Floor Plans & Elevations at a scale of not less than 1:200
  - o Site layout plan indicating position of proposed development relative to premises and adjoining properties
  - o Other details e.g. brochures, photographs if appropriate.

(All dimensions must be given in metric scale and drawings should be accompanied by a brief description outlining the use of the proposed development)
- (3) Where a proper and complete application is received, a decision must be conveyed to the applicant within four (4) weeks except where additional necessary information is required.

**This application form and relevant fee should be submitted to:**

<b>Planning Section, Tipperary County Council, Civic Offices, Limerick Road, Nenagh, Co. Tipperary</b>	<b>OR</b>	<b>Planning Section, Tipperary County Council, Civic Offices, Emmet Street, Clonmel, Co. Tipperary</b>
<b>Enquires:</b>		
<b>Telephone 0818 06 5000</b>		
<b>E-Mail <a href="mailto:planning@tipperarycoco.ie">planning@tipperarycoco.ie</a></b>		

<b>FOR OFFICE USE ONLY</b>	
<b>DATE STAMP</b>	
<b>Fee Recd. € _____</b>	
<b>Receipt No _____</b>	
<b>Date _____</b>	
<b>Received by _____</b>	



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## **PLANNING REPORT**

TO SUPPORT SECTION 5  
APPLICATION CONCERNING

### **USE OF YARD IN FORMER ROSCREA BACON FACTORY FOR MATERIALS RECYCLING AND TRANSFER FACILITY**

AT

**CASTLEHOLDINGS, ROSCREA, CO. TIPPERARY**

Client: ROC Recycling Solutions Limited

8<sup>th</sup> April 2025

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## 1.0 INTRODUCTION

David Mulcahy Planning Consultants Ltd have been engaged by **ROC Recycling Solutions Limited** to prepare a planning report in support of a section 5 application to establish if the proposed use, materials recycling and transfer facility at Castleholdings, Roscrea, Co. Tipperary, is development and, if so, is it exempted development.

A declaration is sought under Section 5 of the Planning and Development Act 2000 (as amended) from Tipperary County Council to establish:

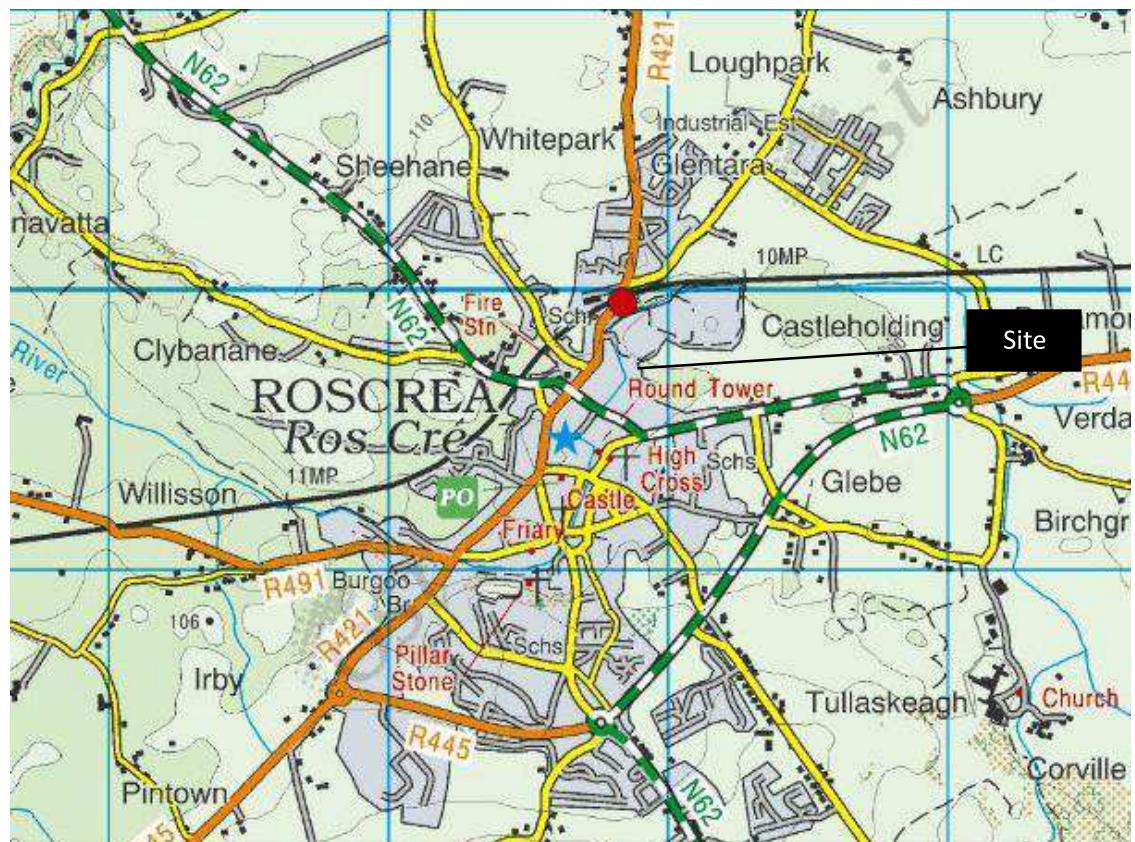
*"Whether the use of a yard at Castleholdings, Roscrea, Co. Tipperary for the purpose of materials recycling and transfer facility is or is not development and is or is not exempted development".*

And also, to declare that the associated minor works are exempt development under Planning and Development Regulations, 2001 (as amended) Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes, Class 21.

## 2.0 SITE LOCATION AND DESCRIPTION

### 2.1 Location

The subject site is located to the north-east of the town of Roscrea, east of Bunkers Hill in Castleholdings - see Fig. No.1.



**Fig No.1:** Site Location Map (source: Myplan.ie - OSI Licence No.EN 0080915).

### 2.2 Site Description

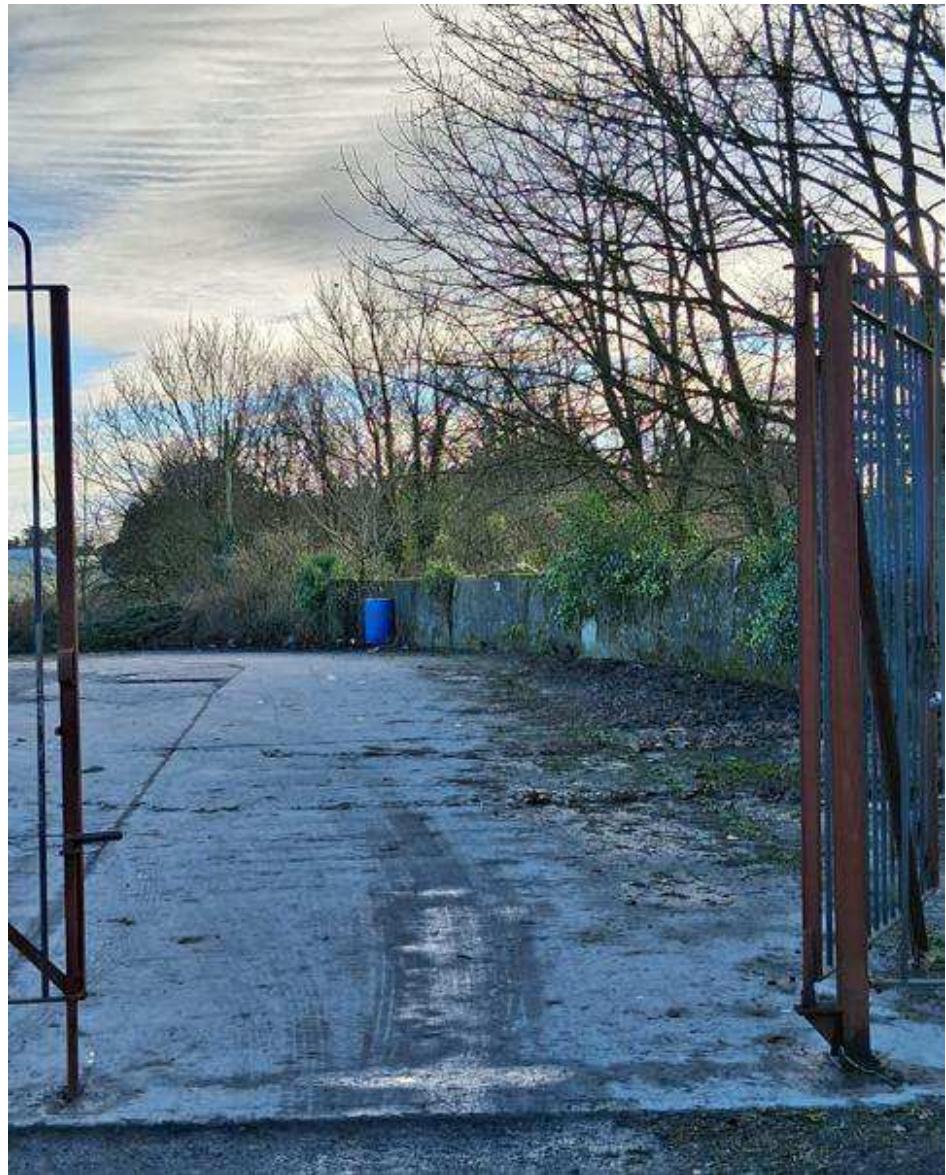
The subject site (c.0.8ha) forms part of a wider industrial premises containing a number of different industrial operators. It currently consists of a yard used for storage by Ashbourne Meats.



**Fig No.2** Main entrance to the Old Bacon Factory site from public roadway R421 at Bunkers Hill Townparks.



**Fig No.3** Entrance to the Phelan's Pallets yard



**Fig No.4** View from the Phelan Pallets yard entrance gateway up along riverside boundary



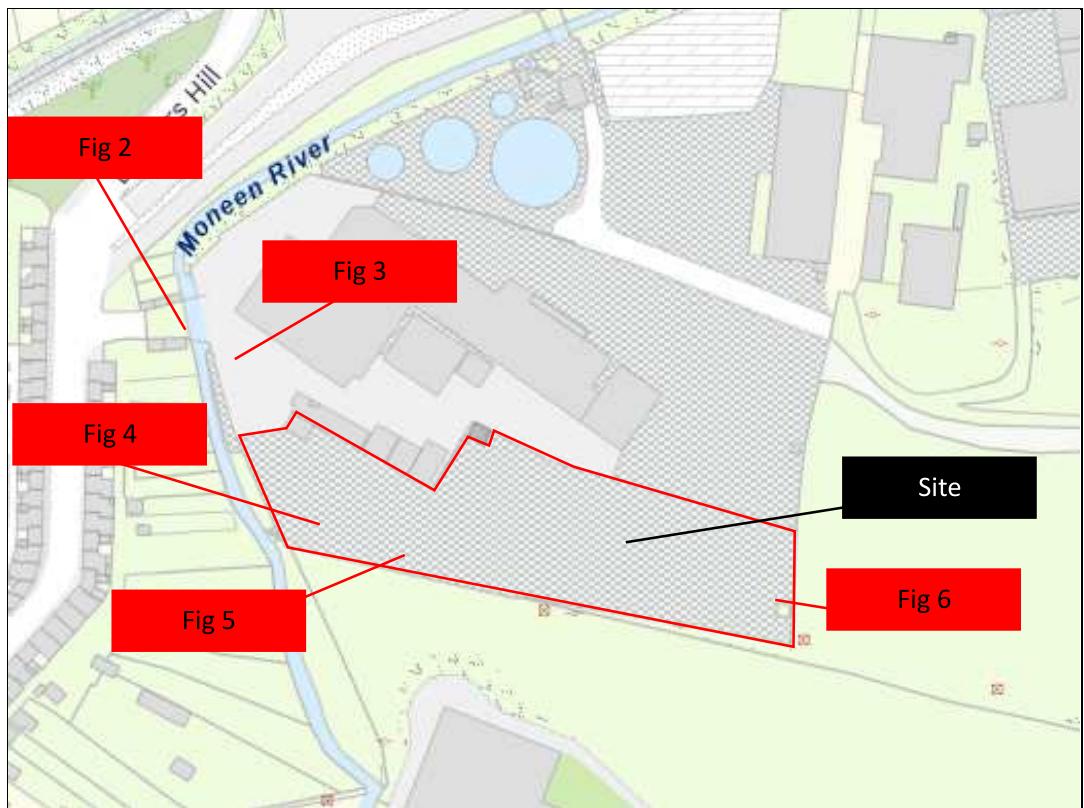
**Fig No.5** River boundary wall and hedgerow



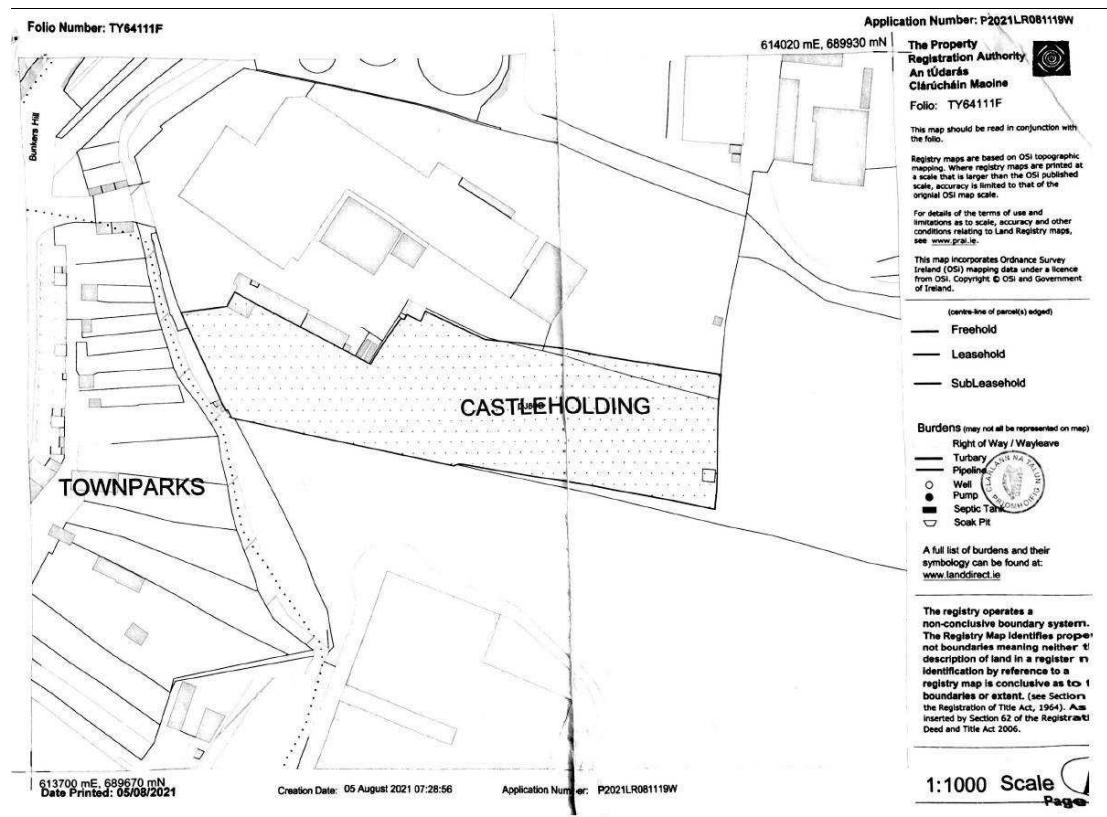
**Fig No.6** Rear of site with soil embankment and hedgerow behind.

The boundary of the site is formed by mature hedgerow/trees to the east, west and south. To the north there are a number of small scale buildings and structures adjoining the site.

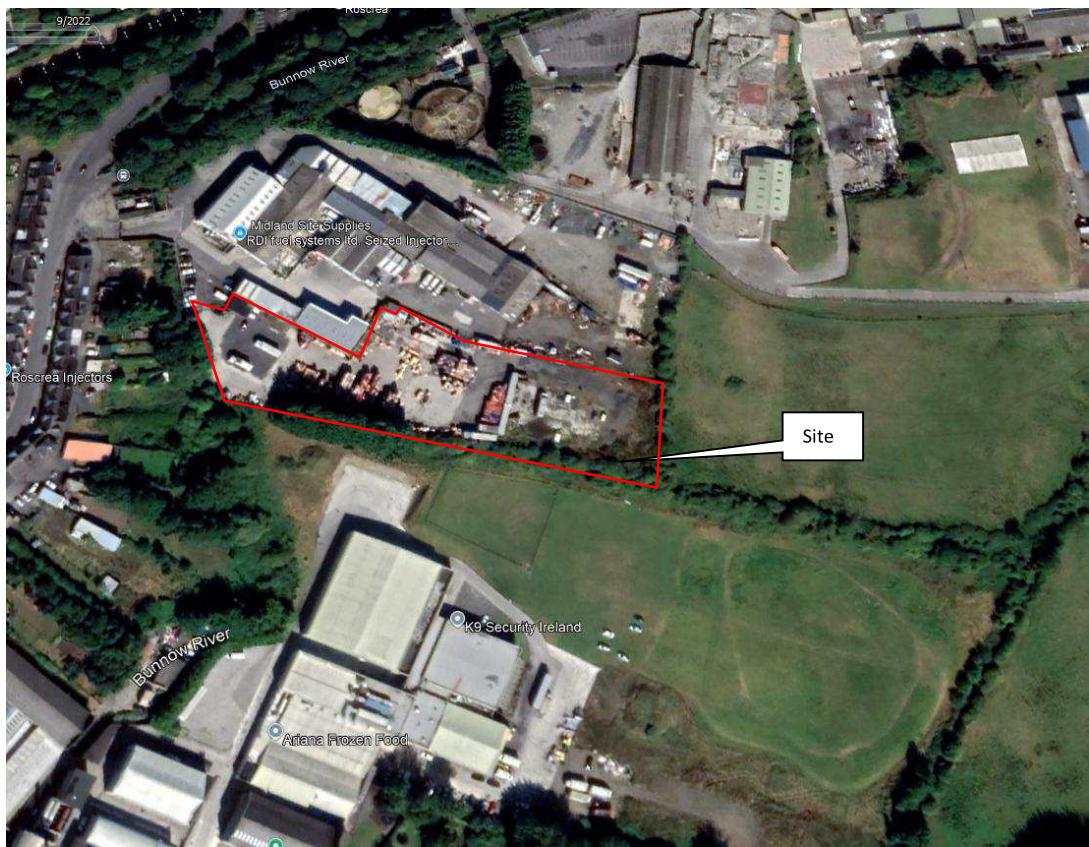
Access to the site is via the main entry point of Bunkers Hill to the overall industrial estate.



**Fig No.7** Site Context (source: Eircode.ie mapping) with location of photographs shown.



**Fig No.8** Folio map showing site outlined – source: client.



**Fig No.9** Most recently available satellite image showing location of the subject site (source: Google Earth March 2022).

### 2.3 Site History

The client has informed us of the site history as follows:

The land registry folio number of the proposed recycling and transfer facility at Castleholdings in Roscrea is TY64111F. The subject site is part of a larger area of land which was the site of the old Roscrea Bacon Factory. The Roscrea Bacon Factory was established in the 1800s and was one of the early cooperatives in the country. The Bacon Factory activity operated on the site until the late nineteen eighties. Avonmore acquired the Roscrea Bacon Factory business in the late nineteen eighties and relocated the bacon business to an industrial estate to the south-west of the town in 1990. That business is now called Rosderra Meats.

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The c.0.8ha (2 acre) site covers an area that previously encompassed the Cattle Mart, the Banbh mart, and Garage, of the Bacon Factory. The old Cattle Mart, Banbh Mart and Garage buildings which stood on the site when the Bacon Factory was operating were demolished in recent years. Currently, only the shell of a gatehouse building and the concrete floors of the once present buildings remain. The floor pads and foundations of the structures are dotted throughout what is now a mixed concrete yard and levelled hardcore-surfaced yard.

The site is currently used as a timber pallet salvage and repair yard by the current owner Mr Martin Phelan, of Sheehane, Roscrea. Mr. Phelan's pallet recycling operation has been operating at the facility since the late nineties. Mr. Phelan acquired the site in recent years.

The main structure of the former Bacon Factory building stands adjacent to the proposed recycling and transfer facility site in a cluster of buildings currently occupied by a variety of businesses including a grain store (Hastings Mill & Cattle Feed), metal distributor (Midland Site Supplies), cladding business (Gusclad), vehicle repair (Roscrea Diesel Injections) and plant hire business.

The former Antigen Pharmaceutical facility located to the south of the site has been subdivided into several industrial units. The now named 'Antigen Business Park' is occupied by businesses engaged in activities ranging from warehousing, food wholesale and distribution, dog training (K9 Security), used cooking oil recycling, and a Local Authority development and skills training centre. It is relevant to note that the Pure Oil Limited 'Used Cooking Oil (UCO) recycling facility' at Unit 10 Antigen Business Park holds a waste facility permit granted by Tipperary County Council. The facility permit (WFP-T-20-0002-01) was granted in February 2021.

To the North of the Castleholdings site lies the Ashbourne Meats Limited abattoir and metal processing factory and the Roscrea Railway station. The proposed

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recycling and transfer facility site is accessible from the R421 Roscrea to Kinnitty road.

There is one other permitted waste management facility in Roscrea. This is Quitmann Facilities Limited permit WFP-T-24-0002-01 which is based at Roscrea Business & Innovation Park, Benamore, Roscrea. This permit was issued in 2024 and relates to transfer of segregated packaging. To the best of my knowledge this activity has not yet commenced. Quitmann Facilities is a sister company to Quitmann O'Neill of Portumna, a packaging and industrial consumables supplier. Their business involves take-back and recycling of drums, IBCs and rigid packaging. The facility in Roscrea is to support their own business and not to operate as a service provider.

The proposed ROC Recycling Solutions recycling and transfer facility will accept source-segregated recyclables (plastic, paper and metallic materials) which have been collected from commercial and industrial producers, and carry on the preparation for recycling of these materials (sorting, cleaning, size gradation and reduction, and baling / packaging) prior to shipping the materials offsite for recycling and recovery in reprocessing facilities (paper mills, plastic reprocessors, and metal refineries).

ROC Recycling will need to obtain a waste facility permit for the activity with capacity of up to 10,000 tpa.

#### **2.4 Ownership**

The subject site is owned by Mr. Martin Phelan, of Sheehane, Roscrea. A letter of consent has been obtained from Mr. Phelan to make the application.

#### **2.5 Adjoining Lands**

North:            Ashbourne Meats  
East:            Agricultural field.

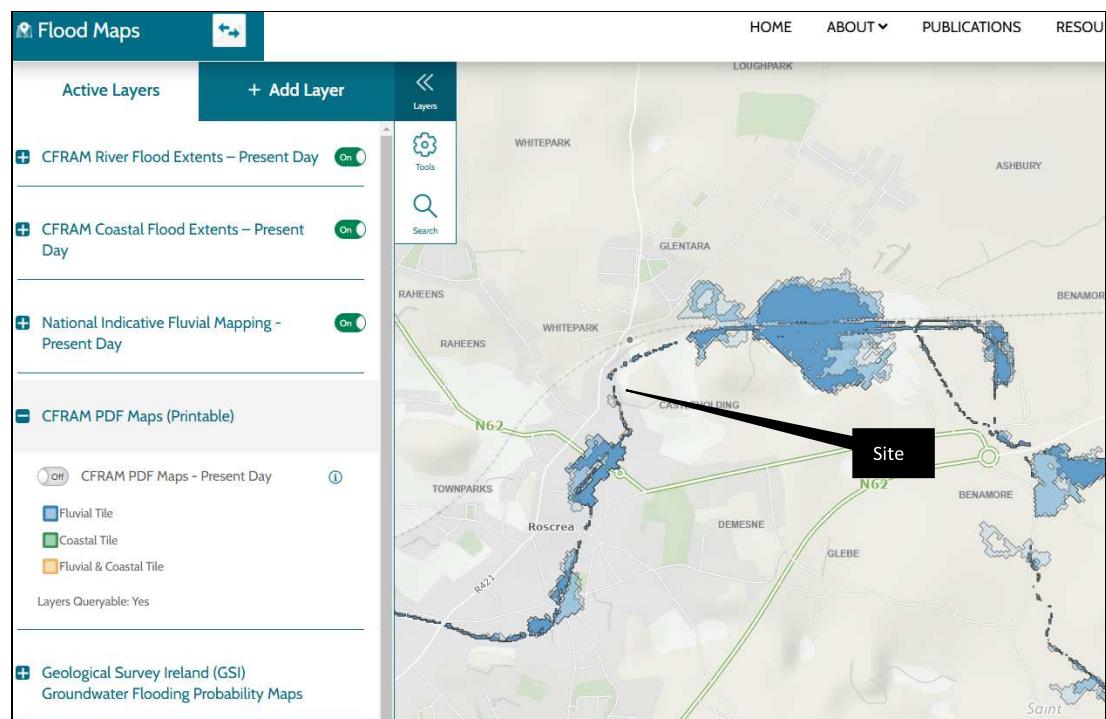
- West: Undeveloped strip of land beyond which is the Bunnow River. Beyond the river are rear gardens of residential dwellings facing onto Bunkers Hill.
- South: Undeveloped field associated with factory complex.

## 2.6 Built Heritage

The Historic Environment Viewer provided by the Department of Housing, Local Government and Heritage provides details of National Monuments Service Sites and Monuments Record (SMR) and the National Inventory of Architectural Heritage (NIAH). It shows that there is no record of any archaeology or architectural heritage associated with the site or immediate area.

## 2.7 Flood Risk

A review of mapping on floodinfo.ie did not reveal any flood risk associated with the site.



**Fig No.10** Extract from floodinfo.ie mapping.

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## **2.8 General Area**

The general area is characterised by industrial development with some residential land use adjoining Bunkers Hill.

## **3.0 PLANNING HISTORY**

### **3.1 Introduction**

This section deals with the planning history for the site and the surrounding area in order to determine if there are any relevant planning issues which have previously been raised and need to be addressed as part of the current application.

### **3.2 Planning History**

A review of the on-line planning system for Tipperary County Council revealed the following planning history associated with the site. It should be noted that all information is based on what is available on the Tipperary Co. Co. planning register which for various reasons such as misspelling etc is not always accurate and information relating to a particular file may not be mapped or information missing from the file.

There is very little detail on planning applications associated with the larger industrial site and no recent planning applications. There is a planning permission for retention of partly constructed industrial unit and completion of same under 02/51/1024 and permission for a store under 04/51/0205. This is probably reflective of the fact that there is an established industrial use on the site and permission is not required for the industrial uses that have setup within the site.

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### 3.3 Satellite Images & Views

The following satellite images are obtained from public sources and available to the county council. The factory and yard are visible in all images.



**Fig No.11** Google Earth Pro – Oct 2019



**Fig No.12** Google Earth Pro – March 2012

## 4.0 LEGAL CONTEXT

### 4.1 Development

Section 3(1) of the Planning and Development Act, 2000 defines 'development' as

*"the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land".*

### 4.2 Works

"Works" are defined at Section 2 (1) of the Act as:

*"any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

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"industrial building" means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

- (a) for or incidental to the making of any article or part of an article, or
- (b) for or incidental to the **altering**, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals, and for the purposes of this paragraph, "article" includes-
- (i) a vehicle, aircraft, ship or vessel, or
- (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database.

Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes Class 21

(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking –

- (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,
- (ii) **the provision**, rearrangement, replacement or maintenance **of** sewers, mains, pipes, cables **or other apparatus**,
- (iii) **the installation or erection by way of addition** or replacement **of plant or machinery, or structures of the nature of plant or machinery**.

(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

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### Conditions / Limitations

1. Any such development **shall not materially alter the external appearance of the premises of the undertaking.**
2. **The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres** above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

## 5.0 PLANNING CONTEXT

### 5.1 Roscrea Local Area Plan 2023-29

#### Zoning

The site is zoned Employment where the objective is:-

"To provide, improve and encourage general enterprise, business development and employment activity, including start up enterprises and tourism, and provide for **distribution, warehouse, storage** and logistics facilities where appropriate access to a major road network is available".

#### Description

Facilitate opportunities for compatible **industry and general employment uses**. General employment areas should be highly accessible, well designed, permeable and legible with a modest density of employees. Inappropriate intensive office uses at locations poorly served by public transport and the proliferation of retail or commercial uses requiring public access that are best located in mixed-use town core areas will not be acceptable.

**Facilitate logistics and warehouse type activity including storage, distribution and associated re-packaging of goods and products with a low density of employees.** These uses have specific transportation requirements as they can generate considerable traffic volumes and should be located within a purpose built, well designated environment connected to the strategic road network.

'Industrial – Light' is Permitted in Principle under the zoning objective.

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There are no built or heritage features associated with the site or lands in the immediate area.

It is important to note that for the purpose of a Section 5 application the policies and objectives of a county development plan generally do not apply, unless Article 9 Restrictions on Exemptions are relevant.

## **6.0 RELEVANT PRECEDENT**

### **6.1 Tivoli Industrial Estate, Cork City**

Bord Pleanála Case reference: RL28.308153

Planning Authority Case Reference: R593/20

Former TATA Steel site, Tivoli Industrial Estate, Cork City.

Description: Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.

Decision: Is not development

Date signed: 15/12/2022

The Board's Order states that:

(a) the permitted development on the site comprising a depot that functions as a store for steel constitutes a 'repository' with regard had to the definition for same as set out in Article 5 of the Planning and Development Regulations, 2001, as amended, and

(b) the use of an existing building for the temporary storage of baled dry recyclable wastes falls within the above permitted use and, therefore, is not a material change of use and is not development:

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NOW THEREFORE An Bord Pleanala, in exercise of the powers conferred on it by section 5 (4) of the Planning and Development Act, 2000 hereby decides that the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable waste pending export from the port to overseas recycling facilitates at TATA Hill Site, Tivoli Industrial Estate, Cork is not development.

#### **6.2 Industrial Unit, Whitesland West Business Park, Kildare Town**

The attention of the Council is referred to an established precedent in Whitesland West Business Park, Kildare Town where the use of an industrial unit for the purpose of housing a business **receiving, storing and baling waste (tyres) was deemed not to require a fresh planning permission.**

Kildare County Council issued a declaration under Ref. **ED/00471** that the use of an existing warehouse unit to receive, bale and store end of life car tyres from trade suppliers for collection by licensed waste collection hauliers at Whitesland West Business Park, Kildare Town was exempted development.

In that case permission had been granted in 2003 for a business park consisting of 4 new warehouse blocks. Condition No.6 of the permission required that "*the use of the proposed development shall be restricted to warehousing and industrial uses and for no other uses, unless a separate permission for such uses has been obtained from the planning authority. In addition, the units in the development shall be occupied as single units and shall not be subdivided*". The Reason given was "*to restrict the development to uses ancillary to the use sought within the public notices, in the interest of clarity*".

The Planner's Report noted the definition of 'industrial process' in the P&D Regulations and condition No.6 of the 2003 permission which provides that the unit can be used for industrial use. The Planner concluded that:-

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"the use of the tyre baler on the site comes within the remit of the legislative definition of an 'industrial process'. It would involve the making of an article (tyre bales as a construction industry product), and the altering and adapting for sale of an article (the end of life tyres). It is considered that the site (a warehouse/industrial unit) is certainly a suitable location of the use of the tyre baler. The only other machinery/plant required on the site would be a JCB Teleram telescopic handler. I am therefore of the opinion that the proposed use is permitted under condition no.6 of 03/2320 and accordingly would not represent a change of use" – emphasis added.

#### **6.3 Industrial Unit, Kildare Business Park, Kildare Town**

The attention of the Council is also referred to an established precedent in Unit 6, Kildare Business Park, Melitta Road, Kildare Town, where the use of an industrial unit for the purpose of **receiving, storing, separating and baling dry waste** was deemed not to require a fresh planning permission.

Kildare County Council issued a declaration on 14<sup>th</sup> June 2006 under Ref. **ED/576** confirming that the use of an existing warehouse unit for receiving, storing, separating and baling dry waste was exempted development. The Council noted that the intended new use would comply with the parent permission for industrial use.

#### **6.4 Newbridge Industrial Estate, Newbridge**

The attention of the Council is further referred to an established precedent in Unit 20, Newbridge Industrial Estate, Newbridge, where the use of an industrial unit for the purpose of manufacturing wood pellets from waste straw from the equine industry was deemed not to require a fresh planning permission.

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Kildare County Council issued a declaration on 21<sup>st</sup> December 2016 under Ref. **ED/598** confirming that the use of an industrial unit for manufacturing wood pellets is exempted development.

#### **6.5 Summary**

These recent precedents demonstrate that it has previously been accepted that where planning permission for established industrial/warehouse use, new uses involving industrial use do not require the benefit of a fresh planning application. The key issues are proving:

- a) that the site in question has the benefit of permission for industrial/warehouse use and,
- b) that the intended use meets the definition of industrial process.

We note that one of the precedents referred to specifically involved receiving, storing and baling waste (tyres) and therefore is a very similar type use.

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## **7.0 INTENDED USE**

### **7.1 Details of Intended Use and Operator**

ROC Recycling Solutions Limited propose to develop a materials recycling and transfer facility on a site in Castleholdings, in Roscrea.

The facility will accept segregated recyclable materials (papers, cardboard and plastics) collected from commercial and industrial clients. The materials will be processed by baling and/or size reduction size reduction, followed by temporary storage pending removal of the recyclable commodity to off-site re-use, recycling, and recovery facilities.

The operation is best described as 'preparation for recycling and recovery'. The operation will require a waste management facility permit. ROC Recycling Solutions Limited will apply to Tipperary County Council for a waste management permit if planning suitability is established.

#### **ROC Recycling Solutions Limited**

ROC Recycling Solutions Limited was established in 2010. The business arose from the purchase of the trade and assets of a Portlaoise based waste management business called Ryan O'Connor Recycling. ROC Recycling Solutions Limited headquarters and registered office is at Unit 2 Site 2 Clonminam Business Park, Portlaoise, County Laois. ROC Recycling Solutions Limited is a waste management service provider and provides waste management solutions to commercial and industrial waste producers on the Island of Ireland. ROC Recycling Solutions Limited is a privately owned business and is part of the Agnail Group of businesses. Sister companies include Agnail limited, Bailey Waste Recycling, and Recycling & Compaction Equipment (RACE) Limited. The

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promoters of ROC Recycling Solutions are actively involved in day to day activities.

ROC Recycling does not currently operate a waste management facility in the midlands. Material collected by the ROC Recycling fleet in the midlands region is transported to third party waste management facilities in Dublin and Limerick where it is aggregated and stored prior to export. A Roscrea based facility would reduce the requirement to transport material to Dublin and associated carbon footprint. It would reduce dependency on third party providers.

ROC Recycling Solutions Limited is one of the foremost companies in the field of industrial recycling and waste management in Ireland, spearheading the efficient use of resources and working with an integrated, circular economy-based business philosophy. The business has a clearly defined purpose; to use resources as sustainably as possible. ROC Recycling Solutions views waste as a secondary raw material that can be re-integrated into the production cycle.

ROC Recycling Solutions Limited is a Repak authorised waste packaging waste collector. ROC holds a national waste collection permit and can boast a track record of full legislative compliance without any prosecutions or non-compliances in its operating history.

#### Proposed Site Activity:

It is envisaged that the site will accept between 800 and 1000 tonnes per month of source segregated recyclables from commercial and industrial waste producers. The volumes will vary seasonally and will not exceed **10,000 tonnes per annum**. These will comprise of:

- Paper & cardboard
- Plastic Films (LDPE, PP films)
- Rigid Plastics (HDPE, PET, PP, PVC, PS)

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- Metallic Packaging (Aluminum and steel cans)
  - Composite packaging (tetrapak, coat hangers)
  - Textiles packaging and scraps
  - Rubber and foam packaging and scraps
  - Wood and timber packaging scrap

Source segregated paper and cardboard and plastics will comprise over 90% of the material accepted at the facility. The other materials will be accepted where arising from customers who provide paper, cardboard and plastic. These other materials will be incidental to the main activity.

The facility will not accept the following materials:

- Mixed or commingled materials from commercial and industrial sources.
- Mixed construction and demolition waste
- Household waste.

ROC Recycling Solutions collects **baled and palletised single stream recyclables** from Industrial and commercial customers using a curtainsided vehicle fleet. ROC Recycling does not collect loose recyclables. Collection of loose recyclables is not operationally or commercially viable due to low load weight. ROC Recycling typically supplies baling equipment to customers to ensure material is optimally presented.

The source segregated recyclable material will be delivered to the facility by permitted waste collection vehicles (primarily curtainsider rigid and artic trucks). ROC Recycling Solutions Limited collects material from its commercial and industrial customers using own fleet and third-party subcontractor collectors. If successful, the activity will accept up to **50 metric tonne of material per weekday. This will entail an average of 5 delivery vehicles per day.**

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The incoming material will be weighed, inspected, sorted, and graded prior to temporary storage pending processing. Processing activities at the site will include:

- Transfer of already baled segregated recyclables (paper, cardboard, films, rigid plastic, metallic packaging) through aggregation and temporary storage prior to movement to off-site reprocessing facilities in full loads
- Re-baling of small or broken bales of segregated recyclables (paper, cardboard, soft plastic films, rigid plastics, metallic packaging and textile, rubber and foam scraps) prior to aggregation, storage prior to movement to off-site reprocessing facilities in full loads.
- Granulation and bagging of rigid plastics prior to temporary storage prior to movement to off-site re-processing facilities
- Sorting, light repairs and stacking wooden packaging prior to movement to off-site pallet merchants or commercial and industrial users. This will be a continuation of the current pallet activity that is ongoing at the site, albeit at a reduced scale and only managing those pallets that arise as coincidental from the collection of palletised baled recyclables.
- Sorting and palletising redundant plastic reels and offcuts prior to aggregation, storage prior to movement to off-site reprocessing facilities in full loads.

Transfer will be the predominant activity on the site. Most of the material accepted will already be baled and segregated and ready to be aggregated with similar material and sold to reprocessing facilities. Baling will only be carried out on small or broken bales, or bales that require to be broken and re-baled to remove non-conforming content.

Only rigid plastic packaging would be subjected to any other process. The processing option for rigid plastic (baling or size reduction and bagging) will depend on the commercial considerations and recovery market requirements.

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The objective of the processing is to reduce bulky and irregular waste material into a consistent uniform and dense product suitable for downstream recycling and recovery (preparation for recycling).

Most of the processed material will be exported to overseas facilities. These facilities will include:

- paper mills,
- plastic melt reprocessing facilities,
- metal foundries, and
- material recovery installations (pyrolysis, etc).

The material will be loaded into 40ft shipping containers in loads averaging 26MT for transport to Dublin Port for export. If successful, the operation will dispatch circa 10 containers per week.

It is not envisaged to store a significant quantity of material at the facility. As good practice ROC Recycling will operate a 'first in first out' processing approach. The material represents the primary revenue for the activity. This incentivises keeping material moving and minimises stockpiling.

The site will be equipped with the following equipment:

- Mobile material baling press with feed hopper. The baler will be sited on a concrete pad with its own enclosure and elemental covers.
- Granulator unit with infeed conveyor and screening and metal check
- Forklift
- Teleporter load-all,
- Weighbridge
- Loading ramp.

The subject site is currently a mixed surface yard. There are areas of intact and integral concrete yard, areas of cracked concrete yard, and areas with

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compacted hardcore surface with remnants of old concrete pads. There is evidence of former drainage system and in ground silt traps and storage tanks. The inground tanks have been filled in and the drainage system is unmapped and collapsed. These will be repaired and an interceptor installed to facilitate the proposed activity.

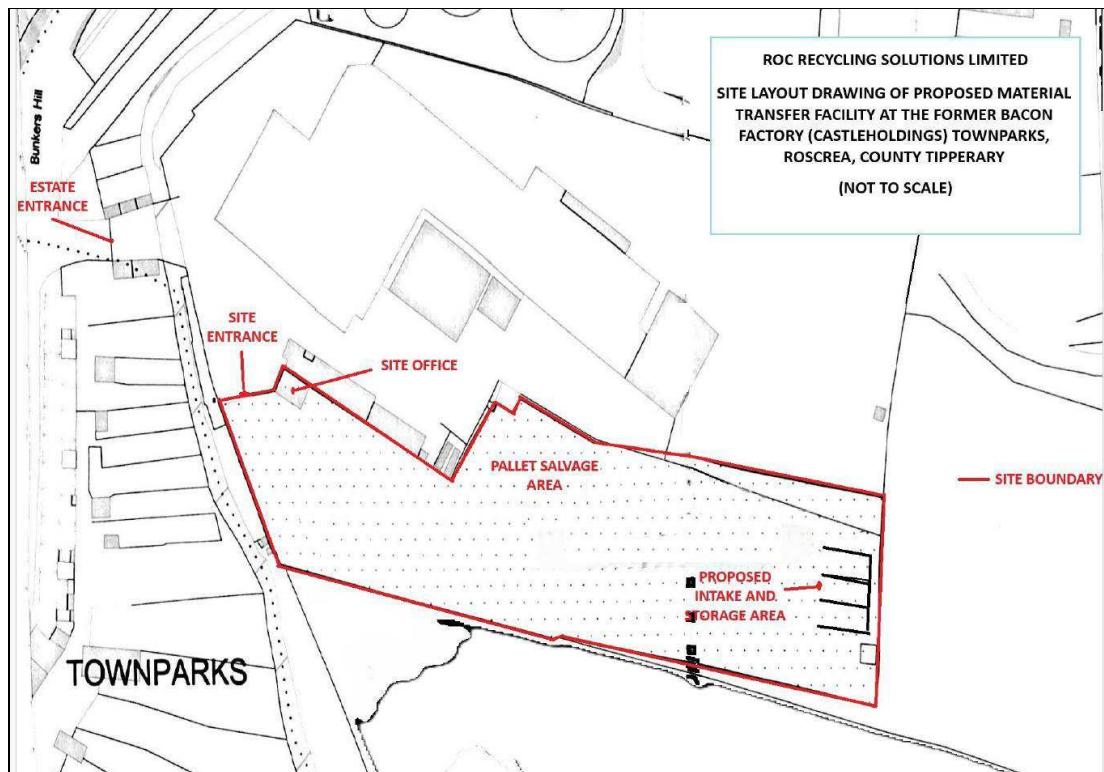
The site is fully fenced with secure restricted access and is monitored by CCTV. There is currently a weighbridge facility on the access roadway into the Old Bacon Factory site. It is proposed the ROC Recycling will install a bolt-down above-ground portable weighbridge with drive-on / drive-off ramps within the site once operational.

It is proposed that a new concrete base will be constructed to hold three material storage bays with a front apron. Each bay will be 12m deep x 12m wide x 4m high. The bays will be constructed side-by-side using precast concrete wall panels of 6m long x 1.1m high dropped into steel girder uprights. Each bay will hold 430 cubic meters of material and allow a 1 meter freeboard between the material and the top of the bay. The apron will extend 10 meters out from the front of the bays and will stand the process equipment. The bays will be allocated for use for:

- Bay 1 – Material intake bay
- Bay 2 – Sorting, grading, and processing bay
- Bay 3 – Baled or bagged storage prior to removal off-site

The concrete base will be bunded and drained to a suitably sized pre-cast silt trap, interceptor and temporary storage tank prior to discharge to surface water.

Please refer to the proposed site layout below.



**Fig No.13** Proposed layout – source: client.

#### Operating Hours and Traffic Flow

The proposed facility will operate:

- Monday to Fridays from 08:00 to 17:00.

The activity, if operating at proposed capacity of up to 1000 metric tonnes per month and annually 10,000Mt, will generate:

- 25 vehicles inwards per week (average 5 per day averaging 10Mt)
- 10 vehicles outgoing per week (averaging 25MT per load)

It is anticipated that the facility will employ 5 persons drawn from the local labour pool. Staff will give rise to additional vehicle movements from the site.

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## **8.0 APPROPRIATE ASSESSMENT SCREENING**

### **8.1 Screening**

Under Article 9 (restriction on exemption) an exemption from planning permission cannot be availed of if Stage II Appropriate Assessment is required (Art. 9 (1)(a)(viiB)).

Screening is the first stage within the overall process of 'Appropriate Assessment' (AA) or 'Habitats Directive Assessment', required by the Habitats Directive (Article 6 (3) s.1.2). Circular NPW 1/10 and PSSP 2/10, dated 11<sup>th</sup> March 2010, issued by the Department of the Environment, Heritage and Local Government states that any project must be assessed for impact upon Natura 2000 sites, in accordance with Article 6 (3) of the European Habitats Directive. The Circular further notes that while:

*"all projects involving land use change are subject to screening, in the majority of cases this will not necessitate the consent authority having to seek additional information" - emphasis added.*

The purpose of the screening is to assess, in view of best scientific knowledge, if the proposed development, individually or in combination with another plan or project is likely to have a significant effect on a site of European-level ecological importance (i.e. Natura 2000 sites: candidate Special Areas of Conservation and Special Protection Areas).

Screening is defined in the Appropriate Assessment for Plans and Projects in Ireland: Guidance for Planning Authorities, 2009 ('AA Guidelines, 2009') as:

*"the process that addresses and records the reasoning and conclusions in relation to the first two tests of Article 6(3):*

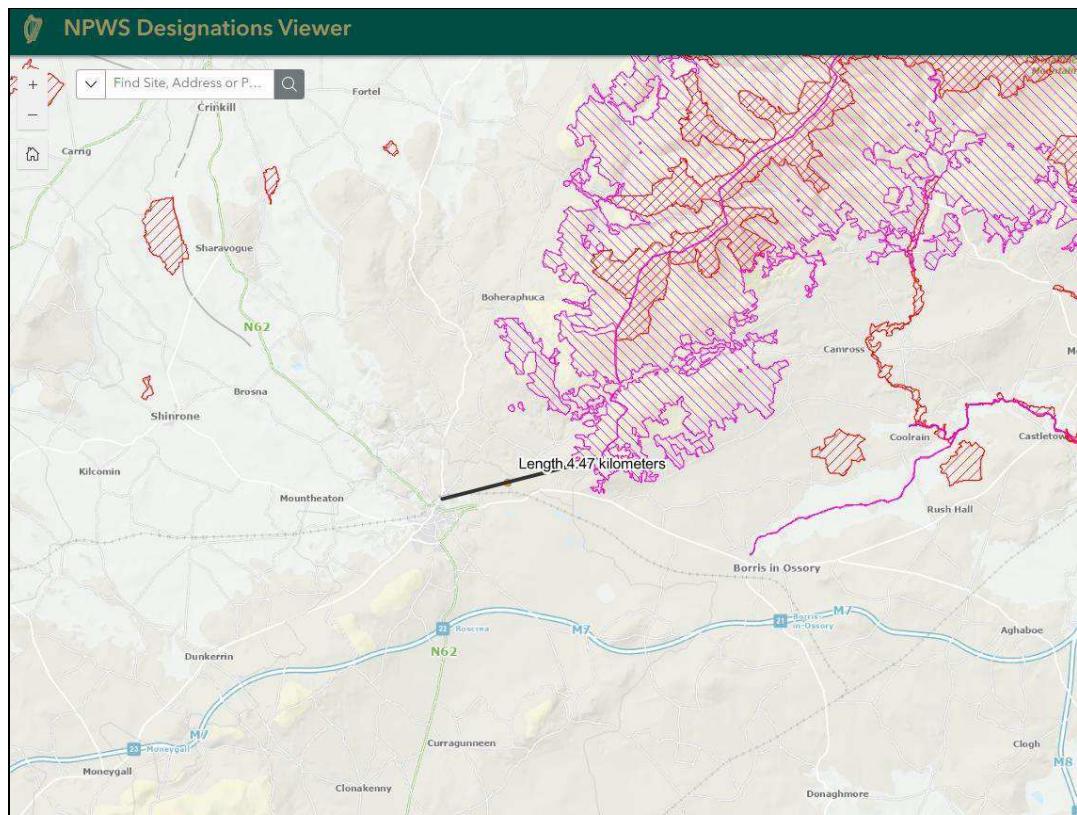
- 
- i) whether a plan or project is directly connected to or necessary for the management of the site, and
  - ii) whether a plan or project, alone or in combination with other plans and projects, is likely to have significant effects on a Natura 2000 site in view of its conservation objectives.

If the effects are deemed to be significant, potentially significant, or uncertain, or if the screening process becomes overly complicated, then the process must proceed to Stage 2 (AA). Screening should be undertaken without the inclusion of mitigation, unless potential impacts clearly can be avoided through the modification or redesign of the plan or project" (emphasis added).

If no likely significant effects have been identified then the assessment process does not proceed any further.

In this context "likely" means any effect that may be reasonably predicted and "significant" means not trivial or inconsequential but an effect that is potentially relevant to the site's conservation objectives (English Nature, 1999). Any effect which would compromise the functioning and viability of a site and interfere with achieving the conservation objectives of the site would constitute a significant effect.

The closest Natura 2000 site is **c.4.47 kilometres** away – **Slieve Bloom Mountains SPA 004160.**



**Fig No.14** Location of site relative to Natura 2000 sites (source: Myplan.ie - OSI Licence No.EN 0080915).

Taking into consideration:

- The nature of the proposed development
- the relatively small scale of the development,
- the significant distance from the Natura 2000 site
- the lack of any direct link to any nearby Natura 2000 site
- the lack of any flood risk associated with the site

it is submitted that there is no requirement for a Stage II Appropriate Assessment.

Note the River Bunnow<sup>1</sup> does flow into Sharavogue Bog SAC but it is a significant distance downstream from the site at over 13km from the site. Furthermore, the river is physically separated from the site by a strip of adjoining land.

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<sup>1</sup> Also referred to on maps as Moneen River.

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## **9.0 CASE FOR EXEMPTION**

### **9.1 Introduction**

The primary question before the Council is “*Whether the use of a yard at Castleholdings, Roscrea, Co. Tipperary for the purpose of materials recycling and transfer facility is or is not development and is or is not exempted development*”.

Secondly our client seeks a determination that the associated minor works are exempt development under Planning and Development Regulations, 2001 (as amended) Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes, Class 21.

The existing yard forms part of a long-established industrial premises.

The intended use is for a materials recycling and transfer facility involving segregated recyclable materials (papers, cardboard and plastics) collected from commercial and industrial clients.

This is an industrial use as it involves the processing of waste materials, so that they can be recovered / changed into recovered articles for further processing elsewhere, and is a process that equates to the ‘making of articles’. The articles in this case are treated and recovered waste products, which is an industrial process.

It is submitted to the Council that the proposed use would not constitute a material change of use from the permitted industrial use. As such no fresh permission is required.

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Furthermore, the works associated with the use are notably limited, amounting to only to minor sized works for storage i.e. mobile material baling press with feed hopper, granulator unit, weighbridge and loading ramp. Such works are exempted development under Planning and Development Regulations, 2001 (as amended) Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes, Class 21.

It is submitted to the Council that the proposed use is similar to multiple established precedents as listed above whereby it has been declared that a similar type industrial use is not development and could operate without the need for a fresh planning permission.

Therefore, the Council are invited to issue a declaration to confirm that the use of the subject yard for the purpose of a materials recycling and transfer facility is not development or, is development and is exempted development.

Also that the associated minor works are exempt development under Planning and Development Regulations, 2001 (as amended) Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes, Class 21.

Please contact **Mr. Michael O'Callaghan** at **086-3637016** to arrange a site visit (allow 24 hour notice).

Signed:



David Mulcahy  
BA (Mod. Natural Sciences), MRUP, MSc. Urban Design, MIPI, MRTPI  
**David Mulcahy Planning Consultants Ltd**  
**CHARTERED PLANNING CONSULTANTS**

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**Appendix A** – Letter of consent from landowner (Mr Martin Phelan, of Sheehane, Roscrea)

**Appendix B** – Documentary evidence of previous decisions on similar types of declarations and referrals.

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## **APPENDICES**

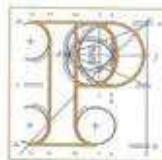
- A Letter of consent from landowner (Mr Martin Phelan, of Sheehane, Roscrea)

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Appendix B – Documentary evidence of previous decisions on similar types of declarations and referrals.

Our Case Number: ABP-308153-20

Planning Authority Reference Number: R593/20



An  
Bord  
Pleanála

Cork City Council,  
c/o John A Murphy,  
Anglesea Road,  
Cork.  
T12 T997

Date: 19 DEC 2022

**Re:** Whether the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities is or is not development and is or is not exempted development.  
Former TATA Steel site, Tivoli Industrial Estate, Cork City.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2021. A copy of the order is enclosed.

In accordance with section 146(5) 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 any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website ([www.leanala.ie](http://www.leanala.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 Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,

Rita Donnelly  
Executive Officer

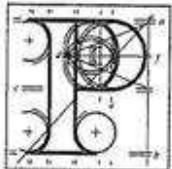
RL100n



Tel:	Tel:	(01) 858 8100
Gao Áitiúil	LoCall:	1800 275 175
Facs:	Fax:	(01) 872 2684
Láithreán Gréasáin	Website:	<a href="http://www.leanala.ie">www.leanala.ie</a>
Riomphost	Email:	bord@leanala.ie

64 Sráid Maolbhride  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



An  
Bord  
Pleanála

Board Order  
ABP-308153-20

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: R593/20**

**WHEREAS** a question has arisen as to whether use of an existing industrial building and associated storage area in the port of Cork for the temporary storage of baled dry recyclable wastes pending export from the port to overseas recycling facilities at TATA Hill Site, Tivoli Industrial Estate, Cork is or is not development or is or is not exempted development:

**AND WHEREAS** the said question was referred to An Bord Pleanála by Cork City Council on the 8<sup>th</sup> day of September, 2020;

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,

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P.C.

ABP-308153-20

An Bord Pleanála

Page 1 of 2

- 
- (c) Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
  - (d) the planning history of the site, and
  - (e) the pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the permitted development on the site comprising a depot that functions as a store for steel constitutes a 'repository' with regard had to the definition for same as set out in Article 5 of the Planning and Development Regulations, 2001, as amended, and
- (b) the use of an existing building for the temporary storage of baled dry recyclable wastes falls within the above permitted use and, therefore, is not a material change of use and is not development:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the Planning and Development Act, 2000 hereby decides that the use of an existing industrial building and associated storage area in the Port of Cork for the temporary storage of baled dry recyclable waste pending export from the port to overseas recycling facilitates at TATA Hill Site, Tivoli Industrial Estate, Cork is not development.

  
\_\_\_\_\_  
Patricia Calleary  
Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.

Dated this 15 day of December 2022.

Comhairle Contae Chill Dara  
Kildare County Council



Declaration on development and exempted development

under Section 5 of the

Planning and Development Act 2000-2012

**WHEREAS** a question has arisen as to whether or not the proposed use of an existing Industrial unit at Unit 6 Kildare Business Park, Melitta Road, Kildare Town, Co. Kildare for the purpose of receiving, storing, sorting and bailing dry waste pending removal to off-site reuse, recycling and recovery is or is not development and is or is not exempted development.

**AS INDICATED** on the plans and particulars received by the Planning Authority on 25/02/16,

**AND WHEREAS** ROC Recycling Solutions Ltd, Ballymacken Industrial Estate, Ballymacken Portlaoise, Co Laois requested a declaration on the said question from Kildare County Council;

**AND WHEREAS** Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000-2012, had regard to;

- (a) Section 3 of the Planning and Development Act 2000-2015.
- (b) Article 5(1) of the Planning and Development Regulations 2001-2015.
- (c) The planning history of the site namely the parent permission for the site 74/986

**AND WHEREAS** Kildare County Council has concluded that (a) the warehouse/industrial unit is on lands zoned 'H – Industrial and Warehousing' in the Kildare Local Area Plan 2012-2018, and (b) that the proposed use comes within the definition of an '*industrial process*' as set out in Article 5(1) of the Planning and Development Regulations 2001-2015;

**AND WHEREAS** Kildare County Council has also concluded that the proposed use would comply with the parent permission planning reg. ref. 74/986

**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act, 2000-2015, hereby decides that the proposed use would be development and would be exempted development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000-2015 may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed:

Date:

14<sup>th</sup> June 2016

ED00598

Comhairle Contae Chill Dara  
Kildare County Council



**Declaration of Exempted Development under  
Section 5 of the Planning and Development Act 2000 (as amended)**

**WHEREAS** a question has arisen as to whether '*the use of an existing industrial unit at Unit 20, Newbridge Industrial Estate, Newbridge, Co. Kildare for the purpose of manufacturing wood pellets is or is not development and is or is not exempted development*'.

**AS INDICATED** on the plans and particulars received by the Planning Authority on 26/07/2016,

**AND WHEREAS** David Mulcahy on behalf of Craigavin Bio-Products Ltd, requested a declaration on the said question from Kildare County Council;

**AND WHEREAS** Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Part 1, Sections 2 (1), 3 (1), 4 (4); Part X of the Planning and Development Act 2000 (as amended);
- (b) Part 2; Article 5(1), 6 (1), 9 (1)(a)(viii), 10; Schedule 2, Part 4 (Article 10); Schedule 5, Part 2 (11)(b) of the Planning and Development Regulations 2001 (as amended).

**AND WHEREAS** Kildare County Council has concluded that *the use of an existing industrial unit at Unit 20, Newbridge Industrial Estate, Newbridge, Co. Kildare for the purpose of manufacturing wood pellets is development and is exempted development*.

**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that *the use of an existing industrial unit at Unit 20, Newbridge Industrial Estate, Newbridge, Co. Kildare for the purpose of manufacturing wood pellets is development and is exempted development*.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanala within 4 weeks of the issuing of the decision.

Signed:

  
Director of Services

Date: 21<sup>st</sup> December 2016





Application Number: P2021LR08119W

The Property Authority  
An Túdarás  
Clárúcháin Maoile  
Folio: TY64111F

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- Subleasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turfary
- Pipeline
- Well Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at:  
[www.landdirect.ie](http://www.landdirect.ie)

The registry operates a non-conclusive boundary system. The Registry Map identifies property boundaries meaning neither the description of land in a register nor identification by reference to a registry map is conclusive as to boundaries or extent. (see Section 1 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Title Act, 2006.



Comhairle Contae Thiobraid Árann  
Tipperary County Council

Comhairle Contae  
Thiobraid Árann,  
Oifigi Cathartha,  
Cluain Meala,  
Co.Thiobraid Árann  
Tipperary County Council,  
Civic Offices, Clonmel,  
Co. Tipperary  
E91 N512

Comhairle Contae  
Thiobraid Árann,  
Oifigi Cathartha,  
An tAonach,  
Co.Thiobraid Árann  
Tipperary County Council,  
Civic Offices, Nenagh,  
Co. Tipperary  
E45 A099

t 0818 06 5000/601  
e customerservice  
@tipperarycoco.ie  
[tipperarycoco.ie](http://tipperarycoco.ie)

**Date: 11th April, 2025      Our Ref: S5/25/40      Civic Offices, Clonmel**

ROC Recycling Solutions Ltd  
c/o David Mulcahy Planning Consultants Ltd  
67 Old Mill Race  
Athgarvan  
Newbridge  
Co. Kildare

**Re: Application for a Section 5 Declaration – Whether the use of the site for materials recycling and transfer facility is or is not development and is or is not exempt development. Also if minor associated works are exempt development under Class 21 of PDR, 2001 as amended at Former Roscrea Bacon Factory, Castleholdings, Roscrea, Co. Tipperary**

Dear Mr Mulcahy,

I acknowledge receipt of your application for a Section 5 Declaration received on 10th April, 2025, in connection with the above.

I wish to advise that you will be notified of a decision on your application in due course.

Yours sincerely

J. Devlin  
for **Director of Services**

**TIPPERARY COUNTY COUNCIL**

**Application for Declaration under Section 5**

**Planning & Development Act 2000, as amended**

**Planning & Development Regulations 2001, as amended**

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**Planning Ref.:** S5/25/40

**Applicant:** ROC Recycling Solutions Ltd.

**Development Address:** Former Roscrea Bacon Factory, Castleholdings, Roscrea, Co. Tipperary.

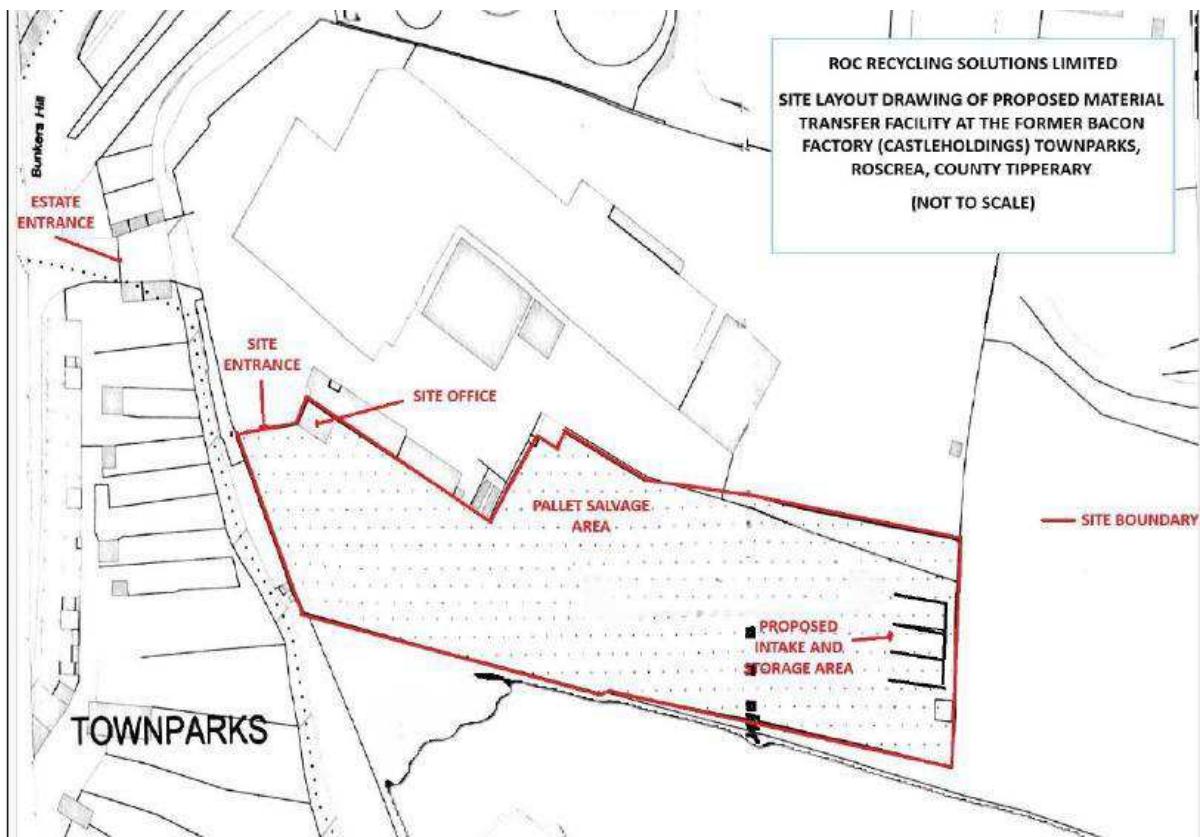
**Question:** Use of site for materials recycling and transfer and undertaking of minor works.

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**1. GENERAL**

A request was made for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) by ROC Recycling Solutions Ltd as to whether or not the use of the site for materials recycling and transfer and undertaking of minor works at the Former Roscrea Bacon Factory, Castleholdings, Roscrea, Co. Tipperary, is development and, if so, is it exempted development.

The site to which the Declaration application relates is outlined in red on the Map below and comprises the yard area of the former Roscrea Bacon Factory. The site entrance and proposed new structures are illustrated on this map.



The works associated with the proposed use are listed in Sections 8 and 9 the Planning Report prepared by David Mulcahy Panning Consultants that accompany the Declaration application. The works identified comprise the following:

- New concrete base to hold 3 materials storage bays with front apron. Each bay will be 12m deep x 12m wide x 4m high. The apron will extend 10 meters out from the front of the bays and will stand the process equipment. The concrete base will be bunded and drained to a suitably sized pre-cast silt trap, interceptor and temporary storage tank prior to discharge to surface water. The bays will be used for:
  - Bay 1-Material Intake
  - Bay 2-, Sorting, grading and processing
  - Bay 3- Baled or bagged storage prior to removal off-site.
- A mobile material baling press with feed hopper. The baler will be sited on a concrete pad with its own enclosure and elemental covers.
- Granulator unit with infeed conveyor and screening and metal check
- Weighbridge -This will be an above ground bolt down weighbridge with drive on/off ramps.
- Loading ramp.
- Associated drainage works.

The drawing submitted contain limited information and do not clearly show the full extent of works proposed.

## **2. STATUTORY PROVISIONS**

### **Planning and Development Act, 2000 as amended**

According to Section 2(1) of the Planning and Development Act (as amended), the definition of “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

According to Section 3(1) of the Planning and Development Act (as amended), “development” means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.

Section 4 of the same Act lists works that would be considered exempted development. Section 4 also conveys power on the Minister to make regulations to provide for any class of development to be exempted development for the purposes of the Act

### **Planning and Development Regulations, 2001, as amended:**

Part 2, Article 5(1) sets out the following relevant definitions:

- “industrial building” means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;
- “industrial process” means any process which is carried on in the course of trade or business, other than agriculture, and which is – (a) for or incidental to the making of any article or part of an article, or (b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals, and for the purposes of this paragraph, “article” includes- (i) a vehicle, aircraft, ship or vessel, or (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database;

Article 6(1) states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act provided that such development complies with conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

Article 9 of said Regulations lists a series of restrictions on exemptions. Of particular note are the provisions of Article 9(1)(a)(i) which de-exempts development which would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act, and, (viiiB) which de-exempts developments that require an appropriate assessment because it would likely have an effect on the integrity of a European designated site.

### **Schedule 2, Part 1: Exempted Development – Development for Industrial Purposes Class 21**

- (a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking –
- (i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,
  - (ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,

(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery

(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

Conditions / Limitations

1. Any such development shall not materially alter the external appearance of the premises of the undertaking.

2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

Class 22 Storage within the curtilage of an industrial building, in connection with the industrial process carried on in the building, of raw materials, products, packing materials or fuel, or the deposit of waste arising from the industrial process.

Conditions / Limitations

The raw materials, products, packing materials, fuel or waste stored shall not be visible from any public road contiguous or adjacent to the curtilage of the industrial building

### **3. ASSESSMENT**

#### **a. Site Location**

The site is located at the Former Roscrea Bacon Factory, Castleholdings, Roscrea, Co. Tipperary.

#### **b. Relevant Planning History**

PI Ref 02/510124 Grant of permission retain partly constructed industrial unit and permission to complete the building and to add a similar industrial unit to form 2 no. industrial units.

PI Ref 04/510205 Grant of permission to erect a store.

UD-05-081-Possible non-compliance with PI Ref 02/510124. Warning Letter not served and case closed.

In assessing this Declaration I have examined and considered the precedent cases outlined in the Planning Report included with the Declaration application. I have also examined and considered the following:

- Tipperary County Council S5/16/88- Under this Declaration the Council determined that the use of a shed (permitted as industrial) to store wastes was development and exempted development.
- An Bord Pleanála Reference Number: 16.RL.2537- An Bord Pleanala made the decision that a process involving the storage of segregated waste is not an industrial process as defined by the Planning and Development Regulations, 2001 and the introduction of this waste storage constitutes a material change of use and is not exempted development. An Bord Pleanala considered the process involves the storage, sorting and bailing of segregated waste and is not an industrial process as defined by the Planning and Development Regulations, 2001 as amended.
- An Bord Pleanala Reference Number: RL09.311087-An Bord Pleanala made the decision that the change of use of an industrial building and storage yard within a business park for the processing and temporary storage of construction waste for further re-use, recovery and recycling is development and is not exempted development. An Bord Pleanala considered the proposed use as a material change of use and that the re-use, recovery and recycling proposed did not constitute an industrial process.

#### **c. Assessment**

##### **A) “Is or is not Development”**

Development is defined in the Planning and Development Act 2000, as amended as the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land. As per the Act, “works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

The works associated with the proposed use of the site for materials recycling and transfer(as listed in Section 1 of this report) come within the definition of works as set out under the Planning and Development Act 2000, as amended and therefore constitute “development”.

The next matter is to consider if the proposal use for materials recycling and transfer would result in the material change in the use of the land.

I have examined the planning history for the site and note its previous use. I consider the parent use of the site is Industrial.

I consider that the proposed use of the site area to which the Declaration application relates raises materially different planning considerations to that which would pertain to its established industrial use and I consider the proposed use differs materially from its established industrial use.. I am satisfied that the proposal would result in the material change in the use of the land and therefore constitutes “development”.

**B) “Is or is not Exempted Development”**

I refer to An Bord Pleanála Reference Number: 16.RL.2537 under which An Bord Pleanala made the decision that a process involving the storage of segregated waste is not an industrial process as defined by the Planning and Development Regulations, 2001 and the introduction of this waste storage constitutes a material change of use and is not exempted development. An Bord Pleanala came to the same decision under RL09.311087 and Tipperary County Council came to a similar determination in considering S5/16/88. Noting these cases and the material change of use proposed I do not consider same meets any planning exemption contained in the Planning and Development Act 2000, as amended or the Planning and Development Regulations 2001, as amended.

Regarding the works proposed, same are works associated with the reception, bailing and storage of waste. As this is not considered an industrial process the exemption under Class 21 of the Planning and Development Regulations 2001, as amended cannot be availed of.

**C) Is the exemption restricted under Article 9**

N/a as no exemption has been confirmed.

**D) Requirement for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)**

Section 4 (4) of the Planning and Development act 2000, as amended states:

*Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.*

The proposal has been screened as to the requirements for Appropriate Assessment and the screening assessment (attached) considers that the proposal does not impact on any Natura 2000 site.

The proposal which is not to accept more than 10,000 tonnes of wastes per annum, is below the threshold for which mandatory EIA is required and therefore does not require EIA.

Class 11 b), Part 2, Schedule 5, Planning and Development Regulations 2001, as amended required mandatory EIA for

*Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.*

#### **4. RECOMMENDATION**

WHEREAS a question has arisen as to whether the following proposals at the former Roscrea Bacon Factory, Castleholdings, Roscrea, Co. Tipperary. constitutes "development" and "exempted development"

Use of site for materials recycling and transfer and undertaking of minor works (associated with the proposed use).

AND WHEREAS Tipperary County Council, in considering this referral, had regard particularly to -

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- (b) the definition of "industrial process" in Article 5 of the Planning and Development Regulations, 2001 as amended.
- (c) The planning history of the site
- (d) The exemptions relating to development for industrial purposes as set down under Article 6 of the Planning and Development Regulations, 2001 as amended, specifically the exemptions under Class 21.

AND WHEREAS Tipperary County Council has concluded that –

The use of site for materials recycling and transfer and undertaking of minor works (associated with the proposed use) as proposed is "development" within the meaning of the Planning and Development Act 2000, as amended and is not "exempted development".

It is considered the proposed use constitutes a material change of use of the lands from the established Industrial use. The proposed use does not come within the definition of "industrial process" as set out in the Planning and Development Regulations, 2001 as amended and does not meet any exemption set down under said Regulations or the Planning and Development Act 2000, as amended.

As the proposed use not considered an industrial process the exemptions under Class 21 of the Planning and Development Regulations 2001, as amended cannot be availed of.

District Planner:



Date: 28.04.2025

Senior Executive Planner:



Date: 28/4/2025

## Appendix 1 EIA SCREENING

### Establishing a development is a ‘sub-threshold development’

<b>File Reference:</b>	S5/25/40	
<b>Development Summary:</b>	As per planners report	
<b>Was a Screening Determination carried out under Section 176A-C?</b>	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>	
<b>A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)</b>		
<input type="checkbox"/> Yes, specify class  <input checked="" type="checkbox"/> No		<b>EIA is mandatory</b> No Screening required  <b>Proceed to Part B</b>
<b>B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)</b>		
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2  <input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold):		<b>No Screening required</b>  <b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> Yes the project is of a type listed <b>but is sub-threshold:</b>  <u>Class 11 b</u>  <u>Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule</u>		<b>Proceed to Part C</b>
<b>C. If Yes, has Schedule 7A information/screening report been submitted?</b>		
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant  <input checked="" type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant		<b>Screening required</b>  <b>Determination</b>  <b>Preliminary Examination required</b>

### EIA PRELIMINARY EXAMINATION:

The Planning Authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

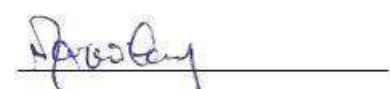
	Comment:	Yes/No/ Uncertain:
<b>Nature of the development:</b> <i>Is the nature of the proposed development exceptional in the context of the existing environment?</i>  <i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i>	No	No.
<b>Size of the development:</b> <i>Is the size of the proposed development exceptional in the context of the existing environment?</i>  <i>Are there cumulative considerations having regard to other existing and/or permitted projects?</i>	No	No
<b>Location:</b> <i>Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?</i>  <i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i>	No	No.

### Preliminary Examination Conclusion:

Based on a preliminary examination of the **nature, size or location** of the development.  
(Tick as appropriate)

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
There is <b>no real likelihood</b> of significant effects on the environment.  EIA is not required.	There is <b>real likelihood</b> of significant effects on the environment.  An <b>EIAR is required.</b>	There is <b>significant and realistic doubt</b> regarding the likelihood of significant effects on the environment.  Request the applicant to submit the <b>Information specified in Schedule 7A</b> for the purposes of a screening determination.  Proceed to Screening Determination.

**Signature and Date of  
Recommending  
Officer:**



**Date:**

28.04.2025

HABITATS DIRECTIVE APPROPRIATE ASSESSMENT (AA) SCREENING REPORT				
STEP 1. Description of the project/proposal and local site characteristics:				
(a) File Reference No:	S5/25/40			
(b) Brief description of the project or plan:	As per Planners report			
(c) Brief description of site characteristics:	As per Planners report			
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	No			
(e) Response to consultation:	N/a			
STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest <sup>1</sup>	Distance from proposed development <sup>2</sup> (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Kilduff, Devil's Bit SAC	<a href="https://www.npws.ie/protected-sites/sac/000934">https://www.npws.ie/protected-sites/sac/000934</a>	Within 15km	None	No
The Loughans SAC	<a href="https://www.npws.ie/protected-sites/sac/000407">https://www.npws.ie/protected-sites/sac/000407</a>	Within 15km	None	No
Spahill And Clomantagh Hill SAC	<a href="https://www.npws.ie/protected-sites/sac/000849">https://www.npws.ie/protected-sites/sac/000849</a>	Within 15km	None	No
Galmoy Fen SAC	<a href="https://www.npws.ie/protected-sites/sac/001858">https://www.npws.ie/protected-sites/sac/001858</a>	Within 15km	None	No
Cullahill Mountain SAC	<a href="https://www.npws.ie/protected-sites/sac/000831">https://www.npws.ie/protected-sites/sac/000831</a>	Within 15km	None	No
STEP 3. Assessment of Likely Significant Effects				
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:				
Impacts:	Possible Significance of			

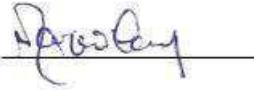
	Impacts: (duration/magnitude etc.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> <li>• Vegetation clearance</li> <li>• Demolition</li> <li>• Surface water runoff from soil excavation/infill/landscaping (including borrow pits)</li> <li>• Dust, noise, vibration</li> <li>• Lighting disturbance</li> <li>• Impact on groundwater/dewatering</li> <li>• Storage of excavated/construction materials</li> <li>• Access to site</li> <li>• Pests</li> </ul>	No potential impacts
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> <li>• Direct emission to air and water</li> <li>• Surface water runoff containing contaminant or sediment</li> <li>• Lighting disturbance</li> <li>• Noise/vibration</li> <li>• Changes to water/groundwater due to drainage or abstraction</li> <li>• Presence of people, vehicles and activities</li> <li>• Physical presence of structures (e.g. collision risks)</li> <li>• Potential for accidents or incidents</li> </ul>	No potential impacts
In-combination/Other	No potential impacts
<b>(b) Describe any likely changes to the European site:</b>	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> <li>• Reduction or fragmentation of habitat area</li> <li>• Disturbance to QI species</li> <li>• Habitat or species fragmentation</li> <li>• Reduction or fragmentation in species density</li> <li>• Changes in key indicators of conservation status value (water or air quality etc.)</li> <li>• Changes to areas of sensitivity or threats to QI</li> <li>• Interference with the key relationships that define the structure or ecological function of the site</li> </ul>	No potential impacts
<b>(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?</b>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>STEP 4. Screening Determination Statement</b>	
<b>The assessment of significance of effects:</b>	

**Describe how the proposed development (alone or in-combination) is/is **not likely** to have significant effects on European site(s) in view of its conservation objectives.**

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to: the nature and scale of the proposed development, the proposed land use and distance from European sites, the lack of direct connections with regard to the Source-Pathway-Receptor model, it is concluded that the proposed development, individually or in-combination with other plans or projects, The proposed development is not likely to have significant effects on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required.

**Conclusion:**

	<b>Tick as Appropriate:</b>	<b>Recommendation:</b>
(i) It is clear that there is <b>no likelihood</b> of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is <b>uncertain</b> whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) <b>Significant effects</b> are likely.	<input type="checkbox"/>	<input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
<b>Signature and Date of Recommending Officer:</b>		<b>Date:</b> 28.04.2025

**Original**

**TIPPERARY COUNTY COUNCIL**

**DELEGATED EMPLOYEE'S ORDER**

File Ref: **S5/25/40**      Delegated Employee's Order No: \_\_\_\_\_

**SUBJECT: Section 5 Declaration**

I, Dave Carroll, A/Director of Services, Tipperary County Council, by virtue of the powers delegated to me in accordance with the provisions of Section 154 of the Local Government Act 2001, as amended by Schedule 1, Part 1 of the Local Government Reform Act 2014 under Chief Executive's Order No. 41983 dated 17<sup>th</sup> April, 2025, hereby order that pursuant to the provisions of the Planning and Development Act 2000, as amended, that an application under Section 5 from ROC Recycling Solutions Ltd., C/o David Mulcahy, Planning Consultants Ltd., 67 Old Mill Race, Athgarvan, Newbridge, Co. Kildare re:

**Whether the use of the site for materials recycling and transfer facility is or is not development and is or is not exempt development. Also, if minor associated works are exempt development under Class 21 of Planning and Development Regulations, 2001 as amended at Former Roscrea Bacon Factory, Castleholdings Roscrea, Co. Tipperary.**

**AND WHEREAS** Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) The definition of "industrial process" in Article 5 of the Planning and Development Regulations 2001, as amended,
- (c) The planning history of the site
- (d) The exemptions relating to development for industrial purposes as set down under Article 6 of the Planning and Development Regulations 2001, as amended, specifically the exemptions under Class 21.

Tipperary County Council has concluded that the use of site for materials recycling and transfer and undertaking of minor works (associated with the proposed use) as proposed is "development" within the meaning of the Planning and Development Act 2000, as amended and is **not** "exempted development".

It is considered the proposed use constitutes a material change of use of the lands from the established Industrial use. The proposed use does not come within the definition of "industrial process" as set out in the Planning and Development Regulations, 2001 as amended and does not meet any exemption set down under said Regulations or the Planning and Development Act 2000, as amended.

As the proposed use is not considered an industrial process the exemptions under Class 21 of the Planning and Development Regulations 2001, as amended cannot be availed of.

**Signed:** 

**Date: 29/04/2025**

**Dave Carroll**  
**A/Director of Services**  
**Planning and Development (including Town Centre First),**  
**Emergency Services and Emergency Planning and**  
**Tipperary/Cahir/Cashel Municipal District**



Date: 29<sup>th</sup> April, 2025

Our Ref: S5/25/40

Civic Offices, Nenagh

ROC Recycling Solutions Ltd.,  
C/o David Mulcahy Planning Consultants Ltd.,  
67 Old Mill Race,  
Athgarvan,  
Newbridge,  
Co. Kildare.

**Re: Declaration under Section 5 of the Planning and Development Act 2000**

Dear sir/madam,

I refer to your application for a Section 5 Declaration received on 10<sup>th</sup> April, 2025 in relation to the following proposed works:

**Whether the use of the site for materials recycling and transfer facility is or is not development and is or is not exempt development. Also, if minor associated works are exempt development under Class 21 of Planning and Development Regulations, 2001 as amended at Former Roscrea Bacon Factory, Castleholdings Roscrea, Co. Tipperary**

**AND WHEREAS** Tipperary County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) The definition of “industrial process” in Article 5 of the Planning and Development Regulations 2001, as amended,
- (c) The planning history of the site
- (d) The exemptions relating to development for industrial purposes as set down under Article 6 of the Planning and Development Regulations 2001, as amended, specifically the exemptions under Class 21.

Tipperary County Council has concluded that the use of site for materials recycling and transfer and undertaking of minor works (associated with the proposed use) as proposed is “development” within the meaning of the

Planning and Development Act 2000, as amended and is **not** "exempted development".

It is considered the proposed use constitutes a material change of use of the lands from the established Industrial use. The proposed use does not come within the definition of "industrial process" as set out in the Planning and Development Regulations, 2001 as amended and does not meet any exemption set down under said Regulations or the Planning and Development Act 2000, as amended.

As the proposed use not considered an industrial process the exemptions under Class 21 of the Planning and Development Regulations 2001, as amended cannot be availed of.

**NOTE:** Any person issued with a Declaration of a Planning Authority may refer the Declaration for review to An Bord Pleanala, 64 Marlborough Street, Dublin 1, within four (4) weeks of the date of issue of the Declaration and on payment of the prescribed fee.

Yours sincerely

*Geraldine Quinn*  
for **Director of Services**