

Comhairle Chontae Atha Cliath Theas

PR/0574/22

Record of Executive Business and Chief Executive's Order

Register Reference: ED21/0073
Correspondence Name & Address: MBG Distribution Ltd. Lower Greenhills Road, Walkinstown, Dublin 12
Development: Waste Facility permit required for premises
Location: Lower Greenhills Road, Walkinstown, Dublin 12
Applicant: MBG Distribution Ltd.

(SW)

Site Description

The site is located within an industrial area.

Proposal

This is an application requesting a Section 5 Declaration on whether or not the following is development and if so, is it exempted development

- *Waste Facility permit required for premises*

The following has been submitted with this Section 5:

- Application form
- Site location map

Relevant Planning History

None.

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 of the Planning and Development Act 2000, as amended and Articles 5,6,7,8,9,10 and 11 of the Planning and Development Regulations 2001, as amended.

Is the proposal development?

Under the Planning and Development Act 2000 (as amended) Section 3(1) defines development and Section 3(2) sets out categories where the use of land shall be taken as having materially changed and would therefore, under the definition of development, constitute development. Therefore, development is defined as:

"Development" means, except where the context otherwise requires, 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

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"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The applicant has not provided any details regarding why the waste permit may be required. It has not been indicated whether any change of use or works would take place.

The applicant is therefore requested to set out:

- The current use on the site
- Details of why the proposal requires a waste permit:
 - o Details of proposed waste activities on the site (type, quantum, location)
 - o Details of whether materials would be stored or whether any other activities would take place at the site.
- Details of any works that would take place.

Is the proposal exempted development?

The development to which this Section 5 Declaration application relates comprises the following:

- *Waste Facility permit required for premises*

It is unclear whether the proposal is development at this stage.

Article 9 restrictions

Article 9 states the following:

Development to which article 6 relates shall not be exempted development for the purposes of the Act:

(a) if the carrying out of such development would--

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

There is no planning history for the site. The application form states that the premises dates from 1963.

It is not apparent whether any other article 9 restrictions are relevant at this stage. It is noted that site is not within an environmentally sensitive area.

Conclusion

Having regard to the provisions of Section 4 of the Planning and Development Act 2000 (as amended), and Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the following works:

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- Waste Facility permit required for premises

to be carried out at Lower Greenhills Road, Walkinstown, Dublin 12 as detailed in the documentation submitted,

(A) **It is not clear whether it is development**

and

(B) **It is not clear whether it is exempt development.**

Recommendation

The applicant shall be written to and informed that the proposal comprising 'Waste Facility permit required for premises':

(A) **It is not clear whether it is development**

and

(B) **It is not clear whether it is exempt development**

Additional Information

Additional information requested: 16 December 2021

Additional information received: 08 April 2022

Assessment

Item 1:

The applicant is advised that the submitted application does not state what the proposed Exempted Development is. The applicant has not provided any details regarding why the waste permit may be required. It has not been indicated whether any change of use or works would take place.

The applicant is therefore requested to set out:

- *The current use on the site*
- *Details of why the proposal requires a waste permit:*
- *Details of proposed waste activities on the site (type, quantum, location)*
- *Details of whether materials would be stored or whether any other activities would take place at the site.*
- *Details of any works that would take place.*

The above information is required to support the assessment of this application.

"Development" means, except where the context otherwise requires, 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

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"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Applicant's response:

The first query was relating to "why we required a waste facility permit"

The waste facility permit is required to allow us to resume our dismantling for export area of business in our new premises location.

We have carried out this type of operation for the past number of years and hold a valid waste facility permit (permit number-WFP-DS-15-0001-03)

This permit was issued to us in our previous location valid from June 2018 to June 2023.

The relocation of our premises has forced us to make a re application for same.

The second aspect to the additional information request pertains to

Usage,

Activities,

Storage,

Other activities on site.

To answer your questions

The site is currently used as a place to repair motor vehicles along with the sale of new and used motor vehicle components.

The reason the proposal requires a waste facility permit is to allow us to resume the dismantling of motor vehicles for the purpose of exporting the dismantled vehicle parts.

The details of proposed activities to take place on site are,

The sourcing and purchasing of vehicles for the purpose of dismantling (these sourced vehicles are held on a tarmac surfaces designated area within the grounds of our premises).

The depolluting of all contaminants relating to these vehicles (this takes place within the premises on a concrete surface in a designated area)

We work closely with our environmental partners for the disposal of same,

Enva - waste oil collection and disposal.

Cross more tyres - collection and disposal of used tyres.

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Hammond Lane - for the collection and recycling of un required metal from vehicle shells following the dismantling process.

All of our dismantling takes place in a self contained and dedicated location within our premises.

The question of storage of materials and further activities is simply yes we would be required to store our dismantled components for a short time period prior to containerising and exporting to our longstanding middle eastern buyers,

As for other activities, yes we currently operate a vehicle repair centre along with a vehicle components sales facility.

No structural or remedial works are required to the existing facilities.

We have already begun the waste facility permit application process with South Dublin County Council and are liaising with Mr. Richard McCormack in the Waste Enforcement Department.

Assessment:

Is the proposal development?

Under the Planning and Development Act 2000 (as amended) Section 3(1) defines development and Section 3(2) sets out categories where the use of land shall be taken as having materially changed and would therefore, under the definition of development, constitute development. Therefore, development is defined as:

"Development" means, except where the context otherwise requires, 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

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The applicant has stated in their response that they have recently relocated premises and that the current premises is only used for repair of motor vehicles as well as the sale of new and used motor vehicle components.

The applicant intends on undertaking the following activities on the site. No 'works' would take place, just the following changes of use:

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- *The sourcing and purchasing of vehicles for the purpose of dismantling (these sourced vehicles are held on a tarmac surfaces designated area within the grounds of our premises).*
- *The depolluting of all contaminants relating to these vehicles (this takes place within the premises on a concrete surface in a designated area)*

Section 3(2)(b)(iii) states:

For the purposes of subsection (1) and without prejudice to the generality of that subsection -

Where land becomes used for any of the following purposes -

(iii) the deposit of vehicles whether or not usable for purpose for which they were constructed or last used, old metal, mining or industrial waste, builder's waste, rubbish or debris.

the use of the land shall be taken as having materially changed.

The proposal includes the deposit of vehicles for the purposes of dismantling, as well as the decontamination of the area on which it is stored. It is considered that this would fall into the category as set out in Section 3(2)(b)(iii). As such, and pursuant to Section 3(2)(b)(iii) the use of the land would have materially changed and would therefore be development.

Is the proposal exempted development?

Section 4(1)(h) of the Planning and Development Act 2000, as amended, states that 'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures'.

The provisions of Section 4(1)(h) are not applicable in this instance as the declaration sought relates to the storage of vehicles for dismantling and not alterations to a structure.

The Planning and Development Regulations 2001 (as amended) set out the following classes of exemption for 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

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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 and 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.

Assessment:

The above class is not relevant as the proposal does not contain any of the elements set out in (a) or (b)

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 and 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.

Assessment:

The current use of the site is as a vehicle repair centre along with a vehicle components sales facility.

The Planning and Development Regulations 2001 (as amended) provides the following definitions:

“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,

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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

"industrial undertaker" means a person by whom an industrial process is carried on and "industrial undertaking" shall be construed accordingly

Based upon the above definitions, the current repair to motor vehicles is considered to be an industrial process at present. However, the applicant stated that "*The reason the proposal requires a waste facility permit is to allow us to resume the dismantling of motor vehicles for the purpose of exporting the dismantled vehicle parts*". It is therefore apparent that the function of the facility would not be solely in connection with the on-site industrial process. The proposal is, therefore, **not exempt** under Class 22.

Class 14

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,*
- (b) from use as a public house, to use as a shop,*
- (c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,*
- (d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,*
- (e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,*
- (f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons*

Conditions and limitations:

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2. (applicable to point f only).

Assessment:

The proposed development does not involve any of the above changes of use.

Conclusion:

The proposal the subject of this Section 5 Declaration is 'Waste Facility permit required for premises'.

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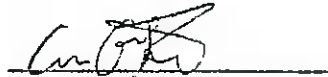
It is considered that:

- (A) It constitutes development,
- and
- (B) It is not exempted development.

having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

The applicant should be informed that the proposed development would not be considered as Exempted Development and would require planning permission.



Caitlin O'Shea,
Executive Planner

ORDER: That the applicant be informed that the proposed development of Waste Facility permit required for premises at Lower Greenhills Road, Walkinstown, Dublin 12 is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore does require planning permission.

Date: 05/05/2022



Colm Harte,
Senior Executive Planner