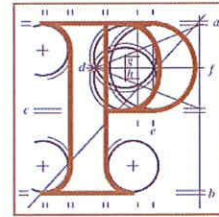


Our Case Number: ABP-313904-22

Planning Authority Reference Number: ED22/0008



**An
Bord
Pleanála**

South Dublin County Council
Planning Department
County Hall
Tallaght
Dublin 24



Date: 28 June 2022

Re: Whether the commercial use as open storage of lands at Clonacoole, Naas Road, Clondalkin, Dublin 22 development is or is not development and is or is not exempted development.
Clonacoole, Naas Road, Clondalkin, Dublin 22

Dear Sir / Madam,

Enclosed is a copy of a referral under the Planning and Development Act, 2000, (as amended).

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the day on which a copy of the referral is sent to you, copies of any information in your possession which is relevant to the referral, including

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority.
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) where no declaration was issued by you, indicate the date that the referral was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended)

In accordance with section 129 of the 2000 Act, (as amended), you may make submissions or observations in writing to the Board in relation to the referral within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Board outside of that period shall not be considered and where none have been validly received, the Board may determine the referral without further notice to you.

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

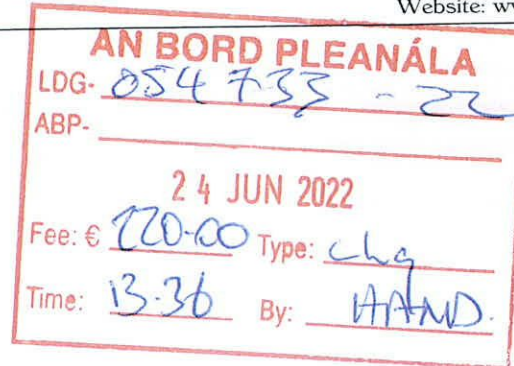
64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

DIRECTORS: JOHN O'MALLEY BA BAI MRUP Dip.EIAMgt. Dip.Env.Eng. MIEI. MIPI. MRTPI
RAYMOND O'MALLEY BA BAI MURP Dip.EIAMgt. MIEI
CONSULTANT: KIARAN O'MALLEY BE CEEng Dip.EIAMgt. FIEI AMIHT MICE MRTPI MIPI

Tel: +353 1 2832077 / 2835156
Fax: +353 1 2832092
E-mail: info@kom.ie
Website: www.kom.ie

24th June 2022

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1



Reg. Ref.: ED22/0008
Location: Clonacoole, Naas Road, Clondalkin, Dublin 22
Question: Is the commercial use as open storage of lands at Clonacoole, Naas Road, Clondalkin, Dublin 22 development, and if so, is it exempt development?
Decision Date: 31st May 2022
Refer By: 27th June 2022

SECTION 5 REFERRAL

Dear Sir or Madam,

This is a section 5 referral by our client **John Hanlon, Sturdy Products, Blessington Industrial Estate, Blessington, Co. Wicklow** against the decision of South Dublin County Council in respect of the above section 5 declaration. Attached is a copy of the Council's decision (received by e-mail) and a cheque for € 220 in respect of the prescribed fee.

The point of dispute between the referrer and the planning authority is whether or not a material change of use would arise and thus whether or not the proposal is development. In the assessment section of the planning officer's report it is concluded that:

"The commercial use of lands as open storage is considered a material change of use of the land. The proposal is therefore considered 'development'."

That assessment and conclusion appears to ignore or set aside the pre-63 established storage use of the lands that were detailed in the declaration and supported with various letters, receipts and other documentation (see copy attached). As set out in the declaration, the following is a summary of some of the businesses that used the property:

- Hanlon Lime Quarries at "Druim Aoibhinn", Monastery Road, Clondalkin – our client confirms this was his grandfather's business from c. 1943 and it used the site for truck parking and storage
- Truck parking for various local businesses including:-
 - (i) Holman Engineering, Naas Road;

- (ii) Tom O Hanlon Ford Dealer Inchicore as overflow parking. He was also the main supplier of Ford cars for An Garda
- (iii) Contractors Plant Ltd., Naas Road, Clondalkin [our client informs us that this was a Tracey family business]
- Morlon Motors (in 1970s) – used for storage of cars, service cars and vans [see various receipts attached]
- Design Experts (in early 1980s) – this was an architectural service [see copy of business card attached confirming the site address]
- Farrell’s Mobile Homes (in mid 1980s) – used for storage of mobile homes including storage of third party owned mobile homes. [This company is now based at Rathcoole]
- Irish Towing Services (2000s – 2010’s) – various storage [see letter dated 20th August 2018 attached]
- Tank Engineering Ltd. (mid 1990s to date) – storage [see letter dated 15th August 2018 attached]
- Eurobins Ltd. t/a Red Cow 20’ Self Storage (2015 to date) – storage for companies and private individuals

There is no apparent consideration of that information by the Council, which is not even referenced in the assessment section of the planner’s report. Further, the Council does not identify what it considers to be the current authorised use of the lands from which a supposed material change of use would arise.

It is not clear why the Council did not consider the pre-63 use and the information within the declaration, which is repeated above demonstrating such use. Accordingly, the Board may choose to consider a slight re-wording of the question put to the planning authority with a clear reference to pre-63 suggested as follows:

*Is the **restoration to pre-63** commercial use as open storage of lands at Clonacoolle, Naas Road, Clondalkin, Dublin 22 development, and if so, is it exempt development?*

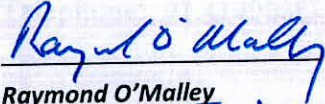
Whichever version of the question that the Board elects to assess, our client’s position is the same i.e. the site enjoys pre-63 commercial use for open storage. On that basis, the (restoration of) commercial use as open storage of these lands is not development; neither a change of use nor material change of use would arise. The question is it or is it not exempt development therefore does arise. The Board is therefore requested to review this referral and confirm that the proposed does not constitute development.

In addition to the above, it is considered necessary to clarify the following matters that were also raised in the planning officer’s report:

- (i) The question before the Council and now before the Board is on the basis that the storage containers are not on the site. There seemed to be some misunderstanding about this matter in the Council’s report.
- (ii) The adjoining dwelling is within the ownership of the referrer but that land is not relevant to the section 5 question.
- (iii) The issue of potential traffic hazard (Article 9(1)(iii) of the Regs) does not arise because the referrer is not reliant on an exempt development provision. Further, the fact that the Council designed and built the entrance/exit to this yard appears to have been completely ignored by the Council.

Please acknowledge receipt of this referral and direct all future correspondence in this matter to our office.

Regards,



Raymond O'Malley

Kieran O'Malley & Co. Ltd.

ROM: rom

- Enclosures
1. A copy of Local Authority decision
 2. A cheque for € 220 payable to An Bord Pleanála
 3. A copy of:
 - Morlon Motors receipts
 - Design Experts business card
 - Irish Towing Services letter dated 20th August 2018
 - Tank Engineering Ltd. letter dated 15th August 2018

ORDER FORM
MORLON MOTORS
 NAAS ROAD
 CLONDALKIN
 CO DUBLIN

PHONE 593196. 50337

Anna Fannell
 Clondalkin. 10/5/36

Order No

Qty	part no	description	unit.	1936	
				£	P
		Hill Man Imp			
		Sat Timing Shim		12-00	
		Do Head gasket		40-00	
		All Parts		24-00	
		Oil		76-00	

per

PSADP5J

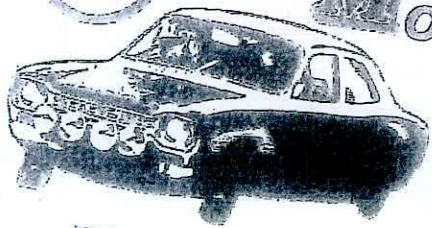
27

MORLON MOTORS 13000045.
 Fiat 104 S.
 Reg.

Air filter	£3.10
Oil filter	3.20
Oil	2.96
Points	1.80
Track rod end.	3.50
Brake fluid	.70
Bulbs	.84
	<hr/>
	15.90
Labour.	16.00
	<hr/>
	31.90
O.A.T 6.75	2.16
	<hr/>
	34.06

Total	£ 34.06
Heater pipe nuts	3.00
	<hr/>
	37.06

Total £ 34.00



MORLON MOTORS

Naas Road,
Clondalkin,
Co. Dublin.

Phone : 593196 or 503373.

Matt Brown Rathcoole

For ongoing Storage 12-12-76

of your cattle Truck

Between Marts.

£10 per week

For 1976 £520

~ Due

— RONAN Morgan

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Mk. J HANLON
CLONACCOOL
NAAS RD
CLONDALKIN CO DUB

TAX No. B/F/53600
TEMPORARY CREDIT
DATE 8 5 75
INVOICE No. 122114C

CUSTOMER No. 503376K

ORDER NO.	COLUMN CODE	ADVERTISING	DATE START	No. of Inserts	PAPER CODE	CHARGE
6617	072	YAMAHA 593196	1 MAY	2	E.P	1.16
<p>Sales From Morton Motors</p>						

NETT COST 1.16

VALUE ADDED TAX AT 6.25 ON 1.16

0.07

PAPER CODE
I.P. IRISH PRESS
E.P. EVENING PRESS
S.P. SUNDAY PRESS
COM. IRISH AND EVENING

V.A.T. ON ITEMS MARKED XX WAS SEPARATELY RECORDED ON PREVIOUS INVOICE AND OUTSTANDING CHARGES NOW SHOWN ARE TAX INCLUSIVE

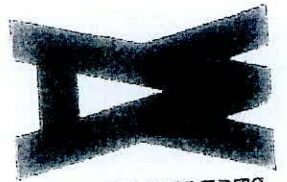
TOTAL OUTSTANDING

1.23

for:

Large Construction Design,
Dwelling House Plans,
Extensions, Land Maps,
and Artwork

Brendan J. Hanlon.



DESIGN EXPERTS

Clonacool
Naas Road
Clondalkin
Co Dublin
phone 593196

Dublin 14

Planning Permission
is being sought for
an extension to the
Rear of 67 Meads Hill
Charleston - by Mr
W.T. Cooke

6 St Brigid's Cottages, Naas Road, Clondalkin, Dublin 22

IRISH TOWING SERVICES

To whom it may concern

20-8-2018

Dear Sirs,

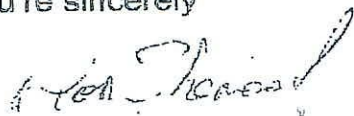
Please be advised that periodically over the past 10 years we have used the lands at the rear of Mrs Hanlon's Dwelling house on the Naas Road, (Clonacool) for the purpose of storage.

We have stored; goods; vehicles and animals there from time to time. We have paid Mrs Hanlon (now deceased) a nominal rent.

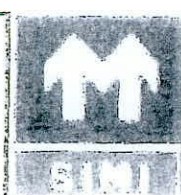
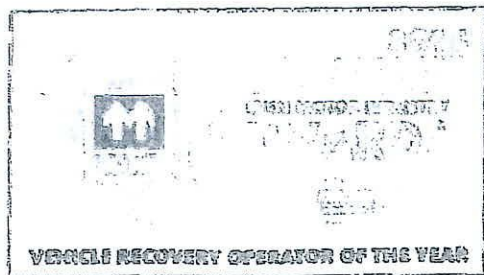
We continue now to store goods there through a Company; Red Cow 20' Self Storage, which I understand is operated by her son John Hanlon.

If there are further details required please revert

You're sincerely



Alan & Cora Sherwood





To, Eurobin Ltd
Red Cow Self Storage
Naas Road
Clondalkin
Co Dublin.

AN BORD PLEANÁLA

24 JUN 2022

LTR DATED _____ rriowl _____
LDG- _____
ABP- _____

OUR REF:

DATE

15-August 2018

Dear Sir,

Further to our conversation this morning, in relation to the Storage facility which we use at Naas Road Clondalkin on the lands adjacent to the house "Clonacool" near Red Cow Roundabout, We are happy to confirm the following:-

Since the mid 1990's we have used this land and the temporary storage facilities on it, for the storage of Plant ; Equipment and Vehicles. We also used it for the temporary storage of Mobile Homes which were used for onsite accommodation for our workers on projects around the country.

We in the past have made payments to Mrs Hanlon for this facility.

We continue to use some storage containers on site since, Eurobin Ltd T/A Red Cow Storage improved facilities on site.

Should you require any further information or details please revert

Thank you

Eamon O Kane
Project Manager

For and on behalf of Tank Engineering Ltd