

An  
Bord  
Pleanála

**Board Direction**  
**BD-018878-25**  
**ABP-314964-22**

The submissions on this file and the Inspector's report and addendum report were further considered at a Board meeting held on 11/02/2025 and the matter of costs was considered at a Board meeting held on 12/02/2025.

The Board decided as follows:

**Refuse Permission under section 37G of the Planning and Development Act 2000, as amended, for the following elements of the proposed development based on the reasons and considerations marked (1) under.**

- Expanded waste treatment activities including:
  - Enhancement of the existing aggregate recovery processing on site which includes upgrading the aggregate recovery operations which produces low carbon, recovered sands and aggregates from various granular wastes by removing residues and other trace contaminants and separating the resulting aggregates into various size fractions;
  - Manufacture of secondary materials including enhanced soils and low-energy bound materials (e.g. concrete); and,
  - Additional waste recovery activities including soil/concrete batching and blending.
- Repurposing of an existing storage structure on site as a testing laboratory unit for the research, development and testing of recovered materials.

**Grant permission under section 37G of the Planning and Development Act 2000, as amended, for the following elements of the proposed development in accordance with the said plans and particulars based on the reasons and considerations marked (2) under and subject to the conditions set out below.**

- Broader waste acceptance types to include non-biodegradable, non-hazardous and inert wastes generated by a range of sectors (construction, commercial, industrial and waste processing);
- Development and re-profiling of the landfill void to accommodate specially engineered landfill cells for non-hazardous wastes in addition to the existing engineered inert cells;
- A leachate management system including a leachate collection system and a set of twin 532 cubic metres storage tanks prior to removal from site by tanker for treatment off-site at a suitably licensed wastewater treatment plant with provision for a future on-site leachate treatment facility;
- Surface water management infrastructure for the landfill to capture, attenuate and treat storm water prior to discharge;
- A mobile enclosure for the maturation of Incinerator Bottom Ash (IBA);
- An internal unpaved road network serving the deposition areas from the reception area which will be modified throughout the development phasing;
- Relocation of the existing artificial Peregrine Falcon nesting box to a proposed elevated pole-mounted location to the south-west of the site;
- Restoration of the site to natural ground levels; and,
- All ancillary site works and landscaping.

### **Reasons and Considerations (1)**

In coming to its decision, the Board had regard to the following:

- (a) The site is in an area zoned 'HA – High Amenity' in the Fingal Development Plan 2023-2029 and it has a zoning objective to 'Protect and enhance high amenity areas'. The 'vision' of this zoning objective is 'Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place'.

It has not been adequately demonstrated that there is planning permission in place for material to be imported onto the site, processed, and then exported from the site. Notwithstanding, the proposed activity would result in additional heavy industry in this high amenity area that would further prolong the stated aim of this and previous applications to restore the site to natural ground levels. Therefore, the continued or enhanced use of the site for carrying out this type of activity would materially contravene the zoning objective of the site as set out in the Fingal Development Plan 2023-2029, would seriously injure the amenities, or depreciate the value, of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

## **Reasons and Considerations (2)**

In coming to its decision, the Board had regard to the following:

- (a) the nature, scale, and extent of the proposed development,
- (b) the amending Environmental Impact Assessment Directive (Directive 2014/52/EU), on the assessment of the effects of certain public and private projects on the environment;
- (c) the provisions of the Project Ireland 2040 National Planning Framework,
- (d) the provisions of the Climate Action Plan 2024,
- (e) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031,
- (f) the provisions of the National Waste Management Plan for a Circular Economy 2024-2030,
- (g) the provisions of the Fingal Development Plan 2023-2029,
- (h) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report and Natura Impact Statement, plus the applicant's response to submissions,
- (i) the submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,
- (j) the applicant's response to the Board's further information request and the submissions from prescribed bodies and third parties associated with same,



- (k) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European Sites,
- (l) the planning history of the site, and,
- (m) the report of the Inspector.

#### **Appropriate Assessment: Stage 1:**

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's Report that the only European Sites in respect of which the proposed development has the potential to have a significant effect are Rogerstown Estuary Special Area of Conservation (Site Code: 000208) and Rogerstown Estuary Special Protection Area (Site Code: 004015).

#### **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement and associated documentation submitted with the application including the applicant's response to submissions, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development on the two European Sites, Rogerstown Estuary Special Area of Conservation (Site Code: 000208) and Rogerstown Estuary Special Protection Area (Site Code: 004015), in view of the Sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the

potential effects of the proposed development on the aforementioned European Sites, having regard to the Sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies, and observers during the course of the application, and,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made during the course of the application.

### **Reasoned Conclusions on the Significant Effects:**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- **Soils, Geology, and Hydrogeology** – Hydrogeological concerns were the primary refusal reason for the Environmental Protection Area licence W0129-03 after planning permission had been granted by the Board under PL06F.PA0018 for an integrated waste management facility. Substantial investigative studies carried out since the refusal have demonstrated that there would be no undue adverse impact on the public water supply or the underlying aquifer.
- **Landscape and Visual Amenity** – The potential for impacts on landscape and visual amenity during the construction and operational stages are relatively limited. Once the site operations are finished and the site fully capped and restored to a rural use there would be a positive, beneficial impact on the landscape and visual amenity of the area.
- **Noise and Vibration** – Noise specifically from the on-site operation would not have any undue adverse impact on the residential amenity of properties in the area.
- **Biodiversity** - It is acknowledged that adverse effects on peregrine falcons cannot all be mitigated. Conflicting objectives of maintenance of the peregrine habitat and infilling the quarry void cannot both be achieved at this location. However, appropriate mitigation in relation to this species is proposed.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed continuation and enhancement of the current waste acceptance / landfilling development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Overall, the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.



### **Proper Planning and Sustainable Development:**

The Board considered that the continuation and enhancement of the current waste acceptance / landfilling development, subject to compliance with the conditions set out below, would be in accordance with national, regional, and local planning policy including the relevant provisions of the Fingal Development Plan 2023-2029, would be acceptable in terms of impact on the visual amenities and landscape character of the area given the objective of the development to restore the site to natural ground levels, which would also be consistent with the 'high amenity' zoning objective of the area within which the site is located, would not seriously injure the amenities of properties in the vicinity, would not be prejudicial to public health, would not pose a risk to water quality or affect the natural or built heritage of the area, would not adversely impact the road network in the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The grant of permission relates to the development described in the application documentation received by the Board on 26<sup>th</sup> day of October 2022 comprising:
  - (a) Broader waste acceptance types to include non-biodegradable, non-hazardous and inert wastes generated by a range of sectors (construction, commercial, industrial, and waste processing);
  - (b) Development and re-profiling of the landfill void to accommodate specially engineered landfill cells for non-hazardous wastes in addition to the existing engineered inert cells;
  - (c) A leachate management system including a leachate collection system and a set of twin 532 cubic metres storage tanks prior to removal from site by tanker for treatment off-site at a suitably licensed wastewater treatment plant with provision for a future on-site leachate treatment facility;
  - (d) Surface water management infrastructure for the landfill to capture, attenuate and treat storm water prior to discharge;

- (e) A mobile enclosure for the maturation of Incinerator Bottom Ash (IBA);
- (f) An internal un-paved road network serving the deposition areas from the reception area which will be modified throughout the development phasing;
- (g) Relocation of the existing artificial Peregrine Falcon nesting box to a proposed elevated pole-mounted location to the south-west of the site;
- (h) Restoration of the site to natural ground levels; and,
- (i) All ancillary site works and landscaping.

For clarity, this grant of permission does not include:

- (a) Expanded waste treatment activities including:
  - i. Enhancement of the existing aggregate recovery processing on site which includes upgrading the aggregate recovery operations which produces low carbon, recovered sands and aggregates from various granular wastes by removing residues and other trace contaminants and separating the resulting aggregates into various size fractions;
  - ii. Manufacture of secondary materials including enhanced soils and low-energy bound materials (e.g. concrete); and,
  - iii. Additional waste recovery activities including soil/concrete batching and blending.
- (b) Repurposing of an existing storage structure on site as a testing laboratory unit for research, development and testing of recovered materials.

**Reason:** In the interest of clarity.

2. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars received on the 24<sup>th</sup> day of April 2024, and except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to



commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

3. The period during which the proposed development hereby permitted may be constructed shall be five years from the date of this Order.

**Reason:** In the interest of clarity.

4. The period during which the development hereby permitted may be carried out shall be 25 years from the date of this Order.

**Reason:** In the interest of clarity.

5. Prior to the commencement of any development associated with this permission, the developer shall obtain/be in receipt of an appropriate licence from the Environmental Protection Agency for the operation of the facility and the development shall operate under the terms of that licence in so far as it relates to environmental emissions and practices.

**Reason:** In the interests of the protection of the environment and the proper planning and sustainable development of the area.

6. (a) The mitigation measures and monitoring commitments identified and contained within the Environmental Impact Assessment Report and the Natura Impact Statement, and other plans and particulars submitted with the application, shall be implemented in full.  
(b) Any measures or commitments stating 'should' or 'may' etc. shall be read as 'shall' or 'will' etc. unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of clarity, the protection of the environment and European Sites, and the proper planning and sustainable development of the area.

7. The future on-site leachate treatment facility is not permitted under this permission. Any future on-site leachate treatment facility shall only be authorised by a separate grant of planning permission.

**Reason:** In the interests of clarity, public health and the proper planning and sustainable development of the area.

8. (a) Incinerator bottom ash shall be accepted on-site for disposal and landfilling for a period not exceeding ten years, unless otherwise agreed in writing with the planning authority.
- (b) The developer shall agree in writing with the planning authority a method that facilitates the future extraction of incinerator bottom ash from the landfill for reuse. Any processing of extracted incinerator bottom ash shall take place off-site.

**Reason:** To comply with circular economy principles, to facilitate the future re-use of incinerator bottom ash should end-of-waste be established for this material in Ireland, and in the interest of the proper planning and sustainable development of the area.

9. The annual waste intake at the facility shall be limited to a maximum of 500,000 tonnes.

**Reason:** To control the scale of the development in the interest of the amenities of the area and the proper planning and sustainable development of the area.

10. (a) Within six months of the date of grant of this Order, or as otherwise agreed in writing with the planning authority, an environmental monitoring committee shall be established. Details of the members of the committee shall be agreed in writing with the planning authority and shall include two public representatives, two officials from Fingal County Council, two members of the local community, and two representatives of the developer.

The environmental monitoring committee shall monitor the development permitted by this consent and shall meet at least four times per annum or at such intervals as the environmental monitoring committee members agree.

- (b) The developer shall pay a sum of money to the planning authority, either annually or in such manner as may be agreed, towards the cost of the provision of environmental improvement and recreational or community amenities in the locality. The identification of such projects shall be decided by the planning authority having consulted with the environmental monitoring committee. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of such agreement, shall be referred to the Board for determination. The amount shall be index linked in the case of phased payment. The developer shall consult with the planning authority in this regard within six months of the date of grant of this Order, or as otherwise agreed in writing with the planning authority.

**Reason:** It is considered reasonable that the developer should contribute towards the cost of environmental, recreational, or community amenities which would constitute a substantial gain to the local community.

11. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping,



emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

12. (a) The site shall be restored in accordance with the plans and particulars lodged with the application. The final contours shall be as indicated on the 'Proposed Restoration Contours Sheet 1 of 9' drawing. Upon restoration the lands shall be used for agricultural / rural use purposes.
- (b) All structures, hard standings and associated areas shall be removed not later than six months from the expiration of the permission. The vehicular entrances shall be blocked up and reinstated with native hedgerow.

**Reason:** To ensure that the development shall be in accordance with the permission and to comply with the zoning objective of the area.

13. The periods of operation for the landfilling of the quarry void, including the arrival and exit of heavy goods vehicles associated with same, shall be restricted to:
- (a) between 0700 to 1900 Mondays to Fridays and 0700 to 1700 on Saturdays, unless otherwise agreed in writing with the planning authority, and
- (b) no activity shall take place on Sundays or bank holidays.

**Reason:** To safeguard the amenity of property in the vicinity.

14. Only clean, uncontaminated water shall be discharged from the site to the surface water network.

**Reason:** To protect water quality and ecological habitats and in the interests of public health and the proper planning and sustainable development of the area.

15. Prior to the next peregrine falcon breeding season following the date of this Order, a Peregrine Falcon Management Plan shall be submitted to and agreed in

writing with the planning authority. This Plan shall include details of the usage of the site since 2019, a timeline for the provision of an artificial nest site suitable for use by peregrine falcons in or in the vicinity of the site, provision for annual monitoring of the nesting of this species in the vicinity of the site over the lifetime of the permission, and the submission of an annual report regarding the nesting performance of peregrine falcons at the end of each breeding season.

**Reason:** To conserve a species listed in Annex I of the Birds Directive (2009/147 EC) as a nesting species in the vicinity of the site.

16. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority within six months of the grant of a revised Environmental Protection Agency licence, if applicable, or as otherwise agreed with the planning authority. This shall include the following:

- (a) proposal for the suppression of on-site noise,
- (b) proposal for the on-going monitoring of sound emissions at dwellings in the vicinity,
- (c) proposal for the suppression of dust on site,
- (d) proposal for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage,
- (e) details of safety measures for the land above the quarry void, to include warning signs and stock proof fencing,
- (f) management of all landscaping,
- (g) monitoring of ground and surface water quality, levels, and discharges, and,
- (h) details of site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

**Reason:** In order to safeguard local amenities.

17. The developer shall facilitate the preservation, recording and protection of any archaeological materials or features that may exist within the site related to the construction of the attenuation pond or the leachate holding tanks area. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the attenuation pond or the leachate holding tanks area,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and,
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. All loads of Incinerator Bottom Ash (IBA) shall be covered/sheeted en route to or from the site.

**Reason:** In order to prevent dust emissions, and in the interests of amenity and traffic safety.

19. A wheel-wash facility shall be provided adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of traffic safety and convenience, and to protect the amenities of the area.



20. The developer shall submit annually, for the lifetime of the permission, an aerial photograph which adequately enables the planning authority to assess the progress of the landfilling.

**Reason:** In order to facilitate monitoring and control of the development by the planning authority.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged during the lifetime of the development by associated vehicles, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of traffic safety and the proper planning and sustainable development of the area

22. The developer shall pay a financial contribution of €10,000 (ten thousand euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of road signing and road lining in the vicinity of the proposed access to the site, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

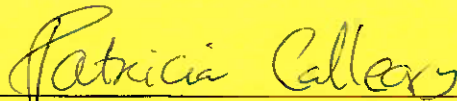
**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development

Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

**Costs:**

The Board also decided that the amount due to be refunded to the applicant is €50,839.00.

**Board Member**

  
Patricia Calleary

**Date:** 12/02/2025