



---

**Planning and Development Acts 2000 to 2018**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 18/74**

**Appeal** by Eimear O'Halloran of Cunniamstown Beg, Rathdrum, County Wicklow against the decision made on the 19<sup>th</sup> day of June, 2018 by Wicklow County Council to grant subject to conditions a permission to TSD Drumclay Limited care of Gerard Higgins and Associates of Twomilewater, Wicklow in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Reclamation of land through the filling of material comprising clay, silt, sand, gravel or stone on a site having an area of 14.38 hectares, for the purpose of improvement of land, together with site access and roadway and other ancillary site works. The proposed development relates to an activity which requires a waste licence. All at Newbawn, Rathdrum, County Wicklow.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the policy of the Wicklow County Development Plan 2016 - 2022 to facilitate waste treatment facilities in appropriate areas in line with the Eastern Midlands Regional Waste Plan 2015 – 2022, and the report 'Construction and Demolition Waste – Soil and Stone Recovery/Disposal Capacity' prepared for the three waste regions and published in December, 2016, it is considered that, subject to compliance with the conditions set out below, the proposed development would contribute to the reduction in the current and predicted shortfall in capacity for such waste streams, would not seriously injure the amenities of the area, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted that the proposed development, which would involve relatively low average daily traffic movements for a limited time period, would result in the beneficial reclamation of land for agricultural purposes.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 25<sup>th</sup> day of May, 2018, 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.

2. This site shall be used only for the development proposed, that is, for the acceptance of inert soil matter for use in land reclamation for agricultural purposes. No other activity, including any industrial activity, shall occur on this site whether or not such change of use would otherwise constitute exempted development as defined in the Planning and Development Act, 2000, as amended and the Planning and Development Regulations, 2001, as amended.

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

3. (a) This permission shall be for a period of five years from the date of this Order.
- (b) The deposition of inert soils on site shall be limited to a period of four years from the date of commencement of such works. The developer shall submit to, and agree in writing with, the planning authority confirmation of the date of commencement of the deposition.
- (c) After the deposition of inert material has ceased, the entire site shall be restored in accordance with the proposed restoration and all machinery, wheel wash and other plant shall be removed from the site within six months.
- (d) The maximum annual tonnage deposited on site shall not exceed 24,750 tonnes.
- (e) Only the areas delineated on the submitted site layout Plans Numbers 1, 2 and 3 submitted to the planning authority on the 31<sup>st</sup> day of January, 2018 shall be filled and the fill shall not exceed one metre in depth and the areas shall be finished with top soil and grassed.

**Reason:** To limit the impact of the development on the L1152 Road and to allow for the orderly and timely completion of the development.

4. Prior to commencement of development, a detailed construction management plan shall be submitted to, and agreed in writing with, the planning authority, which shall include a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures (including details of a truck wheel wash at the site entrance) and other mitigation measures to deal with potential adverse impacts identified in advance of the scheme. The construction management plan shall address at minimum the testing and characterisation of the imported material and the availability of a secure storage facility in the event of an unacceptable waste assignment. A Construction Manager shall be appointed to liaise directly with the planning authority.

**Reason:** In the interests of residential amenity and traffic and pedestrian safety.

5. Records of all materials entering the site and copies of all soil classification reports shall be maintained on site for inspection by the planning authority, as and when requested.

**Reason:** To ensure that materials entering the site are appropriate, in the interest of biodiversity.

6. Delivery of inert material shall take place between the hours of 0800 and 1800 Mondays to Fridays and between 0800 hours and 1400 hours on Saturdays, no works shall take place on Sundays or public holidays.

**Reason:** To protect the amenities of the area.

7. (a) Prior to commencement of development, the entrance, driveway, sightlines and roadside boundary shall be constructed and finished as indicated on the site layout plan, drawing number tsdrumslay-newbawn-2018-1B submitted to the planning authority on the 25<sup>th</sup> day of May, 2018.
- (b) The area between the public road carriageway and the revised boundary shall be finished 200-300 millimetres above carriageway level and finished in grass.
- (c) The revised boundary shall match the existing roadside boundary.

**Reason:** In the interests of traffic safety and visual amenity.

8. (a) Prior to commencement of development, detailed proposals on measures to prevent damage to the public road shall be submitted to, and agreed in writing with, the planning authority.
- (b) The developer shall be responsible for maintaining the adjoining public roadway in a clean state, free from mud and other debris caused by the operation of this site.
- (c) A temporary wheel wash shall be installed as detailed in the submission of the 25<sup>th</sup> day of May, 2018 and all vehicles exiting the site shall use the wheel wash facility.

**Reason:** In the interests of traffic safety and amenity.

9. The developer shall erect metal advance warning signs at both sides of the entrance at locations to be agreed with the planning authority. These signs shall be maintained in a good and clean condition. The material, content, design and location of these signs shall be agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety.

10. (a) The noise level arising from this development shall not exceed 55 dB(A) Leq (1 hour) with a maximum peak of 65 dB(A) between 0800 hours, Mondays to Fridays and between 0800 to 1400 hours on Saturday, but excluding public holidays when measured at the nearest dwelling to the site. At all other times, the noise level shall not exceed 45 dB(A) Leq (1 hour) measured at the same locations. No pure tones shall be audible at any time.
- (b) As and when required by the planning authority, a survey of noise levels at monitoring stations on adjacent properties (to be agreed with the planning authority) shall be undertaken by an agreed professional (at the expense of the developer) and the results submitted to the planning authority within one month of such a request.

The results of such surveys shall include:

- (a) Type of monitoring, equipment used, sensitivity or calibration evidence, and the methodology of the survey.
- (b) Prevailing climatic conditions at the time of the survey.
- (c) The time interval over which the survey was conducted.
- (d) What machinery was operating at the time of the survey.

The results shall be submitted to the planning authority within two weeks of the survey date in each case. If the noise survey has not been carried out, or the results not submitted to the planning authority within one month, the planning authority shall arrange to have such a survey carried out and the cost of the survey recouped from the developer.

**Reason:** In the interest of residential amenity and to prevent pollution.

11. The operator shall ensure that dust on site, both from the movement of machinery and windblown, is controlled.

**Reason:** In the interests of protecting the amenities of the area and preventing environmental pollution.



12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. 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 proposed development,
  - (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.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

**John Connolly**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2018.**