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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 19/99**

**APPEAL** by Herbert Stephenson Junior care of William J. Smyth of 114  
Wesbury, Stillorgan, County Dublin against the decision made on the 17<sup>th</sup> day  
of June, 2019 by Wicklow County Council to refuse permission.

**Proposed Development:** Reclamation of land through the filling of material  
comprising clay, silt, sand, gravel or stone on a site having an area of circa  
3.1 hectares for the purpose of improvement of land for agricultural use and  
ancillary works including portable truck wheel wash and office/chemical toilet  
with access from public road via existing laneway and junction. All at  
Eadestown Middle, Stratford on Slaney, County Wicklow.

**Decision**

**REFUSE permission for the above proposed development in accordance  
with the reasons and considerations 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**

1. On the basis of the information provided with the planning application and the appeal, the Board is not satisfied that the proposed development does not comprise the disposal of waste, which is development within Class 11(b) of Part 2 of Schedule 5 to the Planning and Development Regulations, 2001, as amended. Notwithstanding that the proposed development may not reach the threshold within that Class, the Board, in the light of the nature of the receiving environment, and the environmental sensitivities of the subject site and its surroundings, concludes that the Environmental Impact Assessment would be necessary for the proposed development and that, therefore, the application should have been accompanied by an Environmental Impact Assessment Report. In the absence of such a Report, the Board is precluded from granting planning permission.

2. On the basis of the information provided with the planning application and the appeal and, in the absence of a Natura impact statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Slaney River Valley Special Area of Conservation (Site Code: 000781), in view of the site's conservation objectives. In this regard, the Board noted that the submitted Appropriate Assessment Screening Statement relies on measures (described in the submitted documentation as "preventative measures") which would have the effect of avoiding or reducing the impact of silt and other potential pollutants arising from the proposed development on the stream that leads directly into this European Site. In the light of the judgement of the European Court of Justice in the case of People Over Wind (C-323/17), reliance on such measures is not appropriate in the context of screening for Appropriate Assessment. Accordingly, it is considered by the Board that a Natura impact statement should have been submitted with the planning application. In the absence of such a statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Slaney River Valley Special Area of Conservation (Site Code: 000781), and, therefore, is precluded from granting planning permission.

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**Philip Jones**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**