



An
Bord
Pleanála

Inspector's Report ABP-308214-20

Development

The importation of greenfield soil and stone for the improvement of land for agriculture, requiring the importation of 9,936 cubic metres of inert greenfield soil and stone over a period of up to 2 years. The development will include a temporary hardstand haul road and all ancillary site works. The development will be subject to a waste management certificate of registration from Wicklow County Council.

Location

Raheen, Roundwood, Co. Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

19976

Applicant(s)

Oliver Wolohan

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

Oliver Wolohan

Observer(s)

None.

Date of Site Inspection

15th March, 2021

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Raheen, Co. Wicklow, approximately 2.5km southwest of the village of Roundwood and 16km northwest of Wicklow town, where it occupies a locally elevated position in the foothills of the Wicklow Mountains. It is situated c. 1.0km along a private roadway known locally as Raheen Lane which extends west / north-westwards from the R755 Regional Road, approximately midway between the villages of Annamoe and Roundwood, before terminating in a cul-de-sac. The surrounding landscape is characterised by an undulating rural topography and the gradual transition on travelling westwards from predominantly agricultural farmland to coniferous forestry plantations. There are intermittent instances of one-off housing and farm buildings in the locality with a timber-frame manufacturing facility (understood to be operated by the applicant's extended family) located to the southeast of the application site along Raheen Lane. The Avonmore River flows c. 280m to the south with the lands rising to either side of the valley.
- 1.2. The site itself has a stated site area of 0.812 hectares (with the fill area measuring 0.418 hectares), is irregularly shaped, and comprises an area of cleared forestry / scrubland in addition to a newly laid hardstanding / hardcore haul road extending northwards from Raheen Lane to provide access to the site proper. There is an existing drainage channel flowing parallel to the haul road although this does not extend as far as the infill site and would appear to have been piped under the road to drain the lands further west. The site is bounded by forestry to the north and by agricultural lands to the south, east & west whilst a new dwelling house has recently been constructed on lands c. 100m to the southeast. The site boundaries are generally defined by a combination of fencing and mature hedgerows although the southern site boundary includes a raised earthen berm. A notable characteristic of the topography is a deep depression located approximately midway across the site.

2.0 Proposed Development

- 2.1. The proposed development, as initially submitted to the Planning Authority, consists of the importation of 9,936m³ / 14,905 No. tonnes of inert (uncontaminated) greenfield soil and stone for the agricultural and ecological improvement of the land.

It will include for the re-grading / re-contouring of the site to achieve a more even surface and the infilling of an existing depression. The material will be imported over a period of up to 2 No. years with the work undertaken in three phases. Strict acceptance criteria and an inspection policy will be implemented at the site with the acceptance of material subject to a waste management Certification of Registration issued by the Local Authority. Upon completion of the works, the topsoil layer will be reseeded with a grass / clover mix. The proposal also includes for a temporary hardstanding haul road and all ancillary site works.

2.2. Amended proposals were subsequently submitted in response to a request for further information which reduced the volume of material to be imported to the site to 7,400m³ / 11,093 No. tonnes. Further additional works include:

- The upgrading of a section of pavement at the junction of Raheen Lane with the R755 Regional Road.
- The provision of 3 No. parking spaces on site for staff and visitors.
- The installation of a temporary welfare pod to include self-contained sanitary facilities.
- The use of a mobile water bowser for dust suppression.

2.3. It is not proposed to provide running water on site and potable water will be supplied in bottles.

2.4. Although it is not proposed to install a wheelwash facility on site given the length of the haul road (which is considered sufficient to knock any debris from vehicles), the applicant is amenable to the imposition of a condition requiring the provision of a temporary self-contained wheelwash in which water will be re-circulated and not discharged to site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 21st August, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- The proposed development would endanger public safety by reason of serious traffic hazard because inadequate sightlines at the junction of the laneway with the R755 are not proposed and the existing road network is inadequate in terms of width / alignment to cater for the traffic movements that would be generated by this development.
- Appendix 1 – Development and Design Standards – Section 9 – ‘Facilities for disposal of inert materials’ of the County Development Plan requires that, Applications for the development of commercial waste disposal or recycling facilities catering for the disposal or reuse of inert clean soils, clay, sands, gravels and stones shall only be permitted at appropriate locations and shall among other be subject to the following:

The proposed development shall not result in adverse impacts on the landscape or unnecessarily interfere with natural land form and topography in any area, without detailed information.

The proposed development would constitute re-profiling of the lands which is excessive for agricultural purposes, and the final contours would result in the landform at points being in excess of 2m higher than adjoining fields, and above existing boundary vegetation. It is therefore considered that the final land levels of the proposed development would not form a natural relationship with adjoining lands and the existing natural topography and would, therefore, be contrary to the objective of the County Development Plan and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report stated that the proposed development was acceptable in principle and that the infilling of the existing hollow / depression would benefit the lands. However, concerns were raised as regards inconsistencies in the finished infill / contour levels. It was also considered that further details were required in respect of the number of employees on site, car parking, water & welfare facilities, noise and dust suppression / mitigation measures, and the provision of a wheelwash facility.

The proposed development was considered to be subthreshold for the purposes of environmental impact assessment (in reference to Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended i.e. *'installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule'*) and a screening exercise concluded that the submission of an Environmental Impact Assessment Report would not be warranted.

Concerns arose as regards the capacity of the laneway to accommodate the likely vehicle movements as well as the adequacy of the sightlines available at the junction of Raheen Lane with the Regional Road.

In terms of the overall design and visual impact of the proposal, given the site location set back from the public road and the planting along its boundaries, it was considered that the development could be assimilated into the landscape and would not seriously injure the visual amenities of the area.

Following the receipt of a response to a request for additional information, a further report was prepared which concluded that adequate sightlines were not available at the junction of the laneway with the regional road whilst the existing road network (i.e. Raheen Lane) was also inadequate in terms of width / alignment to cater for the proposed development. It was further considered that the final site levels / contours would not form a natural relationship with adjoining lands (being in excess of 2m higher in places than the adjoining fields and above existing boundary vegetation) and thus would be contrary to Section 9: *'Waste and Emissions: Facilities for disposal of inert materials'* of Appendix 1: *'Development and Design Standards'* of the Development Plan.

3.2.2. *Other Technical Reports:*

Roads: An initial report stated that the public road was to be kept clean at all times with details of the mitigation measures to be submitted to the Council.

Following the receipt of a response to a request for additional information, a further report was prepared which stated that the proposal to use existing entrances etc. along the roadway as passing bays was inadequate as each of these access points was of insufficient width to accommodate the full length of an HGV. Concerns were also raised as regards the limited forward visibility available on the approach to corners along the access road. The report further referenced the need to agree any

improvement works at the junction with the R755 Regional Road with the District Engineer and to install a wheelwash prior to the commencement of works.

Wicklow Area Engineer: No objection, although it was requested that road improvement works (including drainage) be undertaken at the junction of Raheen Lane with the R755 Regional Road.

Waste Management Section: No objection, although the importation of soil to the site would require a Certificate of Registration from the Waste Management Section of the Local Authority.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. *On Site:*

None.

4.2. *On Adjacent Sites:*

PA Ref. No. 17/719. Was granted on 8th November, 2017 permitting Ciara Wolohan permission for a dwelling with attached garage, well, a secondary treatment system, percolation area, new entrance and all associated site works, all at Raheen, Roundwood, Co. Wicklow.

4.3. *On Sites in the Immediate Vicinity (to the southeast along Raheen Lane):*

PA Ref. No. 08/2005. Was granted on 14th August, 2008 permitting Wolohan Timber Homes Ltd. permission for the retention of 1,284m² extension to the existing timber processing building, a central dust collection system at first floor level, boundary fencing and landscaping, hard stand and circulation area, and external recycling area, also permission for 146m² of a new ancillary office, canteen and toilet area within the existing building, new wastewater treatment system, new surface water drainage system and car parking area, all at Raheen, Roundwood, Co. Wicklow.

4.4. *Other Relevant Files (further east alongside the R755 Regional Road):*

PA Ref. No. 16/170. Application by Marrakesh Ltd. for permission to develop a landfill facility for soil recovery, a new proposed vehicular entrance and all associated site works, at Ballinacorbeg, Roundwood, Co. Wicklow. This application was withdrawn.

5.0 Policy and Context

5.1. Development Plan

5.1.1. ***Wicklow County Development Plan 2016-2022:-***

Chapter 5 - Economic Development:

Section 5.6: Objectives for Wicklow's Rural Economy:

Economic Development in a Rural Area:

- Applications pertaining to proposals for commercial waste facilities shall be assessed on the basis of objectives set out in '*Section 9.3: Waste & Environmental Emissions*'.

Agriculture: Strategic Objective:

To encourage the continued operation of farming and its associated uses where it already exists, and to facilitate the diversification of the agricultural economy through the support of appropriate alternative farm enterprise sources.

AGR1: To facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, wildlife habitats, areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual amenity of the countryside. Developments shall not be detrimental to archaeological and heritage features of importance.

AGR4: To ensure that agricultural developments do not cause increased pollution to watercourses. Developments will be required to adhere to the Nitrates Directive (91/676/EC), and the EC (Good Agricultural Practice for Protection of Waters) Regulations 2009, with regard to

storage facilities, concerning the protection of waters against pollution caused or induced by nitrates from agricultural sources. Developments will be required to comply with relevant measures, which operate to protect water quality from pollution by agricultural sources. The disposal and storage of agricultural waste shall comply with the standards required by Council.

Section 9.3: *Waste and Environmental Emissions:*

Strategy:

To promote and facilitate best practice in prevention, re-use, recovery, recycling and disposal of all waste and environmental emissions produced in the County.

Section 9.3.2: *Solid Waste Management:*

Solid Waste Management Objectives:

WE3: To facilitate the development of existing and new waste recovery facilities and in particular, to facilitate the development of 'green waste' recovery sites.

WE6: To facilitate the development of sites, services and facilities necessary to achieve implementation of the objectives of the Regional Waste Management Plan.

Chapter 10 - Heritage:

Section 10.3: *Natural Heritage and Landscape*

Section 10.3.9: *Wicklow's Landscape:*

1. The Mountain and Lakeshore Area of Outstanding Natural Beauty

1(a) - The Mountain Uplands:

The central mountain upland area extends from the Dublin border in the north of the County at Kippure towards Aughrim in the south and from east of the Glen of Imaal as far as west of Roundwood Village. A key characteristic of this area is mountainous topography with U-shaped valleys, lakes and glacial topography. This area generally relates to lands immediately surrounding and above the 300m+ contour line.

2. Area of High Amenity:

3(a) - The North East Mountain Lowlands:

Transitional lands located between the corridor zone and the AONB, comprising of Trooperstown Hill, large tracts of forestry lands, including Devil's Glen (a listed County Geological site) and a number of views and prospects in particular those surrounding the Vartry Reservoir.

NH49: All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of this plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

NH50: Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

NH51: To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts.

Section 10.3.10: *Views and Prospects:*

NH52: To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

Appendix 1: Development and Design Standards:

Section 9: *Waste and Emissions: Facilities for disposal of inert materials:*

Applications for the development of commercial waste disposal or recycling facilities catering for the disposal or reuse of inert clean soils, clay, sands, gravels and stones shall only be permitted at appropriate locations and shall be subject to the following:

- It shall be for the disposal of inert clean material only;
- There shall be a proven need for the proposed development;
- The proposed development shall be in accordance with the policies set out in the Eastern-Midlands Region Waste Management Plan
- The proposed development shall not result in adverse impacts on the landscape or unnecessarily interfere with natural land form and topography in any area, without detailed justification
- Such facilities shall not give rise to significant adverse impacts on a designated Natura 2000 site, or interfere with a protected view or prospect, a public right of way, an existing or planned piece of strategic infrastructure, or an important tourist site;
- A development shall not be permitted if it has a detrimental impact on the amenity of adjoining residents, by reason of unacceptable levels of traffic, noise, dust, lighting or other impact resulting from the operation of the facility;
- A development shall not be permitted if it has a detrimental impact on the flora and fauna, ecology, ground and surface water, air quality, and geological / archaeological heritage of the area;

- The development does not result in the creation of a significant traffic hazard and the road network is suitable and has the capacity for anticipated traffic levels.

It should be noted that this policy pertains to inert clean waste disposal facility only and does not relate to any ancillary activities pertaining to the operation of sorting, manipulation and recycling of waste.

A detailed phasing programme for the importation of material, to include details of the volume of material to be included in each phase, cross sections of each phase of operation, the construction of slopes or banks in each phase, details for the seeding and capping of each phase, details pertaining to the impact on the landscape at each phase and landscaping details for the final phase of site restoration.

Where an Environmental Impact Assessment is required the applicant should liaise with the Planning Authority to scope the contents, concerns and issues to be addressed in any environmental impact statement to be prepared.

Appendix 5: Landscape Assessment:

Section 4.5: Wicklow's Landscape Areas:

Section 4.5.1: The Mountain and Lakeshore Area of Outstanding Natural Beauty:

1(a) - The Mountain Uplands:

The central mountain upland area extends from the Dublin border in the north of the County at Kippure towards Aughrim in the south and from east of the Glen of Imaal as far as west of Roundwood Village. A key characteristic of this area is mountainous topography with U-shaped valleys, lakes and glacial topography. This area generally relates to lands immediately surrounding and above the 300+ contour line.

Section 4.5.3: Area of High Amenity: 3(a) - The North East Mountain Lowlands:

Transitional lands located between the corridor zone and the AONB, comprising of Trooperstown Hill, large tracts of forestry lands, including Devils Glen (a listed County Geological site) and a number of views and prospects in particular those surrounding the Varray Reservoir.

Section 5: *Policy Provision:*

Section 5.3.1: *General Development Considerations (GDC)*

Section 5.3.2: *The Mountain Uplands KDC (see Appendix 4 Map 10.13(b)):*

1. All developments within the Mountain Uplands AONB landscape area shall be accompanied by a detailed justification of the need for the proposed development at this location.
2. Where development is to be permitted within the Mountain Uplands AONB landscape area a very high standard of siting, design and landscaping will be required in order to ensure that the proposed development will be assimilated into the existing landscape.
3. To ensure that developments on steep slopes (i.e. 10%) will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from relevant scenic routes and settlements.
4. To maintain the favourable conservation status of existing natural habitats including Natura 2000 sites (SACs and SPAs) and Annex I-Habitats and Annex II-Animal and Plant species within this Mt. Uplands AONB landscape area.
5. To support and facilitate in co-operation with relevant bodies, the provision of amenity routes within and adjoining the Mountain Uplands AONB landscape area in a manner which does not detract from the scenic nature of the area.

Section 5.3.11: *North East Mountain Lowlands KDC (see Appendix 4 Map 10.13(c)):*

1. To protect and facilitate the conservation of structures, sites and objects within the north east Mt. lowlands which are part of the County's cultural heritage, whether or not such structures, sites and objects are included on the Record of Protected Structures.
2. To encourage the preservation and enhancement of native species within and surrounding the Devil's Glen area and the Vale of Clara.
3. To support and facilitate the provision of amenity routes, in a manner which does not detract from the scenic nature of the area and ensure that new

development is sited such that any impacts on the recreational amenity of any such route is minimised.

4. Through appropriate siting and design to ensure that developments along local/regional roads in particular those bordering the Mountain Uplands AONB will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from the local scenic routes and settlements.

(The proposed development site is located at the transition between ‘*The North East Mountain Lowlands - AHA*’ and ‘*The Mountain Uplands AONB*’ landscape categories as detailed in Figure 4.11: ‘*The Landscape Category Map*’ and Maps 10.13(b) & (c) of the Landscape Assessment).

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 280m south of the site (the infilling works).
- The Wicklow Mountain Special Protection Area (Site Code: 004040), approximately 2.1km northwest of the site.
- The Vartry Reservoir Proposed Natural Heritage Area (Site Code: 001771), approximately 2.8km northeast of the site.
- The Devil’s Glen Proposed Natural Heritage Area (Site Code: 000718), approximately 5.6km southeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The drawing submitted as part of the response to the request for further information clearly shows the necessary visibility splay based on an accurate topographical survey of the junction of Raheen Lane with the R755 Regional

Road (this is supported by accompanying photographs which show the visibility splay as presumably established by a previous planning applicant).

- In analysing the available sight distance, a conservative / precautionary approach has been adopted. While the 'X' distance has been relaxed from 3.0m to 2.0m, it is suggested that such a relaxation may not be necessary as the eye-height of the driver of an HGV would be sufficient to allow for the required visibility from a 3.0m setback. Accordingly, it is submitted that adequate visibility is available at the junction and that this would appear to have been accepted by the Roads Dept. of the Local Authority.
- With respect to the capacity of Raheen Lane to cater for the additional traffic consequent on the proposed development, the response to the request for further information has demonstrated that the number of vehicles involved will not be significant and will not give rise to any safety concerns.
- Details of the alignment and geometry of Raheen Lane were provided in response to the request for further information and while there are numerous opportunities for passing traffic, the applicant is willing to construct any additional passing bays deemed necessary as a condition of any decision to grant permission.
- In light of the response to the request for further information, the proposed development could be granted permission without compromising traffic safety.
- The topography of the site takes the form of uneven lands which are higher on the eastern side with a depression between the eastern and western boundaries that renders the site unsuitable for growing crops or use by grazing animals. It is bounded to the east by another field at a similar level which has been farmed by the applicant and is currently used for the growing of crops.

The proposed development aims to begin infilling flush with the levels to the east before subsequently infilling the depression and levelling that area to the west to achieve a consistently level field which can be utilised for farming. The levels are proposed to slope gently to the western boundary so as not to result in a sharp drop off at the site edge. This is clearly shown on Drg. Nos. FI-03 & FI-04. The cross-sections 'A-A' and 'B-B' also clearly demonstrate

that the proposed infilling will be graded gently to match the existing ground and gradient.

The lands to the south are already lower than the development site due to the natural topography and, therefore, the infilled lands will sit higher than the field below in a manner similar to the remainder of the site. This difference is not considered to be excessive or out of context and will be of benefit to the landscape / topography of the site. By way of example, the lands to the east and west of the site are already at the level to which it is proposed to fill.

- The volume of material to be imported to the site is not excessive with the development itself representing a modest land improvement proposal. While the proposed levels will be slightly higher at certain points than those of the field to the south, it is reiterated that the application site is naturally higher than that field and that the increase in height will be modest and in line with those lands to the east and west with the slopes being gently graded so as to ensure a workable field. The finished levels therefore represent a reasonable response to the context given that they will not be out of character with the surrounding area and will be barely noticeable visually due to the undulating topography and southerly slope of the lands.
- The proposed development poses no risk to drainage, with the site owner intending to improve drainage were necessary, and will benefit the land for the purposes of agriculture.
- The infilling works will not adversely impact the landscape and will not unnecessarily interfere with the topography of the area.
- The proposed works are not excessive but are the minimum necessary to render the site suitable for agriculture.
- Drg. No. FI-04 (Section 'B-B') best represents the finished levels on site.

6.2. Planning Authority Response

None.

6.3. **Observations**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Traffic implications
- Visual impact
- Environmental impact assessment screening
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. It is not uncommon in rural areas for landowners to seek to improve the quality of their agricultural lands by way of raising the level of same through the importation and re-grading of suitable inert material. In this respect, the subject proposal (as amended in response to the request for further information) seeks permission to import 7,400m³ / 11,093 No. tonnes of inert (uncontaminated) greenfield soil and stone (from construction projects in the wider area) in order to raise ground levels for the purpose of recontouring the lands and improving their agricultural use. More specifically, reference has been made to the poor quality of the ground cover given that the site comprises reclaimed scrubland, which previously formed part of an adjacent forestry plantation, as well as the presence of a notable hollow / depression within the site topography which renders the lands unsuitable for agriculture. It has also been suggested that the works will improve the ecological value of the lands in question.

- 7.2.2. Although the application has not been accompanied by any specific documentation in support of the need to carry out the proposed land improvement works, such as on the advice of an agricultural advisor or similar party, having conducted a site inspection, I would concur with the applicant (and the assessment by the Waste Management Section of the Local Authority) that the lands in question comprise an area of cleared forestry which appears to be of a lesser quality whilst the pronounced hollow within the site confines serves to inhibit its overall use. Accordingly, I would accept that the importation of suitable clean inert soil and stone, in combination with the appropriate re-grading of the lands, would benefit the site's overall agricultural use.
- 7.2.3. With respect to the provisions of Section 9: '*Waste and Emissions: Facilities for disposal of inert materials*' of Appendix 1 of the Wicklow County Development Plan, 2016 and the broader assessment of the proposal as a 'waste facility', while the application does not provide much detail on the precise sources or the nature of the soil & stone to be imported to the site, it has been confirmed that an intake register will be maintained with only material classified as '*List of Waste Code: 17 05 04 – Soil and Stones other than those mentioned in 17 05 03*' (with LoW Code: 17 05 03 referring to soil and stones containing hazardous substances as per the Environmental Protection Agency's waste classification methodology to be accepted on site. It is further anticipated that the material will be drawn from known and verified sources which have previously been inspected by / for the applicant, although these have not been identified and are only described as comprising small scale construction sites.
- 7.2.4. While the lack of detail as regards the precise material sources is regrettable given the potential difficulties arising in ensuring a consistent supply over the anticipated timeline of the works, I note that the applicant has indicated that he is in the business of groundworks and specialises in excavation and drainage to the effect that he will be in a position to bring soil and stone to the lands from excavation sites. Furthermore, while the site is located at a remove from major urban centres with the result that the proposed development could involve the haulage of material over a significant distance, it cannot be ruled out that there may be a supply locally.
- 7.2.5. Considering that the material to be imported to the site would come under the general classification of 'Construction & Demolition Waste', I have had regard to the

provisions of the Eastern Midlands Region Waste Management Plan, 2015-2021 which estimated that in 2012 there was in the region of 2 million tonnes of C&D waste arising in the region although that figure was increasing rapidly. That document acknowledges that many sites selected for infilling with uncontaminated soil & stone comprise marginal agricultural land, however, it states that there is a sense that at many of these sites, the deposition of waste material rather than improvement or development of the land was the primary purpose of the facility. It is also suggested that consideration needs to be given as to whether the placement of inert waste at such sites remains an appropriate land-use strategy or indeed the best use of potentially recyclable material (more applicable to waste concrete, stone and masonry-type materials).

- 7.2.6. More specific quantities and policy recommendations are set out in the report commissioned by the three waste management planning regions - '*Construction and Demolition Waste – Soil and Stone Recovery / Disposal Capacity*' (December 2016). This report also confirms that the capacity available to recover soil and stone wastes is an issue in each region as a result of the growth in construction activities and the scale of soil waste being generated. With regard to future proposals, Section 6.1 of the report states:

'It is concluded from the analysis that the preferred solution for providing secure and longer term outlets for soil waste recovery. Under the current system this can only be achieved through the waste licensing system. The lack of a consistent supply of licensed capacity across the regions is an issue. Alternative solutions are needed for areas which cannot support the investments required to develop these sites.'

Secure and long term sites for soil recovery facilities are preferred. Locations which offer these benefits include exhausted quarries or pits. Many existing licensed sites are sited at such locations. This approach is favoured by the regional waste management plan with policy preference for large central sites which require restoration through the placement of clean soil returning the site back to its original profile'.

- 7.2.7. It is further noted that there appears to be a lack of new licensed capacities coming on-stream in the regions despite market need with forecasts showing a national

shortfall of up to 4 million tonnes by 2023 assuming new facilities are not developed. While it is accepted that the capacity situation is fluid with additional licensed capacity expected to be available in the market over the coming years, the requirement for these new facilities to obtain the necessary planning and licensing consents gives rise to an element of uncertainty. Therefore, based on an extensive review of the waste and capacity data available, the '*Soil Recovery Market Analysis Report*' has concluded that there is a lack of licensed capacity nationally and, in particular, within the Greater Dublin Area to meet current and forecasted growth. It states that there is a clear need to bring additional capacity on stream to alleviate the current shortfall as well as providing security over the medium to long-term.

7.2.8. Although there is relatively little specific guidance or information within either the Regional Waste Management Plan or the County Development Plan as to the appropriateness of the development proposed, applicable site selection criteria, information on the sources of material, or whether there is a shortfall of this type of facility, Objective WE6 of the Development Plan does aim to facilitate the development of appropriate facilities (notwithstanding that the Regional Waste Management Plan is largely silent on inert materials such as those proposed in the subject instance) while the '*Construction and Demolition Waste – Soil and Stone Recovery / Disposal Capacity*' report highlights a shortfall of appropriate sites for soil and construction waste treatment and disposal in the overall region and identifies the need for more such facilities across the three regions with a stated policy preference for larger, more centralised facilities.

7.2.9. Accordingly, on the basis of the foregoing, and subject to the further assessment of the potential impact of the proposal on traffic, landscape & ecological considerations in accordance with Section 9: '*Waste and Emissions: Facilities for disposal of inert materials*' of Appendix 1 of the County Development Plan, I am satisfied that a need for the proposed development has been sufficiently established and that it is acceptable in principle at this location.

7.3. **Traffic Implications:**

7.3.1. The proposed development (as amended in response to the request for further information) involves the importation of 7,400m³ / 11,093 No. tonnes of material to the site via a minor private roadway known locally as Raheen Lane which extends

west / north-westwards from the R755 Regional Road. It is envisaged that this will entail approximately 500 No. two-way truck movements to / from the site over the lifetime of the works with an average of c. 3 No. trucks per day assuming a 5-day working week over a 12 No. month period. In this respect, I would advise the Board that if material were to be imported to the site at a rate of 3 No. x 20 tonne loads per day over the course of a 5-day working week, the proposed development would be expected to be comfortably completed within 12 No. months, although realistically I would expect a highly variable number of vehicles accessing the site at any given time during the construction period. If the works were to be undertaken on a more gradual basis over the original two-year timeframe sought, the likelihood is that average daily traffic volumes to and from the site would be even less than those suggested by the applicant.

- 7.3.2. With respect to Raheen Lane itself, while I would acknowledge that the laneway is narrow in places, in my opinion, the carriageway is in a reasonable condition given its overall construction and the absence of any significant deterioration in its pavement (such as by way potholing or loss of surfacing). Furthermore, the alignment of the laneway is typical of a minor rural roadway and although forward visibility is restricted in places, I am cognisant of the likely low traffic volumes and reduced speeds along this private roadway. In addition, there are several opportunities along the length of the laneway between its junction with the regional road and the entrance to the development site (by way of dedicated pull-in / passing bays, sections of widened carriageway, existing entrances, or stretches of verge) where the passing of vehicles side-by-side could be accommodated.
- 7.3.3. In relation to the sightlines available from the junction of Raheen Lane onto the Regional Road, I am satisfied that the existing arrangement provides for adequate sight distance. In this respect, it is of relevance to note that Raheen Lane already provides for access to surrounding farmland & forestry plantations by agricultural vehicles / machinery as well as a timber-frame manufacturing facility (with its associated LGV & HGV traffic) that was extended in recent years and several instances of one-off housing. The applicant has also submitted proposals to upgrade the pavement construction & drainage at the junction of Raheen Lane with the Regional Road on completion of the works (details of which can be agreed with the

Roads Authority) and / or to maintain the junction in a good condition over the course of the development.

- 7.3.4. Therefore, having conducted a site inspection, and a following a review of the available information, I am satisfied that the existing laneway and surrounding road network has adequate capacity to accommodate the type and volume of traffic consequent on the proposed development without detriment to public safety or unacceptable traffic impacts.

7.4. **Visual Impact:**

- 7.4.1. The proposed development site occupies a locally elevated position in the foothills of the Wicklow Mountains and is located at the transition between '*The North East Mountain Lowlands – Area of High Amenity*' and '*The Mountain Uplands Area of Outstanding Natural Beauty*' landscape categories as detailed in Figure 4.11: 'The Landscape Category Map' and Maps 10.13(b) & (c) of the Landscape Assessment. In this regard, I would advise the Board that although the Planning Authority has concluded that the site is within the Mountain Uplands AONB where more onerous requirements apply as regards the need for the development in the first instance and the measures to employed to ensure its satisfactory assimilation into the landscape, given the scale of the mapping in the Development Plan, I am unable to definitively determine the applicable landscape designation. Nevertheless, it is apparent that the wider area within which the application site is located has been deemed to be of a more sensitive and higher amenity value.
- 7.4.2. While I would concede that the proposed development will detract to some extent from the visual amenity of the surrounding area during the course of the filling operations, given the site location set back c. 1km from the regional road, the level of screening provided by intervening topography and existing roadside vegetation (to the effect that the development will not be visible to any significant extent from vantage points along the R755 Regional Road and thus will not detract from any view or prospect of special amenity value / interest listed for preservation in the Development Plan, including Prospect No. 28: '*Annamoe Hill and Avonmore River Valley*' as shown on Map 10.15 of the Plan), the nature and limited extent of the works proposed, the temporary duration of the development, and as the lands in question will be seeded and returned to agricultural use upon completion of the

works, I am inclined to suggest that the proposed development will not unduly detract from the visual amenity or scenic quality of the wider area.

- 7.4.3. In relation to the topographical changes consequent on the development and the final profile / contouring of the works, having reviewed the amended proposals lodged in response to the request for further information with the reduced intake of material and associated revisions to the finished ground levels, it is my view that upon completion and return of the lands to agricultural use, the proposed development will have a negligible impact on the prevailing rural character of the site and its wider surrounds.

7.5. Environmental Impact Assessment Screening:

- 7.5.1. The proposed development (as amended) involves the importation of 11,093 No. tonnes of inert soil and stone over a period of two years in order to improve the agricultural and ecological quality of the application site (with the fill area measuring 0.418 hectares). Whilst these works could be held to amount to land remediation, they may also be categorised as a 'waste' operation on the basis that the input material is technically 'waste' (by way of case precedent, the Board has previously held that material such as soil and stone from construction sites which is imported from outside a landholding for infilling purposes constitutes waste).
- 7.5.2. Therefore, in view of the foregoing, it is necessary to determine whether or not the proposal involves a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended. In this respect I would advise the Board that Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, prescribes '*Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule*' for the purposes of Part X of the Act.
- 7.5.3. Given that the subject proposal involves the disposal of 11,093 No. tonnes of material over a period of 2 No. years (equating to an average intake rate of approximately 5,550 No. tonnes per annum), it is clearly considerably below the aforementioned threshold and thus there is no mandatory requirement for the planning application to be accompanied by an Environmental Impact Assessment Report.

7.5.4. Accordingly, having regard to the nature, scale and extent of the development proposed, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and I would concur with the Planning Authority's screening determination in this regard.

7.6. Appropriate Assessment:

7.6.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, there are a number of protected sites in the wider area with the Avonmore River and the Wicklow Mountains Special Area of Conservation (Site Code: 002122) located approximately 280m south of the filling works (the next closest designation is the Wicklow Mountain Special Protection Area (Site Code: 004040), approximately 2.1km to the northwest).

7.6.2. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Wicklow County Development Plan, 2016, to avoid negative impacts upon the natural environment and to promote the appropriate enhancement of the natural environment as an integral part of any development. Furthermore, Objective NH2 of the Plan states that no projects which would give rise to any significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects, will be permitted on the basis of the plan (either individually or in combination with other plans or projects). By way of further clarity, Objective NH4 also states that all projects and plans arising from the Development Plan (including any associated improvement works or infrastructure) will be screened for the need to undertake Appropriate Assessment pursuant to Article 6 of the Habitats Directive whilst any such plan or project will only be authorised after the competent authority has ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment, where necessary, that:

- 1) The Plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or
- 2) The Plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type and / or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000; or
- 3) The Plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons for overriding public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000.

7.6.3. In effect, the subject proposal may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the proposed development for the purposes of ‘appropriate assessment’.

7.6.4. *Stage 1: Screening:*

In screening the subject proposal for the purposes of appropriate assessment, I would refer the Board at the outset to the ‘*Appropriate Assessment Screening Report*’ submitted with the application which has identified the following 8 No. European Sites within a 15km radius of the proposed works pursuant to the advice contained in the ‘*Appropriate Assessment of Plans and Projects in Ireland, Guidance*

for Planning Authorities' published by the Department of Environment, Heritage and Local Government:

- The Wicklow Mountains Special Area of Conservation (Site Code: 002122)
- The Carriggower Bog Special Area of Conservation (Site Code: 000716)
- The Vale of Clara (Rathdrum Wood) Special Area of Conservation (Site Code: 000733)
- The Deputy's Pass Nature Reserve Special Area of Conservation (Site Code: 000717)
- The Glen of the Downs Special Area of Conservation (Site Code: 000719)
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249)
- The Wicklow Mountains Special Protection Area (Site Code: 004040)
- The Murrough Special Protection Area (Site Code: 004186)

7.6.5. In addition, using the precautionary principle, consideration has also been given to Natura 2000 sites located outside of the 15km radius, however, as those sites are either a considerable physical distance inland; separated by a substantial marine buffer; and / or located within a different surface water catchment, and as no potential pathways for any significant impacts can be established, it has been concluded that there is no potential for any impacts on Natura 2000 sites located beyond the 15km radius.

7.6.6. Having reviewed the available information, including the 'Appropriate Assessment Screening Report' submitted with the application and the screening exercise undertaken by the Planning Authority, and following consideration of the 'source-pathway-receptor' model, it is my opinion, given the nature, design and scale of the proposed development, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, the absence of any pathways between the development and any Natura 2000 sites, the separation distances involved between the project site and Natura 2000 designations, and the nature of the intervening lands, that the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites.

- 7.6.7. In this respect, I would concur with the findings of the applicant's screening exercise that due to the location of the works outside of any Natura 2000 designation, the proposal will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction) whereas other factors, including the separation distances involved and the absence of any hydrological pathways, will ensure no indirect or secondary impacts on the conservation objectives on Natura 2000 sites.
- 7.6.8. In specific reference to the Wicklow Mountains Special Area of Conservation, while it is a specific conservation objective to maintain the favourable conservation condition of otter within the SAC, and although the works area will be located c. 280m up-gradient of the Avonmore River, given the separation distances involved, the intervening land cover (including the existing berm along the southern site boundary), and the absence of any direct hydrological connectivity between the development site and the river, in my opinion, by employing the source / pathway / receptor model of risk assessment, the proposed development is unlikely to have any significant effect on that qualifying species by way of a deterioration in water quality (such as through the release of suspended solids).
- 7.7. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, in particular, specific Site Code: 002122, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

9.1. Having regard to the location of the lands within a rural agricultural area, the requirements of the Eastern Midlands Region Waste Management Plan, 2015-2021, and the provisions of the Wicklow County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not seriously injure the visual amenities of the area, and would be in accordance with development plan and regional waste management plan policy. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 29th day of July, 2020 and by the further plans and particulars received by An Bord Pleanála on the 17th day of September, 2020, 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 permission shall apply for a period of two years from the date of this order. Following the expiration of this period, the importation of material to the site and operations on site shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.

Reason: To enable a review of the effect of the development on the amenities of the area.

3. The maximum quantities of inert soil and stone to be accepted at the site shall not exceed 7,400 cubic metres in total over the period referred to in condition

number 2 of this permission with the number of deliveries limited to a maximum of 3 number loads per day.

Reason: In the interests of clarity and traffic safety.

4. The imported material to be deposited on the land shall comprise inert soil, stone and topsoil only and shall be levelled, contoured and seeded upon the completion of the works and protected until established.

Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

5. The importation of inert soil, stone and topsoil and the operation of associated machinery shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays, bank or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of good traffic management and to protect the amenities of the area.

6.

- a. Details of road signage, including advance warning notices, and proposals for traffic management at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- b. A wheelwash facility shall be installed at the exit of the site. The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

7. Prior to the commencement of the development, the developer shall submit to and agree in writing with the planning authority, details for the maintenance, repair and upgrading of that area of pavement at the junction of Raheen Lane with the R755 Regional Road shown on Drg. No. F1-01 received by the Planning Authority on the 29th day of July, 2020.

Reason: In the interest of traffic safety.

8. The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority.

Reason: In the interest of traffic safety.

9. During the construction phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed-

- a) an L_{Ar,T} value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays, between the hours of 0800 and 1400 on Saturdays (excluding public holidays).

- b) an L_{Aeq, T} value of 45 dB(A) at any other time.

Reason: To protect the residential amenities of property in the vicinity.

10. During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, the commencement date and the frequency of monitoring results.

Reason: To protect the residential amenities of property in the vicinity.

11. 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 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.

Robert Speer
Planning Inspector

18th May, 2021