



An
Bord
Pleanála

Inspector's Report

ABP-312172-21

Development

Retention of change of use from storage units to metal recycling facility. Permission for alterations to unit and for a building for truck unloading and storage with associated site works. This application relates to development which comprises an activity requiring a waste facility permit number WFP-WX-21-0181-01.

Location

Ballyknockan and Ballygillane Big, E.D. St Helens, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20211334

Applicant(s)

Tamer Metal Recycling Limited.

Type of Application

Permission and permission for retention.

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellant(s)	Darren O' Ceallaigh on behalf of Kilrane Concerned Residents Group.
Observer(s)	None.
Date of Site Inspection	23 rd of November 2022.
Inspector	Stephanie Farrington

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1.0 Site Location and Description

- 1.1. The appeal site is located in Kilrane Business Park along the L7012 at Ballyknockan and Ballygillane Big, E.D. St Helens, on the edge of Kilrane, to the south of Rosslare Harbour, Co. Wexford. The site, which has a stated area of 1.31ha, extends to include the existing warehouse units to the west of the business park, the undeveloped area to the north of the units and adjoining circulation areas. The site is currently occupied by Glen Fuels Offices and 3 industrial units to the rear which have a stated use for storage of material. On site inspection I noted that material is currently stored in the open area to the rear of the units. Access to the business park is provided via the L7012.
- 1.2. The site is adjoined by agricultural lands to the west, existing residential development at the opposite side of the L7012 to the south and industrial units occupied by Bord na Mona recycling facility to the west.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Retention of change of use from storage units to recycling facility.
 - Permission for alterations to unit and for building for truck unloading and storage with associated site works.
 - This application relates to development which comprises an activity requiring a waste facility permit number WX-21-0181-01.

3.0 Planning Authority Decision

3.1. Decision

Wexford County Council issued a notification of decision to grant permission for the development in accordance with the following reasons and considerations:

“Having regard to the provisions of the Wexford County Development Plan 2013-2019, the referral responses received and all other material considerations, it is considered that subject to compliance with the following conditions, the proposed

development would not seriously injure the amenity of the area and would therefore be in accordance with the proper planning and sustainable development of the area”.

The decision of the planning authority was subject to 8no. conditions. The following conditions are of note:

- Condition no. 2: Prior to the commencement of development submit a revised submit a revised site layout for the written approval of the Planning Authority the following details:
 - The provision of a stop and stop line at the junction with the public road.
 - Car parking spaces and driving zones shall be defined within the site, including the provision of fully accessible car parking,
 - All road markings and signage shall be in accordance with the 2019 Traffic Signs Manual

Reason: In the interests of traffic safety.

- Condition no 3: Lighting design shall avoid light spill onto the public road. External illumination shall not cause glare or confusion to users of the public road.

Reason: In the interests of traffic safety.

- Condition no. 4: Noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area, during the hours of 0700-2100 a noise level of 55 dB(A) (Laeq 1 hour) and during the hours of 2100-0700 and Sundays and Bank Holidays a noise level of 42dB(A) (Laeq 1 hour). The noise is also not to be impulsive in nature or have any tonal element which is 5d(B) A above the adjacent frequencies.

Reason: In the interests of amenities of adjoining properties.

- Condition no. 5: Dust emissions or total particulate release to the airborne environment shall not exceed 350mg/m² per day. Dust measurements shall be carried out, in real time, by direct reading airborne particle measuring equipment, capable of measuring for different dust particle sizes simultaneously, to include at a minimum Total Suspended Particles (TSP), and Particulate Matter ,10 um (PM10) fractions. This equipment is to have the

English EA MCERTS certification or equivalent, which ensures reliable and accurate recording of PM10 data.

Reason: To minimise the generation of dust by the proposed development in the interests of the orderly development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (7th of October 2021)

The initial planner's report recommended a request for further information. The following provides a summary of the key points raised:

- The Planner's report cross refers to the submissions on the application and concerns raised therein. In terms of compliance with the zoning objectives pertaining to the site the report outlines that at present there is no zoning for the site as set out within the Wexford County Development Plan 2013-2029. The report outlines that the site is zoned for light industrial purposes within the Draft Wexford County Development Plan under which waste management facilities are listed as a use which is "open for consideration".
- It is considered that the sheds for retention, proposed shed and security access/fencing is consistent with that of a business park, in which the site is located.
- The planner's report cross refers to comments from the Roads Department which outlines that measures to address traffic safety are warranted and can be addressed by means of condition.
- The principle of a waste management facility within the business park is considered acceptable. Further information is recommended in relation to wastewater proposals.

Planner's Report (18th of November 2021)

The planner's report prepared in respect of the FI response recommends a grant of permission subject to conditions in accordance with the planning authority's decision.

3.2.2. Other Technical Reports

EIA Pre-Screening Form (25th of August 2021)

- No EIA/Screening is required.

Appropriate Assessment Screening Report (6th of October 2021)

- There is no potential for significant effects to Natura 2000 sites.

Habitats Directive Screening Conclusion Statement (6th of October 2021)

- Having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 sites no element of the proposed project either alone or in combination is likely to give rise to any impacts on the Natura 2000 sites.
- Having regard to the precautionary principle it is considered that significant impacts can be ruled out and stage 2 AA is not required.

Engineers Report (date stamped 16th of November 2021)

A grant of permission is recommended subject to conditions relating to noise and dust.

Engineers Report (24th of September 2021)

Recommends a request for further information in respect of the following.

- Submit a revised site layout map determining whether the office block is served by public sewer or by an on-site wastewater treatment system.

Roads Report (23rd of September 2021)

- A grant of permission is recommended subject to conditions relating to provision of car parking in accordance with Development Plan standards and delineation of road markings and signage.

Fire Officer

- No objection. The requirements for submission of a fire safety certificate are outlined.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The submissions on the application raise concerns in respect of the following:

- Enforcement History
- Proposed Use and Site Selection
- Non-Compliance with Development Plan
- Access and Traffic Impact
- Impact on Residential Amenity

The issues raised within the submission and observations on the application primarily reflect those within raised within the grounds of appeal.

4.0 Planning History

The following planning history relates to the site:

- PA Ref: 20120874, ABP Ref: PL26.241563: permission granted by An Bord Pleanala in May 2013 for retention of use of retail dispensing facility of existing approved wholesale distribution and sale facility (PA Ref 20032315 refers).
- PA Ref: 20032315: Permission granted in September 2003 for installation of Oil Storage Tanks (Capacity 225,000 litres) for wholesale distribution and sale together with relocation of truck washing facility.
- PA Ref: 891109: Permission granted in January 1970 for retention of existing store and offices.

Wider Industrial Park

- PA Ref: 20044687 permission granted in July 2005 for retention and change of use of commercial warehouse unit to builders' store, retention and change of use of units 2 and 3 from commercial warehousing to recycling unit,

permission for retention of weighbridge and permission for installation of a new weighbridge.

Enforcement

The planner's details the following enforcement history:

- PA Ref: 0142/2021: Possible unauthorised development per planning Ref: 891109.

5.0 Policy Context

5.1. Wexford County Development Plan 2022-2028

5.1.1. At the time of the assessment of the application, the Wexford County Development Plan 2013-2019 was the operative development plan for the area. The application was assessed by Wexford County Council in accordance with the policies and objectives of this plan.

5.1.2. The Wexford County Development Plan 2022-2028 was adopted on the 13th of June 2022 and the Plan came into effect on the 25th of July 2022. I have assessed the proposal in accordance with the provisions of the operative development plan.

Kilrane and Rosslare Harbour Settlement Plan – Volume 3

5.1.3. Volume 3 of the County Development Plan sets out Settlement Plans and Specific Objectives for a number of settlements within the area including Rosslare Harbour and Kilrane.

Core Strategy and Development Approach

5.1.4. Rosslare Harbour and Kilrane is designated as a Level 3(a) Service Settlement in the Core Strategy Settlement Hierarchy. Level 3(a) settlements are important service settlements for their local communities and their wider rural hinterlands. The development approach for Level 3 (a) settlements includes the following:

- Promote economic and enterprise development appropriate in scale to the settlements.

Zoning Objectives

5.1.5. Kilrane Business Park is zoned for the following purposes within the Development Plan:

- Light Industry: ‘To provide for light industry and employment’. This zoning relates to Kilrane Enterprise Park. The purpose of this zoning is to provide light industry and ancillary uses. Light industry is defined as any *“industrial building in which the processes carried on or the plant and machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”*.
- Open Space and Amenity: “To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas”. The objective of this zoning is to retain and protect existing open spaces and to provide for new open spaces to meet the needs of all of the population. A strip of open space around the industrial areas will act as a physical break/transition between potentially conflicting land uses. The Planning Authority will not permit development that would result in a loss of established open spaces or lands zoned for recreation and amenity.

5.1.6. The existing warehouse unit where retention of change of use is sought and the proposed truck unloading/loading shelter are both within the area of the area of the business park which is zoned for Open Space and Amenity purposes within the Development Plan.

5.1.7. Waste Management Facilities are listed as a use which is not permitted on lands zoned for Open Space and Amenity purposes and Light Industry purposes under the zoning matrix of the plan. The plan outlines the following in respect of not permitted uses:

“Development listed as ‘Not Permitted’ in a particular zone will not be permitted for one or more of the following reasons: (i) it may have an undesirable effect on existing and permitted uses, (ii) it may be incompatible with the objectives for the settlement or (iii) it may be inconsistent with the proper planning and sustainable development of the area”.

5.1.8. Waste Management Facilities are defined as follows within the plan: “Waste management facilities include waste transfer stations, material recovery facilities,

waste recovery facilities, waste to energy and authorised treatment facilities for end-of-life vehicles”.

5.1.9. Volume 3 Section 2.5.2 of the Development Plan relates to Change of Use and Extensions of Existing Buildings. This outlines that:

Change of use and extensions to existing buildings will generally be required to be consistent with the zoning matrix. Exceptions to uses not normally permissible in the zoning matrix will be considered where:

(a) the Planning Authority is satisfied that the use or extension would not conflict with the land use zoning

(b) the use or extension would not negatively impact on the amenity of the area

(c) the use or extension would not give rise to additional planning considerations above those for the existing/previous use.

Mapped Objectives

5.1.10. Map no.4 of Volume 3 sets out Mapped Objectives for the Rosslare Harbour and Kilrane Settlement Plan. The Map details an objective to provide a Proposed Footpath along the L7012 from the junction with the N25 and terminating at the Business Park Boundary. The following objectives of the Settlement Plan are of relevance:

- Objective RHK21: *“To improve pedestrian and cycle facilities in in the plan area by facilitating the footpath and cycle ways identified on Map 4 Objectives, improve crossings at junctions, improve the quality and width, where appropriate, of all footpaths in the settlement plan area and improved access for people with disabilities and to provide cycle friendly routes to/from the school with cycle parking facilities and encourage the school to provide cycle training to all pupils”.*
- Objective RHK23: *To require accessible footpaths to be delivered at the following locations (see Map 4 Objectives):*
 - (a) From the school in Kilrane, along Ballygillane Lane to Cawdor Street.*
 - (b) From Kilrane north to Ballygerry and St. Mary’s Estate.*

(c) From Kilrane south to the cemetery.

(d) From Kilrane east to Kilrane Enterprise Park.

(e) From Kilrane to Rosslare Harbour along the N25.

Flood Risk

5.1.11. Figure RHK 5 of the Plan illustrates “Flood Zones Overlaid on Land Use Zoning Map”. The site is not identified within an existing flood risk zone. The existing watercourse which runs to the north of the appeal site, within the business park, are identified within Flood Zone A. The following objectives are of note:

- Objective RHK64: *To ensure all that future planning applications in the settlement plan area are screened for flood risk and comply with the requirements of the Flood Risk Management Guidelines for Planning Authorities, (DEHLG and OPW, 2009), the County Strategic Flood Risk Assessment (Volume 11) and the objectives set out Chapter 9 Infrastructure Strategy in Volume 1 Written Statement.*

SEVESO Sites

5.1.12. Map 4 of the Settlement Plan identifies the SEVESO Site Consultation Boundary. This extends to include the appeal site. Section 2.4.15 of Volume 3 of the Plan relates to SEVESO Sites and outlines the following:

“As outlined in Chapter 10 Environment Management in Volume 1 Written Statement there is one SEVESO site within the Settlement Plan area. Roche’s Freight Warehousing is designated as an Upper Tier SEVESO site. The Planning Authority must consult the Health and Safety Authority’s regarding any planning applications received within a specified distance of this site (and any other future SEVESO sites that may be designated within the plan boundary). The planning consultation boundary for this site is identified on Map 4 Objectives. The Council will control development in the plan area in accordance with Objectives COMAH01 and COMAH02 in Chapter 10 and the requirements of the Health and Safety Authority”.

Chapter 9 – Infrastructure Strategy – Volume 1

5.1.13. Section 9.7 relates to Waste Management Infrastructure. Section 9.7.3 relates to the Location of Waste Management Facilities. This outlines that:

“In general, the Council will direct waste management facilities such as waste transfer stations, waste material and recovery facilities, sludge management facilities and anaerobic digester units and authorised treatment facilities for end-of-life vehicles to appropriately zoned lands. This approach will not apply to smaller facilities such as recycling banks and bring centres. Proposals on zoned land must comply with the criteria outlined in Objective WM05”.

5.1.14. The following objectives are of relevance:

- Objective WM02 To implement the provisions of the Southern Region Waste Management Plan 2015- 2021, and any updated version published during the lifetime of the Plan, subject to compliance with the Habitats Directive and normal planning and environmental criteria;
- Objective WM03 To support the development of appropriately sited waste recycling and recovery facilities, such as bring centres, civic amenity centres, waste transfer stations, material recovery facilities, community recycling facilities and waste recovery facilities and authorised treatment facilities for end-of-life vehicles as a means of facilitating a reduction in the quantity of waste that goes to landfill disposal sites subject to compliance with the locational requirements for waste management facilities contained in Section 9.7.3 and subject to compliance with Objectives WM05 or WM06, normal planning and environmental criteria and the relevant development management standards set out in Volume 2.
- Objective WM05 Where it is proposed to develop waste management facilities on zoned land, it will be necessary for the following criteria to be satisfied:
 - The proposal should comply with the zoning objective for the subject lands.
 - The need for the proposal at the particular location, in particular having regard to the Southern Region Waste Management Plan 2015-2021, the Irish Water National Sludge Waste Management Plan 2016-2021, and any future updated versions of these plans produced during the lifetime of the Plan;
 - The site should be located outside of a flood risk area.

- There should be no adverse impacts on amenities.
- There should be a minimal risk of pollution.
- An appropriate buffer zone shall be provided around the site in order to protect the amenities of adjoining lands and properties. This buffer zone will be determined by the Planning Authority, in consultation with the EPA, where relevant.
- The development should comply with the requirements of the Water Framework Directive, the National River Basin Management Plan 2018-2021 and any future updated version during the lifetime of the Plan.
- The development must comply with the requirements of the Habitats Directive.

Development Management Standards – Volume 2 Wexford County Development Plan

Industry and Warehouse Developments

5.1.15. Section 5.2 relates to Industry and Warehouse Developments. The Plan outlines that these developments will be required to present a high-quality appearance, assisted by landscaping and careful placing of advertisement structures. A range of criteria are listed including the following:

- *In the case of two or more industrial/warehouse units, a uniform design will be required for boundary treatments, roof profiles and building lines and signage.*
- *Areas between the building(s) and the road boundary may include car parking spaces provided that adequate screen planting is incorporated into the design proposal. Adequate provision shall be made on site for the parking of vehicles, storage and stacking spaces. Storage and stacking areas shall be located to the rear of building, or where such facilities can only be provided to the side, provision for screening shall be made.*
- *The proposed use shall not be injurious to the residential amenity of adjoining properties.*
- *A landscaped buffer zone (minimum 10-15 metres wide) will be a requirement of planning permissions for any industrial/warehousing development where it*

adjoins another land use zoning or where it may impact on the amenities of adjoining land uses.

Traffic and Transportation

5.1.16. Section 6.2.1 relates to the requirements for Traffic and Transport Assessments. The following mandatory thresholds for TTA's is set out within Table 6.1:

- *Traffic to and from the development exceeds 10% of the traffic flow on the adjoining road;*
- *Traffic to and from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists or the location is sensitive**
- *Industrial development in excess of 5,000 m²;*

SEVESO Sites

5.1.17. Section 8.6 relates to Major Accidents Directive/ Seveso Establishments. Table 8.2 identifies consultation distances for Seveso Sites. The Plan outlines that the Planning Authority will consult with the Health and Safety Authority in relation to the relevant development referred to Schedule 8 of the Planning and Development Regulations, 2001 (as amended) and which come within the consultation distances notified by the Health and Safety Authority. The current consultation distances are listed in Table 8-2. A 700m consultation distance is identified for Rochefreight Warehousing Ltd., Wexford Road, Rosslare Harbour. As illustrated within Map 4 of the Settlement Plan the appeal site is located within the consultation distance for Seveso sites.

Waste Management

5.1.18. Section 8.8.2 of the Plan relates to Waste Storage Facilities. This outlines that: *“The provision for the storage and collection of waste materials shall be in accordance with the guidelines for waste storage facilities in the relevant Southern Regional Waste Management Plan 2015-2021”.*

5.1.19. Section 8.8.3 relates to Waste Recovery and Disposal Facilities. This outlines that in assessing development proposals for or including waste recovery and waste disposal facilities, the Planning Authority will have regard to the policies, actions, targets and provisions of the Southern Region Waste Management Plan 2015-2021,

relevant planning legislation, the objectives in the Plan and other relevant planning documents. The provision of waste recovery facilities, pre-treatment infrastructure and development of indigenous secondary waste processing, including Material Recovery Facilities (MRF) and Waste Transfer Stations will be facilitated at appropriate locations within the county (see Volume 1 Chapter 9 Infrastructure Strategy).

5.1.20. The WCDP outlines that the Planning Authority will have regard to the following when considering development proposals for waste recovery and disposal facilities:

- *The proposal shall avoid the siting of waste infrastructure or related infrastructure in SACs, SPAs and NHAs, areas protected for landscape amenity, visual amenity, geology, heritage or cultural value, or areas of flood risk,*
- *Ensure that the proposal will not detract from the residential amenities of properties in the vicinity or the visual amenities of the area. In general, no new waste disposal facility or Refuse Transfer Station shall be located within 200 metres of a residence.*
- *Ensure the proposal will not give rise to a traffic hazard. In this regard, the traffic impacts of the development, including road access, network safety and traffic patterns to and from the proposed facility, will be assessed in accordance with road design guidelines and/or relevant guidelines in relation to roads. Proposals will require a Traffic Impact Assessment (TIA), and*
- *The proposal should ensure that SuDS is applied and that site specific solutions to surface water drainage systems are developed, which meet the requirements of the EU Water Framework Directive and the associated River Basin Management Plan.*

5.2. Climate Action Plan 2023

5.2.1. The Climate Action Plan outlines actions that are required up to 2035 and beyond, as part of Ireland's effort towards addressing climate change. The Plan implements the carbon budgets and sectoral emissions ceilings published by Government in

2022 and sets a roadmap for actions to halve emissions by 2030 and reach net zero no later than 2050.

- 5.2.2. Of relevance to the appeal, Section 15 relates to Transport and it advances an ‘avoid-shift-improve’ approach and advises of the importance of integrated transport and spatial planning to reducing greenhouse gas emissions. Relevant ‘key metrics’ for the transport sector are a 20% reduction in total vehicle kms and a 50% reduction in fuel usage.
- 5.2.3. Regarding ‘waste’ Section 19.9.3 outlines that Ireland has made significant progress in managing waste streams, particularly in improving recycling rates, and that a range of policy tools were successful including widespread segregation of waste, which allows for capture of recyclables and biodegradable waste. The section goes on to state that already-successful policy tools need further improvement, particularly developing better prevention strategies; improving capture rates; and reducing both contamination and the amount of non-recyclable materials.

5.3. Southern Regional Waste Management Plan

- 5.3.1. Section 16.4.1 relates to Pre- Treatment Infrastructure and outlines that pre-treatment activities include operations such as “*dismantling, sorting, crushing, compacting, palletising, drying, shredding, conditioning, repackaging, separating, blending or mixing if the material or substance resulting from such operations is still waste*”. These activities do not sit on any particular rung of the waste hierarchy and instead can be regarded as “precursors” to specific types of treatment.
- 5.3.2. The following policies are of relevance:
- E1 – Future authorisations by the local authorities, the EPA and An Bord Pleanála of pre-treatment capacity in the region must take account of the authorised and available capacity in the market while being satisfied the type of processing activity being proposed meets the requirements of policy E2.
 - E2 – The future authorisation of pre-treatment activities by local authorities over the plan period will be contingent on the operator demonstrating that the treatment is necessary, and the proposed activities will improve the quality and add value to the output materials generated at the site.

- 5.3.3. The plan outlines that consideration of pre-treatment authorised and available capacity at existing sites in the region prior to authorisation of future pre-treatment activities may have a positive effect on the environment in terms of potentially reducing the scale of development of new greenfield sites.

5.4. **Natural Heritage Designations**

The nearest designated European sites to the appeal site, including SAC's (Special Areas of Conservation) and Special Protection Areas (SPA's) include the following:

- Carnsore Point SAC (002269) – 1.6km
- St. Helen's Burrow p NHA – 1.4km
- Long Bank SAC (002161) – 3.6km
- Blackwater Bank SAC (002953) – 5.8km
- Lady's Island Lake SAC (000704) – 3.4km
- Lady's Island Lake SPA (004009) – 3.2km
- Lady's Island Lake p NHA – 3.2km
- Tacumshin Lake SPA (004092) – 7.7km
- Tacumshin Lake p NHA- 7.7km
- Tacumshin Lake SAC (000709) – 7.7km
- Saltee Islands SAC (000700) – 13.4km
- Wexford Slob and Harbour p NHA – 3.8km
- Wexford Harbour and Slob SPA (004076) – 5.9km
- Slaney River Valley SAC (000781) – 7.3km
- The Raven SPA (004019) – 8.5km
- Raven Point Nature Reserve SAC (000710) – 11.1km

5.5. **EIA Screening**

- 5.5.1. It is noted that for the purposes of the EIA Directive, the term 'disposal' is interpreted to include 'recovery'. Classes 11(b) and 11(e) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

(e) Storage of scrap metal, including scrap vehicles where the site area would be greater than 5 hectares.

5.5.2. The development includes a waste recycling facility with a maximum annual intake of 2,000 tonnes. The main activities being undertaken within the facility are described as follows:

- Principle activity is the stripping of scrap cable to extract the ferrous and non-ferrous metals which are temporarily stored before being sent to appropriate facilities for further recovery.
- The secondary activity at the facility is the acceptance of aluminium cans, engine blocks and mattresses;
- All metals are separated before being sent off site for recovery.

5.5.3. The proposed development is a project listed in Annexe II of the Directive but the proposed annual intake, at 2,000 tonnes, falls below threshold of 25,000 tonnes at which the requirement for EIA is mandatory under Class 11(b). The appeal site has a stated area of 1.31 ha which is below the 5ha threshold set out under Class 11(e).

5.5.4. The application cover letter addresses the requirement for an EIAR and outlines that: *“based on the estimated tonnage and areas, the intake at the site would not trigger a mandatory EIAR”.*

5.5.5. I also submit that the proposed development is a standalone development. It does not constitute an extension to an existing development. It comprises an existing brownfield site within an industrial estate. Therefore, I do not consider that the provisions of class 13 for changes and extensions are applicable.

5.5.6. On the basis of the above, the development does not fall within the relevant thresholds for a mandatory EIAR.

Sub Threshold EIAR

5.5.7. I have given consideration to whether sub-threshold EIA is required. Schedule 7 of the Planning and Development Regulations 2001-2023 provides the following criteria, against which an assessment should be made prior to any determination: -

- Characteristics of the proposed development,
- Location of the proposed development, and
- Types and characteristics of potential impacts.

5.5.8. Having regard to the scale and nature of the proposal and its location within an existing industrial park I would conclude that the aspects of the environment likely to be affected by the development would be localised with those likely during construction e.g. emissions to air, noise, construction and demolition waste etc. being temporary. During the operational phase the impacts on adjoining human beings and amenities of adjoining property arising from noise and traffic are not considered to be significant and have been satisfactorily addressed in the documentation accompanying the application. On this basis I do not consider that the preparation of an EIAR is required.

5.5.9. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 11 (b) and (e) - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within an existing industrial park, which is served by existing infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.5.10. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was submitted in respect of Wexford County Council's notification of decision to grant permission by Darren O' Ceallaigh on behalf of the Kilrane Concerned Residents Group. The following provides a summary of the grounds of appeal:

- The objection is made on behalf of 137 no. residents of Kilrane who signed a petition opposing the development. The appeal raises concerns in relation to the proximity of the proposed facility to existing residential areas and adjacent to lands zoned for residential purposes.
- The proposal is unsuitable for a small town or village.

Legal

- The appeal refers to enforcement and history of non-compliance within Kilrane Business Park.
- The appeal refers to breaches of the Waste Management Act and breaches of permit conditions.
- Kilrane Business Park is zoned for light industrial purposes within the Draft Wexford County Development Plan 2021 and waste management facilities is not compatible in this area. The works at the facility could not be classified as light industry.
- The appeal raises concern in relation to hours of operation, unauthorised uses, noise and smells within the Kilrane Business Park.
- The appeal refers to the applicant's FI response and raises concern in relation to lack of consent in respect of wastewater proposals on 3rd party lands. cNo planning conditions relating to effluent, percolation area or tests, licensed wastewater collectors or sewerage are imposed.
- The appeal questions if sightlines can be complied with over private lands to the east of the facility.

- Concerns are raised in respect of lack of consultation with residents in respect of the proposal.
- The proposal does not comply with the requirements of Article 94 and Schedule 6 of the Planning and Development Regulations 2001, due to failure to adequately consider alternative sites.
- The appeal refers to the safeguards provided within the Draft Wexford County Development Plan which outlines that no further industrial development will occur along the L7102 and will be directed to serviced lands to the north of the village.
- The appeal raises concern in relation to future expansion of the facility.
- The proposed development would by means of scale, bulk, mass, limited size, limited on site car parking, and topography represent an overdevelopment of the site.
- The Business Park has multiple owners, no plan for the future and no management structure. Concerns relating to the management of the facility are raised.

Safety and Our Children

- The appeal refers to the guidance set out within the Wexford County Development Plan 2021 which relates to traffic management measures in the vicinity of the school. The development would increase HGV's along the L7102. The access along a narrow country road is not suitable for HGV's associated with the development. The road and junction are not suitable for HGV's and pose a road safety risk for children. The appeal outlines that footpaths are not safe due to HGV's passing at speed. The appeal raises concerns in relation to the impact of HGV's on the local road surface. Issues relating to emergency access in the event of an incident are raised.
- The appeal raises concerns in relation to crime associated with the storage of metal on site and safety/security of adjoining properties.
- The appeal outlines that there have been issues with the waste permit operating on site WFP-WX-21-0181-01.

- The site is not served by mains wastewater facilities. There may not access to mains water in the instance of an emergency.
- The appeal raises concern in relation to the open nature of the site and outlines that the access can't be gated due to a right of way. Safety concerns are raised as the site is located in close proximity to a creche, school, houses and future public park and green tourist route.
- Concerns are raised in relation to an asbestos roof on site. No method statement for construction is provided and the period of construction is not clearly defined.
- The appeal raises concern in relation to the proximity of the development to existing oil tanks containing highly flammable fuel.
- The appeal raises concern in relation to the proposal to fence off parts of the yard in the vicinity of existing houses. Details for these areas are not clear within the application.

Tourism and Environment

- The appeal outlines that the development will have a detrimental impact on tourism in the area. Kilrane is dependent on tourism from St Helens Holiday Village and Golf Club and beaches. The appeal raises concern in relation to the impact of the development of 2 no. waste management facilities along the L7102. The material being recycled is blown by the wind to surrounding areas and residents often clear litter from the adjoining road network.
- The appeal raises concern in relation to the transportation carbon footprint of the development. The material being processed is not produced in the area and it makes no environmental sense to transport it to the site and bring it elsewhere after processing. The main contractor is located in Ballycarney, a 50 minute HGV journey. The contractor receives waste material from all over Ireland.
- The appeal raises concern in relation to air pollution associated with HGV's in the vicinity of a school.

- A more appropriate location for the facility would be Holmestown, which is designed for this purposes, centrally located, isolated from residential areas, and has an appropriate road network.
- Untreated run off from the site appears to outfall to a drain in the yard which connects to a stream and enters the sea. The appeal refers to SAC's in the vicinity of the site.
- The appeal raises concern in relation to odours, noise and vermin from the site.

Quality of Life

- The proposal would seriously injure the residential amenity of existing and future residential areas.
- The site is not appropriate for a proposed waste management facility.
- Concerns are raised in relation to devaluation of properties with the development of a second waste facility within the area.
- The development would result in an unsuitable intensification of waste facilities within a village location.
- The development does not have appropriate screening in accordance with Development Plan guidance. The facility cannot provide screening as it adjoins third party lands to the east. No conditions relating to screening are attached to the planning authority's decision.
- The appeal raises concern in relation to the potential 24-hour operation of the facility, No conditions relating to hours of operation are attached by WCC.
- No conditions are attached in relation to the storage and maintenance of the facility.
- The appeal cites existing and future residential, community, educational and amenity developments planned for the area associated with the expansion of the village along the L7102. A waste facility is not in accordance with this development.
- The appeal refers to the demographics of the area and refers to existing developments served by the L7102. The proposal will result an increase in

HGV's along a narrow local road and result in safety issues. The appeal cites the guidance from the Draft Wexford County Development Plan (Section 2.4.3.2) which refers to the Route Concept within Kilrane village and the severance created by the port access road. Further development within the business park will only add to this issue.

Conclusion

- The development is contrary to the proper planning and sustainable development of the area and would have a detrimental impact on the quality of life of existing residents.
- The focus should be on promoting Kilrane as a residential and tourist area, with good amenities, infrastructure and a clean environment for all the community.

Planning Submission Report - Terry O'Leary of O' Leary Chartered Engineers and Town Planners

The appeal is accompanied by a Planning Submission Report prepared by Terry O'Leary of O' Leary Chartered Engineers and Town Planners on behalf of the Kilrane Concerned Residents Group. The report raises concerns in respect of the following:

- Non-compliance with the Wexford County Development Plan (2013-2019) as extended and the Draft Wexford County Development Plan 2021-2027. Objective WMO5 of the Wexford County Development Plan 2013-2019 seeks to "support the development of appropriately sited waste recycling and recovery facilities". Section 8.8.3 of the Draft Plan doesn't support waste facilities within 200m of an existing residence.
- The appeal questions the site selection and refers to a more suitable site at Holmestown, Co Wexford
- Visual and Lighting Impact: Deliveries are being undertaken during day and night. The development will result in light spillage to adjoining residential areas.
- Scale of Development: Visual impact is considered to be excessive. No cross section across the site is provided. The ridge height is 14.363m on the most

elevated portion of the site. The height fails to have regard to surrounding development.

- **Appropriate Assessment:** the unauthorised use when taken in conjunction with the AES facility reaches the threshold for the requirements of an Appropriate Assessment.
- **Traffic Impact Considerations:** No details are provided within the application in relation to the scale and quantum of commercial vehicular movements associated with the development.
- **Unauthorised Development:** The requirements of Enforcement Notice 0-047/2021 requesting the occupier to cease operation at the site have not been followed.
- **Conclusion:** It is requested that planning permission is refused, and a more suitable alternative site is proposed for the development.

6.2. Applicant Response

A response to the appeal is provided by Millenium Design on behalf of the applicant Tamer Metal Recycling Ltd. The following provides a summary of the key points raised.

- The appeal response provides a history of the business. The primary activity is the stripping of scrap cable to extract the ferrous and non-ferrous metals which are temporarily stored before being sent to appropriate recycling facilities for further recovery. The secondary activity is the acceptance of aluminium cans, engine blocks and mattresses. All metals are separated before being sent off site for recovery. Prior to moving to the current location the business operated from unit 13 Westpoint Business Park, Clonard, Co. Wexford since 2012.
- The applicant applied for and was granted a waste licence under Register no. WFP-WX-21-0181-01 for the new facility.
- The appeal response refers to the characteristics of Kilrane Business Park and outlines that it was zoned for light industrial usage under the Rosslare

Harbour and Kilrane Local Area Plan 2012. The proposed use is a light industrial use and reflect existing use within the business park.

- The site is subject to an enforcement notice. The subject application seeks to regularise the planning on site and provide improvements to the existing buildings and overall facility. A commencement notice will be lodged in the event of a grant of permission for the proposed works.
- The applicant is unaware of any breach of conditions of waste permit WX-21-0181-01 or non-compliance with conditions attached to the business park permission.
- The current Development Plan is the Wexford County Development Plan 2013-2019. The Draft Wexford County Development Plan 2021-2027 has not been finalised or enacted at this time.
- The existing wastewater plant was granted planning permission under PA Ref: 20044687 and the plant has served the business park since installation. The applicant is unaware of any issues regarding the treatment plant and percolation area. There are no proposals under this permission to install any new facilities or increased the current loading on the system.
- The applicant cannot comment in relation to the planning authority's remit regarding enforcement of environmental or planning conditions/requirements.
- The proposal is for a small-scale recycling facility. There is no requirement for the applicant or Wexford County Council to enter into consultation with residents of the area.
- The existing entrance serves existing business park activities and accommodates HGV's. The site has excellent sightlines and turning areas.
- The requirement to consider alternative locations is questioned.
- Based on the estimated tonnage the development would not trigger the requirement for a mandatory EIAR.
- The applicant has no plans for expansion at the facility. Any such development would require planning permission and would be assessed on its individual merits.

- The development would be similar in height to existing development in the business park. The scale, mass and bulk of the structure is consistent with those established on site. There is more than adequate on site carparking available.
- The ownership of the business park is confirmed. Tamer Essawy owns the proposed development, existing office blocks and majority of the yard surface area. AES operates the remaining area of the business park.
- Projected traffic movements are relatively minor in nature. Previous uses generated more vehicular movements. The applicant is unaware of any incidents in or in the vicinity of the site. The access onto the N25 is open with good site lines. The Roads Department recommended a grant of permission.
- The development is located within an existing business park adjacent to a neighbouring business park and agricultural lands. Residential areas were developed after the business park.
- The proposal which includes enclosures and security fencing will ensure the security of the site. The applicant is unaware of any criminal activity on or in the vicinity of the facility.
- The location and number of fire hydrants are determined during the Fire Safety Certificate application process.
- There has been no incidence of children wandering into the business park.
- Any evidence of asbestos will be removed by a licenced contractor.
- Oil tanks are not adjacent to the facility and the erection of security fences will make these more secure. The proposed fencing aims to secure the site.
- There is no evidence of material polluting the surrounding area.
- Recyclable materials are sourced from a variety of locations. There is no one source location.
- Holmestown is a public waste management facility.
- No untreated run off will be possible from the development.

- In terms of the reference to the Climate Action Plan, deliveries to the unit cannot be facilitated via public transport.
- The waste facility permit has strict measures, conditions and monitoring to safeguard against odour, noise and vermin nuisance. All storage and processes will be carried out indoors.
- The site is not located within or adjacent an SAC or NHA. Wastewater is discharged to an existing treatment plant.
- There are no heavy industrial processes being undertaken within the facility. The processes are carried out by hand and will not cause any detriment to the amenity of the area by reason of noise, vibration, smell or dust.
- Any future zoning as residential would not be adversely affected by the development.
- The fenced off areas will not be used for storage or other uses associated with the development.
- Houses at Cul na Greine were built after the construction of the business park.
- The proposed metal recycling facility is complementary to the existing waste facility. The facility will deal with inert materials, no organic or general waste will be dealt with at the facility.
- Section 7 of the waste permit issued for the facility gives details of hours of operation and waste acceptance as follows:
 - Waste shall be accepted at the facility between the hours of 0800 to 1700 Monday to Friday and 0800 to 1200 on Saturday
 - Waste shall be processed at the facility between the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays
 - Waste shall not be accepted at the facility on Sundays and bank holidays
- There are no residents directly east of the facility.
- Storage will be entirely indoors. The proposal allows for generous unloading and storage areas.

- The planning authority's decision and use of the site is in keeping with the current development plan for the area. The possibility of future residential development cannot preclude use within the existing business park.
- The facility is located within an existing business park. The future developments cited within the appeal are closer to large scale commercial developments such as Rochefreight and NVD.
- The applicant is unaware of any representations or concerns from Kilrane National School. The objectors' main concerns relate to traffic associated with the development. Traffic movements associated with the development are small. The previous use of the site for logistics and a garage generated more traffic movements.
- The development plan extract cited within the appeal relates to traffic caused by housing estates being designed of cul de sacs and have no relevance to the proposal.

Response to points raised within Planning Submission from Terry O' Leary submitted in conjunction with the appeal:

- The appeal response addressed the concerns raised within this report in respect of Environmental Concerns, Visual and Lighting Impact, Appropriate Assessment and Traffic Impact.
- Environmental Concerns: The appeal response cites the terms of the Waste Permit issued in respect of the facility. The permit limits storage to storage of waste prior to recovery on or off-site waste metals, the maximum tonnage to be accepted per annum is 2,000 tonnes, Schedule D of the permit limits noise and dust emissions and provides for monitoring to ensure compliance with the emissions, interceptors and filters shall be installed at the facility and all drains, gullies and silt traps shall be inspected on a weekly basis. There are no credible risks to the environment associated with the development.
- Visual and Lighting Impact: The appeal response outlines that all buildings in use on site are existing buildings. The appeal response refers to condition no. 3 of the permission which relates to lighting. No light shall spill onto the adjacent public road or adjoining residential properties at the opposite side of

the public road. It is furthermore noted that the site is located behind an existing 2 storey office block which fronts onto the public road.

- **Appropriate Assessment:** The site is not located in or adjacent to a Natura 2000 site. There are no proposals which trigger the requirement for an AA Screening report.
- **Traffic Impact:** Traffic associated with the development includes 3 staff members arriving daily by car and 1-2 delivery vehicles (articulated trucks) per week. Traffic movements associated with the development are minor and it is difficult to construe that they would amount to a traffic hazard for the area or Kilrane school.
- **Conclusion:** The following points are raised within the conclusion to the appeal response.
 - The proposal is appropriate and suitable for the site. The site is appropriately zoned.
 - The existing commercial entrance allows safe access and egress from the site.
 - The scale and size of the building is in line with other commercial premises in the area.
 - Commercial businesses are an important part of the economic fabric of Rosslare Harbour.
 - The development is in line with government recycling and reclamation policies.
 - The facility processes inert waste and does not process hazardous waste or materials/liquids.
 - The facility has a waste permit grant with conditions in place to ensure it does not impact on any nearby residents.
 - It is requested that the decision of WCC to grant permission is upheld.

6.3. Planning Authority Response

- None received.

6.4. Further Responses

- 6.4.1. I refer to the appellants submission dated the 8th of June 2022 in relation to reimbursement of costs. The submission refers to enforcement issues, contravention of Planning and Waste Management Acts, contravention of planning and environmental law and breach of the Aarhus Convention.
- 6.4.2. The submission requests the reimbursement of €5,340 in costs and sets out a rationale for the calculation of same.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development: Compliance with Policy
- History of Site: Enforcement and Compliance Issues
- Traffic Impact
- Impact on Residential Amenity
- Height and Layout
- Site Services
- Other Issues
- Appropriate Assessment

7.2. Principle of Development: Compliance with Policy

7.2.1. The appeal site is located in Kilrane Business Park to the east of Kilrane along the L7012. The development seeks permission and permission to retain the existing metal recycling facility on site. The proposed development comprises the following key elements:

- Retention of change of use from storage units to recycling facility.

- Permission for alterations to unit and for building for truck unloading and storage with associated site works.

7.2.2. The applicant's appeal response outlines that the proposed site activities were previously carried out within Westpoint Business Park, Clonard Retail Park in Wexford and provides an overview of the use of the metal recycling facility as follows:

- The principle activity is the stripping of scrap cable to extract the ferrous and non-ferrous metals which are temporarily stored before being sent to appropriate facilities for further recovery.
- The secondary activity at the facility is the acceptance of aluminium cans, engine blocks and mattresses;
- All metals are separated before being sent off site for recovery.

7.2.3. The third-party appeal outlines that the proposal is not in accordance with Development Plan objectives as set out within the 2013-2019 Wexford County Development Plan or the Draft Wexford County Development Plan 2021-2027.

7.2.4. At the time of the assessment of the application, the Wexford County Development Plan 2013-2019 was the operative development plan for the area. The application was assessed by Wexford County Council in accordance with the policies and objectives of this plan. The Wexford County Development Plan 2022-2028 was adopted on the 13th of June 2022 and the Plan came into effect on the 25th of July 2022. I have assessed the proposal in accordance with the provisions of the operative development plan namely the Wexford County Development Plan 2022-2028.

Rationale for Siting of the Proposed Facility

7.2.5. The appeal questions the rationale for the siting of the metal recycling facility within the business park and suggests that an alternative locations should be considered including Holmestown. Concerns relating to the carbon footprint associated with the transportation of materials to and from the site and non-compliance with the Climate Action Plan are raised in this regard.

- 7.2.6. In considering the proposal, I have assessed the development on its individual merits and in accordance with the policies and objectives of the operative Development Plan for the area.
- 7.2.7. Section 9.7 relates to the location of Waste Management Infrastructure and outlines that such facilities shall be accommodated on appropriately zoned lands and comply with the criteria sets out within Objective VM05 of the Development Plan. Objective WMO5 sets out criteria to be satisfied in the siting of waste management facilities including compliance with the zoning objectives pertaining to the site, location outside a flood risk zone, minimal risk to pollution, provision of appropriate buffer zone and compliance with the Water Framework Directive and Habitat Directive.
- 7.2.8. This Plan furthermore outlines that: *“The provision for the storage and collection of waste materials shall be in accordance with the guidelines for waste storage facilities in the relevant Southern Regional Waste Management Plan 2015-2021”*.
- 7.2.9. In terms of the siting of waste storage facilities the Southern Regional Waste Management Plan outlines that: *“consideration of pre-treatment authorised and available capacity at existing sites in the region prior to authorisation of future pre-treatment activities may have a positive effect on the environment in terms of potentially reducing the scale of development of new greenfield sites”*. In this regard, I note that the site is located within an existing business park and the principle of waste management facilities is established within the area.

Zoning Objectives

- 7.2.10. The appeal outlines that the proposal is not in accordance with the zoning objectives pertaining to the business park. The site is zoned for the following purposes within the Wexford County Development Plan 2022-2028:
- The area in which the existing and proposed industrial units are located is zoned for Open Space and Amenity purposes with an objective *“To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas”*. The objective of this zoning is to retain and protect existing open spaces and to provide for new open spaces to meet the needs of all of the population. The plan outlines that a strip of open space around the industrial areas will act as a physical break/transition between potentially conflicting land uses. The Planning

Authority will not permit development that would result in a loss of established open spaces or lands zoned for recreation and amenity.

- The existing hardstanding area of the appeal site is zoned for Light Industrial Purposes with an objective *'To provide for light industry and employment'*. The Development Plan outlines that this zoning relates to Kilrane Enterprise Park. The purpose of this zoning is to provide light industry and ancillary uses.

7.2.11. The application seeks to retain the existing metal recycling facility and full planning permission is also sought for a truck unloading and storage building for use as part of the recycling facility. The applicant makes the case that the development falls within the classification of a light industrial use. The planner's report which informs the decision of WCC to grant permission for the development outlines that the principle of a waste management facility within the business park is considered acceptable. However, on review of the planner's report I note the this was on the basis of the content of the Draft Wexford County Development Plan under which the use "waste management facilities" were listed as a use which was "open for consideration" on lands zoned for light industrial purposes.

7.2.12. Light industry is defined as follows within the Wexford County Development Plan 2022-2028 *"any industrial building in which the processes carried on or the plant and machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit"*.

7.2.13. Waste Management Facilities are defined as follows within the Wexford County Development Plan 2022-2028: *"Waste management facilities include waste transfer stations, material recovery facilities, waste recovery facilities, waste to energy and authorised treatment facilities for end-of-life vehicles"*. I consider that the proposed use of metal recycling facility falls within the definition of Waste Management Facilities. Waste Management Facilities is listed as a non-permitted use on lands zoned for both Light Industrial purposes, and Open Space and Amenity purposes within the Wexford County Development Plan 2022-2028. In this regard I consider that the development as proposed would materially contravene the zoning objectives pertaining to the site as set out within the Wexford County Development Plan 2022-2028 and be contrary to the requirements of Objective VMO5 which sets out criteria

for the location of waste management facilities including compliance with the zoning objectives pertaining to the site.

7.2.14. I refer to the requirements for a buffer zone/ a strip of open space around the industrial areas will act as a physical break/transition between potentially conflicting land uses. The third-party appeal outlines that the development fails to provide screening between adjoining third party lands and outlines that no conditions relating to screening are attached to the planning authority's decision. The site is adjoined by lands zoned for agricultural purposes to the west and at present the western boundary of the site is defined by a treeline which provides a landscape buffer between the industrial park and adjoining lands to the west. I consider that additional landscaping and submission of a landscaping plan could be requested via condition in the instance that the principle of the proposed use was deemed acceptable and in accordance with the zoning objectives pertaining to the site.

Development Management Objectives

7.2.15. The appeal outlines that the Draft Wexford County Development Plan doesn't support waste facilities within 200m of an existing residence. Development Management Standards are set out within Volume 2 of the Wexford County Development Plan 2022-2028. Section 8.8.3 outlines the following in relation to the siting of waste recovery facilities:

- *Ensure that the proposal will not detract from the residential amenities of properties in the vicinity or the visual amenities of the area. In general, no new waste disposal facility or Refuse Transfer Station shall be located within 200 metres of a residence.*

7.2.16. The appeal site is located within 100m of the nearest residential properties at Ard na Greine and in this regard is not in accordance with the development management guidance set out within the Wexford County Development Plan 2022-2028.

Seveso Site

7.2.17. I note that the business park is located within the consultation area for the Seveso site Rochefreight Warehousing Ltd., Wexford Road, Rosslare Harbour as defined within Map 4 of the WCDP. The development management guidance set out within the WCDP 2022-2028 outlines that the Planning Authority will consult with the Health

and Safety Authority in relation to the relevant development referred to Schedule 8 of the Planning and Development Regulations, 2001 (as amended) and which come within the consultation distances notified by the Health and Safety Authority.

- 7.2.18. I see no record of consultation with the HSA on file. I am recommending that permission be refused for other substantive reasons but in the instance that the Board is minded to grant permission for the development it may be considered appropriate to consult with the HSA in respect of the principle of the proposal.

Conclusion

- 7.2.19. On an overall basis I do not consider that the proposal is in compliance with the provisions of the Wexford County Development Plan 2022-2028. The development is contrary to the zoning objectives pertaining to the site and the requirements of Objective WM05. The development is also contrary to the development management guidance relating to the siting of waste facilities relative to residential development. I recommend that permission is refused for the development on this basis.

- 7.2.20. As the relevant parties have not commented on the proposal in the context of the Wexford County Development Plan 2022-2028, the Board may wish to seek their views prior to determining the case.

7.3. History of Site: Enforcement and Compliance Issues

- 7.3.1. The appeal raises a number of concerns in relation to the operation of the existing facility on the site. The appeal refers to the enforcement history on the site and the history of non-compliance with the terms and conditions attached to the waste permit and parent permission for the business park.

- 7.3.2. The applicant's response to the grounds of appeal outlines that the site is subject to an enforcement notice and the subject application seeks to regularise the planning status on site and provide improvements to the existing buildings and overall facility. The appeal response furthermore notes that the applicant is unaware of any breach of conditions of waste permit WX-21-0181-01 or non-compliance with conditions attached to the business park permission.

- 7.3.3. In considering the grounds of appeal, I note that the issue of enforcement and compliance with the terms of the waste permit is a matter for the planning authority in terms of compliance with other codes and not for the Board. What is currently before

the Board is the proposed development as described within the public notices and annotated within the application drawings and the effects of that development on the surrounding area. I have assessed the application on its individual merits and in accordance with the policy context pertaining to the site and the proper planning and sustainable development of the area.

7.4. Traffic and Transportation

- 7.4.1. The appeal raises concern in relation to traffic impact and Road Safety issues associated with the development. The appeal outlines that the local road network in the vicinity of the site is not capable to accommodating additional HGV's associated with the development. Road Safety concerns are raised in respect of the existing access to the site, the capacity of the junction of the N25 with the L7102 to accommodate additional HGV's and emergency vehicle access, the condition of existing footpaths along the L7102 and impact of the proposal on the existing school in Kilrane and adjoining residential areas.
- 7.4.2. Access to the site is proposed via an existing access to the Kilrane Business Park from the L7102. The principle of an access is established at this location. On site inspection I note that the L7102 runs in a straight alignment in the vicinity of the site and operates a speed limit of 50kmph. Section 4.4.5 of the Design Manual for Urban Road and Streets (DMURS) relates to required visibility splays. Table 4.2 outlines that visibility splays of 45m at 2.4m are required on land within the 50km/ph road speed. While I note that sightlines are not illustrated within the application drawings, on review of the submitted drawings and on-site inspection I consider that there are no restrictions on sightlines from the existing entrance/exit. I note that the Roads Department in Wexford County Council raised no concerns in relation to the operation and safety of the existing entrance to the Business Park. The report outlines that sightlines of 65m are achievable in both directions.
- 7.4.3. Within the site I consider that there is sufficient space within the open area for circulation and turning movements associated with HGV's and emergency vehicles. WCC's roads report outlines that road markings within the site are poor and I agree that there is a requirement to delineate driving zones and parking spaces within the site. I refer to the requirements of Condition no. 2 of WCC's notification of decision to grant permission for the development which relate to improvements to signage and

road markings within the site and at the junction of the site with the public road. I consider that this condition would result in improvements to the operation of the existing junction and provide a clear outline of driving zones within the site. I consider that the requirements of this condition are appropriate in the instance that the Board is minded to grant permission for the development.

7.4.4. The development includes a waste recycling facility with a maximum annual intake of 2,000 tonnes. In terms of traffic impact, the applicants appeal response outlines that the projected traffic movements are relatively minor in nature and includes 3 staff members arriving daily by car and 1-2 delivery vehicles (articulated trucks) per week. Traffic movements associated with the development are not of a scale which would require the submission of a Traffic and Transportation Assessment in accordance with the thresholds set out within Table 6.1 of the WCDP 2022-2028. On the basis of the information submitted in conjunction with the application and appeal I consider that traffic impact associated with the development is not of a scale which would result in an adverse impact on the L7102.

7.4.5. In terms of the concerns relating to pedestrian facilities along the L7102 I note that there is an existing footpath is provided along the Business Park site boundary. Map 4 of the Wexford County Development Plan illustrates the provision of a footpath along the L7102 which connects to the existing footpath in the vicinity of the business park. I refer to Objective RHK23 which seeks: *“to provide footpaths in a number of areas including from Kilrane East to Kilrane Enterprise Park”*. I consider that the provision of pedestrian facilities will improve pedestrian connections to the Business Park and enhance the pedestrian environment and safety along the L7102 in the vicinity of the existing school and residential areas.

7.4.6. In conclusion, I consider that traffic movements associated with the development will be minor and consider that the existing entrance to the business park and the junction of the L7102 and the N25 are sufficient to accommodate the traffic movements associated with the development. Within the site, I consider that there is sufficient space to accommodate car parking and vehicular turning movements for HGV's and emergency vehicles. I consider that the provision of enhanced pedestrian movements along the L7012 in accordance with Objective RHK21 of the Wexford County Development Plan 2022-2028 will enhance the pedestrian environment and connection to the site.

7.5. Impact on Residential Amenity

- 7.5.1. The appeal outlines that the provision of additional waste facilities within the Business Park would impact on both the existing and future residential amenities of the area. The appeal raises concerns relating to non-compliance with development plan guidance/safeguards, devaluation of residential property, the hours of operation, unauthorised uses, anti-social behaviour, noise and smells associated with the development in this regard.
- 7.5.2. Objective WM05 of the Wexford County Development Plan identifies criteria to be addressed in the siting of waste management facilities. Such criteria include compliance with the zoning objective for the lands and no adverse impact on amenities. The closest residential development to the appeal site includes the existing residential development to the south at Ard na Greine at the opposite side of the L7012. While the appeal refers to the impact of the proposal on future residential development, I note that the site is not located within the immediate vicinity of future residentially zoned lands.

Non-compliance with Development Plan

- 7.5.3. The appeal questions the principle of the development and outlines that the development results in an unsuitable intensification of waste facilities within a village location. The appeal outlines that the development is not in compliance with the provisions of the Wexford County Development Plan 2022-2028 and would result in a devaluation of adjoining properties in the area.
- 7.5.4. As earlier noted, the existing and proposed use of waste management facility is listed as a non-permitted use on lands zoned for both Light Industrial purposes and Open Space and Amenity purposes within the Wexford County Development Plan 2022-2028. I consider the proposal to be a material contravention of the zoning objectives pertaining to the site as set out within the development plan and contrary to the requirements of Objective WM05.
- 7.5.5. The siting of the proposal within 200m of an existing residential property is furthermore contrary to the development management guidance set out within Section 8.8.3 of the Wexford County Development Plan which seeks to:

- *Ensure that the proposal will not detract from the residential amenities of properties in the vicinity or the visual amenities of the area. In general, no new waste disposal facility or Refuse Transfer Station shall be located within 200 metres of a residence.*

7.5.6. I consider the proposal is contrary to the zoning objectives pertaining to the site, the requirements of Objective VM05 in relation to the siting of Waste Management Facilities and the development management guidance as set out within the Wexford County Development Plan 2022-2028 in this regard.

Hours of Operation/ Noise, Smells and Dust

7.5.7. The appeal raises concern in relation to disamenity associated with the existing and proposed use. The appeal refers to the lack of details for hours of operation as set out within WCC's notification of decision to grant permission for the development, noise impact and light spillage to adjoining residential areas associated with HGV deliveries.

7.5.8. The applicants appeal response outlines that such specifications are set out within the Waste Licence. Section 7 of the waste permit issued for the facility gives details of hours of operation and waste acceptance as follows:

- Waste shall be accepted at the facility between the hours of 0800 to 1700 Monday to Friday and 0800 to 1200 on Saturday;
- Waste shall be processed at the facility between the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays;
- Waste shall not be accepted at the facility on Sundays and bank holidays;

7.5.9. In terms of noise and dust emissions emanating from the facility, the appeal response cites the terms of the Waste Permit issued in respect of the facility. The appeal response outlines that the waste facility permit has strict measures, conditions and monitoring to safeguard against odour, noise and vermin nuisance. Schedule D of the permit limits noise and dust emissions and provides for monitoring to ensure compliance with the emissions. I furthermore note the requirements of Condition nos. 4 and 5 of WCC's notification of decision to grant permission for the development which sets out specifications for noise and dust emanating from the development.

7.5.10. I consider that the hours of operating and noise and dust emissions could be addressed by means of condition in the instance that the Board is minded to grant permission for the development. The restriction on hours of operation would also address concerns relating to light spillage associated with HGV deliveries and concerns relating to the management of the facility.

Litter/ Anti-social behaviour

7.5.11. The third-party appeal raises concern in relation to litter associated with the facility and potential for crime associated with the storage of metal on site and safety/security of adjoining properties. The appeal outlines that the material being recycled is blown by the wind to surrounding areas and residents often clear litter from the adjoining road network.

7.5.12. The appeal response outlines that the applicant is not aware of litter or antisocial behaviour on site and that all storage and processes will be carried out indoors. On-site inspection I note that there was waste disposed within the open area adjacent to the western site boundary to the north of the site. The photographs included in WCC's planner's report also illustrates materials stored in the open area to the rear of the existing warehouse building.

7.5.13. I note that the purpose of the proposed additional warehouse building is for storage of material. The report on file from the Environment Section in WCC outlines that the proposed unit extension and modifications would improve the operation of the facility, particularly the reception of waste and potential for disamenity associated with the development including noise and smells. I consider that a condition restricting the storage of material inside of the units could be included in the instance of a grant of permission.

Devaluation of Property

7.5.14. I refer to the concerns raised within the grounds of appeal in relation to devaluation of property associated with the siting of 2 no. waste facilities along the L7102.

7.5.15. In the instance of the principle of the development being deemed acceptable and in accordance with the zoning objectives pertaining to the site I consider that potential impacts associated with the operation of a waste management facility could be addressed by means of appropriately worded conditions.

7.6. Design, Height and Impact on Visual Amenity

Design

- 7.6.1. The appeal outlines that the proposed development would by means of scale, bulk, mass, limited size, limited on site car parking, and topography represent an overdevelopment of the site. The proposed development relates to change of use and extension to existing industrial units within an established business park. The proposed truck and unloading structure has a gross floor area of 1,345 sq.m. I do not consider that this is of a scale which is inconsistent with the existing pattern of development within the area or which would result in an overdevelopment of the business park lands. In terms of the proposed layout, I consider that there is sufficient parking and circulation space provided within the site to accommodate the nature of development proposed. I do not consider that the proposal represents an overdevelopment of the site.

Height and Visual Impact

- 7.6.2. The appeal raises concern in respect of the height and visual impact of the proposed structures. The appeal outlines that no cross sections through the site are provided within the application and raises concern in relation to the siting of a structure with a ridge height of 14.363m on the most elevated portion of the site. Drawing no. PP5 illustrates the elevations of the existing warehouse units on site. The adjoining unit to the south has a ridge height of 8.232m.
- 7.6.3. The application seeks to increase the height of the existing storage structure from 5.135m to c.13.6m. The proposed truck unloading, and storage building has a proposed height of c.14.2m as illustrated on Drawing no. PP3 East Elevation. Drawing no. PP3 also illustrates the increase in levels across the site.
- 7.6.4. In considering the grounds of appeal, I note that the site is not located within a visually sensitive location. The site is located within an existing industrial warehouse park. I consider that the proposed finish namely sheeted cladded finish in heritage green is consistent with that of an industrial park. The proposed structures are set back from the public road and I do not consider that the proposed height structures would be visually dominant within the surrounding area.

7.7. Site Services and Flood Risk

- 7.7.1. The appeal outlines that insufficient information is provided within the application in relation to surface and wastewater arrangements. I consider the points raised as follows.
- 7.7.2. Wexford County Council's request for further information requested clarification in respect of the proposed wastewater proposals for the site. The applicants FI response outlines that staff associated with the development (3 no.) will use the existing facilities within the office block. This connects to the existing wastewater treatment system located to the north-east of the business park. The applicant's appeal response outlines that applicant is unaware of any issues regarding the treatment plant and percolation area and there are no proposals under the application to install any new facilities or increase the current loading on the system. The Environment Department in WCC raised no concern in relation to the principle of the proposed wastewater connections.
- 7.7.3. The existing wastewater plant was granted planning permission under PA Ref: 20044687. I have reviewed the application documentation on this application and note that the permitted system was designed to a 12 person PE. The application documentation outlines that staff numbers associated with the development are limited (3 employees). However, the Board will note that no details are provided within the application in relation to overall staff numbers within the business park to demonstrate that there is capacity within the existing treatment plant to accommodate the proposal. I consider that there are information deficiencies within the application in this regard. I am recommending that permission be refused for other substantive reasons but in the instance that the Board is minded to grant permission for the development it may be considered appropriate to clarify with the applicant that the existing WTTP will continue to operate within its designated capacity.
- 7.7.4. In terms of surface water, the application outlines that the proposed development will discharge to the existing surface water system on the site. No details of outfall of this system are provided within the application or appeal. I have reviewed the documentation submitted under PA REF: 20044687 which outlines that surface water outfalls to the existing watercourse to the northeast of the business park.

- 7.7.5. I note the concerns raised within the appeal in relation to water pollution associated with the development. The application documentation outlines that interceptors and filters shall be installed at the facility in accordance with the requirements of the waste facility permit and drains and gullies will be inspected on a weekly basis. I consider that such measures are sufficient to negate against pollution of the adjoining watercourse. Condition no. 8 of WCC's notification of decision to grant permission for the development furthermore outlines that no surface water from roofs, paved areas or otherwise shall discharge onto the public road.
- 7.7.6. The existing watercourse runs to the north of the appeal site is identified within Flood Risk Zone A within Figure RHK 5-Flood Risk Map of the Wexford County Development Plan. The extent of the flood risk area does not extend to the appeal site and the proposed building is set back from the northern site boundary.

7.8. **Other Issues**

Impact on Tourism

- 7.8.1. The appeal outlines that the development will result in the siting of 2 no. waste management facilities along L7102 have a detrimental impact on tourism in the area. On the basis of the information submitted in conjunction with the application and appeal I see no evidence to substantiate the claim that the proposal would have a detrimental impact on tourism in the area. The principle of an industrial park and waste disposal facility is established at this location. I consider that traffic generated by the proposal would be limited and in visual terms I consider that the proposed structures reflect that existing and established within the industrial park. While I note the presence of waste within an open area on the site at the moment, the proposed storage building would confine this indoors.

Safety and Security

- 7.8.2. The appeal raises concern in relation to the open nature of the site and outlines that the access can't be gated due to a right of way. Safety concerns are raised as the site is located in close proximity to a creche, school, houses and future public park and green tourist route. The appeal response outlines that there are no records of children accessing the site. I consider that the placement of fencing around the proposed truck loading unit would address any safety and security concerns associated with the proposed development.

7.8.3. The appeal raises concern in relation to the proximity of the development to existing oil tanks containing highly flammable fuel within the industrial park. The proposal includes provision of a fence in the vicinity of same as illustrated on the Site Plan dated the 27th of October 2021. This will ensure that interface with the existing oil tanks would be limited. I consider that there is sufficient circulation space on site for vehicular circulation and maneuvering.

Asbestos

7.8.4. The appeal raises concern in relation to the potential for asbestos within the roof of the industrial park units and outlines that a method statement is not provided for its disposal. The applicant's appeal response outlines that any evidence of asbestos will be removed by a licenced contractor. I furthermore note that asbestos is a notifiable substance and is therefore the subject of a separate legal code.

Construction and Demolition

7.8.5. The appeal outlines that no method statement for construction is provided and the period of construction is not clearly defined. I consider that the concerns raised could be addressed via condition requesting a construction and demolition statement in the instance that the Board is minded to grant permission for the development.

Expansion and Management of Facility

7.8.6. The appeal raises concern in relation to the management of the facility and future proposals for expansion. In the instance that the proposed use was deemed acceptable, I note that any proposals for expansion would be subject to permission and assessed on its individual merits and in accordance with the policies and objectives of the operative Development Plan at that time.

7.8.7. I furthermore note that the management of waste facilities including hours of operation etc. would be regulated and governed by appropriate conditions set out within a waste permit.

Costs

7.8.8. I note the submission from the appellant requesting the reimbursement of costs. This is a matter for the Board to adjudicate upon.

7.9. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

- 7.9.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.9.2. No Screening report is submitted in support of the application. This assessment is therefore considered de novo.

Screening for Appropriate Assessment - Test of likely significant effects

- 7.9.3. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.9.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Submissions/ Observations

- 7.9.5. WCC's Habitats Directive Screening conclusion outlines that:
“Having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 sites no element of the proposed project either alone or in combination is likely to give rise to any impacts on the Natura 2000 site.”
“Significant impacts can be ruled out and a stage 2 AA is not required.
- 7.9.6. The appeal outlines that the existing and proposed waste facility uses on site would trigger the requirement for submission of an Appropriate Assessment. The appeal furthermore raises concern in relation to untreated water run off from the yard to the watercourse to the north of the site which connects to the SAC.

European Sites

- 7.9.7. The development site is not located in a European site. A summary of European Sites that occur within a possible zone of influence (15km) of the proposed development is presented in the Table 1 below.

European Site	Site Code	Distance
Carnsore Point SAC	(002269)	1.6km

Long Bank SAC	(002161)	3.6km
Lady's Island Lake SAC	(000704)	3.4km
Lady's Island Lake SPA	(004009)	3.2km
Wexford Harbour and Slobbs SPA	(004076)	5.9km
Blackwater Bank SAC	(002953)	5.8km
Slaney River Valley SAC	(000781)	7.3km
The Raven SPA	(004019)	8.5km
Raven Point Nature Reserve SAC	(000710)	11.1km
Tacumshin Lake SAC	(000709)	7.7km
Tacumshin Lake SPA	(004092)	7,7km
Saltee Islands SAC	(000707)	13.4km

7.9.8. The closest Natura 2000 site to the development such site is the Carnsore Point SAC (002269) which is located 1.6km to the east of the appeal site at its closest point. I am satisfied that the potential for impacts for all other Natura 2000 sites within the zone of influence can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

Carnsore Point SAC (002269)

7.9.9. The nearest designated Natura 2000 site to the proposal is the Carnsore Point SAC (002269) which is located c.1.6km to the east of the appeal site at its closest point. The SAC is described as follows within the NPWS Site Synopsis:

“This site is situated in the south-east of Co. Wexford and comprises the area of sea and underlying bedrock and sediments off Carnsore Point. The coastal boundary follows the high-water mark from just north of Greenore Point to Tacumshin Lake; the seaward boundary follows a line just to the west of Black Rock, south of the Barrels Rocks, east of the Bailies and as far north as South Long light. The bedrock of the site is of granite, felsite and other intrusive rocks rich in silica. The site is exposed to the prevailing wind and swells from the west. Tidal streams tend to be moderate but are strong in some areas. Offshore, Barrels Rocks are extremely exposed to the full force of Atlantic swells”.

7.9.10. The qualifying interests for the SAC are identified in Table 2 below.

European Site	Qualifying Interests
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Carnsore Point SAC (002269)	Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170]
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7.9.11. The Conservation Objective for the SAC is to: *“To maintain the favourable conservation condition of the qualifying objectives within the SAC”*.

Identification of Likely Significant Effects

7.9.12. I have considered the proposal in terms of potential impacts on the SAC during the construction and operational phases of the development.

7.9.13. Construction related impacts relate to the escape of suspended soils or oil to the watercourse which runs to the north of the site and outfalls to the Carnsore Point SAC (002269). I note that a Construction Management Plan was not submitted in support of the application which details measures which would be adopted at construction phase of the development to negate against impact on the adjoining watercourse. In practice these may include standard and site-specific measures, such as those set out in TII publication Guidelines for the Crossing of Watercourses during Construction of National Road Schemes and IFI’s Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters. Given the nature of the qualifying interests of the SAC and the scale of the proposed development I do not consider that impacts on the downstream SAC would arise.

7.9.14. There is a hydrological connection from the site to the SAC via surface water proposals which connects to the existing surface water system on site and outfalls to the existing watercourse to the north and northeast of the site (as illustrated on the drawings submitted under PA Ref: 20044687). While the watercourse is not identified on the EPA maps, the maps illustrate that watercourses within the vicinity flow in an easterly direction and outfall to the Carnsore Point SAC. The watercourse is identified within a Flood Zone A zone within Figure RHK 5-Flood Risk Map of the Wexford County Development Plan.

7.9.15. The application documentation outlines that interceptors and filters shall be installed at the facility in accordance with the requirements of the waste facility permit and drains and gullies will be inspected on a weekly basis. I note that Condition no. 13 of

PA Ref: 20044687 outlines that silt traps shall be provided on the surface water drainage system prior to discharge to the stream.

- 7.9.16. No new wastewater facilities are proposed as part of the application. The application documentation outlines that the 3 no. staff members associated with the development will have access to the existing toilet facilities within the office block on site. Foul water from the office block outflows to the foul water pipes which connect to an existing Klargester Biodisc Treatment Plant located within the wider industrial park lands to the north east of the site. of the Bord Na Mona facility (as permitted under PA Ref 20044687).
- 7.9.17. Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Carnsore Point SAC (002269), in this instance, given the nature of the qualifying interests of the SAC and the scale of the proposed development and, I consider that no impacts will arise. I consider that the proposed development would not be likely to have a significant effect on the QIs of Carnsore Point SAC.

Cumulative Impacts

- 7.9.18. As there are no impacts to the SAC arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

Conclusion

- 7.9.19. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on European site Carnsore Point (site code 002269) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

8.0 Recommendation

8.1. I recommend the permission is refused for the development in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. The appeal site is located within Kilrane Business Park on the edge of the village Kilrane. The proposal seeks permission and permission to retain a metal recycling facility use within Kilrane Business Park. The appeal site is zoned for both Light Industrial purposes and Open Space and Amenity purposes within the Kilrane and Rosslare Harbour Settlement Plan as set out within Volume 3 of the Wexford County Development Plan 2022-2028. These zoning objectives are considered reasonable. The development falls within the definition of Waste Management Facilities as set out within the Wexford County Development Plan 2022-2028. The use waste management facilities is listed as a use which is “not permitted” on both lands zoned for Light Industrial purposes and Open Space and Amenity purposes.

Objective WM05 of the Wexford County Development Plan sets out criteria to be satisfied where it is proposed to develop waste management facilities including “*the proposal should comply with the zoning objective for the subject lands*”. The Development Management Guidance set out within Section 8.8.3 of the Wexford County Development Plan 2022-2028 furthermore outlines that “*in general, no new waste disposal facility or Waste Transfer Station shall be located within 200m of a residence*”.

The development would contravene materially the zoning objectives pertaining to the site as set out within the Wexford County Development Plan 2022-2028 and would be contrary to the requirements of Objective WM05 of the Plan and the development management criteria for the siting of waste facilities relative to residential development. The development is therefore considered contrary to the provisions of the Wexford County Development Plan 2022-2028 and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephanie Farrington
Senior Planning Inspector

9th of May 2023