



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-319225-24

### Development

Retention of change of use of a farmyard complex including open yard for use as a commercial vehicular depot and permission for construction of office building and all associated site works.

### Location

Site at Drummin East and Kilpedder East, Delgany, Co. Wicklow

### Planning Authority

Wicklow County Council

### Planning Authority Reg. Ref.

23894

### Applicant(s)

Kelly Drain Maintenance Services

### Type of Application

Retention Planning Permission and Planning Permission

### Planning Authority Decision

Refuse Retention Permission and Planning Permission

### Type of Appeal

First Party

<b>Appellant(s)</b>	Thornton O'Connor Twp Planning on behalf of Kelly Drain Maintenance Services
<b>Observer(s)</b>	Hugh Lee
<b>Date of Site Inspection</b>	2/12/25
<b>Inspector</b>	Ronan Murphy

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of c. 1.4472 ha and is part of a larger landholding which is located in Drummin East, a townland which is c. 3.75km to the south-west of Greystones, c. 2.3km to the north-west of Kilcoole, and c. 500m to the east of Junction 11 of the N11 in Co. Wicklow.
- 1.2. The site is currently in use as a commercial vehicular depot with a number of trucks, trailers, cars, portacabins and associated buildings. The yard is predominantly covered in a gravel hardstand with some areas of cement. A stream runs to the north of the yard area. Beyond the stream is a walkway which runs along the northern boundary of the land. The walkway is partially enclosed by palisade fencing to the north and shiplap fencing to the south.
- 1.3. The site is accessed via an access road which in turn is accessed via a set of gates and a barrier from the Drummin Roundabout off the Farrankelly Road (R-774). The western arm of the access road (from the roundabout) is not within the redline area of the site but is shown as a right of way on the submitted plans.
- 1.4. The development to which this retention application pertains comprises of the change of use of an existing farmyard complex to use as a commercial vehicle depot in connection with a drainage business which includes parking of vehicles (cars, trucks, and van) and the storage of equipment. The yard area has been extended to include an area to the east of the site on which a number of vehicles were parked on the day of the site visit.
- 1.5. The retention element of the application also pertains to the retention of the change of use of an agricultural shed to a maintenance building (maintenance of trucks). This building is located on the north-western side of the site and has the appearance of an agricultural building and is finished in corrugated sheeting. The yard is currently enclosed by way of palisade fencing and ship lap fencing (from 1.8m to 2.6m in height).
- 1.6. The site which is irregular in shape and has flat topography. A section of the Kilcoole Stream is culverted in along a southern portion of the site and an unnamed tributary of the Kilcoole River flows along the northern boundary of the site adjacent to the route Mass Path known as the Drummin Mass Path which is within the redline boundary of the site.

- 1.7. The site is bound by the Farrankelly Road to the south, a dwelling and undeveloped lands to the west, an undeveloped parcel of land to the east and a stream to the north with land in agricultural use beyond that.
- 1.8. The area in which the appeal site is located has a mixed character with agricultural uses to the north of the site and commercial uses to the south of the site (on the opposite side of the Farrankelly Road), including the Bromley Business Park, bus companies, medical companies, delivery companies and a cement mixing plant.

## **2.0 Proposed Development**

- 2.1. The proposal comprises of the retention of the following:
- The change of use of a farmyard complex including open yard for use as a commercial vehicle depot in connection with a Drain maintenance company.
  - The change of use of an existing farm building of c. 377.7m<sup>2</sup> for the maintenance of trucks.
  - Demolition of existing vacant dilapidated farm building of c.200m<sup>2</sup>
  - Erection of wooden shiplap fencing of 1.8m in height and c.80m in length along part of the northern boundary of the commercial yard
  - Erection of palisade fencing along the northern and eastern boundaries of the subject site of c. 335m in length and 2.3-2.6m in height.
  - Extension of existing open yard for the parking of trucks c. 1,140m<sup>2</sup> in area.

In addition to this, the proposal seeks planning permission for the following:

- The construction of a 2-storey office building with an area of 446m<sup>2</sup> to replace the demolished farm building.
- Removal of 4 temporary portable offices, canteen, storage buildings / containers (c. 87.8m<sup>2</sup>)
- Provision of truck bay wash
- Resurfacing of yard with continuous concrete slab
- Erection of hit and miss fencing with a height of 1.8m and c.97m in length enclosing the yard along its eastern and southern extents.

- Removal of existing, disused southern gate at Farrankelly Road (R774) and replacement with fixed, palisade fencing.
- Associated site development works above and below ground.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By order dated 9/2/24 the planning authority decided to refuse retention planning permission and planning permission subject to 4 No. reasons as set out below:

*1. Having regard to the*

- a) the historic mass path, which traverses the site and the objectives set out in the Wicklow County Development Plan 2022-2028 to protect existing green infrastructure resources, to facilitate the development of amenity walking routes and to protect historical and natural heritage.*
- b) Objective CPO 9.15 of the Wicklow County Development Plan 2022-2028 which zones the overall lands within the ownership of the applicant for employment use and stipulates the maintenance and improvement of the surface of the Drummin mass path along its historic established route as shown on map 09.02.*
- c) the continued undermining and further proposed cordoning off of this section of the Drummin mass path.*

*The Planning Authority considers that the applicant has failed to demonstrate that the development can be accommodated in a manner that allows for the co-ordinated and integrated development of the overall landholding so that it provides for this development and protects the Drummin mass path along its historic established route. The proposed development would result in a haphazard and piecemeal development of the site and would seriously injure the amenities of the area. Furthermore, the proposal would contravene objectives in the County Development Plan for the protection of existing green infrastructure resources, to facilitate the development of amenity walking routes and to protect historical and natural heritage. The proposed development would therefore be contrary to proper planning and sustainable development.*

2. *The proposed development contravenes the County Development Plan 2022-2028 in relation to the following objectives:*

- a) Economic Development Objectives (regarding quality of development) i.e., CPO 9.15 and 9.5*
- b) Water services and Natural Heritage & Biodiversity Objectives i.e., CPO 13.3, 13.4 AND 17.26*
- c) Flood Risk Management Objectives i.e., CPO 14.09, 14.10, 14.11, 14.12, 14.13, 14.14 and 14.15.*
- d) Green Infrastructure Objectives i.e., CPO 18.2, 18.3, 18.4, 18.22*

*Therefore, the proposed development would be contrary to proper planning and sustainable development.*

3. *The proposed development would represent continued expansion and consolidation of an unauthorised development on this site. The provision of this sort of development unduly impacts on the amenities of the area, public health, visual amenities, the amenities of nearby properties, undermines the planning regulations, would set an undesirable precedent for similar large-scale development in the absence of a genuine need, and would be contrary to the proper planning and sustainable development of the area.*

4. *Having regard to the proposed development, insufficient information has been submitted regarding traffic impact, the current gate, barrier and bollards at the proposed entrance, and the proposed insufficient employee car and bicycle parking along with insufficient commercial vehicle parking proposals.*

*In the absence of adequate information, it cannot be assessed whether the proposed development would endanger public safety by reason of serious traffic hazard because the potential flow of traffic queueing generated by the proposed development that would interfere with the free flow and safety of traffic on this part of the R774 Regional Road. To permit the proposed development in the absence of such information would be contrary to proper planning and sustainable development.*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

There is one area planners report on file, dated 6/2/24. The area planners report notes that the appeal site has an employment zoning and that the proposed use is acceptable having regard to the zoning of the site.

With respect to the mass path the area planner outlines concerns that any proposal to move or reroute the mass path would not comply with Zoning Objective CPO 9.15 of the *Wicklow County Development Plan 2022-2028* and that a proposal to permit the depot in the absence of satisfactory proposals for the protection of the mass path is not acceptable.

With regard to the location, design and scale of the proposal, the area planner states that the palisade fencing runs along the northern boundary of the land and an additional wooden ship lap fence cordons a portion of the mass path to the south, as the mass path is of local amenity and historical value , the proposed retention of fencing/ cordoning off compromises the amenity of the route and undermines the status of this historic path.

It is noted that the change of use of the existing farm building is unlikely to have an impact on the visual amenity of the area, the continued expansion of the open yard and intensification of use of the site is considered to have a negative impact on visual amenity. The site resembles a haphazard development with swathes of gravel parking for the likes of large commercial vehicles, tanks, skips, shipping containers, and private car parking. There are also 4 no. portacabins located within the car parking.

The proposed new office building (which replaces the demolished farm building) is suburban in nature and does not reflect the tradition farmhouse adjoining the site to the west. The area planner states that an improved design would be more visually appealing.

In addition to this, the area planner states that the removal of the southern gate and its replacement with fixed, palisade fencing would be acceptable, if considered on its own.

The area planner states that the proposed retention and proposed development appears to contravene a number of CDP objectives including CPO 9.5, 9.15, 13.2,

13.3, 13.4 and 17.2, 18.2, 18.3, 18.4, 18.5, 18.6, 18.14 and 18.22, it is stated that any future application should seek to substantially omit these contraventions of the CDP.

With respect to flooding, the area planner notes that the site is primarily within Flood Zone C and that a small area appears to be within Flood Zone A. The Flood Risk Assessment does not appear to recognise that part of the site is within Flood Zone A which is contrary to CPO 14. The area planner states that the proposal would also be contrary to CPO 14.10, CPO 14.11, CPO 14.12, CPO 14.13, CPO 14.14, and CPO 14.15.

With regard to lighting the area planner notes that it is unclear what the hours of operation, noise levels, lighting to be provided as a result of the proposal. Concerns are raised that Bats may be present in the building to be demolished and that any future application should refer to guidance set out in Bats and Lighting, Guidance Notes for Planners, engineers, architects, and developers 2010.

With regard to wastewater and surface water the area planner notes that the applicant has provided insufficient and inadequate / inappropriate information.

With regard to the access to the site the area planner notes that the presence of gates on the main access road, the electronic barriers, the concrete bollards and lane restricting plastic traffic wands there is a risk of traffic queueing between the northern arm of the Bromley Roundabout and the gates / barrier which is considered to be a traffic hazard.

With regard to car parking the area planner states that the provision of 16 car parking spaces is inadequate.

### 3.2.2. Other Technical Reports

- **Wicklow County Fire Service:** E-mail dated 17/1/24 outlining no objection, subject to conditions.
- **Transportation Section:** E-mail dated 17/1/24 outlining no observations.
- **Municipal District Engineer:** E-mail dated 15/12/24 stating that the applicant's engineering report is flawed including no existing storm water sewer in the vicinity of the site and the storm water design has been designed in accordance with Recommendations for site development works for housing areas. An outdated form of SuDS has been proposed.



- **Pollution Control Section:** E-mail dated 2/2/24 outlining concerns with respect to the set back of development from the stream which is a tributary of the Kilcoole \_10 waterbody, no cognizance of IFI guidance, no SuDs for the surface water and indirect pathway to the Murrough SAC and SPA with no mitigation measures.

### 3.3. Prescribed Bodies

**Uisce Eireann:** E-mail dated 18/1/24 stating that as Uisce Eireann are currently investigating the possibility of taking in charge an existing watermain on the opposite side of the road and a Wastewater Pumping Station at Bromley Business Park in charge, the applicant should be asked to explore this alternative water collection point, possibly by means of directional drilling if ground conditions permit, given the proximity to the M11 interchange as this would reduce significant road disruption.

**Transport Infrastructure Ireland:** Report dated 20/12/24 outlining concerns that the proposal would be at a variance with official policy in relation to control of development on/ affecting national roads as outlined in the DoELCG Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set would adversely affect the operation and safety of the national road network.

**Development Applications Unit:** Report dated 22/1/24 recommending that light on site should adhere to Bats and Lighting, Guidance Notes for Planners, engineers, architects, and developers 2010 and that any tree or vegetation removal works should be undertaken outside of bird nesting season and all hedgerows should be retained, any supplementary planting should be native.

## 4.0 Planning History

- 4.1 There is a substantial planning history associated with the appeal site. The most recent and pertinent are set out below:

**Reg. Ref. 19/283:** Application for works comprising the provision of a wooden shiplap fence (1.8m in height) along part of the northern boundary of the commercial yard and the provision of a palisade fence along the northern and eastern boundaries of the

subject site The development also comprises permission comprising the removal of the gates at the northern boundary of the subject site and provision of a new gate with a height of 1.8m at a position further east and the erection of a hit and miss fence with a height of 1.8 m enclosing the yard along its eastern and southern extents. Permission refused for 1 No. reason:

*1. Having regard to:*

- *The historic mass path which traverses the site and the objectives set out in the Wicklow County Development Plan 2016-2022 to protect existing green infrastructure resources, to facilitate the development of amenity walking routes and to protect historical and natural heritage.*
- *Objective EMP12 of the Wicklow County Development Plan 2016-2022 which zones the overall lands within the ownership of the applicant for employment use.*
- *The failure of the applicant to provide a suitable pedestrian access through the site to facilitate users of the mass path in a safe and unobstructed manner.*

*The Planning Authority is of the opinion that the applicant has failed to demonstrate that the development can be accommodated in a manner that allows for the co-ordinated and integrated development of the overall landholding so that it provides for this development and protects the mass path. The proposed development would result in haphazard and piecemeal development of the site and would seriously injure the amenities of the area. Furthermore, the proposal would contravene objectives of the County Development Plan for the protection of existing green infrastructure to facilitate the development of amenity walking routes and to protect historical and natural heritage. The proposed development would therefore be contrary to proper planning and sustainable development.*

**Reg. Ref. 19/269:** Application for change of use of a farmyard complex including open yard for use as a commercial vehicular depot in connection with a drain maintenance business and change of use of an existing farm building (377.7sqm) for the maintenance of trucks. The proposed development comprises the demolition of the existing derelict farm buildings (200 sqm) and the construction of a 2 storey office building (446 sqm) extension of the existing open yard for the parking of trucks (710

sqm), provision of a truck bay wash, resurfacing of the yard with a continuous concrete slab, surface upgrade of the access road, landscaping works and associated site developments above and below ground. Permission refused for three reasons:

*1. Having regard to:*

- The historic mass path which traverses the site and the objectives set out in the Wicklow County Development Plan 2016-2022 to protect existing green infrastructure resources, to facilitate the development of amenity walking routes and to protect historical and natural heritage.*
- Objective EMP12 of the Wicklow County Development Plan 2016-2022 which zones the overall lands within the ownership of the applicant for employment use.*
- The failure of the applicant to provide a suitable pedestrian access through the site to facilitate users of the mass path in a safe and unobstructed manner.*

*The Planning Authority is of the opinion that the applicant has failed to demonstrate that the development can be accommodated in a manner that allows for the co-ordinated and integrated development of the overall landholding so that it provides for this development and protects the mass path. The proposed development would result in haphazard and piecemeal development of the site and would seriously injure the amenities of the area. Furthermore, the proposal would contravene objectives of the County Development Plan for the protection of existing green infrastructure to facilitate the development of amenity walking routes and to protect historical and natural heritage. The proposed development would therefore be contrary to proper planning and sustainable development.*

- 2. The proposed foul sewer system is reliant on a private pumping station on 3<sup>rd</sup> party lands to connect to the Irish Water sewerage system. Having regard to the foregoing, the Planning Authority considers that the proposed sewerage connection would be unsustainable due to the reliance on private infrastructure. Furthermore, having regard to the scale of the proposed development and the sewerage loading that would arise from the proposed development, insufficient information has been submitted to shown that the private 3<sup>rd</sup> party pumping station and associated rising mains are adequately designed to prevent*

*septicity of the sewage occurring. To permit the proposed development in the absence of proper long term control measures and an Irish Water approved foul sewer design would be prejudicial to public health and contrary to proper planning and sustainable development.*

3. *Having regard to the proposal to service a commercial development on an overall landholding that is zoned employment use via well supply, it is considered that the proposed development would result in an unsustainable water system, which would also be prejudicial to public health and environmental quality. The proposed development would therefore be contrary to proper planning and sustainable development.*

**Reg. Ref. 17/464 (ABP -300416-17):** Application for relocation of gates on northern boundary of lands, 2 storey office building (446 sqm), change of use of an existing farm building (377.7 sqm) for the maintenance of trucks, extension of existing open yard for the parking of trucks (710 sqm) and ancillary site development works including truck wash bay, bored well / water storage, surface water drainage, package sewage treatment system including soil polishing filter in accordance with EPA 2009 standards with proposed upgraded access and RETENTION of 4 no temporary portable offices , canteen, storage buildings / containers (87.8 sqm) (to be removed on completion of the proposed development), boundary fencing and the material change of use of a farmyard complex including open yard for use as a commercial vehicular depot in connection with a drain maintenance business. Permission refused for the following reasons:

1. *Having regard to:*

- *the Sally Walk/ Kilcoole historic mass path, which traverses the site and the objectives set out in the Wicklow County Development Plan 2016-2022 to facilitate access to amenity routes and to protect existing green infrastructure resources,*
- *objective EMP12 of the Wicklow County Development Plan 2016-2022 which zones the overall lands within the ownership of the applicant for employment use,*

- *the failure of the applicant to provide a suitable pedestrian access through the site to facilitate users of the mass path in a safe and unobstructed manner,*
- *the proposal for palisade fencing along the boundary of the mass path.*
- *the proposal to access undeveloped lands through the proposed landscaping, which is to provide screening, and in proximity to the proposed effluent treatment / disposal system,*

*The planning authority is of the opinion that the applicant has failed to demonstrate that the development can be accommodated in a manner that allows for the co-ordinated and integrated development of the overall landholding so that it provides for this development, protects the mass path, and provides suitable access to future development lands. To allow the proposed development would result in the haphazard and piecemeal development of the site and would be contrary to objectives to facilitate safe access to and protect the amenity of the mass path. The proposed development would therefore be contrary to proper planning and sustainable development.*

*2. Having regard to:*

- *the proposal to install an on-site wastewater treatment system and a bored well water supply to service a commercial employment facility on an overall landholding that is zoned for employment use,*
- *the failure of the applicant to submit proposals to connect to the public sewer and public water supply,*

*it is considered that the proposed development would result in an unsustainable wastewater and water system, which would also be prejudicial to public health and environmental quality. The proposed development would therefore be contrary to proper planning and sustainable development.*

- 2. The applicant has failed to include satisfactory proposals to prevent traffic associated with the development from using the existing farm entrance to the Greystones Southern Access Road. The intensified use of this entrance onto the Greystones Southern Access Road would result in a serious traffic hazard for users of the gate and users of the dual carriageway.*

This decision was the subject of a first party appeal to An Bord Pleanála, where the decision of the Planning Authority was upheld for the following reason:

1. *The development as proposed would involve the blocking of a mass path which is of historical and amenity significance to the local area. Objective NH46, as set out in the Wicklow County Development Plan, 2016–2022, sets out to protect this historical walking route and also to maintain it as a public right of way in accordance with P.R.O.W. 7 of Table 10.3 of the County Development Plan. Furthermore, condition number 27 attached to the permission granted by the planning authority under Planning Register Reference number 07/2592 sets out that the public right of way through the appeal site shall be maintained. The proposed development would, therefore, contravene condition number 27 attached to the said planning permission, would contravene objective NH46 of the Development Plan and would be contrary to the proper planning and sustainable development of the area.*

**Reg. Ref 07/2592:** Application for demolition of 2 no. existing farm houses and agricultural buildings and construction of 5 no. blocks comprising 64 no. business units with a total gross internal area of 14,615 sq m of which 2,747 sq m will be ancillary office space; access road, estate roads, on site car and bicycle parking provision, landscaping, site drainage including new foul water pumping station, watermain under grass margin of Farrankelly Road to connect into existing Wicklow County Council watermain 1.38km from site 2 no. E.S.B. sub stations and associated site works. Permission granted, subject to 27 conditions. Condition No. 27 of this permission is pertinent to the proposal currently being considered and states:

*27. Prior to the commencement of development, specific details of*

- a) *The proposed gate on Drummin Lane and its location*
- b) *Physical measures to be put in place to maintain pedestrian access over the existing mass path are to be submitted to the Planning Authority for its written agreement.*

**REASON:** *In the interests of pedestrian and traffic safety and to ensure existing rights of way are maintained.*

I make the Coimisun aware that the proposal currently being considered is similar in nature to the previously refused applications outlined above.

*Sites to the south (on the opposite side of the R-744)*

While there have been a number of applications on the lands to the south of the R-744 the most pertinent are outlined below:

**Reg. Ref. 08/1542:** Application for employment park consisting of warehousing, retail warehousing, light industrial, car showrooms and ancillary offices (total 13808 sqm). Permission granted, subject to conditions.

**Reg. Ref. 17/1173:** Application for amendments to the previously approved planning permission PI Reg Ref No 08/1542. 1. as constructed light industrial / office building, comprising 1642 sqm of floor area, 2 subdivisions of this building into 3 individual units 3. 66 sqm mezzanine storage in unit 2 4. ancillary office, staff room and wc, together with 100 sqm of mezzanine storage in unit 3 5. revised building facades 6. reduction in height of building by approx. 1m and subsequent to the above, full planning permission is sought for: 7. provision of 126 sqm of 'own door' office space and associated entrances and stair cores at first and second floor level above unit 1 8. revised facades treatments to facilitate 7 and 8 above together with all associated ancillary works to facilitate the above. Permission granted, subject to conditions.

**Reg. Ref. 18/57:** Application for replacement of the existing concrete plant (permitted under Planning Ref 14/1214) within an application area of 1.1 hectares, comprising a replacement concrete mixing unit, provision of 1 no additional cement storage silo (height 15.0m ) in addition to the existing cement silo (height 20.7m); replacement aggregate storage hoppers and conveying system, new water recycling bays, new weighbridge, new weighbridge office (26.3 sqm), a new effluent treatment system, 1 no advertisement sign, relocation of the site entrance gates and all associated ancillary works. Permission is also sought for continuance of use of existing development permitted under Reg Ref 14/1214 comprising the cement silo (height 20.7m), aggregate storage areas, parking areas, surface water infiltration area, office (36.1 sqm), water well pump house (6.0 sqm) bunded fuel storage area, fuel

pump house (7.2 sqm), and all associated ancillary works. Permission granted, subject to conditions.

#### *Enforcement*

**File No: UD4621:** I note that there is an enforcement case pertaining to the appeal site. This is outside the remit of the Coimisiún.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1 The *Wicklow County Development Plan 2022-2028* is the operative plan for the area. The appeal site is within the Employment Zone (Kilpedder Interchange, as shown on Map 09.02) which has the objective 'To provide for employment uses including industrial, transport, distribution and warehouse developments of good architectural design, layout and landscaping including substantial screening from N11. The provision of transport and warehouse facilities will not be at the expense of facilities in existing settlements. Any redevelopment of the (former) Dan Morrissey / SM Morris sites shall include significant proposals to address the unsightly appearance of these sites. In addition, any development on these lands shall:

- Maintain and improve the surface of the Drummin mass path along its historic established route as shown on Map 09.02
- Provide that access to the lands to the north of the Farrankelly Road be from the roundabout only.
- Provide a continuous footpath from the Farrankelly Road to Drummin Lane along both sides of the access road serving employment lands to the north of the roundabout.
- Connect the footpath from Greystones towards the pedestrian bridge at Kilpedder.

5.1.2 The following policies and objectives are pertinent to this proposal:

#### *Enterprise*

**CPO 9.1** which seeks to support all forms of employment creation, especially where this can mitigate long distance commuting, subject to the proper planning and



sustainable development of the area and compliance with all other objectives of this plan.

**CPO 9.3** which seeks to normally require new employment generating developments to locate on suitably zoned or identified land in settlements.

**CPO 9.4** which seeks to protect employment zoned land from inappropriate development that would undermine future economic activity or the sustainable development of such areas.

**CPO 9.5** which seeks to permit proposals for employment generating development where it can be demonstrated that the development complies with the relevant development standards and is not detrimental to residential amenity or to environmental quality and is acceptable with regard to its impact on the character and visual amenity of the area.

**CPO 9.6** which seeks to promote the development of employment generating uses at locations which comply with sustainable transportation objectives.

**CPO 9.15** which seeks to provide for employment development at the following locations as shown on maps 09.01, 09.02 09.03 and 09.04), (this includes Kilpedder Interchange).

#### *Water Services*

**CPO 13.1** which seeks to ensure and support the implementation of the EU Groundwater Directive and the EU Water Framework Directive and associated River Basin and Sub-Basin Management Plans and Blue Dot Catchment Programme, to ensure the protection, improvement and sustainable use of all waters in the County, including rivers, lakes, ground water, coastal and estuarine waters, and to restrict development likely to lead to a deterioration in water quality.

**CPO 13.2** which seeks to prevent development that would pollute water bodies.

**CPO 13.3** which seeks to minimise alterations or interference with river / stream beds, banks, and channels, except for reasons of overriding public health and safety (e.g., to reduce risk of flooding); a buffer of generally 25m along watercourses should be provided (or other width, as determined by the Planning Authority).

**CPO 13.4** which seeks to ensure that any development or activity with the potential to impact on ground water has regard to the GSI Groundwater Protection Scheme.

**CPO 13.21** which seeks to ensure the implementation of Sustainable Urban Drainage Systems (SUDS) in accordance with the Wicklow County Council SuDS Policy.

**CPO 13.22** which seeks to promote the use of green infrastructure, such as swales and wetlands, where feasible as landscape features in new development to provide storm / surface runoff storage and reduce pollutants.

#### *Flood Risk*

**CPO 14.09** which requires applications for new developments or significant alterations/extension to existing developments in an area at risk of flooding shall comply with the following (inter alia):

- Follow the 'sequential approach' as set out in the Flood Risk Management Guidelines.
- An appropriately detailed flood risk / drainage impact assessment will be required.
- Restrict the types of development permitted in Flood Zone A and Flood Zone B to that which are 'appropriate.'

**CPO 14.12** which requires that excessive hard surfacing shall not be permitted for new, or extensions to, residential or commercial developments and all applications will be required to show that sustainable drainage techniques have been employed in the design of the development.

**CPO 14.13** which seeks to ensure the implementation of Sustainable Urban Drainage Systems (SUDS) in accordance with the Wicklow County Council SuDS Policy.

**CPO 14.15** which seeks to promote the use of green infrastructure, such as swales and wetlands, where feasible as landscape features in new development.

#### *Lighting*

**CPO 15.17** which seeks to ensure that all external lighting whether free standing or attached to a building shall be designed and constructed so as not to cause excessive light spillage, glare, or dazzle motorists, and thereby limiting light pollution.

#### *Biodiversity*

**CPO 17.5** which states that projects giving rise to adverse effects on the integrity of European sites (cumulatively, directly or indirectly) arising from their size or scale, land

take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall not be permitted on the basis of this plan.

**CPO 17.6** which seeks to ensure that development proposals, contribute as appropriate towards the protection and where possible enhancement of the ecological coherence of the European Site network and encourage the retention and management of landscape features that are of major importance for wild fauna and flora.

**CPO 17.26** which seeks to protect rivers, streams, and other water courses by avoiding interference with river / stream beds, banks and channels and maintaining a core riparian buffer zone of generally 25m along watercourses (or other width, as determined by the Planning Authority).

#### *Green Infrastructure*

**CPO 18.2** which seeks to protect existing Green Infrastructure resources and to facilitate, in consultation with relevant stakeholders, the development of green infrastructure that recognises the benefits that can be achieved (inter alia) the sustainable management of water and the protection and management of biodiversity.

**CPO 18.3** which requires that new development and redevelopment proposals shall wherever possible, integrate nature-based solutions to the design, layout, and landscaping of development proposals, and in particular to the delivery of linear parks and connected open spaces along watercourses.

**CPO 18.4** which seeks to facilitate the development and enhancement of suitable access to and connectivity between areas of interest for residents, wildlife, and biodiversity, with focus on promoting river corridors, European sites, nature reserves, and other distinctive landscapes.

**CPO 18.5** which seeks to identify and facilitate the provision of linkages along and between green / river corridors within the county and adjoining counties to create interconnected routes and develop riverside parks and create linkages between them to form 'necklace' effect routes including development of walkways, cycleways, bridleways, and wildlife corridors.

**CPO 18.22** which states that the Council recognises the recreational and heritage conservation importance of the preservation, protection, enhancement, maintenance and improvement, for the common good, of public rights of way providing access to seashores, mountains, lakeshores, riverbanks or other places of natural beauty or recreational utility by ensuring that new developments do not materially restrict or block the routes [pathways/trackways/laneways] of those PROWs. Developments will not be permitted where the established recreational utility or otherwise of a PROW would be compromised or lost altogether.

**Appendix 1-Development and Design Standards-** Section 3 Business, Commercial and Employment Developments.

### **National Guidelines**

Spatial Planning and National Road Guidelines for Planning Authorities (2012)

The Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009)

Planning for Watercourses in the Urban Environment- Inland Fisheries Ireland (Nov 09)

## **5.2. Natural Heritage Designations**

5.2.1 The appeal site is not located on or within any designated Natura 2000 site(s) or Natural Heritage Area(s). The Glen of the Downs SAC (Site Code: 000719) is located c. 1.3 km to the north of the site. The Murrough Wetlands SAC (Site Code 002249) is located c.3.4km to the east of the site and the Murrough SPA (Site Code 004186) is located c. 3.7km to the east.

5.2.2 In addition to this, the Glen of the Downs pNHA (Site Code: 000719) is located c. 1.2 km to the north of the site.

5.2.3 The application material includes an Appropriate Assessment Screening Report, prepared by Altamar Marine and Environment Consultancy which identifies that there is a potential indirect hydrological pathway to the Murrough Wetland SAC and the Murrough SPA via the Kilcoole Stream. This will be discussed in Section 8 below, relating to Appropriate Assessment.

### **5.3. EIA Screening**

5.3.1 The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

### **5.4 Water Framework Directive**

5.4.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.

5.4.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a reduction in water quality.

5.4.3 The Kilcoole Stream\_10 River Waterbody is culverted below the southern portion of the site. This waterbody is classified as poor ecological status. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/>). In addition to this, there is an unnamed stream to the north of the site which is a tributary to the Kilcoole Stream.

5.4.4 I have assessed the proposal and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

5.4.5 The reason for this conclusion is as follows:

- The small number of employees at the site,
- The fact that the site will be connected to the public foul sewer, and.
- The proposed storm water drainage which incorporated SuDS (attenuation ponds and a berm)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal against the decision of Wicklow County Council to refuse planning permission has been received from Thornton O'Connor Town Planning on behalf of Kelly Drain Maintenance Services Limited. I note that the first party appeal includes a set of updated drawings. The ground of appeal can be summarised as follows:

#### *General*

- There has been little to no change in the local area of the site since previous applications were refused planning permission (Reg. Ref's 17/464, 19/269 and 19/283 at the appeal site.
- However, the Planning Authority has raised a series of new issues and applied a suite of new reasons for refusal which did not feature in previous assessments.
- This conflicts with the natural course of justice which should be associated with the assessment of this current application and the principles set out in the *Development Management Guidelines for Planning Authorities 2007*.
- The proposed development is effectively the same as Reg. Ref. 17/646 development and the combined development of Reg. Refs. 19/269 and 19/283. This is confirmed by the area planner in their report.
- Where reasons for refusal are robustly addressed or misunderstandings clarified in a new / subsequent Planning Application, it is implied that no new reasons for refusal to prevent development being permitted should be presented.

#### *Decision making on the subject site to date.*

- In relation to Reg. Ref. 17/464, it is noted that An Bord Pleanála disagreed with the Planning Authorities reason for refusal, however a single reason for refusal relating to the block of the maas path was given. However, principal elements that underpinned the reason were fundamentally inaccurate. 1. PROW7 from the Wicklow County Development Plan 2016-2022 did not extend to the subject

site, nor does it extend to the site in the current *Wicklow County Development Plan 2022-2028*. 2. Condition 27 (of Reg. Ref. 07/2592) could never have formally applied as Reg. Ref. 07/2592 was never realised and the condition never took effect.

- With regard to Reg. Ref's. 19/269 and 19/283, three reasons for refusal issued. Reason No.1 related to the mass path, walking routes Objective EMP12 zoning. The second reason related to foul water connection and the third reason related to mains water source and connection.
- The first reason was rebutted in a detailed response to the initial application in this case. This reason was not previously given by An Bord Pleanála. Reason No's 2 and 3 were directly and comprehensively dealt with as part of this application and do not feature as reasons for refusal again, implying that they have been satisfactorily dealt with.

*Reason for refusal No.1*

- There is no legal right of way features in any title or deeds documents relating to the subject land. It is accepted that occasionally, members of the public walk the rural route along the northern boundary of the site.
- The applicant no longer proposed to close or reroute the alleged mass path as part of this development yet does provide as alternative, second route as an option, along the access road off the roundabout.
- It is not clear which objectives the Council deems the proposed development has not complied with as no objectives are stated.
- No trees, hedgerows or other planting are proposed to be removed. No intervention is proposed at the watercourse, and the alleged mass path is not proposed to be closed.
- With regard to walking routes there is no evidence of either a policy or an objective that the proposed development contravenes.
- The development will not undermine or cordon off the stretch of walking route that runs along the northern boundary.

- The greatest undermining of the walking route too place as a result of the construction of the R774 Farrankelly Road.
- Notwithstanding Council concerns the applicant has proposed an alternative / second walking route which is supportive of Council efforts to enhance walking and amenity routes and green infrastructure and is a safer option than the current arrangement.
- The site is heavily screened from the mass path by existing vegetation.
- The proposal for which retention and development is sought does not represent a new land-use or intensity of activity at the site and along the access lane.
- The development potential of the lands to the east and west remains and could be accessed via the lane off the roundabout. The proposal is not, therefore, piecemeal, or haphazard,
- The appeal site is heavily vegetated, and the development would not impact on surrounding amenities, no opposition arouse from adjacent neighbours. There would be no visual impact on local amenity.
- No objectives relating to green infrastructure resources, the facilitation of amenity walking routes and protection of historic and natural heritage have been contravened.

*Reason for refusal No.2*

- The use of the site is employment generating and the proposal aligns with this zoning.
- The site is not visible from the N11 and is heavily screened from the R774 (Farrankelly Road) and the mass path.
- The access to the site is from a roundabout with the traditional entrance from the Farrankelly Road to be closed.
- There are footpaths on both sides of the Farrankelly Road.
- Contravention of EMP4 was not cited as a reason for refusal in the previous application. There is only minor wording change to the corresponding objective in the new County Development Plan, it is unclear why it is now being considered as being materially contravened.



- Proposal complies with the relevant development management standards.
- There is an established use on the land and employment generation is ultimately supported by Objective CPO 9.15.
- The proposal will not impact residential amenity.
- Environmental quality will not be degraded as no trees or hedgerows will be removed and the mass path will not be closed.
- Traffic volumes are limited, and there is no queueing or traffic related dangers have arisen since the use at this site commenced.
- The previous planning applications did not include a reason for refusal citing Objective NH23 and given the changes are minor, it is unclear why CPO 13.3 has now been used.
- The proposed development is within the 25m riparian buffer, it was also within the 10m buffer set in the Wicklow County Development Plan 2016-2022, therefore the council was accepting of its presence proximate to the water course.
- The proposal is not a new development; the site has been a farmyard previously with the hard stand right beside the water course.
- No works are proposed to the watercourse, and it will be protected by way SuDS features.
- The design of the proposal has regard to the GSI Groundwater Protection Scheme and SuDS design have been incorporated.
- The Municipal District Engineer and Executive scientist in their internal report identified the land as being within Flood Zone B.
- Flood Zone A is confined to the northern watercourse and does not extend to the main area of development. Therefore, the applicable Flood Zones applicable to the development are Flood Zones B and C.
- The nature-based SuDS measures have now been incorporated into the scheme as the proposed berm and swale acting to manage surface water and flood risk.

- The wording of CPO 14.10 conflicts with CPO 14.09.
- The wording of CPO 14.11 is noted, and the majority of the existing complex is already hard surfaced, therefore there is a precedent for this configuration. Hard surfacing (as opposed to permeable) is required due to the weight of trucks and to ensure that all surface water run-off can be channelled onto the petrol interceptor and broader SuDS network.
- Sustainable drainage techniques have been incorporated into the proposed development, berm is proposed around the northern, eastern, and southern sides of the main depot and is complimented of a swale (as part of this appeal)
- The proposed SuDS measures are nature based and will improve water quality, manage water quantity, provide amenity benefits, and support ecology.
- The development retains and respects existing nature-based solutions. The preparation of an Ecological Impact Assessment was not deemed necessary due to the limited scale of the development, existing nature of the activity, the retention of all trees and hedgerows and the intention to avoid works in the existing water courses.
- Impacts on European sites are no envisaged.
- There is no public right of way on the land, PROW7 does not apply to the site.

*Reason for refusal No.3*

- The applicant is attempting to regularise the planning status of the land and that in securing a grant the development would no longer be unauthorised and therefore this reason for refusal is confusing.
- This reason for refusal is overly onerous and punitive given the repeated efforts made by the applicant to remedy the issues on-site and the inconsistent approaches of the local authority.
- The Boards previous reason for refusal has been addressed, and no material issues have been raised since the adoption of the new Development Plan, and the proposed development is substantially similar.

*Reason for refusal No. 4*

- The vehicular gate at the roundabout was installed by the neighbouring landowner and is always open.
- The pedestrian gate to the west side of the site of the land off the roundabout will be opened so as to accommodate the alternative / second mass path route.
- All staff and the residents of the dwelling beside the site can raise the barrier inside the gate via fob, therefore there would be no queueing.
- The business has operated without any traffic or road safety issues is evidence that it is not and will not result in traffic impacts.
- Flexibility with respect to car parking is afforded by the Development Plan. The number of car parking spaces has been considered based on known needs and additional car parking would be surplus to requirements. The unique land use type of the proposed development does not result in a like for like requirement for car parking.
- 3 new van spaces and 6 new truck spaces are shown on the site plan, and 10 new bicycle space are also provided to the northern end of the proposed office building.

## **6.2. Planning Authority Response**

### **6.2.1 No response on file**

## **6.3. Observations**

### **6.3.1 A third party observation has been received from Hugh Lee. The observation can be summarised as follows:**

- The particular section of Mass Path that borders the Kelly Drains property is a mass path going from Drummin to the Kilquade church and would qualify for the name 'boirin'. This section of path has now been enclosed by a high metal fence and access is via two metal gates within the metal fence.
- Most people would use the mass path for a pleasant walk. Recent efforts by the government to develop greenways throughout the country and to encourage residents to do likewise has in the case of Kilquade has been very successful

and every encouragement should be given to them in these efforts. If Kelly drains had put up the metal fence on their side of the mass path it would not interfere with walkers.

- Mass paths are part of our heritage in Ireland. They should be treasured for their role in our history and with the waning of religious practice we can find a positive motive for their preservation in the new culture of body health and appreciation of nature.
- The site is proximate to Cainstown Stream (c,100m from the stream) and runoff from the site would find its way into the stream which flows east touching the path at various points and through Kilcoole Village and into the sea at beaches. Children play in the stream at different points. In view of the nature of the work of Kelly Drains and the need to clean various trucks, there would be a risk to the Children's health from the runoff in the stream.

#### **6.4. Further Responses**

6.4.1 There are no further responses on file.

### **7.0 Assessment**

7.1. Having examined the appeal details and all other documentation on file, including the reports of the local authority and inspected the site. I make the Coimisun aware that this assessment includes plans submitted by the first party at appeal stage. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Preliminary matters
- Drummin Mass Path
- Economic Development
- Water Services
- Flood risk
- Haphazard Development

- Traffic Safety
- Appropriate Assessment

## **7.2. Principle of Development**

- 7.2.1 As per the *Wicklow County Development Plan 2022-2028* the appeal site is within the Employment Zone (Kilpedder Interchange, as shown on Map 09.02). Objective CPO 9.15 states that the specific zoning objective applies: *‘To provide for employment uses including industrial, transport, distribution and warehouse developments of good architectural design, layout and landscaping including substantial screening from N11’*.
- 7.2.2 The cover letter submitted with the initial application states that the use of the land currently employs 25 people in various roles. The principle of the proposed development which is an employment use would therefore be acceptable having regard to the zoning objective of the appeal site.

## **7.3 Preliminary Matters-Planning history**

- 7.3.1 The site has an extensive planning history, with three previous applications being refused by the local authority, including one case, which was refused planning permission by An Bord Pleanála, all of which are relevant in determining this appeal.
- 7.3.2 The first party appellant states that there has been little to no change in the local area of the site since previous applications were refused planning permission (Reg. Ref’s 17/464, 19/269 and 19/283) at the appeal site and that the Planning Authority has raised a series of new issues and applied a suite of new reasons for refusal which did not feature in previous assessments.
- 7.3.3 In this regard, the appellant raises detailed concerns that the refusal of a similar application for different reasons is not in accordance with the principles of natural justice and fair procedures as defined in Section 1.5.2 of the Development Management Guidelines for Planning Authorities (2007) in relation to procedural fairness, providing reasons for the decision and consistency. In addition to this, the appellant contends that the vast majority of objectives deemed by the local authority to be contravened in this application featured in the previous iteration of County Development Plan (i.e., *Wicklow County Development Plan 2016-2022*) but were not

raised as issues in the assessment of previous applications. This is evidence of the planning context remaining the same but the assessment changing.

- 7.3.3 I note the concerns of the first party. In the first instance I have considered the plans and statutory notices of the previous applications on the appeal site, and I am satisfied that the development currently being assessed is very similar to previous applications on the site. This is confirmed by the area planner on page 23 of their report.
- 7.3.4 While this may be the case, the statutory development plan for the area changed between the consideration of the previous applications on the appeal site (Reg. Ref. 19/269 and 19/283 in March 2020) from the *Wicklow County Development Plan 2016-2020* to the *Wicklow County Development Plan 2022-2028* and as a result of this policies and objectives were changed, updated or new policies / objectives added.
- 7.3.5 While I note the concerns of the first party almost 5 years have passed between the consideration of the previous applications and the current application, and the legislative environment has changed in that timeframe. The local authority is required to consider an application in light of the legislative framework which is current at the time of application. In light of this, I am satisfied that the planning authority were required to fully assess this application in light of the Development Plan in force at the time of the application.
- 7.3.6 In addition to this, I would point out for the purpose of clarity, that the development now before the Coimisiún has been considered “de novo”. That is to say that the Coimisiún considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.

#### **7.4 Drummin Mass Path**

- 7.4.1 The first reason for refusal states that the applicant has failed to demonstrate that the development can be accommodated in a manner that allows for the co-ordinated and integrated development of the overall landholding so that it provides for this development and protects the Drummin mass path along its historic established route.

- 7.4.2 A third party observer highlights concerns that the section of Mass Path that borders the Kelly Drains property is a mass path going from Drummin to the Kilquade church and would qualify for the name 'boirin'. This section of path has now been enclosed by a high metal fence and access is via two metal gates within the metal fence. It is further stated that mass paths are part of our heritage in Ireland. They should be treasured for their role in our history.
- 7.4.3 In response to this the first party states that there is no legal right of way which features in any title or deeds documents relating to the subject land. In addition to this, the applicant no longer proposes to close or reroute the mass path as part of this development, yet does provide as an alternative, second route as an option, along the access road off the roundabout.
- 7.4.4 In the first instance I draw the attention of the Coimisiún to Table 18.3A and Table 18.3B of the *Wicklow County Development Plan 2022-2028*. These tables outline Public Rights of Way and Proposed Amended Public Rights of Way. I note that the Drummin Mass Path is not included on either table. I further note that maps 18.09A to 18.09D which show the route of each of the Public Rights of Way in the county. None of these routes pass over the appeal site. I am therefore satisfied that the path to the north of the site is not a Public Right of Way. In any case, this, should the Coimisiún be of a mind to grant retention permission and planning permission then a condition could be included which requires that the Drumm Mass Path remain open.
- 7.4.5 I refer the Coimisiún to Drawing No. 1903-L(--) 100 *Proposed Site Layout Plan* which shows that the path is not proposed to be closed off. I note that the eastern portion of the path is enclosed by a palisade fence along its northern boundary and a Shiplap fence along part of its southern boundary. In addition to this, in the day of my site visit I noted that there is a gate at the eastern end of the path within the ownership of the applicants. This gate was open on the day of my site visit.
- 7.4.6 While I note that the combination of palisade and shiplap fencing may alter the open countryside feel of the walk at this location, in my opinion, it is reasonable given that the Mass Path is in proximity to the operational area of the business (i.e., the yard) and in my opinion is acceptable from a visual and safety point of view. However, if the Coimisun is of a mind to grant permission, then I would recommend a condition which

requires that the gate at the eastern end of the path within the ownership of the applicant remain open.

7.4.7 The western portion of the walk runs along the existing access road for the business (and adjacent residential dwellings). There are no footpaths on this access road and therefore there is a potential for walkers to interact with heavy vehicles which is not ideal. Notwithstanding this, I am satisfied that this matter could be dealt with by way of condition requiring a mobility management plan or traffic / pedestrian safety report, should the Coimisiún be of a mind to grant retention permission and planning permission.

7.4.8 Given that this application no longer proposed to close the Drummin Mass Path I am satisfied that the applicant has demonstrated that the development has protected the route of the Drummin Mass Path within their lands and as a result would not injure the amenity of the area. In addition to this, I do note that Objective 9.15 of the *Wicklow County Development Plan 2022-2028* requires that the surface of the Drummin Mass Path along its historic established route should be maintained and improved as shown in Map 9.02. I am satisfied that the route of the Drummin Mass Path is retained for the use of the public and that the proposal would comply with Objective 9.15 of the *Wicklow County Development Plan 2022-2028* and therefore and that Reason No. 1 for refusal is not warranted.

7.4.9 I note that the first party proposed an alternative route, however seeing as the applicants have committed to keeping the Drummin Mass path open within their site boundaries, I do not see the need for an alternate route.

## **7.5 Economic Development**

7.5.1 The second reason for refusal states that the proposal would contravene a number of objectives of the *Wicklow County Development Plan 2022-2028* relating to economic development (with respect to quality of development), water services and natural heritage / biodiversity, flood risk management, and green infrastructure.

### *Economic development*

7.5.2 The reason for refusal states that the proposal would contravene Objective CPO 9.15 and 9-5 of the *Wicklow County Development Plan 2022-2028*.



- 7.5.3 In response, the first party states that the site is zoned for employment generating uses, the site is not visible from the N-11, the mass path will not be closed off, footpaths on both sides of Farrankelly road have been provided and that the footpath link to Greystones is outside the remit of this application.
- 7.5.4 The appeal site is zoned for employment uses and is in an area where other employment generating uses have been developed, including the Bromley Business Park on the opposite side of the road. The proposal provides employment for 25 people in various roles and as a result, in my opinion, the development fully aligns with the purpose of the zone as set out in Objective 9.15. I note that there are a number of specific stipulations for these lands set out in Objective 9.15. In this regard I am satisfied that the appeal site is not visible from the N-11, that access to the appeal site is via the roundabout (and access road) to the west of the site and that the Drummin Mass Path would not be closed as a result of this application. This has been clearly stated by the applicant.
- 7.5.5 Having considered the foregoing; I am satisfied that the proposal would not contravene Section CPO 9.15 of the *Wicklow County Development Plan 202-2028*.
- 7.5.6 Objective 9-5 seeks to permit proposals for employment generating development where it can be demonstrated that the development complies with the relevant development standards and is not detrimental to residential amenity or to environmental quality and is acceptable with regard to its impact on the character and visual amenity of the area. In the first instance I note that the proposal is an employment generating use on employment zoned lands. I am satisfied that the proposal would fully comply with the tenet of Objective 9-5.
- 7.5.7 With regard to impacts on the amenity of the area, I refer to Drawing No. 1903-(L) (--) 003 '*Existing Site Layout Plan*' and Drawing No. 1903-L (--) 100 '*Proposed Site Layout Plan*'. These drawings show that the development for retention and permission is set back c. 31.7m from the Farrankelly Road to the south and c.95m from a dwelling not in the ownership of the first party. The southern boundary of overall land is screened by trees. On the day of my site visit, I noted that it was possible to see the appeal site from Farrankelly Road, however, these views were from a distance and confined to certain locations. I would note that the trees on the southern boundary of the land had shed their leaves, given the time of year.

- 7.5.8 Notwithstanding this, the submitted plans shown that the yard is proposed to be enclosed to the south, north and east by a 1.8m high hit and miss fence. At present there is no fencing around the yard. In my opinion, the introduction of this fence would appropriately screen the yard from the surrounding area and would protect the amenity of the area.
- 7.5.9 Having considered the above, I am satisfied that the use of the land would not have a detrimental impact on the amenity of the area.

*Planning permission*

- 7.5.10 The element of the proposal for which planning permission is sought includes a two-storey office building within the centre of the site to replace a demolished farm building. The proposed office would have an area of c. 7.4m with a flat roof and would have a floor area of c. 446m<sup>2</sup>. The proposed office building would be set back c.55m from the southern boundary of the overall land holding (bounding the R-774 Farrankelly Road). A truck was bay is proposed to the south-eastern corner of the hardstand area.
- 7.5.11 In addition to this, it is proposed to remove 4 temporary portacabin buildings with a combined floor area of 87.8m<sup>2</sup>. These portacabins are located are located to the centre and southern boundaries of the hardstand area. In my opinion, the removal of these portacabins is a positive outcome in terms of the visual impact of the development.
- 7.5.12 The application for planning permission also seeks permission to resurface the yard with continuous concrete slab. In broad terms the paving of the yard with a concrete slab would reduce noise and dust from the yard, which would benefit the amenity of the area. However, there are some concerns with regard to the impact that the constriction phase of this would have on the environment. This will be discussed in more detail below.
- 7.5.13 I have considered the design of the element of the development for which planning permission is requested in light of Objective 9.5 of the *Wicklow County Development Plan 2022-2028* and I am satisfied that the design would be typical of a development within employment zoned land. In my opinion the design of the office is standard for such buildings, and it set back from the boundaries of the land would ensure that it would not an undue impact on the amenity of the area. In addition to this, in my opinion,

the screening of the hardstand area would enhance the amenity of the area and ensure that trucks / cars and materials would not be visible from the surrounding area.

7.5.14 Having considered the foregoing, I am satisfied that the proposal would not have a detrimental impact on the character of the area and would not have any impacts on residential amenity. Therefore, the proposal would not contravene Objective 9-5 of the *Wicklow County Development Plan 2022-2028*.

7.5.15 In addition to the above I have considered the proposed development in light of Section 4 of Appendix 1 (Development and Design Standards) of the *Wicklow County Development Plan 2022-2028*, and I am satisfied that the proposal would comply with the standards set out within this section.

#### *Water Services and Natural Heritage / Biodiversity*

7.5.16 The second reason for refusal states that the proposal would contravene Objectives CPO 13.3, CPO 13.4, and CPO 17.26.

7.5.17 Objective CPO 13.3 and 17.26 requires that rivers streams and other water courses by avoiding interference with river / stream beds, banks and channels and maintaining a core riparian buffer zone of generally 25m along watercourses should be provided free from inappropriate development (or other width, as determined by the Planning Authority having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development'.

7.5.18 The first party acknowledges that the development is within 25m of the buffer required by Objective CPO 13.3. Having regard to the plans submitted with the application, it is clear that the yard area is within 2.5m of the stream along the northern boundary of the land. The report of the Pollution Control Section of Wicklow County Council states that the proposed berm and considerable area of yard are within the recommended 25m buffer zone and that the proposal does not take cognisance of IFI guidance for development adjacent to water.

7.5.19 It is acknowledged by all parties that the development is within the stated buffer of the stream. Notwithstanding this, I note that the bulk of the hardstand area has been used as yard for some time, both in conjunction with its previous use as a farm and as its use at present- a commercial vehicle depot, with little or no consideration of the

protection of the stream on the northern boundary of the land. The development as set out in the drawings submitted with the first party appeal includes an enhanced nature-based storm water management system which includes berms and swales. In my opinion, this would lead to a more sustainable stormwater management system compared to what is on site at present. I am therefore of the opinion that the proposal would broadly comply with Objectives CPO 13.3 and 17.26 of the *Wicklow County Development Plan 2022-2028*.

7.5.20 With respect to CPO 13.4, I note that the appeal site is above an area with a vulnerability description of Rock at or near surface or Karst with a High vulnerability. In addition to this, I note that the groundwater recharge is average with the aquifer described as Poor Aquifer - Bedrock which is Generally Unproductive except for Local Zones. This can be viewed at <https://dcenr.maps.arcgis.com/apps/MapSeries/index.html?appid=bc0dba38f3f5477c8fd400f66b5eedcd>. I note that the appeal site will be connected to the local public foul network and that stormwater will be dealt with by SuDS including interceptors, swales, and berms. Having considered this, I am of the opinion that the proposal would not have an impact on groundwater. I am satisfied that the proposal would comply with CPO 13.4 of the *Wicklow County Development Plan 2022-2028*.

#### *Flood Risk Management*

7.5.21 The second reason for refusal states that the proposal would contravene Objectives CPO 14.09, 14.10, 14.11, 14.12, 14.13, 14.14 and 14.15. These objectives relate to flood risk management.

7.5.22 I refer the Coimisiún to the Flood Risk Assessment prepared by Fitzsimons Consulting Engineers submitted as part of the initial application. This report notes that the appeal site is within the Flood Zone B and that there is a risk of flooding in the 0.1% fluvial AEP. It is further stated that the site is not at risk of being flooded for the 10% or 1% AEP events. The Flood Risk Assessment states that in accordance with Table 3.2 of the Flood Risk Management Guidelines the development is classed as less vulnerable and as a result of being within Flood Zone B is considered to be appropriate without the requirement of a 'Justification Test.'

7.5.23 I have considered Table 3.1 of the Flood Risk Management Guidelines and while I note the class of development proposed for retention and for permission is not

specifically outlined, I am satisfied that it would not be within the 'Highly vulnerable development' category of Table 3.1. In addition to this, Table 3.2 outlines that any works outside of the 'Highly vulnerable development' category' in Flood Zone B is appropriate and does not require a Justification Test.

7.5.24 I note that the report of the Municipal District Engineer of Wicklow County Council states that the land is within Flood Zone B. The first party appellant has included flood mapping with their submission, and I note that an area to the north of the site (in proximity to the stream) is within the 1% fluvial depth. There is also a small area to the south of the site which is within the 1% fluvial depth. In addition to this, there is an area to the south and middle of the site which is within the 0.1% fluvial depth. I make the Coimisiún aware that the maps provided by the first party match those on the flood mapping website at <https://www.floodinfo.ie/map/floodmaps/>. Therefore, I am satisfied that the appeal site is predominantly within Flood Zone B and that the development would not have an impact on the flood plan having regard to the storm water plans submitted by the first party.

7.5.25 Having considered the foregoing, including the Flood Risk Management Guidelines, I am satisfied that the proposal would not contravene Objectives CPO 14.09, and CPO14.10 relating to flooding.

7.5.26 With respect to CPO 14.11, and 14.12 which relate to excessive or large areas of hardstanding, the first party appeal includes a statement prepared by Fitzsimons Consulting Engineers which states that permeable surfacing is not suitable for a truck yard due to the risk of the surface becoming blocked by debris from the trucks. It is also stated that debris and hydrocarbons are trapped in the interceptors allowing run off to discharge to ground.

7.5.27 I note that the response of the third party with respect to CPO 14.11 and CPO 14.12, It is clear that the majority of hardstand area has been in place for some time. In this regard, I note that aerial imagery from as far back as 2008 shows hardstanding areas within the appeal site. Objectives CPO 14.11 and CPO 14.12 are part of a suite of objectives relating to flood risk management as set out in Section 14.4 of the *Wicklow County Development Plan 2022-2028*. I note that the first party appeal includes an enhanced nature-based storm water management system which includes berms and swales. In my opinion, this would lead to a more sustainable stormwater management

system compared to what is on site at present. I am therefore of the opinion that the proposal would broadly comply with Objectives CPO 14.11 and CPO 14.12 of the *Wicklow County Development Plan 2022-2028*.

7.5.28 With respect to CPO 14.13, 14.14 and 14.15 which relate to SuDS and stormwater I note that the report of the Municipal District Engineer states that the Engineering Report submitted with the application is flawed and that the Local Authority (who are the authority for storm water drainage) do not have any records of storm water sewers in the vicinity of the site. In addition to this, the storm water drainage has been designed in accordance with the incorrect document which refers to residential development. In addition to this, an outdated form of SuDS system has been proposed and a current design approach using nature-based SuDS is required (including an attenuation pond rather than an underground attenuation tank).

7.5.29 The first party states that the proposed measures are SuDS are nature based, would improve water quality, carefully manage discharge rates, and water quality, provide amenity, and support local ecology. In addition to this, the appeal documentation shows that a swale is now proposed to replace the previously proposed underground tank.

7.5.30 I refer the Coimisiún to Drawing No. 602 Rev PL2 '*Proposed Site Drainage*' which shows that the previously proposed underground attenuation tank replaced with a surface water swale to the south-east of the site. The proposed swale would have a gradient of 1:4 and a 2lt/s hydrobreak. Thie attenuation pond is sized to cater for the developed site and the undeveloped roadside frontage. The detention basin is designed for a storms raging from 5 mins to 25 days for a 30-year return period. In addition to this, the system will drain in 24 hours for critical storms of 24 hours. I am satisfied that this would comply with Objectives CPO 14.13 and CPO 14.14 of the *Wicklow County Development Plan 2022-2028*.

7.5.31 With regard to the proposed SuDS I note that Drawing No. 602 Rev PL2 '*Proposed Site Drainage*' shows that the site drainage will include a berm including a 1m high concrete bund which includes native vegetation to the south, east and north of the paved area. Surface water would be directed towards interceptors. The use of swales is encouraged by Objective CPO 14.15 of the *Wicklow County Development Plan 2022-2028*, and I am satisfied that this is acceptable.

### *Green Infrastructure Objectives*

- 7.5.32 The second reason for refusal states that the proposal would contravene Objectives CPO 18.2, 18.3, 18.4 and 18.22. These objectives relate to the protection of green infrastructure (including sustainable management of water, biodiversity, cultural heritage and protected landscapes), integration of nature-based solutions, development and enhancement of suitable access to and connectivity between areas of interest for residents.
- 7.5.33 With respect to Objective CPO 18.2, the first party notes that the proposal does not seek to close the section of the alleged mass path that runs along the northern boundary of the land and that none of the features which supports its green infrastructure are proposed for removal or alteration.
- 7.5.34 Given that the mass path is to remain open and that there is no proposal to remove or replace any natural features, I am satisfied that the proposal would not contravene Objective CPO 18.2.
- 7.5.35 With respect to Objective CPO 18.3, the first party states that the development retains and respects existing nature-based solutions in that the mass path would not be closed, the existing trees and hedgerows including along the mass path would be retained, and that there would be no alteration to the water course to the north of the site. In addition to this, the nature-based solutions for water management are proposed, including a swale and berm. The first party also states that an Ecological Impact Assessment is not required given the limited scale of the development, the established nature of the activity on the site and the proposed retention of all trees and hedgerows.
- 7.5.36 I have considered the water management solutions for the appeal site as set out in the plans and documents submitted with the first party appeal and I am satisfied that the measures outlined are broadly acceptable. Notwithstanding this, I note that Objective CPO 18.3 states that all such proposals will be subject to ecological impact assessments. I further note that the application material does not include such an assessment. However, this matter could be dealt with by way of condition requiring the submission of an ecological assessment to be agreed with the planning authority. This assessment could be required within 3 months of the date of decision, should the Coimisiún be of a mind to grant retention planning and planning permission.

7.5.37 With respect to Objective CPO 18.4 the first party states that the alleged mass path is not proposed to be closed by the proposed development and that an alternate / second route is proposed as a safer option and to augment the network of walking routes throughout the county.

7.5.38 Given that the mass path is not proposed to be closed, I am satisfied that the proposal would comply with Objective CPO 18.4 of the *Wicklow County Development Plan 2022-2028*.

7.5.39 With respect to Objective 18.22 the first party states that there is no Public Right of Way over the land or the mass path.

7.5.40 I refer the Coimisiún to Table 18.3A and Maps 18.09A-18.09D of the *Wicklow County Development Plan 2022-2028* which show the Public Rights of Way within County Wicklow. None of the 7 identified Public Rights of Way apply to the appeal site. Therefore, I am satisfied that the proposal would not contravene Objective CPO 18.22 of the *Wicklow County Development Plan 2022-2028*.

## **7.6 Haphazard Development**

7.6.1 Reason No.3 for refusal states that the proposed development would represent continued expansion and consolidation of an unauthorised development which would unduly impact on the amenities of the area, public health, visual amenities, undermine planning regulations and would set an undesirable precedent for similar large-scale development in the absence of genuine need.

7.6.2 In response, the first party states that the applicant acknowledges that that unauthorised development has taken place and that the applicant has actively sought to regularise this via the planning system since 2017. The first party states that the reason for refusal is overly onerous and punitive given that repeated efforts made to remedy the on-site issues.

7.6.3 I note the concerns of the planning authority with respect to the continued expansion and consolidation of an unauthorised development on the appeal site. I also note the concerns of the planning authority with respect to undermining planning regulations. In the first instance I note that applications for retention permission should be treated as with any other application. This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same



basis as would apply if the development in question were proposed as set out in Section 34(12) of the Planning and Development Act 2000 (as amended). Therefore, no account can, or should, be taken of the fact that the development has already taken place.

7.6.4 I note that the Zoning Objective for the land (as set out in Objective 9.15) seeks to provide for employment uses including industrial, transport, distribution and warehouse developments of good architectural design, layout and landscaping including substantial screening from N11. The proposal which provides employment would comply with this objective, Further, I am satisfied that the proposal would not have an undue impact on the amenity of the area. In addition to this, I am cognisant of the fact that the *Wicklow County Development Plan 2022-2028* seeks to support all forms of employment creation and to require new employment generating developments to locate on suitably zoned (CPO 9.1 and CPO 9.3 refers).

7.6.5 I have previously considered impacts on the amenities of the area, public health, visual amenities and the amenities of nearby properties and I am satisfied that the proposal would not unduly impact on such. The site is appropriately screened from both surrounding sites and the public realm and would not have an undue impact on the amenity of the area. The site will be connected to the public foul sewer and would not have an impact in public health.

7.6.4 In my view, having considered the employment zoning of the land and the objectives of the *Wicklow County Development Plan 2022-2028*, it is not accurate to describe the development for which retention is sought as 'haphazard'. The proposal is for the retention and for permission for an employment use on employment zoned lands, I would also note that there is a mixture of employment related uses in the area, including a business park and a concrete mixing unit, the proposal would not be out of character with the area. Having considered the forgoing it is my opinion that Reason No. 3 for refusal is not warranted.

## **7.7 Traffic Safety**

7.7.1 The fourth reason for refusal states that insufficient information has been provided regarding traffic impacts including the current gate, barrier, and bollards at the proposed entrance. In addition to this there were concerns with respect to insufficient staff car, commercial vehicles, and bicycle parking on site.

- 7.7.2 In addition to this, Transport Infrastructure Ireland made a submission at initial application stage stating that there is insufficient data to demonstrate that the proposed development would not on the capacity or operational efficiency of the national road network. Transport Infrastructure Ireland recommends that a Transport and Transport Assessment should be undertaken, and any recommendations be incorporated into the development by amendment to the existing planning application or by way of conditions.
- 7.7.3 The gates and barrier are located at a distance of c. 20m from the northern arm of the Bromley Roundabout off Farrankelly Road (R-774). The access road on which the gates / barrier is located serves the appeal site (including adjacent dwelling) and a separate dwelling to the north-west of the appeal site.
- 7.7.4 The first party states that the vehicular gate was installed by the neighbouring landowner but is always open. In addition to this, the barrier can be active by way of a fob for staff and residents of the adjacent to the site, therefore there is no queueing or entrance delays. In this regard, the first party appeal includes a statement from Stephen Reid Traffic and Transportation Limited. It is noted that the current operations and staff commuting traffic generates modest levels of activity at the site. This statement includes a log of total weekly movements into and out of the site. The figure provided is 305 movements over a 7-day period in February 2024. Given that the appeal site is not open to the public without appointment (as stated in the first party appeal) and all staff members have access to a fob to open the gate, I am satisfied that the development does not have an impact on the operation of the Bromley Roundabout on the R-774 to the south-west of the site. Notwithstanding this, should the Coimisiún be of a mind to grant retention planning permission and planning permission then I would suggest a condition requiring a mobility management plan with particular emphasis on ensuring that the operation of the gate / barrier does not lead to any queueing on the Bromley Roundabout, this could include the consideration of keeping the gate and barrier open at peak times to ensure free access to the appeal site.
- 7.7.5 With regard to car parking the site layout plan submitted with the first party appeal shows that there are 16 car parking spaces (11 for staff and 5 for visitors) located to the west of the hardstand area. In addition to this, a total of 9 spaces for vans are proposed in addition to the visitor / staff car parking provision. Table 2.3 of Appendix

1 of the *Wicklow County Development Plan 2022-2028* sets out car parking standards per land use. For office development 5 spaces per 100m<sup>2</sup> is required at ground floor level and 4 car parking space per 100m<sup>2</sup> is required for above ground floor offices. Based on an office floor area of c. 223m<sup>2</sup> at ground floor level and 223m<sup>2</sup> at first floor level, this would lead to a requirement for 21 car parking spaces. The proposal also includes a maintenance building. There is no specific land use category for maintenance buildings set out in Table 2.3 of Appendix 1, however, the planning authority has used the land use warehouse to calculate car parking requirements. This maintenance building has an area of 337m<sup>2</sup> and a total of 3.37 spaces, rounded up to 4. This would lead to an overall requirement for 25 spaces for the development.

7.7.6 Given that there are 25 car parking spaces between staff, visitor, and van parking spaces, I am satisfied that the car parking provision is acceptable. If the Coimisiún is of a mind to grant retention planning permission and planning permission, then I would recommend a condition which requires that the car parking shown on the site layout plan submitted with the first party appeal be set aside for that purpose.

7.7.7 Having considered the foregoing, while I note that the gate and barrier on the access lane to the appeal site is relatively close to the northern arm of the Bromley Roundabout to the south-west of the appeal site, I am satisfied that traffic using this access can be managed in a way that ensures that there would be no queueing and therefore no traffic safety impacts on the operation of the R-774. I am also satisfied that the parking provided is acceptable. Therefore, in my opinion, reason No.4 for refusal is not warranted in this case.

## **8.0 AA Screening**

8.1. The appeal site is not located on or within any designated Natura 2000 site(s) or Natural Heritage Area(s). The Glen of the Downs SAC (Site Code: 000719) is located c. 1.3 km to the north of the site. The Murrough Wetlands SAC (Site Code 002249) is located c.3.4km to the east of the site and the Murrough SPA (Site Code 004186) is located c. 3.7km to the east. In addition to this, the Glen of the Downs pNHA (Site Code: 000719) is located c. 1.2 km to the north of the site.

8.2. The application material includes an Appropriate Assessment Screening Report, prepared by Altamar Marine and Environment Consultancy which identifies that there

is a potential indirect hydrological pathway to the Murrough Wetland SAC and the Murrough SPA via the Kilcoole Stream which are located c.3.8km to the east of the site.

- 8.3. The planning officers report (page 29) notes that the site itself is not within a Natura 2000 site, nor is it located proximate to such a site. However, there are two water courses linking the site to the Kilcoole Stream and both of these stream's flow into the Murrough SPA and the Murrough Wetlands SAC. The area planner notes that there is clearly a direct hydrological pathway and a possible biodiversity corridor link to European sites which undermine the conclusion of the AA screening. Given the scale of development (proposed and retained) and the direct hydrological link and possible biodiversity corridor link to Natura 2000 sites, it is considered that significant negative impacts cannot be ruled out. In this case, the planning officer is of the opinion that that the development would necessitate the carrying out of an Appropriate Assessment.
- 8.4. I note the conclusions of the Appropriate Assessment Screening Report submitted with the application and the opinion of the planning authority. Page 10 of the Appropriate Assessment Screening Report, prepared by Altemar Marine and Environment Consultancy states that the Kilcoole Stream is culverted within the southern portion of the site and that the stream to the north of the site is an unnamed tributary of the Kilcoole Stream. The Kilcoole Stream flows into the Kilcoole Marsh. A part of the Kilcoole Marsh is within both the Murrough Wetlands SAC and the Murrough SPA. I am therefore satisfied that there is an indirect hydrological pathway to the Murrough Wetlands SAC and the Murrough SPA for the appeal site.
- 8.5. In the regard I draw the attention of the Coimisiún to the EPA maps at <https://gis.epa.ie/EPAMaps/> which clearly shows that the Kilcoole Stream runs into the above Natura 2000 sites.
- 8.6. While I do not have concerns with respect to the operational phase of the development, having regard to the fact that the proposal includes upgraded surface water drainage systems in accordance with SuDS (including Swales and Berms and petrol interceptors) and that the appeal site will discharge by gravity to the existing 150mm foul pipe to the south to the site, I do have concerns that the impacts of the construction phase of the development element of the scheme.

- 8.7. These concerns relate to the potential impacts of the construction of the proposed office building and especially the new concrete slab over the entire hardstand area have not been considered in the Appropriate Assessment Screening Report submitted with the application. I further note that there is no constriction management plan on file which would provide any detail on mitigation measures with respect to ensuring that no pollutants enter the stream to the north of the site during construction and then by indirect connection into the Murrough Wetlands SAC and the Murrough SPA.
- 8.8. In my opinion, in the absence of a Stage 2 Appropriate Assessment for European Sites, the Coimisiún cannot be satisfied that significant negative impacts related to the construction phase of the development can be ruled out.
- 8.9. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development is likely to have a significant effect on the qualifying features of the Murrough Wetlands SAC and the Murrough SPA in respect to effects associated with surface water and ground water.
- 8.10. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.
- 8.11 I make the Coimisiún aware that this is a **new issue**, and the Board may wish to seek the views of the parties in this regard via Section 137 of the Planning and Development Act 2000 (as amended).

## 9.0 Recommendation

- 9.1 I recommend that planning permission is refused.

## 10 Reasons and Considerations

- 10.1 The proposed development is in proximity to the Murrough Wetlands SAC (Site Code 002249) and the Murrough SPA (Site Code 004186) There is an indirect hydrological connection to these sites by way of an unnamed tributary to the Kilcoole Stream along the northern boundary of the land which discharges into the Kilcoole Stream which in turn discharges into the Murrough Wetlands SAC (Site Code 002249) and the Murrough SPA (Site Code 004186). On the basis of the information provided with the

application and on the appeal file, the Coimisiún cannot be satisfied that the development would not be likely to have a significant effect on the Murrough Wetlands SAC (Site Code 002249) and the Murrough SPA (Site Code 004186) in view of the respective sites' conservation objectives, by reason of the site context and the stream along the northern boundary of the land that allows for indirect discharge to the Kilcoole Stream. In these circumstances the Coimisiún is precluded from giving further consideration to a grant of planning permission. The development for retention and permission would therefore be contrary to 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.

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Ronan Murphy  
Planning Inspector

3 December 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	<b>ABP-319225-24</b>
<b>Proposed Development Summary</b>	Retention of change of use of a farmyard complex including open yard for use as a commercial vehicular depot and permission for construction of office building and all associated site works.
<b>Development Address</b>	Site at Drummin East and Kilpedder East, Delgany, Co. Wicklow
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2.  <input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5, or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_