



An  
Bord  
Pleanála

## Inspector's Report ABP-319884-24

<b>Development</b>	Permission to amend condition 14 of planning ref. 20044687 to facilitate earlier departure of 8 refuse collection vehicles from the facility.		
<b>Location</b>	Kilrane Business Park, Ballygillane Big, Saint Helen's, Kilrane, Co. Wexford.		
<b>Planning Authority Ref.</b>	20240337.		
<b>Applicant(s)</b>	Bord na Mona Recycling Limited.		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	To Refuse Permission.
<b>Type of Appeal</b>	First Party.	<b>Appellant</b>	Bord na Mona Recycling Limited.
<b>Observer(s)</b>	None.		
<b>Date of Site Inspection</b>	15 <sup>th</sup> November, 2024.	<b>Inspector</b>	Aiden O'Neill.

### Context

#### 1. Site Location/ and Description.

The proposed development site is c. 0.62ha in area and is located at Kilrane Business Park to the east of Kilrane and south of Rosslare Harbour, Co. Wexford. The site is accessed off the L7012 in the townland of Ballygillane Big, Saint Helen's, Kilrane, which connects to the N25 approximately 650m to the west. The applicant, Bord na Mona, leases the 3no. double-height industrial bays and a

single-storey office to the east of Kilrane Business Park, and a compound area to the north. On the opposite side of the Business Park, and separated by a large area of hardstanding and a bunded area of fuel tanks, there are a number of industrial units some of which are occupied by Glen Fuels. On the day of the site visit there was a constant noise of a metal cutting saw or similar from one of the units to the west which dominated the noise environment.

Trucks were entering and exiting the Bord na Mona facility on the day of the site visit. On exit of the trucks from the facility, rapid roller doors came into action. There is a weighbridge located parallel industrial units. The area in the vicinity of the facility is well-signposted to ensure no conflict between trucks and vehicles or pedestrians.

On the opposite side of the L7012 are a number of individual dwellings and the Cúl na Gréine 52 unit residential estate. To the east and west of the Kilrane Business Park is undeveloped agricultural lands. To the north are further industrial units in the Kilrane Enterprise Park, accessed via a road to the immediate east of the Bord na Mona facility. Further north is a small residential development St. Patrick's Park.

## **2. Description of development.**

An application for permission was lodged on 28<sup>th</sup> March, 2024 to amend condition 14 of planning ref. 20044687 to facilitate earlier departure of 8 refuse collection vehicles from the facility. All activities other than office activities and departing Refuse Collection Vehicles (including skip trucks) within the development shall be confined to the following hours only: Monday to Friday (excluding bank holidays) 8am to 6pm and Saturdays 8am to 1pm. Refuse Collection Vehicles (including skip trucks) may depart the site no earlier than 5am, Monday to Saturday inclusive (excluding bank holidays).

## **3. Planning History.**

Proposed Development Site:

20120172 (A) Permission granted on 24<sup>th</sup> April, 2012 for the retention of a concrete post and panel fence and (B) for the omission of first floor office extension over existing offices which was granted under planning permission reg

no 20044687 and for omission of palisade fencing also granted under planning permission reg no 20044687. In the Wexford County Council Planner's Report, the occupant was stated to be AES Recycling Ltd and the activity carried out was the baling and sorting of recycled materials and associated truck movements to and from the depot.

20044687 Permission granted on 26<sup>th</sup> August, 2005 for (A) Retention and change of use of part of unit one from commercial warehousing to builders store and for (B) retention and change of use of units two and three from commercial warehousing to recycling unit and (C) permission for retention of weighbridge. Also permission is sought for (D) the proposed alterations to existing office space and the construction of first floor over existing office, (E) permission for part change of use of unit one to 2 storey office space and storage with alterations to existing elevations, (F) permission for the erection of structure for housing shredder, (G) permission for the installation of new treatment plant and percolation area, interceptor and silt trap, (H) permission for erection of concrete panel fencing, (I) permission for erection of boundary block walls and (J) permission for the extension to hard standing area.

This permission established the existing waste recycling use at the premises.

An Enforcement Notice, reference 0227/2023, regarding non-compliance with condition 14 of PP20044687 dated 26<sup>th</sup> July, 2023 was served by Wexford County Council. The Council agreed by letter dated 6<sup>th</sup> September, 2023 to a 16 week extension to the Enforcement Notice in order for an application to be prepared and submitted.

Site Opposite:

ABP-319921-24 (20211334) Retention of change of use from storage units to metal recycling facility. Permission for alterations to unit and for a building for truck unloading and storage with associated site works. This application relates to development which comprises an activity requiring a waste facility permit number WFP-WX-21-0181-01. Permission was refused on 15<sup>th</sup> August, 2024 following a Third Party Appeal against the decision of Wexford County Council to grant permission. Permission was refused for the following reason:

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

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

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

ABP-312172-21 (20211334) Retention of change of use from storage units to metal recycling facility. Permission for alterations to unit and for a building for truck unloading and storage with associated site works. This application relates to development which comprises an activity requiring a waste facility permit number WFP-WX-21-0181-01. Permission was refused on 24<sup>th</sup> October, 2023. This decision was quashed by order of the High Court (perfected on 23 April 2024), and

the case was remitted by that Court back to the Board for a new decision, and reactivated under ABP-319921-24

#### **4. National/Regional/Local Planning Policy (see attached)**

- In the Wexford County Council, the Kilrane and Rosslare Harbour Settlement Plan – Volume 3 sets out Settlement Plans and Specific Objectives for a number of settlements within the area including Rosslare Harbour and Kilrane.
- In the Core Strategy Rosslare Harbour and Kilrane is designated as a Level 3(a) Service Settlement. Level 3(a) settlements are important service settlements for their local communities and their wider rural hinterlands. The development approach for Level 3 (a) settlements includes the following:
  - Promote economic and enterprise development appropriate in scale to the settlements.
- Kilrane Business Park is zoned Light Industry and part Open Space and Amenity.
- Waste Management Facilities are not permitted on lands zoned Light Industry and Open Space and Amenity in the Plan.
- Section 5.2 of Volume 3 of the Plan relates to Industry and Warehouse Developments. The Plan outlines that these developments will be required to present a high-quality appearance, assisted by landscaping and careful placing of advertisement structures. A range of criteria are listed including the following:
  - The proposed use shall not be injurious to the residential amenity of adjoining properties.

#### **5. Natural Heritage Designations**

- The Carnsore Point SAC (002269) is located c. 1.58km to the east of the proposed development site.
- The Seas off Wexford SPA (004237) is located c. 1.65km to the east of the proposed development site.

## **Development, Decision and Grounds of Appeal**

### **6. PA Decision.**

The Planning Authority decided to refuse permission by Order dated 15<sup>th</sup> May, 2024 for 1no. reason as follows:

1. The proposed development would expand the hours of use of a business that would not be permitted under Volume 3 of the Wexford County Development Plan 2022-2028. In addition the proposed expansion of the hours would result in traffic being generated from 5am close to existing residential lands and would injure the amenities of local residents. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

The planner's report is the basis for the Planning Authority's decision to refuse planning permission.

### **7. First Party Appeal.**

The First Party Appeal sets out the following detailed grounds:

- The proposed development to allow 8 refuse collection vehicles (RCVs), including skip trucks, to depart the waste facility from 5am, Monday to Saturday inclusive seeks to ensure that waste collection is carried out in a timely manner.
- The amendment is required to respond to changes that have occurred since the permission issued 19 years ago.
- The key drivers include
  - (i) access restrictions to street network in urban areas implemented to promote active travel by Wexford County Council,
  - (ii) operational restrictions imposed by commercial customers,
  - (iii) growth in traffic and the greater necessity to avoid peak traffic times and associated congestion.
- The facility is operated under and compliance with EPA licence Reg. No. W0229-01.

- The proposed development will allow 8 RCVs to depart the waste facility from 5am as follows:
  - 4 departures between 05.00 and 06.00, and
  - 4 departures between 06.00 and 07.00.
- Table 3 in the appeal however notes that 2 RCVs are required to depart between 05.00 and 05.30 to serve Wexford Town and Enniscorthy, and 2 RCVs are required to depart between 05.30 and 06.00 to serve Wexford Town, Enniscorthy and Gorey.
- The proposed amendment to condition no. 14 is as follows:
  - All activities other than office activities and departing Refuse Collection Vehicles (including skip trucks) within the development shall be confined to the following hours only: Monday to Friday (excluding bank holidays) 8am to 6pm and Saturdays 8am to 1pm. Refuse Collection Vehicles (including skip trucks) may depart the site no earlier than 5am, Monday to Saturday inclusive (excluding bank holidays).
- The Planning Statement submitted with the application detailed the various restrictions attached to each of the waste collection routes and provided a comprehensive rationale for the proposed change in operational hours.
- In response to the reference in the Planner's Report to the existing business not being permitted in the applicable land use zoning matrix for the site, it is stated that the existing waste facility is an established use and has been operating for more than 15 years at this location. The proposal is to amend the operational hours for RCVs to depart the site only from 5am to facilitate the collection of commercial waste from traffic restricted zones that are not accessible later in the day. The facility's operations will remain unaffected under this proposed scenario and acceptance and processing of waste will continue to be from 8am.
- The recommendation in the Environmental Department's report for national waste collection times applies to domestic collection and is not relevant to the commercial waste collection that the proposed amendment will service.

- Prior to the lodgement of the application a pre-planning meeting was held and the feedback received was positive and informative and that the proposed development was acceptable in principle. At no stage was there an indication that the application was fundamentally flawed. Advice at the pre-planning meeting also recommended a review of operational practices to identify any further measures that could be taken that would assist with noise mitigation. The Planning Statement submitted with the application contained a detailed suite of mitigation measures. The Planning Authority also requested details of the proposed routing and departure times ahead of the application, for further consideration, which was done, but no further feedback was received. The pre-planning process undertaken is not aligned with the Development Management Guidelines.
- The proposed development is confined to a proposal to amend a planning condition attached to an authorised operational waste facility, which relates only to the facility's operational hours and only to the movement of a small number of waste collection vehicles.
- The proposed amendment would not change the built environment or increase the volume of waste received or processed at the site. The facility at Kilrane will remain operational from 8.00am to 6.00pm to accept, process and transfer waste, consistent with the grant of planning permission.
- While the site's zoning objective has changed, the waste facility is an authorised land use, and the proposed amendment to the operational hours does not represent an opportunity to revisit this.
- As established in case law (South-West Regional Shopping Centre [2016] IEHC 84), the correct basis for assessing an application to modify a permission is the proposed change only.
- The supporting information included with the application provided evidence that the proposed change to the movement of vehicles would not affect local residential amenities. The Planner's Report does not reference this material.
- The reason for refusal regarding residential amenity is refuted as the planning authority did not assess the Noise Report submitted with the



application, which demonstrated that there would be no impairment of residential amenity with RCVs departing from 5am.

- Other planning policies have driven changes that are outside the control of the applicant, which means that they cannot carry out their business effectively. The applicant cannot provide the required service under the limitations attached to condition 14. With the proposed change they could and without causing serious injury to the amenities of property in the vicinity as established in the Noise report, which shows that the noise level of trucks exiting the site during the time of 05.00-05.15 was rated as 41 dB(A) which is compliant with the noise limits of the EPA Licence.
- The Board should be aware that the EPA Licence allows the operation of the facility from 6am.
- As noted above, the reference to the National Waste Collection Permit Office permit relates to kerbside household waste collection, not commercial collection, and is not applicable. In addition, the permit referenced (NWCPO-08-10601-08) is not specific to the Kilrane facility.
- In Volume 3 of the County Development Plan 2022-2028 – Section 2 Rosslare Harbour and Kilrane Settlement Plan, the subject site is predominantly zoned Light Industry (LI) and a small portion to the south is within the Open Space and Amenity (OSA) zoning. (This same zoning applied in the Rosslare Harbour LAP 2013-2019). The facility was granted permission in 2005 and has been operating for more than 15 years.
- According to the previous and expired zoning map, the applicable zoning was employment related land use (Rosslare Harbour Local Area Plan 2002). The Cul Na Greine housing estate was constructed after the operation of the industrial estate.
- The current restriction imposed by condition 14 means that RCVs would directly interact with commuter and school traffic in the built-up areas of Gorey, Enniscorthy, New Ross, Wexford Town, Rosslare, Ballycanew, Ballygeary, Barntown, Bunclody, The Ballagh, Castlebridge, Courtown Harbour, Ferns, Taghmon, Piercetown, Ford and Kilrane. This would

exacerbate issues of congestion and contribute to degradation in local air quality with consequent health impacts. It is also state that the remaining 4 RVCs are therefore required to dispatch towards both commercial and domestic routes after 6am in order to avoid conflicting with morning peak traffic hours. Operating refuse vehicles during off-peak hours can significantly reduce traffic congestion on roads at peak times.

- The increased focus on pedestrianisation and time-limited street closures has impacted the applicant's ability to complete collections in a timely manner to ensure compliance with limitations in their processing operational hours within the waste facility at Kilrane.
- The Noise Assessment submitted with the original application and attached to the appeal noted that monitoring was undertaken during the daytime, evening and nighttime on February, 26<sup>th</sup> and 27<sup>th</sup>, 2024, together with 2no. site visits:
  - The first truck drivers arrived in their private vehicles to clock-in around 4.42am, generating low noise.
  - 4 departures were observed on one of the survey days between 05.00-06.00. Two trucks departed together, but that this was a quick movement. It is also stated that a skip truck engine started at 05.45am and continued idling, but this was screened by the waste building and was low.
- The noise level is stated in the report to be 51.3 dB(A) at the nearest receptor, 41 dB(A) rating level, , but that the excessive of rating over background level will reduce as background noise increases (stated to be 42 dB(A) by 06.00am. It is stated in the Noise Report that the assessment is conservative and the impact is not considered to be adverse.
- It is stated in the Noise Report that a number of freight companies operate out of the adjacent Kilrane Enterprise Park to the north and use the surrounding road network on a 24-hour basis, and were noted as a significant intermittent noise source during the site visit 03.45-07.30. During the period 05.00-06.00, the number of freight trucks and cars on the local

road was approximately 18 (ten of these were HGVs and all were coming to and from the Enterprise Park). Freight trucks have a higher total sound energy compared to the Bord na Móna waste trucks.

- It is stated that the RCVs departures are considered within the noise limit and would not significantly impact the residential amenity due to the existing road traffic and users.
- The Traffic Flow Analysis for the Kilrane Business Park & Enterprise Park and adjoining local road was submitted with the application and attached to the appeal. This Analysis shows 4no. HGVs commencing at 04.00 on the local road, increasing to 28no. 2-way movements from 05.00. The Analysis shows that HGV traffic at the waste facility commences at 05.00. Of the 28no. 2-way movements, 6 RCVs, a skip truck and a rigid curtain sider for the collection of baled cardboard are attributable to the Bord na Mona facility. Over the course of the day, the Bord na Mona facility generates a similar volume of HGV traffic to the other operations in the business park. The predominant HGV traffic flow on the local road for the period 04.00-20.00 is passing traffic. On average over the course of the period 05.00-17.00, the Bord na Mona facility generates approximately 17% of all two-way HGV traffic movements in the west of the entrance to the Kilrane Business Park. To the east it is approximately 3%.
- The proposed development responds to the closure of streets at designated times, will result in reduced traffic congestion at peak times, will minimise disruption to daily activities, will enhance public safety and improve air quality.

#### **8. PA Response**

- None on file.

## Environmental Screening

### 9. EIA Screening

The proposed development does come within the definition of a 'project' for the purposes of EIA, and, therefore, can be excluded at the Pre-screening stage.

### 10. AA Screening

I have considered the proposal to amend condition 14 of planning ref. 20044687 to facilitate earlier departure of 8 refuse collection vehicles from the facility in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located c. 1.58m to the west of the Carnsore Point SAC (002269).

The proposed development will consist of a proposal to amend condition 14 of planning ref. 20044687 to facilitate earlier departure of 8 refuse collection vehicles from the facility

No nature conservation concerns were raised in the planning appeal.

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 European Site. The reason for this conclusion is as follows:

- Nature of works e.g. small scale and nature of the development
- Location and distance from nearest European site and lack of connections
- Taking into account the Screening Report and Determination by Wexford County Council.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **2.0 Assessment**

2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

2.2. The main issues are as follows:

- Compliance with the Development Plan
- Impact on Residential Amenities

2.3 Compliance with the Development Plan

2.3.1 The Planning Authority refused planning permission on the basis that the proposed development would expand the hours of use of a business that would not be permitted under Volume 3 of the Wexford County Development Plan 2022-2028.

2.3.2 This conclusion is reached notwithstanding the fact that it is acknowledged in the planner's report that it is an existing waste management facility that has been in operation prior to the Wexford County Development Plan 2022-2028.

2.3.3 The basis for the reason for refusal is that waste management facilities are not permitted on lands zoned light industry and open space as is the case in this instance.

2.3.4 The proposed development of an amendment to a condition that seeks to protect the residential amenity of local residents is not considered to be in line with the provisions of the Plan in this context.

2.3.5 The First Party makes the case that the facility is an established use, that was granted permission in 2005 and that has been operating for more than 15 years. It is also stated that the proposed amendment would not change the built environment or increase the volume of waste received or processed at the site.

2.3.6 I note that permission was granted on 26<sup>th</sup> August, 2005 under application register reference 20044687 for the development including the retention and change of use of units two and three from commercial warehousing to recycling unit, and for

retention of weighbridge. This permission established the existing waste recycling use.

2.3.7 In this context, the existing use of the premises as a waste recycling use is an established authorised use. As such, in the context of the applicable zoning objectives, it is a non-conforming use.

2.3.8 I agree with the First Party that, notwithstanding the zoning objective, the proposed development relates to an existing use, not a new use, which is an authorised use, licensed by the EPA, and that the proposed amendment is confined to the hours of operation only, and would not change the principle of the authorised waste use.

2.3.9 For this reason, I do not agree that permission should be refused on the basis that the proposed development would expand the hours of use of a business that would not be permitted under Volume 3 of the Wexford County Development Plan 2022-2028.

## 2.4 Impact on Residential Amenities

2.4.1 The Planning Authority's refusal of permission also stated that the proposed expansion of the hours would result in traffic being generated from 5am close to existing residential lands and would injure the amenities of local residents.

2.4.2 The First Party explains that the rationale for the proposed development is to respond to access restrictions to the street network in urban areas implemented to promote active travel by Wexford County Council; to respond to operational restrictions imposed by commercial customers, and to respond to growth in traffic and the greater necessity to avoid peak traffic times and associated congestion.

2.4.3 In this context, the First Party has included a Traffic Report and a Noise Report. These were also submitted with the original application. The First Party contends that the proposed development will result in reduced traffic congestion at peak times, will minimise disruption to daily activities, will enhance public safety and improve air quality.

2.4.4 The First Party states that the proposed development will allow 8 RCVs to depart the waste facility from 5am as follows:

- departures between 05.00 and 06.00, and

- departures between 06.00 and 07.00.

2.4.5 However, Table 3 in First Party appeal notes that 2 RCVs are required to depart between 05.00 and 05.30 to serve Wexford Town and Enniscorthy, and 2 RCVs are required to depart between 05.30 and 06.00 to serve Wexford Town, Enniscorthy and Gorey. Notwithstanding this lack of clarity, the fact remains that permission is sought to allow 8no. refuse trucks to leave the premises from 05.00.

2.4.6 The Traffic Report states that existing HGV traffic at the waste facility commences at 05.00. This is confirmed by the Noise Report. Noting the current Enforcement Notice, this would indicate that the facility is already operating from 5am. In this context, it is not clear why the application did not seek permission for the retention of the amendment of condition 14 of planning ref. 20044687 to facilitate the earlier departure of refuse collection vehicles from the facility. However, I note that the Planning Authority raised no concerns in relation to this issue.

2.4.7 The Traffic Report notes that of the 28no. 2-way movements on the local road from 05.00, 6 RCVs, a skip truck and a rigid curtain sider for the collection of baled cardboard are attributable to the Bord na Mona facility. The Report also states that the predominant HGV traffic flow on the local road for the period 04.00-20.00 is passing traffic, and not the Bord na Mona facility.

2.4.8 In this context, I do not agree that permission should be refused on traffic grounds. I also note that that the Council's Roads Department stated that the application has no impact from a roads perspective. The First Party also notes that the concerns raised by the Councils' Environment Department on kerbside collections as per the National Waste Collection Permit Office (NWCPO) do not apply to commercial waste as is proposed in this instance.

2.4.9 In relation to noise, the Noise Report demonstrates that the noise level of trucks exiting the proposed development site during the time of 05.00-05.15 is rated as 41 dB(A), which is compliant with the noise limits of the EPA licence.

2.4.10 The 41 dB(A) rating level has to be considered against a background noise level of 36 dB(A), and therefore, there is an increase of 5 dB(A) over background noise levels between 05.00-05.15. However, it is also stated that background noise levels will increase to 42 dB(A) by 06.00.

2.4.11 The Noise Report states that the refuse collection vehicles (RCVs) departures are considered to be within the noise limit and would not significantly impact the residential amenity due to the existing road traffic, specifically freight trucks from the adjacent Kilrane Enterprise Park to the north, which are stated to have a higher total sound energy compared to HGVs, and users.

2.4.12 In this context, I note that the facility is operated under and compliance with EPA licence Reg. No. W0229-01. The licence sets emission limit values (ELVs) for environmental factors including noise. It is not stated if an amendment is required to the EPA licence to give effect to the 5am start time proposed – the EPA licence allows the operation of the facility from 6am – however, the licence provides the appropriate ELVs to safeguard residential amenities.

2.4.13 I also note that the waste recycling use predated the development of the Cúl na Gréine estate.

2.4.14 I also note that the First Party has proposed a range of mitigation measures in section 6.2 of the Planning Statement accompanying the application cover letter prepared by McCutcheon Halley dated 27<sup>th</sup> March, 2024. These mitigation measures, which were developed in conjunction with the noise consultant and are specific to the proposed amendment sought, include:

- Earliest employee arrival to the site should not be before 5:00am unless for an emergency or some other unforeseen purpose.
- When possible, stagger the starting times for the trucks that have to leave the Waste Management Facility (WMF) early morning.
- Avoid all unnecessary truck movements before 6:00am.
- For employees arriving before 7:00am, parking is at the rear of the site only (adjacent to the truck compound).
- Conduct as much of the pre-trip daily inspection as possible before engine start-up.
- After engine start-up, avoid unnecessary revving until the truck has departed the WMF.
- Depart the WMF as soon as possible after engine start-up.



- Trucks are to be driven in a considerate manner with no revving of engines or other unnecessary noise as they depart the site and on the local road leading away from the WMF.
- After the end of the day/last trip, RCVs and Skip Trucks that are required to depart from the WMF before 7:00am are to reverse park closest to the end of the waste transfer building such that the building provides a degree of noise attenuation.
- Avoid where possible any unnecessary noise such as door banging, engine revving, use of reverse sirens, loud talking etc. whilst on or near the WMF.

2.4.15 I recommend that these mitigation measures which will further safeguard residential amenity, are attached as a condition if the Board is minded to grant permission.

2.4.16 I, therefore, do not agree with the Planning Authority that permission should be refused on grounds that the proposed expansion of the hours would result in traffic being generated from 5am close to existing residential lands and would injure the amenities of local residents.

### 3.0 Recommendation

3.1. I recommend that permission for the development be granted for the following reasons and considerations.

### 4.0 Reasons & Considerations

Having regard to the provisions of the Wexford County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out before, the proposed development at this established facility will not be seriously injurious to existing residential amenities. It is considered that the proposed development is in the interests of the proper planning and sustainable development of the area.

### 5.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 28 <sup>th</sup> day of
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	<p>March, 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All activities other than office activities and departing Refuse Collection Vehicles (including skip trucks) within the development shall be confined to the following hours only: Monday to Friday (excluding bank holidays) 8am to 6pm and Saturdays 8am to 1pm. Refuse Collection Vehicles (including skip trucks) may depart the site no earlier than 5am, Monday to Saturday inclusive (excluding bank holidays).</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The noise mitigation measures specified in Section 6.2 of the Planning Statement accompanying the application cover letter prepared by McCutcheon Halley dated 27<sup>th</sup> March, 2024 shall be completed in full. Specifically, these measures are:</p> <ul style="list-style-type: none"> <li>• Earliest employee arrival to the site should not be before 5:00am unless for an emergency or some other unforeseen purpose.</li> <li>• When possible, stagger the starting times for the trucks that have to leave the Waste Management Facility (WMF) early morning.</li> <li>• Avoid all unnecessary truck movements before 6:00am.</li> <li>• For employees arriving before 7:00am, parking is at the rear of the site only (adjacent to the truck compound).</li> <li>• Conduct as much of the pre-trip daily inspection as possible before engine start-up.</li> <li>• After engine start-up, avoid unnecessary revving until the truck has departed the WMF.</li> <li>• Depart the WMF as soon as possible after engine start-up.</li> </ul>

	<ul style="list-style-type: none"> <li>• Trucks are to be driven in a considerate manner with no revving of engines or other unnecessary noise as they depart the site and on the local road leading away from the WMF.</li> <li>• After the end of the day/last trip, refuse collection vehicles (RCVs) and Skip Trucks that are required to depart from the WMF before 7:00am are to reverse park closest to the end of the waste transfer building such that the building provides a degree of noise attenuation.</li> <li>• Avoid where possible any unnecessary noise such as door banging, engine revving, use of reverse sirens, loud talking etc. whilst on or near the WMF.</li> </ul> <p>The developer shall submit details of compliance with all mitigation measures for the written agreement of the planning authority.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
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## **Relevant Policies**

### **Wexford County Development Plan 2022-2028**

In the Wexford County Council, the Kilrane and Rosslare Harbour Settlement Plan – Volume 3 sets out Settlement Plans and Specific Objectives for a number of settlements within the area including Rosslare Harbour and Kilrane.

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

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

Kilrane Business Park is zoned Light Industry and part Open Space and Amenity.

The Light Industry objective seeks ‘To provide for light industry and employment’.

This zoning relates to Kilrane Enterprise Park, to provide light industry and ancillary uses. Light industry is defined as any “industrial building in which the processes carried on or the plant and machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”.

The Open Space and Amenity zoning objective seeks “To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas”. The objective of this zoning is to retain and protect exiting open spaces and to provide for new open spaces to meet the needs of all of the population. A strip of open space around the industrial areas will act as a physical break/transition between potentially conflicting land uses. The Planning Authority will not permit development that would result in a loss of established open spaces or lands zoned for recreation and amenity.

Waste Management Facilities are listed as a use which is not permitted on lands zoned for Open Space and Amenity purposes and Light Industry purposes under the zoning matrix of the Plan.

The Plan outlines the following in respect of not permitted uses: “Development listed as ‘Not Permitted’ in a particular zone will not be permitted for one or more of the following reasons:

- (i) it may have an undesirable effect on existing and permitted uses,
- (ii) it may be incompatible with the objectives for the settlement or
- (iii) it may be inconsistent with the proper planning and sustainable development of the area”.

Waste Management Facilities are defined as follows within the plan: “Waste management facilities include waste transfer stations, material recovery facilities, waste recovery facilities, waste to energy and authorised treatment facilities for end-

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

The following objectives of the Settlement Plan are of note:

Objective RHK21: “To improve pedestrian and cycle facilities in in the plan area by facilitating the footpath and cycle ways identified on Map 4 Objectives, improve crossings at junctions, improve the quality and width, where appropriate, of all footpaths in the settlement plan area and improved access for people with disabilities and to provide cycle friendly routes to/from the school with cycle parking facilities and encourage the school to provide cycle training to all pupils”.

Objective RHK23: To require accessible footpaths to be delivered at the following locations (see Map 4 Objectives):

- (a) From the school in Kilrane, along Ballygillane Lane to Cawdor Street.
- (b) From Kilrane north to Ballygerry and St. Mary’s Estate-
- (c) From Kilrane south to the cemetery.
- (d) From Kilrane east to Kilrane Enterprise Park.
- (e) From Kilrane to Rosslare Harbour along the N25.

Figure RHK 5 of the Plan illustrates “Flood Zones Overlaid on Land Use Zoning Map”. The site is not identified within an existing flood risk zone. The following objectives are of note:

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

Map 4 of the Settlement Plan identifies the SEVESO Site Consultation Boundary. This extends to include the appeal site. Section 2.4.15 of Volume 3 of the Plan relates to SEVESO Sites and outlines the following: “As outlined in Chapter 10 Environment Management in Volume 1 Written Statement there is one SEVESO site within the Settlement Plan area. Roche’s Freight Warehousing is designated as an Upper Tier SEVESO site. The Planning Authority must consult the Health and Safety Authority’s regarding any planning applications received within a specified distance of this site (and any other future SEVESO sites that may be designated within the plan boundary). The planning consultation boundary for this site is identified on Map 4 Objectives. The Council will control development in the plan area in accordance with Objectives COMAH01 and COMAH02 in Chapter 10 and the requirements of the Health and Safety Authority”.

Section 9.7 of Chapter 9 relates to Waste Management Infrastructure. Section 9.7.3 relates to the Location of Waste Management Facilities. This outlines that: “In general, the Council will direct waste management facilities such as waste transfer stations, waste material and recovery facilities, sludge management facilities and anaerobic digester units and authorised treatment facilities for end-of-life vehicles to appropriately zoned lands. This approach will not apply to smaller facilities such as recycling banks and bring centres. Proposals on zoned land must comply with the criteria outlined in Objective WM05”.

The following objectives are of relevance:

- Objective WM02 To implement the provisions of the Southern Region Waste Management Plan 2015- 2021, and any updated version published during the

lifetime of the Plan, subject to compliance with the Habitats Directive and normal planning and environmental criteria;

- Objective WM03 To support the development of appropriately sited waste recycling and recovery facilities, such as bring centres, civic amenity centres, waste transfer stations, material recovery facilities, community recycling facilities and waste recovery facilities and authorised treatment facilities for end-of-life vehicles as a means of facilitating a reduction in the quantity of waste that goes to landfill disposal sites subject to compliance with the locational requirements for waste management facilities contained in Section 9.7.3 and subject to compliance with Objectives WM05 or WM06, normal planning and environmental criteria and the relevant development management standards set out in Volume 2.
- Objective WM05 Where it is proposed to develop waste management facilities on zoned land, it will be necessary for the following criteria to be satisfied:
  - The proposal should comply with the zoning objective for the subject lands.
  - The need for the proposal at the particular location, in particular having regard to the Southern Region Waste Management Plan 2015-2021, the Irish Water National Sludge Waste Management Plan 2016-2021, and any future updated versions of these plans produced during the lifetime of the Plan; The site should be located outside of a flood risk area. There should be no adverse impacts on amenities.
  - There should be a minimal risk of pollution. An appropriate buffer zone shall be provided around the site in order to protect the amenities of adjoining lands and properties. This buffer zone will be determined by the Planning Authority, in consultation with the EPA, where relevant. The development should comply with the requirements of the Water Framework Directive, the National River Basin Management Plan 20182021 and any future updated version during the lifetime of the Plan. The development must comply with the requirements of the Habitats Directive.

Section 5.2 of Volume 3 of the Plan relates to Industry and Warehouse Developments. The Plan outlines that these developments will be required to present a high-quality appearance, assisted by landscaping and careful placing of advertisement structures. A range of criteria are listed including the following:

- The proposed use shall not be injurious to the residential amenity of adjoining properties.

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

Section 8.6 relates to Major Accidents Directive/ Seveso Establishments. Table 8.2 identifies consultation distances for Seveso Sites. The Plan outlines that the Planning Authority will consult with the Health and Safety Authority in relation to the relevant development referred to Schedule 8 of the Planning and Development Regulations, 2001 (as amended) and which come within the consultation distances notified by the Health and Safety Authority.

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

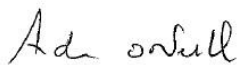
Section 8.8.3 relates to Waste Recovery and Disposal Facilities. This outlines that in assessing development proposals for or including waste recovery and waste disposal facilities, the Planning Authority will have regard to the policies, actions, targets and provisions of the Southern Region Waste Management Plan 2015-2021, relevant planning legislation, the objectives in the Plan and other relevant planning documents. The provision of waste recovery facilities, pre-treatment infrastructure and development of indigenous secondary waste processing, including Material Recovery Facilities (MRF) and Waste Transfer Stations will be facilitated at appropriate locations within the county (see Volume 1 Chapter 9 Infrastructure Strategy).

The Plan outlines that the Planning Authority will have regard to a number of criteria when considering development proposals for waste recovery and disposal facilities, including:



- Ensure that the proposal will not detract from the residential amenities of properties in the vicinity or the visual amenities of the area. In general, no new waste disposal facility or Refuse Transfer Station shall be located within 200 metres of a residence.
- Ensure the proposal will not give rise to a traffic hazard. In this regard, the traffic impacts of the development, including road access, network safety and traffic patterns to and from the proposed facility, will be assessed in accordance with road design guidelines and/or relevant guidelines in relation to roads. Proposals will require a Traffic Impact Assessment (TIA).

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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Aiden O'Neill  
Planning Inspector

25<sup>th</sup> November, 2024