



Development

Works to facilitate infill and re-contouring of the subject lands using soil and subsoil to reclaim the land for agricultural infilling purposes. The infilled material will be seeded and grassed. All associated works.

Location

Ballygannon, Kilcoole, Greystones, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

2560861

Applicant(s)

Cullen Excavations Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party Normal Planning Appeal

Appellant(s)

Cullen Excavations Ltd.

Observer(s)

None

Date of Site Inspection

12th May 2026

Inspector

Terence McLellan

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1.0 Site Location and Description

- 1.1. The subject site is a c. 3.41 hectare agricultural field in the rural townland of Ballygannon, located to the north/north-east of Kilcoole. The subject field is bounded by mature hedgerows and trees and there is a watercourse flowing along the western and southern boundaries which passes under the access laneway and continues towards the Kilcoole Stream. The field is effectively flat. There is a very modest fall in level from east to west, generally in the region of 1m across a distance of around 140m. There are farm buildings outside of but immediately adjoining the subject site at the south-west corner. Access to the site is via a private gated laneway from the L-5044 (Lott Lane) local road, which in turn provides access to Kilcoole Village and the R761 regional road. There are additional dwellings and farmland along this private laneway.

2.0 Proposed Development

- 2.1. Planning permission is sought for the infilling and re-contouring of the subject lands through the importation of 50,000 tonnes (over a five-year period) of soil and subsoil/stone from construction and development related activities in order to reclaim the land for agricultural purposes. The infilled material would be seeded and grassed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wicklow County Council refused planning permission, by order dated 16th December 2025, for the following reasons:

1. Having regard to the location's sensitive nature, the nature and extent of the proposed development, the proximity of the application site to hydrological pathways, which may provide direct links to the Murrough SAC and SPA (Site Code 002249 & 004186), approximately c.800m downstream from the proposed development, it is considered that there are serious risks that the proposed development would significantly alter the composition of runoff from the site into the nearby watercourses, resulting in altered sediment and pollution loads. Therefore, the proposed development could have adverse impacts on the Murrough SAC and SPA. To permit the proposed development

would therefore be contrary to the Habitats Directive and the provisions of the County Development Plan 2022 - 2028 and would be contrary to proper planning and sustainable development.

2. Having regard to the characteristics of the land for infilling, the lack of detail in relation to noise, dust and road debris levels, the proximity of the works to watercourses, which would result in works within 25m of a watercourse contrary to Objective CPO 17.26, the scale of the works which will be 2.7m in height in parts, and the lack of justification for the proposed works and the provisions of the Appendix 1 of the County Development Plan 2022-2028, which provides that such development shall only be permitted where there is a proven need, to allow this development in the absence of such information and justification would be contrary to the provisions of the County Development Plan 2022-2028, would lead to the unnecessary deterioration of this rural landscape, and would therefore be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- The development is acceptable in principle, subject to the proposal being satisfactory in regard to the justification for the proposed importation of inert material, amenity impacts (including visual), environmental impacts, public health, flood risk issues, traffic safety, and Appropriate Assessment matters.
- The proposed infill area is a reduction from the previously refused application.
- Inadequate justification has been provided for the need for the subject development. The land is already in agricultural use, and it is unclear why or what the land needs to be reclaimed from.
- Haulage is shown as originating somewhere along the R761 on the northern side of Kilcoole, but no specific development has been indicated.
- It is unclear what works are proposed to the haul route, revised entrance, number of trucks delivering, or the proposed scale of soil heaps.

- The access lane transitions from bound material to a dirt track close to the site access. Width is generally not sufficient for two vehicles to pass. This would be exacerbated by the introduction of HGVs.
- There would be a substantial impact on the amenity of other dwellings on the lane, given their location on the haul route.
- Acceptable sightlines are likely to be achievable, however, correctly indicated sightlines, swept path analysis should be sought.
- The site is in an Area of Outstanding Natural Beauty (AONB) and partially visible from Protected Prospect 7. No Visual Impact Assessment has been submitted, as required by CPO 17.36.
- No dust, noise or water quality monitoring locations have been identified. Adequate baseline information on dust, noise, and water quality is required.
- Only 10m buffer from the watercourse is proposed. This is inadequate and CDP policy requires buffers of generally 25m to protect rivers, streams and other water courses by avoiding interference with river/stream beds, banks and channels.
- The applicant intends to drain the settlement pond directly into the watercourse. The settlement pond appears to be insufficient in size.
- The loss of lands, changes to the water cycle within the site, and the potential for release of pollutants into the river system would materially contravene an objective set out in the CDP and would be contrary to the proper planning and sustainable development of the area.
- The NIS does not assess the proposed settlement pond or its proximity and linkage to the watercourse. There are therefore concerns with the conclusions of the NIS due to the presence of a watercourse around the boundary of the site, a substandard buffer zone, and direct linkage of the settlement pond to the watercourse.
- No information has been submitted regarding water supply, the proposed primary sources of soil and subsoil materials, or the quality assurance procedures to be undertaken to guarantee suitability of materials.
- A Waste Facility permit from Wicklow County Council or Article 27 approval from the EPA is required and will be applied for separately.

Other Technical Reports

- 3.2.2. **Environment (03.12.2025):** Recommend refusal unless a 25m buffer is observed and infill volume is reduced. There is a risk of pollution entering the Murrough SAC 800m downstream of the site, should any of the mitigation measures fail, and the risk of noise disturbance of animals due to proximity to the Murrough SPA which is 350m downwind. In the event that permission is granted, conditions are recommended in relation to noise, dust limits and monitoring, and compliance with the mitigation measures set out in the NIS and CEMP. Further conditions are recommended to ensure a 25m buffer from the watercourses as well as a prohibition on discharging the settlement pond to the watercourse.
- 3.2.3. **Environmental Health Officer (18.11.2025):** No objection. The Planner's Report clarifies that this is in response to sanitary services only.
- 3.2.4. **Municipal District Engineer (01.12.2025):** Further information is recommended to secure a surface water drainage report detailing how surface water is to be retained on site. Conditions are also recommended restricting traffic movements to Lott Lane/R761 and a pre-commencement inspection of the road surface and post development repairs.
- 3.2.5. **Roads and Transportation Section (18.11.2025):** Further information required regarding sightlines, swept paths, and information in the CEMP covering haul routes, HGV movement timing, measures to prevent queuing, and vehicle conflict management.
- 3.3. **Prescribed Bodies**
- 3.3.1. **Department of Housing, Local Government, and Heritage (27.11.2025):** The site is located within a wider coastal landscape where archaeological features have previously been identified and excavated. It is recommended that an Archaeological Impact Assessment be secured by way of further information.
- 3.3.2. **Transport Infrastructure Ireland (TII) (04.11.2025):** Request that the Planning Authority has regard to the provisions of official policy for development proposals, including the Department of Environment, Community, and Local Government Spatial Planning and National Roads Guidelines for Planning Authorities and relevant TII Publications.

- 3.3.3. I note that the Planning Authority have referred to a previous response from the Health Service Executive pertaining to the previously refused application on this site, which is considered relevant to the current proposal. The response relates to environmental health impacts and covers recommendations relating to a Construction Environmental Management Plan, resident liaison, air quality/dust monitoring, noise levels and monitoring, water quality, waste management, pest control, and the provision of welfare facilities, including drinking water supply and waste water treatment.
- 3.3.4. I further note that the Planning Authority consulted the Arts Council, the Environmental Protection Agency, the Heritage Council, Irish Rail, and An Taisce. No response was received.

3.4. **Third Party Observations**

- 3.4.1. None received.

4.0 **Planning History**

Subject Site

- 4.1.1. **Planning Authority Reference 25/60303:** Permission was refused by Wicklow County Council in June 2025 for works to facilitate infill and recontouring of the subject lands using soil and subsoil to reclaim the land for agricultural infilling purposes. An NIS was submitted with the application. Permission was refused for the following reasons:
1. Having regard to the location's sensitive nature, the nature and extent of the proposed development, the proximity of the application site to hydrological pathways, which may provide direct links to the Murrough SAC and SPA (Site Code 002249 & 004186), approximately c.1km downstream from the proposed development, it is considered that there are serious risks that the proposed development would significantly alter the composition of runoff from the site into the nearby watercourses, resulting in altered sediment and pollution loads. Therefore, the proposed development could have adverse impacts on the Murrough SAC and SPA. To permit the proposed development would therefore be contrary to the Habitats Directive and the provisions of the County Development Plan 2022 and would be contrary to proper planning and sustainable development.

2. Having regard to the characteristics of the land for infilling, the lack of detail in relation to, noise, dust and road debris levels, the proximity of the works to watercourses, which would result in works within 25m of a watercourse, the scale of the works which will be 3.5m in height in parts, and the lack of justification for the proposed works and the provisions of the Appendix 1 of the County Development Plan 2022-2028, which provides that such development shall only be permitted where there is a proven need, to allow this development in the absence of such information and justification would be contrary to the provisions of the County Development Plan 2022, would lead to the unnecessary deterioration of this rural landscape, and would therefore be contrary to proper planning and sustainable development.

Neighbouring Sites

- 4.2. None of specific relevance.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

- 5.1.1. The subject site is located within an Area of Outstanding Natural Beauty (AONB), specifically within the Northern Coastal Area. The Northern Coastline comprises of lands north of Wicklow Town-Rathnew extending to south of Greystones. The northern coastline provides intermittent views of the sea from the coast road with this area being somewhat more developed than the southern coastline. This landscape category includes a number of key environmental features such as the Murrough SAC/SPA, a designated European site and Natural Heritage Area (NHA). While this section of the Wicklow coastline is not as heavily utilised from a tourist perspective compared to the southern coastline it does act as a significant recreational resource to the local residential population, the use of which must be managed in an appropriate manner.

Chapter 13 – Water Services

- 5.1.2. Management of ‘water quality’ refers to the biological, chemical and physical status of fresh water in the environment (rather than effluent water quality or treated water for supply). Water quality is therefore addressed in this chapter as a key factor in the delivery of water services. Relevant policy objectives include:

- CPO 13.1 - 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. The Council will also have cognisance of, where relevant, the EU's Common Implementation Strategy Guidance Document No. 20 and 36 which provide guidance on exemptions to the environmental objectives of the Water Framework Directive.
- CPO 13.3 - 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 having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development, with undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible.

Chapter 15

5.1.3. This chapter of the plan seeks to address solid and hazardous waste management, emissions to the air, as well as noise and light pollution. Relevant policy objectives include:

- CPO 15.9 - To regulate and control activities likely to give rise to emissions to air (other than those activities which are regulated by the EPA).
- CPO 15.11 - To require activities likely to give rise to air emissions to implement measures to control such emissions, to undertake air quality monitoring and to provide an annual air quality audit.
- CPO 15.14 - To regulate and control activities likely to give rise to excessive noise (other than those activities which are regulated by the EPA).

- CPO 15.16 - To require activities likely to give rise to excessive noise to install noise mitigation measures to undertake noise monitoring and to provide an annual monitoring audit.

Chapter 17

5.1.4. This chapter sets out set out the strategies and objectives with regard to the natural heritage and biodiversity in Wicklow. The chapter also encompasses landscape conservation. Key policy objectives include:

- CPO 17.5 - 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 17.14 - Ensure that development proposals support the protection and enhancement of biodiversity and ecological connectivity within the plan area in accordance with Article 10 of the Habitats Directive, including linear landscape features like watercourses (rivers, streams, canals, ponds, drainage channels, etc), woodlands, trees, hedgerows, road and railway margins, semi-natural grasslands, natural springs, wetlands, stonewalls, geological and geomorphological systems, features which act as stepping stones, such as marshes and woodlands, other landscape features and associated wildlife where these form part of the ecological network and/or may be considered as ecological corridors or stepping stones that taken as a whole help to improve the coherence of the European network in Wicklow.
- CPO 17.23 - To require the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority).
- CPO 17.26 - 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 having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development, with undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible. Structures such as bridges should be clear span and designed and built in accordance with Inland Fisheries Ireland guidance.

- CPO 17.36 - Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.
- CPO 17.37 - To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts.

Appendix 1 – Development and Design Standards

5.1.5. Section 2.3.5 relates to facilities for the disposal of inert materials and states that applications for the development of commercial waste disposal or reuse of inert clean soils, clay, sands, gravels, and stones, shall only be permitted at appropriate locations and shall be subject to the following:

- It shall be for the disposal of inert clean material only;
- There shall be a proven need for the proposed development;

- The proposed development shall be in accordance with the policies set out in the Eastern-Midlands Region Waste Management Plan;
- The proposed development shall not result in adverse impacts on the landscape or unnecessarily interfere with natural land form and topography in any area, without detailed justification;
- Such facilities shall not give rise to significant adverse impacts on a designated European site, or interfere with a protected view or prospect, a public right of way, an existing or planned piece of strategic infrastructure, or an important tourist site;
- A development shall not be permitted if it has a detrimental impact on the amenity of adjoining residents, by reason of unacceptable levels of traffic, noise, dust, lighting or other impact resulting from the operation of the facility;
- A development shall not be permitted if it has a detrimental impact on the flora and fauna, ecology, ground and surface water, air quality, and geological/ archaeological heritage of the area;
- The development does not result in the creation of a significant traffic hazard and the road network is suitable and has the capacity for anticipated traffic levels.
- A detailed phasing programme for the importation of material, to include details of the volume of material to be included in each phase, cross sections of each phase of operation, the construction of slopes or banks in each phase, details for the seeding and capping of each phase, details pertaining to the impact on the landscape at each phase and landscaping details for the final phase of site restoration.

5.2. Natural Heritage Designations

5.2.1. The site is not within or immediately adjacent to any European Site, however, there are two European Sites nearby, as follows:

- The Murrough SPA (Site code: 004186), c. 350m to the east.
- The Murrough Wetlands SAC (Site code: 002249), c. 800m to the south/south-east.

6.0 EIA Screening

Introduction

- 6.1.1. The application addresses the issue of EIA within an EIA Screening Report prepared by Traynor Environmental Ltd, dated 23rd October 2025 and updated as part of the appeal submission (dated 19th January 2026). The EIA Screening Report contains information in line with Schedule 7A of the Planning and Development Regulations which seeks to demonstrate that there is no requirement for the preparation of an Environmental Impact Assessment Report for the proposed development.
- 6.1.2. The Applicant's screening report has regard to the criteria set out in in Schedule 7 of the Planning and Development Regulations 2001 as amended (the 2001 Regs), and to the requirements under Schedule 7A of the 2001 Regs. The assessment has had regard to the relevant annexes of the Environmental Impact Assessment Directive.
- 6.1.3. Where an application is made for subthreshold development and Schedule 7A information is submitted, the Commission must carry out a screening determination in line with the requirements of Article 109(2B)(a) of the Planning and Development Regulations 2001 (as amended), therefore, it cannot screen out the need for EIA at preliminary examination.

Mandatory Thresholds

- 6.1.4. This proposed development is of a class of development included in Schedule 5 of the Planning and Development Regulations. Schedule 5 to Part 2 of the Planning and Development Regulations provides that mandatory EIA is required for the following classes of development that are of relevance to the proposal:
 - 6.1.5. Class 11(b): Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.
 - 6.1.6. The proposed infill area amounts to 2.9 hectares and intake would not exceed 25,000 tonnes per annum. A mandatory EIAR is therefore not required, and the development is sub-threshold

Sub Threshold Development

- 6.1.7. Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Commission

determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

- 6.1.8. Schedule 7A information has therefore been included in the EIA Screening Report to demonstrate that the project is not likely to have significant effects on the environment. The Screening Report provides the necessary information for screening this sub-threshold development for Environmental Impact Assessment and I am satisfied that the report and the other information submitted with the application and appeal includes the information specified in Schedule 7A of the Regulations, and that the information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations.
- 6.1.9. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development. The potential for cumulative impacts is considered. The reports demonstrate that, subject to the various mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal.
- 6.1.10. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix 3 to this report. Having regard to:
1. The criteria set out in Schedule 7, in particular:
 - a) the limited nature and scale of the proposed development,
 - b) the absence of any significant environmental sensitivity in the vicinity,

- c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. The results of other relevant assessments of the effects on the environment submitted by the applicant
3. The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A First Party appeal has been received from Ger Fahy Planning, for and on behalf of the Applicant, Cullen Excavations Ltd. The grounds of appeal can be summarised as follows:

7.1.2. Reason for Refusal 1

- Planning Authority claims that the development would alter the composition of run-off, resulting in altered sediment and pollution loads are unsubstantiated.
- Soil and stone are permeable, and the importation of soil and stone would result in improved permeability and enhanced natural drainage.
- The development would reduce runoff to nearby watercourses rather than give rise to an increase and would therefore reduce the potential for pollution.
- The field currently gets waterlogged following heavy rain, with water sitting on or close to the surface and flowing directly into the watercourse.
- The land is only suitable for cattle or sheep, which can result in further compaction of soil and waterlogging. This has consequences during land-spreading, which can run-off into the watercourse.
- The increased level of soil and stones would improve filtration and increase permeability, with water drawn downwards rather than sitting on the surface. This also reduces the risk of pollution from manure.
- The development would therefore reduce the risk of run-off to the watercourse and reduce the risk of animal manure entering either the watercourse or groundwater.

- The proposed separation distance of 10m is sufficient to ensure that there would be no altered sediment load.
- The revised NIS and mitigation measures would ensure that the development would have no adverse impact on the Murrough SPA or SAC, and the development would not be contrary to the Habitats Directive, the CDP, or the proper planning and sustainable development of the area.

7.1.3. Reason for Refusal 2

- The proposed development is for a temporary period of five years.
- The proposal is small scale, in a lightly populated area, within an agricultural farm, and well screened.
- The development would generate little noise other than that normally associated with farming activities.
- Only a single bulldozer would remain on site following the initial works which would be undertaken by a track machine (digger).
- Road sweeping/cleaning would be undertaken and a wheel wash facility would be provided at the site entrance.
- All machinery would be regularly maintained. Noise mitigation measures would be fitted to equipment, and no infilling would take place outside of approved hours, which could be conditioned.
- The Applicant would accept conditions relating to noise limits and monitoring.
- The development is unlikely to give rise to significant impacts in terms of dust and standard dust monitoring measures are proposed.
- The Applicant would accept conditions regarding dust suppression and monitoring.
- Further dust control measures include the wheel wash facility, roadway cleaning, and the requirement to seed the fill areas.
- The proposal is for a maximum import of 50,000 tonnes over five years. This distils down to 40 tonnes per day over a five day week, equating to two loads per day, which is four trips (two two-way trips). This amount of traffic would be standard for any busy farm accepting feed/deliveries.
- The low level of traffic, the use of wheel wash facilities, and the use of a road sweeper would manage concerns regarding road debris.

- Previous decisions of the Commission on similar developments (ABP-308233-20) accepted mitigation in the form of a geotextile silt retaining fence, a 1m high earthen bund inside this and on the outside of the fill embankment.

7.1.4. Other matters raised in the Planner's Report

7.1.5. *Justification*

- The Applicant operates a Construction/Demolition Waste Facility. Having extracted all recyclable material, the Applicant is left with a limited amount of soil and stones which are not suitable for reuse in construction and cannot be recycled.
- There is a shortage of sites for the deposition of this material in Wicklow. There are two other sites near Rathdrum but they are not always open and as such not viable. A site in Coolgreany is currently used. Another site is in Kilkenny and takes the best part of a day to travel to/from.
- This places additional costs on the construction process, is unsustainable in terms of vehicular CO2 emissions, fuel use and time, from haulage over such long distances.
- Additional costs are eventually passed onto house buyers.
- There is a need to improve drainage at the site.
- The development would allow levelling off of the field, enhanced drainage and filtration, reduced waterlogging, increased separation distance between the soil surface (where manure is spread) and the water table.
- The development would reduce the potential for pollution.

7.1.6. *Deterioration of the Rural Landscape*

- The proposal would have a negligible visual impact.
- Once completed in five years, the field would be seeded and grassed and would revert to a normal field.
- Existing trees and hedgerows provide screening, and the field is not visible from any public views.

7.1.7. *Visual Impact/AONB*

- Ground levels would be raised between 1m-1.5m and then reseeded/grassed.

- A visual impact assessment is not required, and a competent planner or inspector can make a determination on visual impact in the absence of same.
- There is no requirement for additional landscaping or screening. There is an existing mature hedgerow and trees surrounding this low-lying field.
- Works would be temporary and would not have any significant impact on visual amenity, the AONB, or Prospect 7.

7.2. **Planning Authority Response**

7.2.1. No response on file.

7.3. **Observations**

7.3.1. None.

8.0 **Assessment**

8.1. At the outset I would note that the Planning Authority's first reason for refusal relates to potential impacts on European Sites. Accordingly, I will address these matters in the Appropriate Assessment section of the report in order to avoid repetition. Therefore, having examined the application details and all other documentation on file, including the grounds of appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered can be assessed under the following headings:

- Amenity
- Justification
- Watercourse Buffer and Material Contravention

8.2. **Amenity**

8.2.1. The second reason for refusal refers to matters in relation to noise, dust, dirt and road debris. Further concerns are raised regarding the scale of the works, which would raise ground levels by up to 2.7m. There are concerns that the development would lead to amenity impacts.

Noise and dust

- 8.2.2. The Planner's Report raises concerns that no noise or dust monitoring locations have been identified and that adequate baseline information is required. The Applicant argues that the development would generate little noise, with noise levels being akin to normal farming activities. It is the Applicant's position that all machinery would be regularly maintained, that noise mitigation measures would be fitted to equipment, and that no development would take place outside of approved hours. The Applicant submits that the development would be unlikely to generate significant impacts and that they would accept conditions relating to noise limits and monitoring as well as standard dust suppression measures and monitoring.
- 8.2.3. The matter of noise and dust suppression is covered in the Construction Environmental Management Plan (CEMP). Standard measures are employed, including the provision of wheel wash facilities and use of static sprinklers or other wetting methods for dust suppression and the use of silencers for suppression of noise from equipment. These are standard measures and are acceptable in my view, and together with conditions relating to the hours of operation, implementation of noise limits, and having regard to the significant distance from the nearest residential properties, I do not consider that the development would have any significant impact in terms of noise and dust.

Dirt and Road Debris

- 8.2.4. The issue of road debris is raised in the second reason for refusal, however there is no substantive assessment of the matter in the Planner's Report. The Applicant submits that road sweeping/cleaning would be undertaken and that together with the low level of traffic anticipated and the use of wheel wash facilities, road debris concerns could be effectively managed. This matter is covered in the CEMP, and I am satisfied that it could be appropriately managed by way of a condition.

Traffic

- 8.2.5. Whilst not a reason for refusal, the Planner's Report raises concerns regarding HGVs using the private laneway access to the site, noting that a number of dwellings are located on the laneway, that there is limited opportunity for two vehicles to pass one another, and that consequent impacts on amenity are considered to be substantial. The report concludes that clarity is required regarding volumes and the number of truck movements per day.

- 8.2.6. The Applicant submits that the proposal is for a maximum import of 50,000 tonnes over five years, which equates to 40 tonnes per day over a five-day week, which is two loads per day and four trips (two two-way trips). The Applicant argues that this amount of traffic would be standard for any busy farm accepting feed/deliveries.
- 8.2.7. In my opinion, the trip generation indicated by the Applicant is reasonable and would not result in a significant amenity impact. Even accounting for a scenario whereby a maximum of 25,000 tonnes was imported over a year, this would equate to eight trips per day (four two-way trips). In terms of visibility at the site entrance, I am satisfied that appropriate visibility could be achieved and furthermore, I am of the view that there would be sufficient opportunity at sections of the laneway, to allow vehicles to pass, all of which would be acceptable given the low traffic nature of the route.

Visual Amenity

- 8.2.8. The Planning Authority's second reason for refusal raises concerns regarding the scale of the works, noting that ground levels will rise by up to 2.7m. The Planner's Report raises concerns that a Visual Impact Assessment has not been submitted given that the site is in an AONB and partially visible from Protected Prospect 7. The Applicant submits that ground levels would be raised by between 1m and 1.5m and that a Visual Impact Assessment is not required. It is the Applicant's position that there is no requirement for additional screening and that the development would not have any significant impact on visual amenity, the AONB, or Protected Prospect 7.
- 8.2.9. Protected Prospect 7 refers to views of the coast along the railway line. The railway line sits to the east of the site and as such views towards the coast from the railway line would not be affected by the development.
- 8.2.10. Contrary to the Applicant's suggestion, ground levels would be raised by up to 2.7m (based on the submitted sections) across parts of the site. The site itself is well screened, and the surrounding fields gently undulate towards the coast. There are gentle variations in level across the wider area surrounding the site. There may be some degree of visual impact during top-soil stripping, storage/importation/mounding, and recontouring, prior to final levels being achieved and seeded/grassed, however this would be temporary. Whilst I acknowledge the location of the site within an AONB, overall, I do not consider that the development itself would have any significant adverse visual impact.

8.2.11. I note that under Policy Objective 17.36, a Landscape/Visual Impact Assessment is required for developments within the AONB that may have the potential to significantly adversely impact the landscape area. For the reasons set out previously, I do not consider that the development would have a significant adverse visual impact and as such I do not consider that a Landscape/Visual impact Assessment would be required.

8.3. **Justification**

8.3.1. The second reason for refusal states that there is a lack of a justification for the development and that, in accordance with Appendix 1 of the CDP, such development will only be permitted where there is a proven need. The Applicant submits that they currently use a site in Coolgreany in Wexford, and that there is a shortage of sites for the deposition of soil and stones in Wicklow, noting that there are two other sites in Rathdrum that are not always open, and therefore not viable, and another site in Kilkenny which has excessive travel times. It is the Applicant's position that this places additional costs on the construction process, which are passed onto house buyers, and that the current practice is unsustainable when considering fuel use, CO2 emissions and time. The Applicant also submits that there is a need to improve drainage at the site and that the development would level-off the field, enhance drainage/filtration, reduce waterlogging, and reduce pollution.

8.3.2. Appendix 2.3.5 states that there shall be a proven need for facilities for the disposal of inert materials. In terms of agricultural benefits, I note the claim that the import of such material would improve the drainage by levelling-off the field, reducing waterlogging and enhancing filtration. From my site inspection, it is clear that land along the western side of the field has been subject to waterlogging, as evident by the very heavily rutted nature of the land in this location. The overall field is effectively flat, with the exception of some higher levels to the east. Level changes across the field are in the region of 1m across 140m distance. The waterlogged area is flat and would have minimal material deposited on it and so it is not clear how the deposition of material would address the underlying drainage issue in this location. Furthermore, rather than levelling-off the field, the majority of the material would be deposited on the higher part of the field, giving a more pronounced change in levels than is currently the case. Whilst I accept that there would be increased infiltration on those parts of the field where more significant deposition would occur, it is not clear that there would be any

advantages in terms of 'levelling off' or that the waterlogging issue put forward by the Applicant would be addressed by the proposal.

- 8.3.3. I note that the development would serve the Applicant's Construction and Demolition Waste Facility business rather than serving a particular development site/project. I note that the Applicant currently transports this material to a fill site in Coolgreany and that there are two other fill sites near Rathdrum which the Applicant submits are not always open. A further site is identified in Kilkenny but that this is considered an excessive distance away. Whilst I note the Applicant's view that there is a shortage of sites within Wicklow, I do not consider that this has been demonstrated.
- 8.3.4. No evidence has been submitted that existing facilities are at or near capacity, that haulage distances are objectively excessive or that the proposal would serve a defined project or land restoration need. The Applicant's claim that alternative facilities near Rathdrum are not always open is potentially relevant, however no substantive information has been submitted on this point (such as records of refusals/closures, waiting periods etc). However, I acknowledge that reduced haulage distances have benefits in terms of fuel consumption, journey times, and CO2 emissions. On balance, these generally equate to operational benefits rather than a clear land use need for the development in this particular location.
- 8.3.5. That being said, having regard to the foregoing, I am of the view that matters of justification for the proposed development relating to capacity issues within Wicklow, closure/unavailability of other operational sites, and confirmation of projects that the site would serve, could be dealt with by way of Further Information and as such I do not recommend refusal on the grounds of justification/proven need.

8.4. Watercourse Buffer and Material Contravention

- 8.4.1. The second reason for refusal refers to work within 25m of a watercourse being contrary to CPO 17.26. The Planner's Report states that only a 10m buffer from the watercourse is proposed and that this is inadequate as CDP policy requires buffers of generally 25m to protect rivers, streams and other water courses by avoiding interference with river/stream beds, banks and channels. Whilst not stated in the reason for refusal itself, the Planner's Report considers this to be a material contravention of an objective of the CDP when taken together with changes to the water cycle on the site and the potential release of pollutants into the watercourse. I

will address impacts on the watercourse in the Appropriate Assessment section of the report. In terms of the buffer, Policy Objective CPO 17.26 states that the objective is 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 having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development, with undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible. Structures such as bridges should be clear span, and designed and built in accordance with Inland Fisheries Ireland guidance.

- 8.4.2. The Policy objective refers to buffers being 'generally 25m' and is not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice. I am also aware of other development within the County whereby a buffer of less than 25m was considered acceptable, when considering the nature and scale of the development. Having regard to the wording of the Policy Objective, I am satisfied that the Commission should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.
- 8.4.3. In regard to the acceptability of the 10m buffer, I would consider the principle of this to be broadly acceptable given the non-structural nature of the development, and of course being entirely subject to demonstration that there would be no adverse impacts on the watercourse as a result of the proposed development, which I consider in more detail in the Appropriate Assessment section of this report.

9.0 Appropriate Assessment Screening – Stage 1

- 9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the Applicant, I conclude that the proposed development could result in significant effects on The Murrough SPA and The Murrough Wetlands SAC in view of their conservation objectives and qualifying interests. It is therefore determined that Appropriate

Assessment (Stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

10.0 **Appropriate Assessment Stage 2 – Natura Impact Statement**

- 10.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on The Murrough SPA and The Murrough Wetlands SAC. It was determined that the development would have potential for significant effects in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.
- 10.2. Following an examination, analysis and evaluation of the NIS and all associated material and mitigation measures contained therein, I consider that adverse effects on site integrity of the European sites set out above cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects.
- 10.3. Further detail is provided in Appendix 4. In summary, the NIS identifies potential pathways for impacts on these European Sites arising from water quality degradation through siltation/sedimentation and concludes that mitigation measures are required to ensure there would be no significant effects. The mitigation measures proposed and assessed in the NIS include:
- 10m buffer from the watercourse
 - Provision of 1.5m high earthwork berm and silt fence adjacent to the buffer, and
 - Provision of a filter drain
- 10.4. The drawings indicate that the filter drain is located on the infill side of the berm and silt fence and encircles the infill footprint. This would be directed to a settlement pond which directly discharges to the watercourse. In my view this is a direct pathway to the watercourse. Considering that the purpose of a buffer, berm, and silt fence is generally to reduce hydraulic flow to the watercourse/intercept sediment prior to runoff reaching receiving waters, it is my opinion that the drainage regime proposed, filter drain and settlement pond, would actively intercept runoff from the infill area and convey it to the settlement pond and ultimately discharge directly to the watercourse. This would, in my opinion effectively bypass the buffer/berm/silt. The filter drain and settlement pond

intercept runoff before overland attenuation can occur, reduces the opportunity for infiltration, concentrates flow rather than dispersing or attenuating it, and creates a direct pathway from the infill area to the watercourse.

- 10.5. I consider that the settlement pond forms a principal component of the drainage regime for the development and would appear to be the primary mechanism for controlling run-off prior to the watercourse. However, the NIS does not assess the settlement pond in any form, either as an integral component of the development or as mitigation relied upon to avoid significant effects on the European Sites. I am therefore of the opinion that a critical component of the drainage infrastructure and associated impact pathway have not been adequately assessed.
- 10.6. Furthermore, no substantive information has been provided on the settlement pond other than its location on the site layout plan. No details have been provided as to its capacity, retention/dwell times, outfall design, discharge rates, or operational performance during rainfall events. I concur with the Planning Authority that it would be undersized.
- 10.7. Accordingly, I am not satisfied that the NIS reflects the actual hydrological regime of the development as indicated on the submitted drawings. The omission of the settlement pond from the NIS gives rise to a material deficiency in the Appropriate Assessment documentation insofar as the NIS fails to assess the project as actually proposed. Furthermore, mitigation measures relied upon in the Appropriate Assessment process must be fully described, assessed, and supported by complete, precise and definitive findings capable of removing reasonable scientific doubt regarding their effectiveness. Having regard to the foregoing, I am not satisfied that sufficient information has been submitted to enable the Commission to conclude, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have an adverse effect on The Murrough SPA and The Murrough Wetlands SAC in view of their Conservation Objectives. In such circumstances, the Commission is precluded from granting permission.

11.0 Water Framework Directive

11.1. The proposed development comprises the importation of inert material and the recontouring of land for agricultural improvement purposes. There is a water course along two of the site boundaries (west and south). Water quality deterioration concerns were raised in the planning appeal in the context of Appropriate Assessment and impacts on nearby European Sites. I have assessed the proposed development 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.

11.2. 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. The reason for this conclusion is as follows:

- The nature and scale of the works;
- Measures employed during the construction phase to minimise groundwater impacts.
- Additional mitigation measures that could be employed to prevent impacts on the boundary waterbodies, such mitigation measures being further to those measures specified and assessed in the NIS.

11.3. I therefore conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

12.0 Recommendation

12.1. I recommend that the Commission refuse planning permission, for the reasons stated.

13.0 Reasons and Considerations

1. Having regard to the lack of detail in the information submitted with the planning application, appeal documentation, and the Natura Impact Statement, as to the full nature and extent of proposed works and the mitigation measures required to protect the integrity of The Murrough SPA and The Murrough Wetlands SAC, notably the absence of substantive information on the proposed settlement pond, the failure of the Natura Impact Statement to assess the settlement pond either as an integral part of the development's drainage and discharge strategy, or as a principal mitigation measure. The Commission therefore cannot be satisfied that the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on The Murrough SPA and The Murrough Wetlands SAC in view of the sites' conservation objectives. There therefore remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the identified European Sites. In such circumstances, the Commission is precluded from granting permission in accordance with Article 6(3) of the Habitats Directive.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Terence McLellan

Senior Planning Inspector

29th May 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-500657-WW-26
Proposed Development Summary	Works to facilitate infill and re-contouring of the subject lands using soil and subsoil to reclaim the land for agricultural infilling purposes. The infilled material will be seeded and grassed. All associated works.
Development Address	Ballygannon, Kilcoole, Greystones, Co. Wicklow.
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	

<p>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</p>	
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p>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?</p>	
<p><input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 11(b): Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.</p> <p>The proposed development is sub-threshold. Infill area amounts to 2.9 hectares and intake would not exceed 25,000 tonnes per annum</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 checked="" type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input type="checkbox"/>	

Inspector: _____

Date: _____

Appendix 2 - Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	PL-500657-26	
Development Summary	Works to facilitate infill and re-contouring of the subject lands using soil and subsoil to reclaim the land for agricultural infilling purposes. The infilled material will be seeded and grassed. All associated works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	Determination - EIAR not required.
2. Has Schedule 7A information been submitted?	Yes	EIA Screening Report, Traynor Environmental Ltd, January 2026
3. Has an AA screening report or NIS been submitted?	Yes	NIS Whitehill Environmental, January 2026
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	N/A	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried	No.	SEA has been undertaken for the Wicklow County Development Plan.

out pursuant to other relevant Directives – for example SEA			
B. EXAMINATION	Yes/ No/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
This screening examination should be read with, and in light of, the rest of the Inspector’s Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	No.	<p>The proposed development involves the importation of inert soil and stone material for the filling of areas within a site in order to improve the agricultural output of the site. There is a clear consistency in the nature of development with the surrounding area, primarily comprising agricultural grassland.</p>	No.
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	No.	<p>The development involves the importation of clean inert soil and stone material for the filling lands. Ground levels would rise by up to 2.7m across the field, other parts would see minimal increase. The area of land proposed</p>	No.

		for infilling does not require the removal of drains or ditches or provision of service roads.	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	No.	A layer of topsoil would be stripped and stored on site. The development comprises the importation of inert fill, employing standard construction methods and equipment. There would be no significant use of natural resources.	No.
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No.	Activities will require the use of potentially harmful materials, such as fuels and other such substances which are typical for such projects. Any impacts would be local and temporary in nature and the implementation of the construction practice measures outlined in the Construction and Environmental Management Plan would satisfactorily mitigate potential impacts. No significant operational impacts in this regard are anticipated.	No.
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	No.	The development involves the importation of clean inert soil/subsoil and stone only. Equipment and associated vehicles may give rise to potentially harmful materials, such as fuels and oil leak. Noise and dust emissions during construction are likely however they would be local and temporary in nature, and the implementation of standard construction practice measures would satisfactorily mitigate the potential impacts.	No.
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface	No.	There is potential for the release of silt and sediment to the boundary watercourses. This is considered through the Appropriate Assessment process and would not be to	No.

waters, groundwater, coastal waters or the sea?		such an extent that would trigger the need for an EIAR. Mitigation measures further to this specified in the NIS could be employed to mitigate potential environmental impacts on ground, surface, or coastal waters.	
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	No.	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of measures listed in the Construction Environmental Management Plan.	No.
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No.	Materials would be subject to inspection and testing. The sites topography, general site management (including timing of works) and best practice site management, would assist in preventing runoff of contaminated storm waters from the works area to surface water and no disturbance of the receiving environment. The development is likely to give rise to some dust emissions. Such impacts would be temporary and localised in nature and the application of standard construction measures and the measures outlined in the CEMP would satisfactorily address potential risks on human health.	No.
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No.	No significant risk is predicted having regard to the nature and scale of the development.	No.
1.10 Will the project affect the social environment (population, employment)	No.	The development would not result in an increase in population/employment in this area.	No.

<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No.</p>	<p>I have considered cumulative impacts, including permitted schemes in the area. The proposed development involves the importation of inert fill to agricultural lands for improved agricultural output. The project is not part of a wider large-scale change that could result in cumulative effects on the environment. No significant cumulative impacts are anticipated.</p>	<p>No.</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>Yes.</p>	<p>The site is not located within any of the specified area however it is hydrologically connected to two nearby European Sites (The Murrough SPA and The Murrough Wetlands SAC). These matters have been considered though the Appropriate Assessment process (see appendix 3 and 4) and whilst following Appropriate Assessment it has been concluded that there remains reasonable scientific doubt as to the absence of significant effects, these matters are addressed directly through the AA process and habitats directive and would not in and of themselves trigger the need for an EIAR.</p>	<p>No.</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No.</p>	<p>The site is not under any wildlife or conservation designation. The proposed development will result in an improved agricultural output. Any protected, important or sensitive species of flora or fauna which</p>	<p>No.</p>

		use areas around the site, are not likely to be affected by the project.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No.	The site is located within a wider coastal landscape where archaeological features have previously been identified and excavated. An Archaeological Impact Assessment be secured by condition however no works of excavation are proposed and as such no impacts are anticipated.	No.
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No.	No such resources on or close to the site	No.
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No.	There is a watercourse along two site boundaries however the development would not pose a risk in terms of volume or flood risk.	No.
2.6 Is the location susceptible to subsidence, landslides or erosion?	No.	No information on file indicates that the location is susceptible to subsidence.	No.
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No.	The site connects to a local road via a private lane with onward connection to the regional road network. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	No.
2.8 Are there existing sensitive land uses or community facilities (such as hospitals,	No.	The site is not near any hospital/schools. There is no negative impact anticipated as a result of the proposal.	No.

schools etc) which could be affected by the project?			
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No.	I have considered cumulative effects, and no such effects are anticipated.	No.
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No.	No transboundary effects arising.	No.
3.3 Are there any other relevant considerations?	No.	No matters identified.	No.
C. CONCLUSION			
No real likelihood of significant effects on the environment.	Agreed	EIAR Not Required	
Real likelihood of significant effects on the environment.		EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
<p>Having regard to: -</p> <ol style="list-style-type: none"> 1. the criteria set out in Schedules 7 and 7A, in particular <ol style="list-style-type: none"> (a) the nature and scale of the proposed development (b) the absence of any significant environmental sensitivity in the vicinity, (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) 2. the results of other relevant assessments of the effects on the environment submitted by the applicant 3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment. 			

The Commission concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 3 – Appropriate Assessment Screening Determination

Screening for Appropriate Assessment Test for likely significant effects

Step 1: Description of the project and local site characteristics

Brief description of project

Works to facilitate infill and re-contouring of the subject lands using soil and subsoil to reclaim the land for agricultural infilling purposes. 50,000 tonnes is proposed for importation over five years.

Brief description of development site characteristics and potential impact mechanisms

The subject site is a c. 3.41 hectare agricultural field in the rural townland of Ballygannon, located to the north/north-east of Kilcoole. The subject field is bounded by mature hedgerows and trees and there is a watercourse flowing along the western and southern boundaries which passes under the access laneway and continues towards the Kilcoole Stream. The field is effectively flat. There is a very modest fall in level from east to west, generally in the region of 1m across a distance of around 140m (based on the Applicant's sections). There are farm buildings outside of but immediately adjoining the subject site at the south-west corner. Access to the site is via a private gated laneway from the L-5044 (Lott Lane) local road, which in turn provides access to Kilcoole Village and the R761 regional road. There are additional dwellings and farmland along this private laneway.

The site is not located within or immediately adjacent to a European site. The nearest European sites are The Murrough SPA (Site code: 004186), c. 350m to the east, and The Murrough Wetlands SAC (Site code: 002249), c. 800m to the south/south-east.

Screening report	Incorporated into the Natura Impact Statement, see below.
Natura Impact Statement	<p>Natura Impact Statement, prepared by Whitehill Environmental, October 2025.</p> <p>A further NIS was submitted at appeal – Natura Impact Statement, prepared by Whitehill Environmental, dated March 2025 and updated January 2026.</p>
Relevant submissions	See below:

The Planning Authority’s first reason for refusal states:

1. Having regard to the location’s sensitive nature, the nature and extent of the proposed development, the proximity of the application site to hydrological pathways, which may provide direct links to the Murrough SAC and SPA (Site Code 002249 & 004186), approximately c.800m downstream from the proposed development, it is considered that there are serious risks that the proposed development would significantly alter the composition of runoff from the site into the nearby watercourses, resulting in altered sediment and pollution loads. Therefore, the proposed development could have adverse impacts on the Murrough SAC and SPA. To permit the proposed development would therefore be contrary to the Habitats Directive and the provisions of the County Development Plan 2022 - 2028 and would be contrary to proper planning and sustainable development.

The proposed drainage arrangements include a settlement pond, and concerns are raised in the Planner’s Report regarding the Applicant’s intention to drain the settlement pond directly into the watercourse and that the development would alter composition of run-off from the site resulting in altered sediment and pollution loads. The Planning Authority consider the settlement pond to be insufficient in size and raise concerns that the NIS does not assess the settlement pond or its proximity and linkage to the watercourse. Concerns are therefore raised regarding the conclusions of the NIS.

The Applicant considers the Planning Authority’s concerns to be unsubstantiated and argues that the development would improve drainage, permeability, and filtration, reduce run off to the watercourse, and reduce pollution. The Applicant considers the 10m buffer from the watercourse to be sufficient and submits that the revised NIS and mitigation measures would ensure that the development would have

no adverse impact on The Murrough SPA or SAC and that it would not be contrary to the Habitats Directive.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

The screening section within the Applicant's NIS considered all European Sites within a 15km Zone of influence. I have considered those sites closest to the application site where there is a hydrological connection.

European Site (code)	Qualifying interests and conservation objectives	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
<p>Site 1: The Murrough SPA</p> <p>Site Code: 004186</p>	<p>To maintain the favourable conservation condition of:</p> <p>Red-throated Diver (<i>Gavia stellata</i>) [A001]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Widgeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sternula albifrons</i>) [A885]</p> <p>Wetland and Waterbirds [A999]</p> <p>To restore the favourable conservation condition of:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>	<p>The SPA is located approximately 350 directly to the east.</p>	<p>Hydrological connection via surface water through the watercourse that runs along two boundaries of the subject site that ultimately drains to the SPA.</p>	<p>Yes.</p>
<p>European Site (code)</p>	<p>Qualifying interests and conservation objectives</p>	<p>Distance from proposed development (km)</p>	<p>Ecological connections²</p>	<p>Consider further in screening³ Y/N</p>

Site 2: The Murrough Wetlands SAC	To restore the favourable conservation condition of:	800m to the south/south-east	Hydrological connection via surface water through the watercourse that runs along two boundaries of the subject site that ultimately drains to the SAC.	Yes.
Site Code: 002249	Annual vegetation of drift lines [1210] Perennial vegetation of stony banks [1220] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Alkaline fens [7230]			

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

Potential effects include a deterioration in water quality in surface and groundwater due to potential impacts on the watercourses bounding the site that connect to the SPA and SAC. There is therefore the potential for a deterioration of water quality as a result of the potential discharge of silt/increased sedimentation and suspended sediment run-off from the site.

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: The Murrough SPA Site Code: 004186	Indirect hydrological connection through the watercourse and potential impacts as a result of water quality degradation through increased siltation/sediment loads.	Potential impacts on water quality as a result of silt, sediment and contaminants entering the water via surface water drainage to the watercourse.
	Likelihood of significant effects from proposed development (alone): Yes.	

	Impacts	Effects
	Likelihood of significant effects from proposed development (alone): Yes.	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 2: The Murrough Wetlands SAC Site Code: 002249	Indirect hydrological connection through the watercourse and potential impacts as a result of water quality degradation through increased siltation/sediment loads.	Potential impacts on water quality as a result of silt, sediment and contaminants entering the water via surface water drainage to the watercourse.
	Likelihood of significant effects from proposed development (alone): Yes.	
	Impacts	Effects
	Likelihood of significant effects from proposed development (alone): Yes.	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Concerns were raised by the Planning Authority that the NIS did not address the proposed settlement pond. An updated NIS was submitted with the current appeal and is generally consistent with that originally submitted with the application albeit reference is made to the settlement pond. I have addressed this matter in the Stage II Appropriate Assessment.		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
I have considered the hydrological connections between the site and the SPA/SAC. Whilst I note that the hydrological distance to the relevant qualifying interests of the SAC are significant, adopting the precautionary approach, I consider that significant effects cannot be ruled out. The hydrological distance to the SPA is much shorter and mitigation would be required to rule out likely significant effects. Based on the information provided in the Applicant's report, my site inspection, and a review of the conservation objectives and supporting documents, and the screening determination of the Planning Authority, I consider that, in the absence of further assessment and the implementation of mitigation measures, and in adopting a precautionary principle, the development has the potential to result in significant effects on The Murrough SPA and The Murrough Wetlands SAC.		

Screening Determination

Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone would give rise to significant effects on The Murrough SPA and The Murrough Wetlands SAC in view of their conservation objectives. Appropriate Assessment is therefore required.

Appendix 4 – Appropriate Assessment

Appropriate Assessment

The requirements of Article 6(3) as related to Appropriate Assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an Appropriate Assessment of the implications of the proposed development in view of the relevant conservation objectives of The Murrough SPA and The Murrough Wetlands SAC based on scientific information provided by the Applicant.

The information relied upon includes the following:

- Natura Impact Statement prepared by Whitehill Environmental (dated October 2025 and updated January 2026)
- Information on the NPWS website.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. However, I am not satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS or that all mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness. I will address these matters in further detail in the assessment section below.

Submissions/observations

Planning Authority

The proposed drainage arrangements include a settlement pond, and concerns are raised in the Planner's Report regarding the Applicant's intention to drain the settlement pond directly into the watercourse and that the development would alter composition of run-off from the site resulting in altered sediment and pollution loads. The Planning Authority consider the settlement pond to be insufficient in size and raise concerns that the NIS does not assess the settlement pond or its proximity and linkage to the watercourse. Concerns are therefore raised regarding the conclusions of the NIS.

Applicant

The Planning Authority's concerns to be unsubstantiated and argues that the development would improve drainage, permeability, and filtration, reduce run off to the watercourse, and reduce pollution. The Applicant considers the 10m buffer from the watercourse to be sufficient and submits that the revised NIS and mitigation measures would ensure that the development would have no adverse impact on The Murrrough SPA or SAC and that it would not be contrary to the Habitats Directive.

European sites

The Murrrough SPA (004186):

Summary of Key issues that could give rise to adverse effects (from screening stage):

(i) Water Quality Degradation

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition. Wetland habitat quality and functioning - no significant impact on the quality or functioning of the wetland habitat within the SPA, other than that occurring from natural patterns of variation.	Water quality degradation through silt, sediment, other contaminants.	NIS Section 5 (more detail below). Provision of 10m buffer zone. Silt fences. Filter drain. Soil berm.

The Murrrough Wetlands SAC (002249):

Summary of Key issues that could give rise to adverse effects (from screening stage):

(i) Water Quality Degradation

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Alkaline fens [7230]	To restore the favourable conservation condition. Ecosystem function: water quality - Maintain appropriate water quality, particularly pH and nutrient levels, to support the natural structure and	Water quality degradation through silt, sediment, other contaminants.	NIS Section 5 (more detail below). Provision of 10m buffer zone. Silt fences. Filter drain. Soil berm.

Assessment of issues that could give rise to adverse effects on the SPA and SAC:

(i) Water Quality Degradation

Topsoil stripping, importation of soil/stone, earthworks and recontouring have the potential to alter and increase sediment loadings in run-off leaving the site. During infilling works, soil and other pollutants could be carried downstream to the SPA/SAC thereby reducing water quality and impacts upon the habitats and species within those sites. The pollution of waters with silt/oil. Chemicals would directly affect habitats by reducing water quality. The NIS concludes that in the absence of mitigation, there is a potential risk of direct and indirect impacts on the SAC/SPA arising from infilling activities and that appropriate mitigation will be required to prevent these impacts from arising. Proposed mitigation measures include:

Pre-construction and Construction

- Infilling works confined to the development site, which will be clearly marked out in advance of the proposed work.
- Site contractors and engineer to be made aware of the ecological sensitivity of the site and proximity to the SAC/SPA and familiar with mitigation measures in the NIS.
- Watercourses to be cordoned off from site works. Implementation of a 10m buffer zone.
- Filter drain, soil berm and silt fences to be provided to prevent ingress of soil to watercourses. These measures to be signed off by an engineer prior to commencement.
- Regular inspection of silt fences and filter drains. Sediment deposits to be removed when accumulation reaches one third the height of the fence.
- All bare areas to be vegetated upon removal of the silt fence.

- Existing vegetation within the buffer zone to be retained.
- Soil and stone to be imported only from sites that are free from invasive species.
- Hydrocarbon and fluid management measures including bunded compounds, bunded storage tanks, avoiding refuelling on site, spillage procedures, maintenance of plant and machinery, spill kits, oil booms, soakage pads, and collection of waste fluids in leak proof containers and removed from site for disposal and recycling.

Post Construction

- Retention of existing treelines and hedgerows.
- Landscaping to include native species. Landscaping to be cognisant of sensitivity of habitats surrounding the site.
- Avoid use of herbicides.
- Bare soil seeded as soon as possible with grass seed.
- Avoid use of non-native wildflower mixes.

Assessment

The proposed development is for the importation of 50,000 tonnes of inert material over a period of five years. The infill area is 2.9 hectares and the works would raise ground levels by up to 2.7m. A watercourse adjoins the western and southern site boundaries and provides a hydrological connection to The Murrough SPA and The Murrough Wetlands SAC.

The NIS identifies potential pathways for impacts on these European Sites arising from water quality degradation through siltation/sedimentation etc. The NIS concludes that, subject to mitigation measures, the proposed development would not adversely affect the integrity of either of the European Sites. The mitigation measures proposed and assessed in the NIS for the purposes of preventing water quality impacts include:

- 10m buffer from the watercourse
- Provision of 1.5m high earthwork berm and silt fence adjacent to the buffer, and
- Provision of a filter drain

The drawings indicate that the filter drain is located on the infill side of the berm and silt fence and encircles the infill footprint. Additionally, the plans demonstrate that runoff intercepted by the filter drain would be directed to a settlement pond which directly discharges to the watercourse. In my opinion, this gives rise to uncertainty regarding impact mechanisms and pathways and would appear to contradict the mitigation strategy assessed in the NIS.

The purpose of a buffer, berm, and silt fence is generally to reduce hydraulic flow to the watercourse and to intercept sediment prior to runoff reaching receiving waters, which in this case would be the watercourse on the site boundaries. However, the drainage layout detailed on the drawings would actively intercept runoff from the infill area and convey it to the settlement pond and ultimately discharge directly to the watercourse. In my opinion the filter drain and settlement pond effectively bypass the buffer/berm/silt fence and diminishes their intended function. The filter drain and settlement pond intercept runoff before overland attenuation can

occur, reduces the opportunity for infiltration, concentrates flow rather than dispersing or attenuating it, and creates a direct pathway from the infill area to the watercourse.

The settlement pond clearly forms a principal component of the drainage regime for the development, it is directly relevant to the source-pathway-receptor linkage between the site and the SPA/SAC and would, on the face of it, appear to be the primary mechanism for controlling run-off prior to the watercourse. However, the NIS does not assess the settlement pond either as an integral component of the development or as mitigation relied upon to avoid significant effects on the European Sites. I am therefore of the opinion that a critical component of the drainage infrastructure and associated impact pathway have not been adequately assessed.

In terms of the settlement pond itself, I note that no substantive information has been provided other than its location on the site layout plan. No details have been provided as to its capacity, retention/dwell times, outfall design, discharge rates, or operational performance during rainfall events. I would agree with the Planning Authority that it certainly appears to be undersized having regard to the fact that the filter drain encircles the entire infill area of 2.9 hectares.

Accordingly, I am not satisfied that the NIS reflects the actual hydrological regime of the development as indicated on the submitted drawings. The omission of the settlement pond from the NIS gives rise to a material deficiency in the Appropriate Assessment documentation insofar as the NIS fails to assess the project as actually proposed. Furthermore, mitigation measures relied upon in the Appropriate Assessment process must be fully described, assessed, and supported by complete, precise and definitive findings capable of removing reasonable scientific doubt regarding their effectiveness. Having regard to the foregoing, I am not satisfied that sufficient information has been submitted to enable the Commission to conclude, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have an adverse effect on The Murrough SPA and The Murrough Wetlands SAC in view of their Conservation Objectives. In such circumstances, the Commission is precluded from granting permission.

Appropriate Assessment Conclusion

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on The Murrough SPA and The Murrough Wetlands SAC in view of their conservation objectives and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS, and all associated material submitted with the application and appeal, I am not satisfied, on the basis of the information available that it can be determined beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, would not have an adverse impact on the The Murrough SPA and The Murrough Wetlands SAC in view of their Conservation Objectives.