



An
Bord
Pleanála

Inspector's Report JA0037.

Development	Waste soils recovery facility, Eco-park and local authority mini depot.
Location	Pretty Bush, Priestsnewtown, Kilcoole, Co. Wicklow.
Applicant	Wicklow County Council .
Reference No.	JA0037.
Type of Application	Local Authority project under section 175 of the PDA (as amended)
Observers	<ol style="list-style-type: none">1. Michael Kunz2. Karen Kelly and others3. The Luisne Centre for Spirituality4. Brendan Smyth5. Cllr Tom Fortune6. Mary Kavanagh7. Priestsnewtown Residents Association8. Samantha Smyth and others9. An Taisce10. Inland Fisheries Ireland11. EPA12. HSE
Date of Site Inspection	11 th January 2017.
Inspector	Mairead Kenny.

1.0 Introduction

- 1.1. This is an application under section 175 of the PDA 2000 (as amended) for development comprising
- a soils recovery facility to take 200,000 tonnes of inert waste from the River Dargle Flood Relief Scheme at Bray (YA0003)
 - an Eco-park for use as a local amenity and to provide for protection and restoration of ecological qualities
 - a mini depot for use by the local authority.
- 1.2. The proposed development will be subject to a waste licence and an application has been made to the EPA (EE3290.N2093).

2.0 Site Location and Description

- 2.1. The site is located in a rural area to the south of Delgany and north of Kilcoole and is about 1km from the edge of these settlements. The site is in the townlands of Priestsnewtown and Kilquade. The site is known in the locality as 'The Rocks'. It is also referred to as the 'Pretty Bush' site, which is the name used in the application documents.
- 2.2. The site context is set within an area which has been subject to considerable change in recent years including through the development of 'Charlesland' to the north-east and at nearby Kilcoole to the east / south-east. To the north of the site is the Farrankelly residential development where there is also a local service centre. The wider area to the south-west in the Kilquade direction has been subject to less development.
- 2.3. There are a number of structures of architectural heritage interest in the area including former demesne houses. To the south-east is a Georgian building, which is stated to be set in 40 acres of land and which operates as the Luisne centre, a centre for spirituality. To the south-west along the Kilquade Road is Springfield

House. Another noteworthy feature in the general area is a large garden centre which identifies itself as the Kilquade Arboretum National Garden Exhibition Centre.

- 2.4. The road network in the general vicinity of the site includes the Kilcoole-Delgany Road the R761 which is to the east and the R762 which connects the area to the N11, under 2km to the west. In the immediate vicinity of the site and abutting its northern boundary in two places is a local road the L1042, the road to Kilquade. The junction of the L1042 and the R761 is about 100m from the north-eastern corner of the site. This route provides access to the N11 and beyond including to Bray.
- 2.5. There are two site entrances at present. The main entrance is from the L1042 at the north-eastern corner of the site. This entrance serves an area which appears to have had some use by the local authority as a depot. A minor entrance is positioned about 175m to the south-west. This adjoins a telecommunications building which is fenced off with a palisade fence.
- 2.6. The northern site boundary is partly defined by the southern edge of the private gardens associated with one-off houses. There are no views into the site from these gardens largely due to the considerable growth of gorse at the boundary. Residential units also include a few individual houses set back from the regional road and at the Kilquade road and there is an additional house in off the road and located about half way along the western site boundary. Adjacent that house is a motor repair outlet with a large yard, which is identified as part of the site. All houses are all clearly identified on the application submissions.
- 2.7. The 5.6 hectare site is triangular in shape. It has an overgrown character and is undulating in nature. The vegetation on site comprises a wide range of cover and habitat types and is described in more detail in the assessment section of this report. The site is used by a variety of bird and mammal species including bats and a badger family is resident.
- 2.8. In brief, the site is relatively inaccessible at present and contains significant gorse growth at the edge and in the central spine where the topography is more elevated. Two small streams form a y-shaped water feature through the site. These streams are shallow with a width of under 1m and are described as being ephemeral in nature. The land in the vicinity of the streams contains more grassland and small

trees and is more accessible than other parts of the site. The largest trees are at the boundaries particularly at the eastern boundary.

- 2.9. The site is in the ownership of the local authority and is stated to have been purchased for use as a borrow pit for the duration of construction of a road scheme. There is no evidence of any such activity at the site and the public record shows that no such use was made of the site.
- 2.10. There are two electricity lines traversing the site a 10kV line and a 38kV line.
- 2.11. Photographs of the site and the surrounding area which were taken by me at the time of my inspection are attached.

3.0 Proposed Development

- 3.1. The proposal is to develop a soils recovery facility (to take surplus dredging spoil from the River Dargle Flood Relief Scheme) and an Eco-park. The development is also intended to provide for a mini depot for the local authority at the north-eastern corner of the site.
- 3.2. The facility will accommodate 200,000 tonnes of inert material.
- 3.3. The development involves
 - Clearance of about 80% of existing vegetation from the site
 - Shredding and chipping of vegetation on site and removal of 2,000 – 4,000 tonnes of forestry / biodegradable material
 - Importation of 6,000 - 8,000 tonnes of soil and stones
 - Deposition and levelling of up to 200,000 tonnes of inert material
 - Diversion of the streams through the site and elevating them on a stone bed
 - No clearance or deposition at the southern 1.16 hectares and preservation of buffers along the eastern boundary and adjoining residential property to the north
 - Development of the site as an Eco-park with public access on a 24 hours 7 day week basis

- Badger mitigation measures which are to be undertaken after clearance phase and prior to placement of dredge spoil
- Upgrading of site entrance
- Development of ancillary infrastructure including temporary and permanent drainage works and a dedicated Council yard
- Construction period of 12-24 months.

3.4. Site clearance is envisaged to take 6-8 weeks and is described in section 3.3.3 of the EIS. Vegetation clearance will be mainly by hand commencing at the north-east. A temporary access road to a flat staging area will be developed using the imported stone – this will be the working platform for the vegetation clearance and for the spoil deposition phase.

3.5. The development will be subject to a waste licence by the EPA. The application has been lodged and is under consideration by the EPA. If granted it will govern the acceptance and placement of topsoil and dredge material. It is stated that the licence shall apply from the first acceptance of dredge spoil and / or topsoil material at the site.

3.6. The acceptance and placement of the spoil material is described as a waste management recovery activity due to the beneficial use involving land redevelopment.

3.7. The EIS contains a Waste Acceptance Plan in Volume 3, which addresses waste identification, waste characterisation, weighing of dredge spoil material, procedures for waste acceptance and placement. The approach to waste acceptance set out is stated to be informed by previous EPA waste soils recovery facility licences. The incoming dredge material is 'greenfield soil/stone' being from lands that have not previously been developed. The waste acceptance procedures will include visual inspection and if contamination is suspected will be diverted to a designated area and if necessary rejected. Waste placement will be in 600 – 900 mm layers and completed with a 200mm of topsoil which will be imported or reclaimed.

3.8. The development will be subject to a Construction Management Plan under which the contractor will address measures to control potential emissions to air, ground and

surface water and measures by which noise and traffic management in the construction phase will be secured.

- 3.9. Traffic measures include a dedicated haul route and temporary improvements to the main site entrance to facilitate truck manoeuvres. Modifications to the ghost island to make provision for exiting vehicles turning right and to provide for pedestrians crossing will be incorporated.
- 3.10. In order to control potential sediment and improve stability, topsoil will be seeded when put in place. The completed Eco-park is to comprise planting of the site in accordance with the Landscaping Plan. This involves a limited amount of tree planting (7 oaks and 27 hawthorn and mountain ash) and 30m of native hedgerow. There are three 'planting mix' areas defined which include areas of gorse, elder and Guelder rose, areas of shrubby willow, elder and hazel and areas of wildflower meadow. The contours of the site will generally remain insofar as the eastern and western lands will slope inwards towards the central area where the walkways are to be concentrated.
- 3.11. Maintenance proposals envisage replacement of trees which fail and to allow for establishment of plants in the early years. The wildflower meadow is to be cut and removed every 1 to 3 years. Maintenance will be limited to access points and walkways areas, to ensure that paths are correctly maintained and do not become overgrown. The Eco-park will otherwise be allowed to develop in 'wild' status to ensure that it maintains a similarity to the existing condition of the site.
- 3.12. The Eco-park will involve various walkways and signage and is to be accompanied by a site entrance. These include markers to show distances walked and a total pathway length of 1.3km is to be provided. The detail of the final path surface is not worked out but all options presented are of permeable nature. Parking is not to be provided as the facility will serve local users¹.
- 3.13. The facility licence will stipulate monitoring requirements for different environmental media and an indicative proposed monitoring frequency is set out in Table 3-3.

¹ The NIS indicates that parking will be provided – I have assumed that the EIS is more up to date in respect of the nature of the proposed development.

4.0 Planning History

4.1. On Site / Adjacent Lands

4.1.1. The observers refer to a number of previous applications for permission to develop the site in relation to which details are provided below.

4.1.2. **Reg. Ref. 01/5286** refers to a **proposal by Wicklow County Council under Part X of PDA2000 (as amended)** for land development and re-instatement and construction works. The subject site overlapped with the site of reg. ref. 989635. It is identical to the site subject of the current application.

4.1.3. The proposal involved disposal of inert materials. (up to 150,000 tonnes) The source of the material was to be road schemes in the vicinity of the site.

4.1.4. A road maintenance depot was shown on the application drawings. The description of the development (document of October 2001) referred to construction works for a portion of the site once re-instated. This would involve construction of an access road leading to a road maintenance depot and a community recycling collection centre.

4.1.5. The officials clarified that there was no intention to install a recycling depot. It was stated that the depression needed to be filled.

4.1.6. The proposed development was objected to by the elected representatives of Wicklow County Council on February 4th 2002.

4.1.7. The application was withdrawn.

4.1.8. **Reg. Ref. 989635 (PL27.110986)** refers to an application for 'earthfill site and ancillary works' and for temporary facilities for site access, service road, office, septic tanks and truck wash at Knockroe and Priestsnewtown. The Council refused this application by Pat Nolan for three reasons related to traffic movement along the R761, noise and dust and amenity and property devaluation and damage to a local natural habitat and because the stream on site is within the Murrough catchment.

4.1.9. The identified site overlaps with the southern end of the site of the proposal now before the Board. Entrance proposals involved the regional road.

- 4.1.10. The proposal included culverting the eastern and southern part of the stream and infilling would have taken place primarily within the western end of the site, close to or within the site of the current proposal.
- 4.1.11. The decision of the planning authority under 989635 was subject of an appeal. Following a request for clarification of certain matters including in relation to the nature and quantity of the landfill, which might have implications for EIA and waste licensing. The applicant was also requested to obtain notification from the EPA regarding the need for a licence.
- 4.1.12. The applicant did not comply with this request and the Board refused permission on the basis of inadequate information and failure to comply with the request.
- 4.1.13. A submission on file (dated 1st February 1999) indicates that the Kilcoole Residents' Association had requested designation of the area as an Area of Environmental Interest.

Reg. Ref. 064782 refers to the application for a telecommunications facility on lands stated to be previously owned by WCC. This is in situ close to the north-western corner of the site. It is adjacent a secondary entrance to the site.

4.2. **River Dargle (Bray) Flood Defence Scheme (YA0003)**

The scheme is the source of the material to be recovered as part of this application. The information in the EIS and presented to the oral hearing was that approximately 160,000 cubic metres of soil and riverbed materials would be removed from the river and its embankments as a result of the excavations and regrading. The scheme envisaged part re-use of the material on the site. In particular the material from an area known as the Slang / Redhills, Killarney Glen and La Vallee would be re-used to raise the ground profile of the lands at The Slang. The evidence was that the remainder of the material (80,000 cubic metres) would be removed off site to a suitably licenced permitted disposal facility. In this regard it was noted that the nearest EPA licenced facility were at Kilmurray South and the KTK facility at Ballymore Eustace. The applicant's submissions indicated that half the material would be transported through the Golf Club Lands and half through the People's Park.

I refer later to aspects of this application including in relation to invasive species.

5.0 Policy Context

5.1. Waste Management : Changing our Ways 1998

5.1.1. This references a need to move away from landfill as a primary waste disposal route. There is no explicit reference to soils. Policy does refer to C&D waste describing it as a significant component of the overall waste stream and referring to its resource value. Regarding C&D waste local authorities are urged to pursue the scope of its recovery from local authority projects and use it in site development, roadbuilding and other construction with the objective of diverting from landfill sites.

5.2. Preventing and Recycling Waste – Delivering Change – A Policy Statement 2002

5.2.1. This reiterates points in the earlier document relating to resource value of much waste. If properly exploited we can reduced our use of natural resources and minimise environmental impacts of waste disposal.

5.3. A Resource Opportunity – Waste Management Policy in Ireland 2012

5.3.1. This document references again the need to focus on resource efficiency as well as the virtual elimination of landfilling of municipal waste.

5.4. Regional Policy for Greater Dublin Area 2010-2022

5.4.1. In line with national waste policy provisions and legislation the RPGs identify a range of policies which support re-use of waste.

5.4.2. Policy PIR39 in particular refers to sourcing opportunities to facilitate source reduction and re-use of waste. Development of these opportunities shall not compromise the integrity of ecologically sensitive area, in particular infilling with inert material which can result in loss and fragmentation of wetland.

5.4.3. Policy PIP5 refers to the ongoing need for investment in waste re-use and recycling and ensuring that high standard options for treatment and final disposal are available.

5.5. Eastern and Midlands Regional Waste Management Policy 2015-2022

5.5.1. Section 16.4.4 refers to backfilling activities of inert waste as recovery activities. These activities make up a significant treatment capacity in the region at present. Local authority authorised sites have a capacity of 0.9 million tonnes with significant pending capacity for facilities at waste licence application stage. Supply of capacity exceeds the current demand as a result of the depressed activity in the construction sector. There is a need for better co-ordination between local authorities to ensure facilities are planned and developed at suitable sites and do not present a risk to European Sites and biodiversity.

5.5.2. E13 refers to a requirement that the EPA and An Bord Pleanála take account of the scale and availability of existing back filling capacity.

5.5.3. E14 refers to the co-ordination by local authorities of backfilling sites in the region to ensure balanced development and with a preference for large restoration sites ahead of smaller scale sites with shorted life spaces.

5.6. Draft Waste Siting Facility Guidelines

5.6.1. This document is at draft consultation stage and has been prepared as part of the response to policy G3 of the regional waste management plan implementing a policy to prepare guidelines for waste facilities and review general environmental protection criteria as set down in the waste plan.

5.6.2. Section 3.4 refers specifically to Soil and Stone Waste. Previous management mainly involved infilling of marginal agricultural lands many of which sites were of importance in terms of biodiversity or were subject to flooding. Deposition of waste in many cases was the primary purpose rather than land improvement. Site selection needs to be justified. Market capacity and need should be considered by the EPA and the Board. Preferred locations include inactive pits, closed landfills, infrastructural projects which have a significant requirement for clean soil and stone and agricultural land provided it

can be clearly demonstrated that there is a genuine need for land improvement and local environmental receptors and habitats will not be adversely impacted.

5.7. Wicklow County Development Plan 2016-2022

5.7.1. Objective NH12 is to support the protection and enhancement of biodiversity and ecological connectivity.

5.7.2. Objective NH13 is as follows.

To preserve lands at 'The Rocks' Kilcoole (as shown on Map 10.16) in its existing state; to allow no development of these lands; to protect the lands as a natural habitat and biodiversity area; to protect the open nature and landscape quality of the lands.

5.7.3. Section 10.3.6 highlights the importance of Green Infrastructure. At a local level this involves the development of proposals as part of the local area plan review to:

- identify existing green infrastructure and resources
- Identify sites for the development of new green infrastructure and routes
- Identify areas of deficiency in active open space
- Identify important landscape corridors and green areas and to encourage their protection and enhancement.

5.7.4. The lands are within the 'Rural Area'. The key development parameter for Rural Areas is to facilitate appropriate and necessary development but to protect the natural environment. The rural areas play host to a range of activities including landfill.

5.7.5. Objectives in relation to waste infrastructure include section 9.3.2 which refers to the re-use of waste, facilitate the development of existing and new waste recovery facilities and in particular the development of 'green waste' recovery sites (Objective WE3) and sites necessary to achieve the implementation of the objectives of the Regional Waste Management Plan (Objective WE6).

5.8. Greystones Delgany Local Area Plan 2013-2019

5.8.1. The site is to the west of the defined boundary of the adopted plan. The maps associated with the plan however do include objectives which are outside the defined boundary, none of which relate to this site. Such proposals indicated include a long-term roads objective which is to the west of the site and it is described as a Western Distributor Road to bypass Kilcoole. It replaces a route defined in the draft plan which would have passed through the south of the site of the proposed development. Lands to the east of the site are largely defined as Greenbelt.

5.8.2. Objective AP6 refers to the preparation of Farrankelly Action Plan which covers an area of land of 24 hectares and makes provision for 17 hectares of residential lands and reserves 4.5 hectares for active open space. This is to the north of the existing development at Farrankelly. A field to the north of the L1042 is zoned residential.

5.8.3. Objectives refer to the development of public and private open space and recreation provision (Objective SO8), provision of active open space (SOC10) and the long-term objective of a neighbourhood park at an appropriate location within the plan area (SOC12).

5.8.4. Objective HER3 refers to the recommendation of the Greystones-Delgany Local Biodiversity Area Study which shall be considered in relation to proposals for development and the recommendations of which shall be implemented as appropriate.

5.8.5. The adopted plan includes Appendix A – Local Biodiversity Areas. This report of February 2006 notes the development of the area including Charlesland. This and smaller scale developments will have significant negative impacts on the biodiversity of the region, which has already been confined to very few areas. As a result the remaining wildlife refuges through not necessarily nationally important due to the rarity of species should be classed as locally important with the function of maintaining biodiversity in the area. The report examines only sites within the defined study area, which did not include the subject site.

5.8.6. The Environmental reports include SEA Appendix A – Environmental Report.

In this document there is a Corine land map, which covers an area outside the limits of the LAP. Section 3.5.3 points to the good access to open space in the area and to the importance of green space and the natural environment for humans and well-being.

5.8.7. The SEA report dated September 2013 includes a Baseline Environmental Sensitivities Map. This includes areas outside the defined boundary of the LAP and identifies the site of the proposed development as being of the lowest level of environmental sensitivity. There is no discussion of the site in the SEA document.

5.9. Natural Heritage Designations

The European Sites which are proximate to the site of the proposed development are described in the Appropriate Assessment section of this report. The site is connected by way of the Kilcoole Stream to The Murroughs, which contains a SAC and a SPA. The designated areas comprise a long (15km) narrow coastal strip.

The proposed Natural Heritage Areas in the general area include Kilcoole Marsh which is at The Murroughs. This area is to the north of the European Sites.

Figure 11.1 of the EIS shows the location of pNHAs and Natura sites within 10km of the site.

6.0 Observations

6.1. Third Party Observations

6.1.1. Observations were received from Michael Kunz, Luisne Centre, Cllr Tom Fortune, Karen Kelly, Brendan Smyth, Mary Kavanagh, Samantha Smyth and others, Priestsnewtown Residents Association. In view of the similarity of issues raised it is appropriate to summarise them in grouped format.

6.1.2. In relation to **the principle of the development** the following are the main points raised:

- Contrary to planning history and policy including NH13
- The proposal is a landfill disguised as an Eco-park
- The proposal is not reinstatement – does not involve infilling of an old quarry or similar area
- The brief for the EIS was to identify a site which could take the spoil and provide an Eco-park – by combining the two elements there were severely limited options
- Alternative sites are available and not explored properly
- Alternative methods of disposal of spoil material not explored adequately
- Destroying an existing area of ecological interest to create an Eco-park is a bizarre idea
- Loss of biodiversity in area under considerable change and development
- Site is home to an abundance of wildlife including badger setts, bats, birds and ancient trees and is used in association with this value
- Site in its existing condition should be retained and developed as part of an Eco-tourism trail
- The proposal constitutes a public park and not an Eco-park
- Community strongly opposed and community wishes have been known for years
- No substantial argument was made for the development other than financial arguments.

6.1.3. In relation to **residential amenity** the following are the main points raised:

- Noise, dust and traffic will adversely affect residential amenities
- Serious disruption to Luisne Centre which is a haven of peace and calm
- In the long-term there will be overlooking of property and security concerns as a result of 24 hour opening and lack of lighting, bins and maintenance
- Air emissions will affect children and others
- Noise levels will breach standards.

6.1.4. In relation to **ecology** the following are the main points raised:

- The development would impact on the SAC and SPA
- NIS conclusion that the integrity of those sites as natural habitats will not be adversely affected is invalid and the NIS is inadequate as it has not considered all risks.
- Would impact on site ecology including bats, badgers, birds and trees
- Surveys used as the basis of the EIS are inadequate and do not reference owl nest sites, ancient holly trees and improperly records trees, dragonflies and yellow hammer, red kite and buzzard and other species
- An independent bat survey is enclosed
- Fails to properly address invasive species
- Gorse will take over the proposed Eco-park and it will take 100 years for the same ecology to develop.

6.1.5. In relation to **traffic** the main points include:

- Inadequate sightlines and contrary to DMRB in relation to which a derogation cannot be sought
- In the 24 month construction phase the area which is residential and is the route to school would experience high levels of hgv movement at an unsafe junction and would endanger public safety
- Likely to be constructed at same time as houses across the road
- Mitigation measures will not work
- Congestion will result
- Permanent traffic safety issues would arise from the proposed mini depot.

6.1.6. In relation to **heritage impacts** of the development the following are the main points raised:

- 'The Rocks' is in a historic area and northwest of the area of Ardos

- There is a narrow rocky valley on its boundary, which had a cave and a barrow / passage cairn that was backfilled and destroyed in the 1960s – an archaeological dig might reveal these features and others
- Geological heritage interest as site dates to ice age and is a glacial feature.

6.1.7. In relation to **water, soils and geology and hydrogeology** of the development the following are the main points raised:

- A landfill liner is required as well as long-term monitoring and a 200m buffer
- The three boreholes due to the location at the edge of the site are not representative of general conditions across the site
- There is little or no topsoil cover across the site to protect the underlying groundwater from contamination
- The environmental risk assessment in appendix 18 notes that there is a potential groundwater migration pathway
- There is little attenuation due to the virtual absence of subsoil
- Kilcoole stream, which discharges to the Murrough Wetlands SAC and SPA and other designated sites could be at risk from contamination from the site
- There are no mitigation measures to protect the designated sites from contamination at the proposed unlined landfill
- Could exacerbate flooding and impact on septic tanks.

6.2. **Prescribed Bodies**

6.2.1. *Health Service Executive*

Satisfactory noise attenuation measures are proposed but the operating hours may give rise to nuisance in particular the 7am start on Saturdays. There should be no working on Sundays. Supplementary noise attenuation may be required i.e. additional screening and variation of work patterns.

Satisfactory groundwater protection and monitoring are proposed. Measures in relation to flooding are satisfactory.

Dust attenuation measures proposed are satisfactory. Contingency plans must include wet methods and water supply must be available for this purpose.

The assessment of interaction of the impacts is satisfactory.

If permission is granted conditions relating to dust suppression methods, noise attenuation, hours of operation and quarantine of suspect loads are recommended.

6.2.2. *An Taisce*

An Taisce wish to strongly object to the destruction under licence of 5 setts and the possible interference with other setts due to construction proximity. The time of year that the survey was undertaken may not provide an accurate representation. The destruction of setts between January and July may result in deaths of young dependent badgers. No active sett should be disturbed during the breeding season. Due to the number of setts being impacted there is a significant chance that this will cause the collapse of the resident badger population.

Likely occurrence of pine martin should be further examined. Any tree removal would have a significant impact on this species which is protected.

The EIS acknowledges use of the site by a number of species of bats for foraging. Removal of vegetation would destroy this foraging habitat.

Any occurrence of habitat fragmentation during the construction phase should be appropriately mitigated with appropriate nature corridors.

The ephemeral streams which drain into the Kilcoole stream have been used by Otters including at a location 1.75km west of the site and at a bridge crossing now part of the N11 and recently at Webb's field, the Breeches and the wetlands south of the Kilcoole railway station. Otters are also stated to be likely to be using the stream downstream of Kilcoole village. Potential water quality impacts including release of silt laden run off, hydrocarbons and waste must be assessed and mitigated. There is also a need to demonstrate presence or lack of otter holts on site. Under C-461/31 authorisation for an individual project must be refused where it may cause deterioration in the status of a body of surface water or where it jeopardises attainment of good status and potential.

The proposal has the potential to create habitat fragmentation, disturbance and runoff impacts within the area and due regard needs to be given to the ecological value of the site and the potential for downstream impacts.

6.2.3. Inland Fisheries Ireland

All works should be in accordance with the mitigation measures in the EIS and in particular sections 11.6, 12.4 and 13.7. Re-profiling of the western watercourse which has limited fisheries potential is acceptable. The applicant has been advised of the significance of the Kilcoole stream as a Sea Trout and Brown Trout catchment. Any works to the western watercourse should be completed in the dry. All works should be in accordance with section 4.7 of the AA Scoping Report. All works should be in accordance with a Construction Management Plan. Any discharge to surface and groundwater must be in compliance with the relevant Surface water and Groundwater Regulations. Monitoring of the surface and the groundwater resource should be in accordance with an EPA waste licence.

6.2.4. EPA submission of 14th October 2016.

This notes that the development proposed will require a Waste Licence under the Waste Management Act. The EUIS appears to address the key points in relation to the environmental aspects of the proposed activity which relate to the matters that come within the functions of the Agency. It also appears to address the direct and indirect effects of the development on the aspects of the environment listed in section 40(2A)(a) of the Waste Management Act although it is considered that the potential risk of invasive species moving from the source site to the waste facility should be addressed. If and when a licence is received the licence will be subject to requirements for EIA and consultation. The Agency will consider all matters to do with emissions to the environment from the activities proposed. If the Agency decide to grant permission it will incorporate conditions that will ensure that the appropriate National and EU standards and that BAT will be used in the carrying out of the activities.

6.3. Further Comments

6.3.1. Cllr Tom Fortune's submission of 8th November was late and has not been retained on the file.

6.3.2. The submission of Nessa Childers MEP by email on 8th November was late and has not been retained on the file.

7.0 Assessment

7.1. Introduction

7.1.1. In the foregoing I consider the application under the following headings

- Planning Policy and Principle
- Ecology
- Traffic
- Residential amenity
- Environmental Impact Assessment
- Appropriate Assessment
- Other issues
- Conclusions and recommendation.

7.2. Planning Policy and Principal

7.2.1. Policy

7.2.2. In the foregoing I consider the Wicklow County Development Plan 2016-2022, which has been adopted and is in force but is subject to a 'draft direction' under Section 31 of the Planning Act following intervention by the Minister. The plan is described as an 'interim' document.

7.2.3. The matters of concern in the Minister's review relate solely to wind energy policy and an objective for retail warehousing at a particular location, which do

not affect the assessment of this application. I recommend that the Board determine this application based on the adopted WCDP 2016-2022.

7.2.4. Policy NH13

7.2.5. I consider that the development would constitute a material contravention of an objective of the development plan, which clearly identifies the objective of preserving this land. The Board shall have regard to the prevailing policy but is not bound by that policy in the making of decisions. In the foregoing I set out my opinion as to whether or not the policy objective is reasonable.

7.2.6. The relevant objective is as follows

NH13 – To preserve lands at ‘The Rocks’, Kilcoole as shown on Map 10.16) in its existing state; to allow no development of these lands; to protect the lands as a natural habitat and biodiversity area; to protect the open nature and landscape quality of the lands.

7.2.7. I consider that the salient elements of this policy comprise

- a blanket ban on development at the site
- preservation as a natural habitat for its biodiversity
- protection of the landscape quality.

7.2.8. Observers from the local community who have expressed an opinion largely oppose the application in principal. Their position is that there has been a long-standing objective in the area to retain the site as it is. That position is stated to have been supported by the planning authority in various actions.

7.2.9. I submit that in considering policy NH13 and the principle of the development, the Board should have particular regard to:

- The Wicklow County Development Plan 2016-2022
- The Local Area Plan
- The nature of the site
- The planning history
- The available alternatives.

7.2.10. Wicklow County Development Plan 2016-2022

7.2.11. The adopted development plan identifies a range of biodiversity and opens space objectives. These include:

- Minimise impact of new developments on biodiversity and require biodiversity measures in all large developments (NH1)
- Protect non-designated sites from inappropriate development, ensuring that ecological impact assessment is carried out and ensure appropriate avoidance and mitigation measures are incorporated (NH12)
- Support the protection and enhancement of biodiversity and ecological connectivity within the plan area including linear landscape features including streams, woodlands and other habitats where these form part of the ecological network / are ecological corridors that help to improve the coherence of the Natura 2000 network (NH12)
- Section 10.3.6 recognises the importance and benefits of Green Infrastructure in relation to recreation and health, biodiversity, sense of place and social inclusion
- Identify Green Infrastructure resources within and on the edge of the settlement boundary of local area plans (NH33).

7.2.12. In deciding on issues relating to green infrastructure on a local level the local area plan is identified in the WCDP as the means by which decisions would including the identification of sites and specific details. This proposed Eco-park is an amenity development of the type which would fall under consideration under the local plan mechanism.

7.2.13. There is no specific objective in the Wicklow County Development Plan relating to this site, which falls outside the boundary of the local area plan. It is not identified for the purpose of an Eco-park or any other function.

7.2.14. I acknowledge that the scheme as designed does preserve parts of the site including at the edges and the southern area. In this regard it complies with a range of elements of the relevant policies relating to protection of biodiversity. In overall terms however the proposal involves significant alterations to the site ecology, including removal of 80% of site vegetation, re-location of badger setts

and permanently elevating two streams. This would not in my opinion be compatible with the general approach in the plan.

7.2.15. My conclusion above is strengthened by the proposed management of the site as an Eco-park. The sketchy level of details provided indicate only that the new park would attempt to remedy / replace the biodiversity lost, albeit resulting in a development which is more accessible to the community and provides for some walking and educational infrastructure.

7.2.16. Greystones-Delgany and Kilcoole Local Area Plan 2013-2019

7.2.17. Planning policy for the general area is most precisely articulated in the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019, which provides for substantial development and associated open space provision. That plan concerns lands right up to the boundary of the subject site. It does not highlight the site in any way.

7.2.18. Thus there is no justification for the proposed development on the basis of providing for the recreational needs of the community or addressing ecological or biodiversity concerns through development of the Eco-park.

7.2.19. In summary I conclude that there is no basis in the prevailing policies to indicate that there is a need for the Eco-park development, or any intension to develop one.

7.2.20. I now turn to my findings from inspection of the site and further consider policy NH13 in that regard.

7.2.21. The Site

7.2.22. In terms of its amenity value the site is not presently usable by significant numbers of people. In fact, it is difficult to find an access to the lands. The most visible entry point appears to be by way of the local road at Farrankelly, where there is a hard surfaced area, which is to be developed as a mini depot for use by the local authority. However here, as at a number of other locations, overgrown conditions preclude entry. Gorse in particular is prevalent and is a barrier from many directions.

7.2.23. All passable routes to the site appear to be through private residential properties. I gained entry from a house at the western boundary. This involved walking down a very steep valley side. On entering the site, the valley floor bottoms out and one traverses a simple pathway through a wooded glen. Gorse, which is dominant at the edge of the site is not present in the main body of the site. The valley has a very natural ambience due to the topography and vegetation present. Trees are small, possibly stunted due to the shallow subsoil but vegetation is varied. A further characteristic of the site is that it is shielded from traffic noise, which is a feature of the lands in the vicinity.

7.2.24. Only after walking into and through the area did I gain an appreciation of the significance of this site and potential as a local amenity. The value of 'The Rocks' in my opinion which might warrant retention and development of the value as it lies in its natural condition in the context of the emerging pattern of development of this area. 'The Rocks' if retained largely in its present form could provide the local community with an amenity, which in the context of the emerging Greystones-Delgany-Kilcoole area would be capable of being highly valued in large part due to the topography combined with its unmanaged / natural condition. The infilling proposed would inherently undermine this quality and potential.

7.2.25. To open up this site as an amenity would require direct access from the public road and some upgrade to the pathways. This would not be without consequences for ecology and could give rise to concerns relating to safety and security. Whether such option would be advanced in years to come is not a matter for the Board to consider. The site at minimum has a value in terms of its existing condition and in furtherance of the biodiversity policies of the development plan and reflects the position articulated in the recently adopted development plan.

7.2.26. Planning History

7.2.27. Part of the application site has been previously subject to a planning application by a Mr Nolan, which was refused by the planning authority and dismissed on appeal following queries in relation to the nature of the material to be landfilled and whether it would be subject to EPA licence. The traffic

arrangements involved access onto the regional road and are therefore materially different to the current proposal. The site otherwise overlaps significantly. The decision references the damage to a local natural habitat and because the stream on site is within the Murrough catchment.

7.2.28. The above application dates to 1998. In the interim policy has changed considerably including through the adoption in 2002 of the first National Biodiversity Plan, the related planning policy context and the growing recognition of the importance of green spaces in sustaining ecology and for human health and well-being.

7.2.29. The local authority subsequently considered a proposal to infill the entire site under a Part 8 process, then in connection with a road scheme and apparently accompanied by a recycling depot. This was rejected by the elected representatives and the application withdrawn.

7.2.30. In discussion as part of the consideration by the elected representatives of the Part 8 proposal comments include

- Similarity to proposal at this site under reg. ref. 989635 which was refused
- reference to the widespread opposition to the proposal
- natural characteristics of site and its general unsuitability
- query relating to the wisdom of having purchased the site.

7.2.31. I conclude that the planning history would illustrate longstanding negative views of such proposals.

7.2.32. I now return to the matter before the Board, which in part entails consideration of objective NH13 and whether or not it is reasonable.

7.2.33. I consider when taken in context of:

- The absence of any evidence of a policy to provide an Eco-park at this site
- The identification of such decisions as being appropriate to consideration as part of the local area plan review
- The character of the site
- The suite of policies to support biodiversity
- The nature of the project

- The planning authority's decision on the 'Nolan' application and the withdrawal of the Part 8 application

the Board should be satisfied that policy NH13 has not emerged as purely in response to the current application. Policy NH13 in my opinion finds support in the local planning history context and is a reasonable and logical extension of the suite of county development plan policies.

7.2.34. I conclude that policy NH13 is reasonable and recommend that its provisions be supported in the context of this case.

7.2.35. *Alternatives*

7.2.36. In considering the principle of the development of this site as proposed, the Board may wish to take into account the various alternatives considered by the applicant and the options in the event that permission is refused.

7.2.37. In terms of the case presented by the applicant, the development is stated to comply with planning policy for the locality through the provision of recreational space and to meet the requirements of the River Dargle Flood Relief Scheme that surplus dredge spoil be disposed of to a licenced facility. The stated need for the development and the alternatives considered are outlined in section 5 of the EIS.

7.2.38. I note the applicant's submission that alternatives other than the subject proposal would not meet the requirement of providing for recreational facilities at this site in accordance with the LAP objectives. I have referred above to the location of this site outside the LAP boundaries. While I consider that it is appropriate that the Board consider the function of this site in terms of biodiversity and potential amenity value, it is also noteworthy that the site has not in fact been identified under the LAP for any such purpose and is outside the LAP boundaries.

7.2.39. The observers' submission is that the Eco-park disguises the primary objective of the scheme, which is to landfill the inert material. I consider that there is support for that claim in view of the wording of the EIS, which refers first to the development of the preferred development location and then goes on to address options in terms of end use, including playing fields and a community

Eco-park. The latter was the preferred option based on the existing ecology of the site. There are no identified alternative sites described for an Eco-park.

7.2.40. It is reasonable to conclude that the main purpose of the proposed development relates to the removal of material from the River Dargle Flood Scheme. The requirement to remove dredge spoil material was identified in the application submissions, which were presented as part of the consent process – YA0003.

7.2.41. The envisaged scenario was that 80,000 m³ would need to be taken from the site to a licenced facility, the remainder of the spoil material being re-used at a specified site in Bray. At 100,000m³ the amount which is now proposed to be recovered at the Kilquade site appears to be 25% over the predicted surplus from the scheme.

7.2.42. The EIS includes an appendix which refers to the nature of the material to be used in the restoration of the site. This indicates its suitability for different uses.

7.2.43. Regarding the options to deal with this spoil material the current application is made in lieu of options set out under the application for the River Dargle Flood Scheme, which identified two potential sites, Kilmurry South in Wicklow and a site at Ballymore Eustace.

7.2.44. I refer the Board to the information presented by the applicant in Table 5.1 of the EIS which identifies licensed waste sites in the general area and considers their suitability as an alternative. A large number of sites are ruled out on the basis of insufficient annual capacity, generally combined with the distance to the facility.

7.2.45. In general I do not consider that the applicant has presented a convincing case in relation to the limitations of alternative means of dealing with the surplus soil material. In particular I refer to:

- Absence of analysis of the option of using more than one existing facility
- Lack of consideration of alternative sites considered for development of a new licenced facility

- Other methods of soil recovery including recovery combined with processing or as part of a beach nourishing activity or infilling of quarries and pits in the area.

7.2.46. The soil recovery market analysis report by RPS has been published on the EMWR website in December 2016. This attempts to update and publicised information in relation to soils recovery availability for the country. There is reference to a lack of licenced capacity shortage for the Greater Dublin Area in particular and to cost considerations.

7.2.47. On the other hand there are within the locality a number of sites which may have capacity. The EIS indicates that the issue in some cases relates in part to the capacity versus other waste type demand and to cost.

7.2.48. The matter of capacity availability is addressed at a strategic level in the EIS (Volume 2, page 46) where there is reference to the Eastern and Midlands Region Waste Management Plan and where the available capacity of 2.1 million tonnes of authorised backfilling capacity is available. The capacity is acknowledged in the EIS but the presence of this capacity is deemed not relevant to the proposed development as to divert the material elsewhere would mean the Eco-park could not be developed. As there is no policy basis for the development of an Eco-park I find that this argument is very weak and should be rejected.

7.2.49. I conclude that the applicant has not demonstrated that there is not a means of distributing the dredge spoil material by way of different facilities and options. In my opinion any over-riding need to deal with this material does not justify the proposed development or the rejection of the adopted policy for the site.

7.2.50. Finally I refer to the implications of the Do-nothing scenario. A do-nothing scenario was also considered in the EIS. This scenario would result if the Board was to refuse permission.

7.2.51. The implications it is stated would include management of the dredge spoil at another licenced site, no utilisation of the site and non-provision of community benefit from the Eco-park and maintaining the existing environmental capital associated with the site.

7.2.52. In relation to the benefit in terms of community use, I consider that this is a legitimate and positive objective arising from the development. The proposed Eco-park would facilitate public access to a site which is presently difficult to access by reason of its overgrown nature. That situation could be altered through management.

7.2.53. In relation to the existing level of environmental capital on the site this would be unchanged under a Do-nothing scenario. The extent to which the development would impact on the ecology of the site is discussed below.

7.2.54. I conclude that the development is not acceptable in principle, materially contravenes the adopted development plan including policy related to biodiversity and NH13 and that the scheme is not justified either in terms of policy / requirement to provide an Eco-park or need to recover the dredge spoil.

7.3. Ecology

7.3.1. The habitat evaluation undertaken in accordance with the NRA guidance attributes a Local Importance (Higher Value) to over 80% of the site. The most widespread habitat is Scrub and secondly Riparian woodland (57.14% and 13.04%), followed by other habitats which may be broadly described as scrub / grasslands and which comprise over 14% of the site. The two streams and treelines are also evaluated as being of Local Importance (Higher Value).

7.3.2. Evaluation of fauna and avifauna identifies a range of other Key Ecological Receptors including Otter, Bats, Badger, Hedgehog, Irish Stoat, Pine Marten, Pygmy shrew, Atlantic Salmon, European Eel, Yellowhammer, Barn Owl, Kestrel, Goldcrest, Robin, Sparrowhawk, Linnet, Starling, Mistle thrush and Stonechat. The dominance of protected species in this list, which includes Annex II species is evident from the EIS.

7.3.3. The adequacy of baseline information is queried by observers who suggest that a number of birds including an owl nesting site were not identified and that the 400 years old holly trees are not referenced. Further queries are raised by an Taisce in relation to Pine Marten and Otter. The EPA has raised the issue of invasive species.

7.3.4. I consider that the main issues for the Board to determine are :

- whether the potential impacts relating to invasive species are addressed
- whether the surveys undertaken are acceptable in order to support the evaluation of the site as of Local (Higher Value) Importance
- whether there is adequate assessment of mitigation measures.

7.3.5. Invasive Species

7.3.6. The site of the proposed development does not presently contain species which might be described as invasive other than grey squirrel, which are in the area. I consider that there is no reason to infer that the development would impact on the grey squirrel population of the area.

7.3.7. The source of material which will be deposited at the site is the River Dargle. The information presented to the oral hearing under the relevant application was that

Currently serious problems exist along the river with the occurrence of alien species, some of which are classified as noxious weeds.

The main species are Japanese Knotweed, Giant Hogweed, Traveller's joy and Butterfly bush. Disturbed surfaces will be particularly vulnerable to invasion by such species following the completion of works. Measures will be put in place to minimise this through a programme of physical removal followed by careful herbicide application. (Dr Brian Madden – 11 February 2007).

7.3.8. The evidence of Dr John Brophy on the same day also referenced the issue and states that details of these impacts are described in section 5.3.2 of the EIS. The latter refers only to Japanese Knotweed. I have examined the entirety of the documentation on that file and did not find any more information on this matter. There are no conditions relevant to this matter in the decision of the Board.

7.3.9. I do not consider that the Board can be satisfied that the information presented under YA0003 was sufficient to ensure that all spoil leaving the site would be free of invasive plant species. That is not to say that thorough mitigation measures may have been put in place to eradicate the species prior

to the scheme. However, I also note that Dr Madden (referenced above) referred to the need for a number of years of treatment and there is no evidence as to what has occurred at the Scheme. For completeness (and for the purposes of Appropriate Assessment) I consider that this gap in information is of concern.

7.3.10. In terms of the information provided with the current application the matter is dealt with primarily in section 11.6.1 of the EIS. This provides a critical piece of information, which is that an Invasive Species Management Plan has been put in place as part of the dredge works within the River Dargle. It goes on to state that the control at source is important and efficient but also that care shall be taken to ensure that the plan shall also be adhered to at the Pretty Bush site.

7.3.11. In this regard the proposals set out in the EIS include ecological walkover surveys at intervals over the construction phase of the project and notification and management measures in the event that a species is recorded. General measures are set out for Japanese Knotweed and Giant Hogweed. I refer also to the Waste Acceptance Plan, which is another source of information in the EIS on this matter. That identifies the occurrence of Japanese Knotweed and Giant Hogweed at the River Dargle but does not add much to the mitigation measures.

7.3.12. While I note that the local authority has referenced a management plan to address control of the invasive species at source at the River Dargle, a matter which I consider is reasonably feasible, there is no documentation provided in this regard. I consider that the Board cannot be satisfied that the proposed development would not give rise to spread of Japanese Knotweed and Giant Hogweed.

7.3.13. In relation to the potential impact of invasive species Giant Hogweed is understood to be harmful to young wildfowl. The species has a wide tolerance in terms of habitats into which it can be introduced and the seeds which can be viable for up to 15 years often spread considerable distance by rivers and streams.

- 7.3.14. In the event that the Board consents to this scheme, this matter requires prior consideration in my opinion including by way of supplementary information. It might also be appropriate to consider whether it is necessary to prohibit importation of material from locations other than the River Dargle.
- 7.3.15. Adequacy of Surveys
- 7.3.16. The basis for the identification of the habitats and ecological receptors includes site surveys and consultations. The surveys were limited to dates between September 2015 and November 2015. A range of consultations were carried out in addition.
- 7.3.17. There are a number of guidance documents regarding the undertaking of ecological surveys for the purpose of EIA. I refer in particular to the NRA publications on Ecological Surveys, both of which are referenced in the Flora and Fauna Chapter of the EIS. I agree with the observers that the timing of the ecological surveys in September and October was less than optimal. There is no comment provided by the applicant in this regard or any indication of difficulty in obtaining information.
- 7.3.18. I consider that the EIS as presented does not clearly justify the evaluation of the site as Local Importance (Higher Value), in the absence of more detailed baseline surveys. However, I am also of the opinion none of the matters raised by the third parties give any indication that the site warrants a higher evaluation. In particular I note that there is no evidence that the site has resident or regularly occurring species of importance at least on a county-wide level or contain Annex I habitats. This conclusion has to be considered however in the context of my conclusions in relation to the less than optimal timing of surveys undertaken.
- 7.3.19. I also note that the main concerns raised by prescribed bodies relate to mammals and that these are considered some detail in the application submissions and / or are reasonably capable of mitigation and if necessary could be addressed by condition. I return later to the matter of Appropriate Assessment.

7.3.20. I therefore conclude in this particular case that the baseline information presented is sufficient for the Board to consider the merits of the case and the ecological effects on the environment.

7.3.21. Mitigation measures

7.3.22. The main mitigation measures include seasonal restriction on vegetation clearance and adherence to conditions of the badger derogation license. These measures are stated to reduce the potential risk to breeding birds and badgers within the site.

7.3.23. Mitigation measures in relation to Ecology to be implemented as part of development of the Eco-park include:

- Selection of native plant species and to match current species mix
- Installation of barn owl boxes and bat boxes
- Retain mature trees to the south of the site area
- Provision of pathways and planting of large stands of gorse scrub.

7.3.24. These measures are stated to increase biodiversity value of the site and offer potential nesting habitat for barn owl and roosting features for bats. Planting of gorse shall restrict movement of people and ensure sections of the Eco-park remain undisturbed for wildlife.

7.3.25. In terms of the likely success of these measures it is noted that these measures will be implemented by the client through the mechanism of its contract with the contractor.

7.3.26. In relation to monitoring to prevent mitigation failure the proposal is to involve appointment of a suitably qualified person to ensure the effective management and maintenance of mitigation measures during the construction process.

7.3.27. In terms of mitigation measures the matter of the 5 no. badger setts on site is in my opinion comprehensively addressed. The derogation licence requirements include that artificial setts be put in place at sufficient time prior to vegetation clearance. The layout of the development also provides for preservation of the southern end of the site as a habitat. There is more scrubland in the vicinity in addition. I am satisfied that the measures presented will ensure that the badgers on site are adequately protected.

- 7.3.28. In the absence of precise information relating to all species which might be encountered on the site there might be some doubt over the basis for mitigation measures. However I submit that a number of the measures presented would have widespread applicability regardless of the particular species present. I refer for example to measures relating to the timing of the vegetation clearance and measures to limit impacts to birds.
- 7.3.29. In relation to Pine Marten I would recommend specific further surveys prior to any site clearance works and mitigation in consultation with NPWS. In relation to Otter I note the comments in relation to the lack of suitable locations for holts and that there is no evidence of use of the streams within the site. Use of the main channel of the Kilcoole Stream including as far as the N11 has been noted.
- 7.3.30. The appointment of an on-site ecological consultant is welcome and should be subject of a specific condition in the event that permission is granted.
- 7.3.31. It is appropriate and necessary that further follow-on surveys be undertaken prior to works and these are provided for in relation for example to badger setts and bat roosts and so on. This matter is not critical to the assessment of the Board under EIA / AA .
- 7.3.32. The importance of control of invasive species which might be introduced to the site has been addressed above and in my opinion is not resolved.
- 7.3.33. I conclude that the applicant's submission on flora and fauna are generally adequate for the purposes of EIA. The development will not adversely affect badgers in the long-term but there will be short-term impacts on all birds and mammals which are known to be present. Mitigation measures may be put in place under guidance of the site ecologist in the event of discovery of Pine Marten or bat roosts with any requirement for derogation licences being a matter for a separation consent process. The loss of habitat is not reversible and I agree with the observers that it will take a considerable period for restoration of the site ecology to the current levels. I consider that the result of the development is unclear in the long-term in the context of limited proposals for management of the site vegetation in particular.

7.4. Traffic and Road Safety

7.4.1. Both the level of traffic and the adequacy of the entrance sightlines are raised as a matter of concern in the observations. The entrance is close to the junction of a local road which provides access to the school at the regional road. In this context and having regard to the potential construction period of 12-24 months and the levels of HGV traffic, which would be generated the development has the potential to give rise to significant local disruption. In this regard I note also the inadequate nature of the road to the west of the site and the observers' comments relating to congestion.

7.4.2. The haulage route for the most part traverses the N11. The entry to the site from the N11 is largely along a new distributor road, which appears to be well designed and with adequate capacity. Only very short sections of regional and local roads are less than optimal in terms of standards. The potential for adverse impacts is limited to the immediate locality of the site, where there is a residential population.

7.4.3. The traffic generated from the development is estimated at 7 loads / hour for the dredge haulage period. That phase of the development constitutes about 87% of all estimated trips and the over 90% of all HGV trips. As demonstrated in the EIS the additional traffic for this duration will be under 1% along the national and regional routes. The traffic at the local road will increase by 4.5% from a daily average of 2,327 to 2,433.

7.4.4. I consider that the selected entrance point appears to be the optimum location. However, the entrance is not without constraints notably

- visibility to the left limited to 60m due to vertical alignment and hedgerows
- forward visibility from the west approaching the main entrance is 70m
- A ghost island presently crosses the entrance.

7.4.5. For the construction period the applicant proposes to amend the road markings including the ghost island and to put in place a Traffic Management Plan. An outline traffic management plan is included as an Appendix. The final plan will detail matters including:

- The appointment of a traffic management coordinator
- Entrance and road layout arrangements and
- Measures to mitigate the sightline deficiencies including temporary road signs, provision of a banksman and inductions for drivers.

7.4.6. I consider that the proposed mitigation measures would adequately address the construction phase congestion and safety issues with the exception of one issue, which concerns the movement of pedestrians between the residential areas and the school. It is proposed that a dedicated pedestrian point be put in place for the post-construction period. I consider that in the event that consent is given in this application the Board may wish to consider measures relating to the safe passage of pedestrians for the school trips. This might include a restriction on egressing vehicles for a specified period on school days.

7.4.7. There is no significant post-construction traffic as the Eco-park will be used mainly by local people primarily arriving on foot.

7.4.8. The mini depot is quantified as giving rise to no more than 2 LGVs per day. The potential for unsafe pedestrian access crossing the local road to the site is identified and will be addressed by a defined crossing point.

7.4.9. The Board may wish to consider the implications of the mini depot in the long-term. Notwithstanding the stated low level of trips which are likely to result I would question whether this use is compatible with the Eco-park which would attract pedestrians to cross the road at a point where the sightlines for vehicles travelling from the west and for right turning vehicles egressing the site are substantially below the DMRB standards. For this reason together with the potential for noise from the mini depot, the use of which is not clearly specified, I consider that the mini depot use is not compatible with the Eco-park and with the protection of the residential amenities of the area. Based on the limited available information I consider it prudent to omit this element of the development by condition.

7.4.10. In relation to the cumulative assessment I note that there is potential for development at the opposite side of the road. In the event that more than

one development was constructed at the same time I consider that it would be feasible to co-ordinate traffic management for the developments.

7.4.11. A pedestrian crossing is proposed. I also note the mitigation measure suggested in the EIS in relation to the desirability of reducing the speed limit. That would require agreement of the elected representatives and would be best resolved prior to the making of any decision in this case.

7.4.12. I do not consider that the traffic and related construction phase impacts or the operational phase traffic warrant a refusal of permission provided the matters herein are addressed prior to any forthcoming consent.

7.5. Residential Amenity

7.5.1. The main concerns identified by the observers relate to air and noise and the use of the site. The concept of amenity as described in the EIS includes elements that in combination create the attractive aspect of a location in question and include visual appearance / landscape, recreational options and open space, traffic and noise levels, air quality. I refer to all of these factors below.

7.5.2. Regarding the visual and landscape impacts of the development the site topography results in a very small visual envelope, limited to the immediate roads and residential property adjoining the site. From inspection of some rear gardens in the immediate area I noted that there are views to gorse on site. The proposal includes maintenance of a buffer at the edge of the site thus even short-term construction phase impacts will not generally affect views from residential property in the vicinity.

7.5.3. The assessment undertaken in Chapter 14 of the EIS is that there will be no significant residual impacts after mitigation and no visual intrusion or obstruction of existing view. I agree with the latter point. The drawing on page 249 of the EIS which is a section across the site shows that the central flat area will not be infilled and that views across the site will be retained.

7.5.4. The applicant's submissions do not generally address the matter of the landscape value of the site, to which the local community ascribe importance. Apart from its ecological value observers also attribute the landscape as having

a socio-cultural and mythological value. While the site does not have an aesthetic value on a regional level I consider that it does command a local level aesthetic value which is not referenced in the EIS. In relation to residential amenity the mitigation measures ensure no significant change arises. However, there is in my opinion a loss of a valued local landscape resource.

7.5.5. The proposed development ultimately in the medium term will result in creation of a recreational asset for the local community. I agree with the observers that this will take some time to mature. I also consider that there are issues in relation to the management of the site and find that there is no evidence in the submissions that the area will be managed to ensure that gorse does not take over thus impeding public access. This could be addressed by condition in the event of a grant of permission.

7.5.6. In conclusion in relation to the **visual and landscape and recreational** issues I consider that the development is detrimental to the potential amenity value of the site. Due to the limited access arrangements at present there is no significant loss of a resource to the local community. It is the loss of a potential / future based on the existing natural habitat that is the main issue. While there is potential for positive community benefit from the Eco-park, that also could arise from the provision of suitable access and paths through the existing site. I do not consider that the proposed Eco-park is an adequate replacement facility for the existing natural condition of the site. It would have benefits in terms of providing a flat area more suitable for walking, but the site's unique character would be obliterated.

7.5.7. In relation to residential amenity I have addressed **traffic** in the previous section. I conclude that the short-term impacts arising from the development require careful management. I consider that any traffic implications from a future Eco-park and the depot might be deemed to constitute incompatible uses and recommended that the depot be omitted.

7.5.8. I am not convinced that the use of the site as a **maintenance depot**, which is proposed as part of the development, is compatible either with the proposed Eco-park use or with the residential amenities of the area. From inspection I noted that raising of ground level at the north-east corner of the site has taken

place and it is not clear when this development occurred, what it entailed or whether consents or screening for Appropriate Assessment was required or undertaken.

7.5.9. In the event that the Board is minded to grant permission the matters below might be considered as amendments to the scheme either following a request for revised drawings or by condition:

- Provision of suitable boundary between any depot and nearby houses to the west and at the local road
- Restriction on use of the depot for occasional storage of stone and gravel in conjunction with occasional works by the local authority in the Greystones / Kilcoole area
- Clear separation and definition of access to the Eco-park and vehicular entrance to the depot
- Restriction on hours of use of the depot and on facilities and infrastructure, or omission entirely
- Traffic / road measures including a traffic calming which is likely to require approval by the elected representatives.

7.5.10. **Noise** impacts will be restricted primarily to the construction period and to any noise from to the mini-depot. The latter can be addressed as outlined above. The construction phase noise is a more significant issue.

7.5.11. The construction phase noise is acknowledged in the EIS as resulting in levels in excess of 55dB L_{aeq} at one residence in the vegetation clearance phase and at three of four noise sensitive receptors in the spoil placement phase.

7.5.12. A range of possible mitigation measures are presented in the EIS. These include management practices on site including in relation to vehicle speed and maintenance, appointment of a point of contact for the local community and installation of moveable acoustic fencing. The predicted levels will be reduced by approximately 15dB resulting in acceptable noise levels. On-site monitoring is proposed in order to establish the location of placement of screens and confirm compliance with construction and licensed limits.

7.5.13. Noise will be controlled by any forthcoming licence. The Board may not address this issue by condition. However, the Board may refuse permission for this reason if it so decides.

7.5.14. Having regard to the comments of the HSE and to the mitigation measures presented and the forthcoming licence process, I conclude that a refusal of permission or significant modification to the proposed development on the basis of noise impacts is not warranted as it is reasonable to conclude that noise levels arising can be adequately controlled.

7.5.15. **Air emissions** are likewise deemed by the HSE to be capable of remedy and will be subject to control under licence.

7.5.16. I conclude in relation to residential amenity issues that a refusal of permission would not be warranted and that the development is generally acceptable.

7.6. Environmental Impact Assessment

7.6.1. The applicant indicates that while an EIS for this development is required under the relevant class of the Planning and Development Regulations 2001 as amended. Part 2 (11)(b) which refers to *Installations for the disposal of waste with an annual intake greater than 25,000 tonnes*. EU case law demonstrates that the reference to 'disposal' refers also to recovery facilities.

7.6.2. As outlined below I consider that information provided in the EIS is generally sufficient to enable an assessment of the likely significant effects on the environment arising from the proposed development and that the requirements of the EIA Directive and Articles 94 & 111 of the P&D Regulations 2001 Planning and Development Regulations 2001, as amended are met.

7.6.3. A non-technical summary is provided. The main report in Volume 2 of the EIS is informed by a number of standalone reports, which are contained as Volume 3. These include a Waste Acceptance Plan, Outline Construction and Environmental Management Plan and details of surveys and consultations.

7.6.4. The issues arising can be addressed under the following headings:

Proposed development and alternatives

Human Beings
Air & Climate
Noise
Traffic
Flora and Fauna
Water
Soils & Geology
Cultural Heritage
Landscape and Visual Impact
Material Assets
Interaction of the foregoing.

7.6.5. In considering the foregoing the Board should have regard to previous comments set out in other sections of this report.

7.6.6. Proposed Development and alternatives

7.6.7. Regarding the soils recovery aspect of the proposed development, alternatives are restricted to consideration of the availability of capacity for landfilling of inert material at a licenced site within reasonable distance of the site.

7.6.8. The basis for this assessment is that the options are limited due to the requirement of planning permission granted to that scheme. The requirements of waste management legislation are also noted.

7.6.9. Chapter 5 addresses also the alternative development options for the selected site, namely development of playing fields or development of an Eco-park. Following consultations the latter was deemed to be appropriate on the basis of sensitivity to existing ecology.

7.6.10. The Do-nothing scenario is also considered. This would include non-provision of an associated community benefit and maintaining the existing level of environmental capital.

- 7.6.11. The threshold for considering alternatives under EIA is not particularly high and is limited to the main alternatives considered. I consider that in terms of the legislative requirements arising these requirements have been fulfilled.
- 7.6.12. I do not consider that all alternatives are adequately described in the EIS and I do not agree with the conclusions presented.
- 7.6.13. *Human Beings*
- 7.6.14. The likely significant effects of the proposed development on human beings are addressed under several of the headings of this environmental impact assessment. Of particular relevance are matters relating to socio-economic impacts in the long-term and noise and air for the duration of the construction period.
- 7.6.15. Short-term negative effects on local residents in the vicinity of the site are anticipated but are at levels which are capable of mitigation and include impacts from dust and noise. Houses to the east and west will overlook the site and experience short-term visual disturbance but houses to the north will have no views into the site.
- 7.6.16. The long term impact would involve a positive effect through the delivery of a more accessible space for local residents but at a loss of a more unique and ecologically diverse space, which is of interest for its natural character and topography.
- 7.6.17. I conclude that the impact is minor due to the small number of people affected but the impact is negative.
- 7.6.18. *Air and Climate*
- 7.6.19. The baseline environmental conditions identified are based on a combination of continuous monitoring for 30 days at two locations and on data for the 'C' zone in which the site is located.
- 7.6.20. I agree with the conclusion that the impacts on climate change will be minimal due to the inert nature of the material to be placed. Traffic emissions are a likely short-term impact.
- 7.6.21. In relation to air quality impacts sources during the construction phase these include site clearance works, delivery and stockpiling of spoil, placement

of materials and vehicle movements. These were assessed in detail in view of the residential receptors within 350m of the proposed development and within 500m of the site entrance.

7.6.22. The assessment is that the magnitude of the potential dust emission is considered to be large. The overall sensitivity of the area to dust soiling effects is considered low based on the number of receptors and the Zone C PM₁₀ levels and distance to Natura sites. The risk of dust impacts is concluded therefore to be low. I consider that this conclusion follows the accepted methodology and is a valid conclusion. A similar assessment for vehicle emissions concludes that the development will give rise to a slight increase in some pollutants but that air pollution guidelines are comfortably met.

7.6.23. The mitigation measures presented in section 8.5.2 of the EIS are relevant to the control of dust and the protection of air quality for residents and minimisation of dust spoiling. These measures presented are a supplement to any controls which might be imposed under the EPA licence.

7.6.24. I conclude that the assessment of climate and air quality impacts is adequate and that the applicant has reasonably demonstrated that the proposed development will not result in significant adverse impacts on receptors.

7.6.25. *Noise*

7.6.26. I consider that the EIS presents an adequate assessment of the baseline acoustic environment. Monitoring and prediction for the vegetation clearance and spoil placement periods assesses the impact at 4 no. noise sensitive receptors. Normal EPA limits which are likely to apply under the terms of any licence would be breached. However a range of mitigation measures are described and are considered capable of remedying of any breaches of standards.

7.6.27. I consider that it is reasonably demonstrated that noise will not significantly impact on adjoining property during the construction phase following mitigation. Post construction there will be no significant noise generating activities at the site.

7.6.28. *Traffic*

7.6.29. I agree with the submission in the EIS that the assessment of impacts from the haulage of spoil from the scheme at Bray has previously been assessed and approved under YA0003. The assessment of impacts of the removal of spoil from junction 6 of the N11 is sufficient to ensure that there is no gap in the assessment between the two cases.

7.6.30. The development would give rise to about 7 HGVs per hour entering the site for a duration 8 months as well as other traffic in the (longer) clearance and landscaping stages.

7.6.31. The EIS has demonstrated the high quality nature of the road environment serving the site. The identified haulage route generally has adequate capacity to cater for the development.

7.6.32. Local deficiencies at the entrance and in terms of capacity of the local road and nearby junction with the R761 are acknowledged. The EIS identifies that without mitigation there is potential for delay and disruption including at the entrance and that pedestrians could be affected as well as motorists. There is potential also for unsafe right hand turning movements from the site.

7.6.33. I consider that the mitigation measures outlined are not sufficient to address some of these impacts. Further submissions are required.

7.6.34. *Flora and Fauna*

7.6.35. Baseline surveys were not undertaken at the optimum time of the year. Nevertheless I accept the evaluation of the site as being of Local Importance (Higher Value).

7.6.36. Ecological impacts include short-term disruption to species on site and the permanent alteration of a large area of land, which is in a natural condition and is set in an area undergoing considerable change including through urban development.

7.6.37. Mitigation related to protection of aquatic environment, birds, bats and badgers together with maintenance of trees, treelines and the provision of the valley park will ensure that significant negative impacts are minimised but not eliminated. The residual impacts will generally be negative in my opinion but

affect an ecological resource which is of relatively low value in a national context.

7.6.38. In the absence of detailed proposals for management of the site and restoration of the stream corridors at an elevated position the long-term condition of the site is unclear in my opinion.

7.6.39. Removal of vegetation off-site constitutes a secondary effect.

7.6.40. Control of invasive species is not adequately demonstrated and has the potential for serious adverse consequences for the area including the downstream European Sites.

7.6.41. *Water*

7.6.42. The development will significantly affect through permanent modification the two ephemeral streams in the site which contain good quality water and which connect to the downstream European Sites.

7.6.43. I consider that the evaluation in the EIS of a negligible to minor effect on surface water prior to mitigation perhaps under-estimates the potential effects. I agree with the assessment that the potential increases in risk of flooding is negligible and can be reasonably discounted by the Board.

7.6.44. However, I do agree with the assessment in the EIS that the mitigation measures are well tested and can be relied on in the context of the proposed development and the environmental receptors.

7.6.45. I am satisfied that the development will not cause deterioration in the status of a body of surface water or attainment of good status and potential and in keeping with the Water Framework Directive and is acceptable in terms of Environmental Impact Assessment.

7.6.46. *Soils and Geology*

7.6.47. I consider that the baseline environment has been adequately assessed. The borehole investigations indicate that the site subsoil thickness is less than 3m and thus classified as of Extreme Vulnerability. There are 4 wells within 1km and the groundwater flow direction is to the south-east. Groundwater

flow is relatively quick. In general the site geology and hydrogeology is of Low importance as the site is underlain by a Poor bedrock aquifer which is generally unproductive. The sampling of the dredge material substantiates the inert nature of the material.

7.6.48. In terms of the potential impacts on Soils, Geology and Hydrogeology the EIS notably identifies the potential for increased groundwater vulnerability in the early stages of construction and from the importation of contaminants if not properly regulated. Potential for groundwater drawdown is also identified. I do not consider that the significant of these impacts are likely to be medium or large impacts.

7.6.49. Regarding geological heritage GSI has confirmed that there is no site of geological heritage interest within the site or likely to be affected by the development.

7.6.50. I note the mitigation measures presented in the documentation and accept the conclusion in the EIS that appropriate, standard practices during the construction phase will ensure against the potential for pollution of soil and protection of groundwater.

7.6.51. I accept the conclusion presented that the main residual impacts on soils and geology will be imperceptible.

7.6.52. Cultural Heritage

7.6.53. I consider that the selected 1km boundary for the purposes of identification of cultural heritage remains is acceptable and that the methodology and findings can be relied upon. The nearest recorded monuments at distance of over 220m from the site will not be significantly impacted directly or in terms of their setting. None of the monuments within 1km of the site are National Monuments and there are no areas of Archaeological Potential and Significance in that zone. There are six protected structures and three NIAH structures and five NIAH gardens within the 1km study area.

7.6.54. The development will give rise to short-term impact on the cultural heritage resources in this area including by way of noise and visual impacts.

Traffic along the haul route is not a material consideration. However impacts are of short duration. Based on the submissions in the EIS and my inspection I agree with the submission in the EIS that residual impacts will be imperceptible.

7.6.55. The likelihood of discovery of archaeological sites which were heretofore unknown remains. However, these are likely to be capable of mitigation. The proposal is to retain such features in situ or to undertake full excavation. Monitoring under licence will be carried out.

7.6.56. I consider that there is no likelihood of significant residual impacts.

7.6.57. Landscape and Visual Impact

7.6.58. This is not a significant issue in this case as the site is not within an area of significant cultural heritage interest or designated for its landscape resource value. As such the landscape and visual amenity effects would be limited to short-term construction phase disruption which would concern a few houses which have views over the site. After mitigation the development would have a neutral impact as the site would return to a similar character in visual terms. The site context is not deemed to be of particular sensitivity and the nature of the development proposed can be reasonably assimilated.

7.6.59. Material Assets

7.6.60. I have addressed traffic above. The other consequence of the proposed development concerns the realisation of the potential of this site as an asset for use by the local authority in the short-term as a soils recovery facility and in the long-term by the local community as a local amenity.

7.6.61. Interaction of the Foregoing

7.6.62. The main interactive impacts arising from the proposed development are adequately addressed in the EIS. The main interactions arise between Human Beings and Air, Noise and Traffic and between Ecology and Material Assets.

7.6.63. Conclusion

7.6.64. I consider that the development is generally acceptable in terms of the likely residual effects on the environment.

8.0 Appropriate Assessment

8.1. Appropriate Assessment Screening (Stage 1)

8.1.1. The application is accompanied by a Natura Impact Statement (NIS). I have considered that document together with the totality of the applicant's submissions in the preparation of the foregoing.

8.1.2. The proposed development site lies within 10 km of 9 no. European sites, namely:

- The Murrough Wetlands SAC (site code 002249)
- Glen of the Downs SAC (site code 000719)
- The Murrough SPA (site code 004186)
- Bray Head SAC (site code 000714)
- Carriggower Bog SAC (site code 000716)
- Wicklow Mountains SPA (site code 004040)
- Wicklow Mountains SAC (site code 002122)
- Ballyman Glen SAC (site code 000713)
- Knocksink Woods SAC (site code 000725)

8.1.3. I consider that the identification of a 10km radius is acceptable and that the Natura Sites which may be directly or indirectly affected are as described above.

8.1.4. The Board may wish to consider whether it would have been appropriate to consider a 15km boundary for the purposes of this assessment. That radius would encompass two additional European Sites, both in the marine environment namely Rockabill to Dalkey Island SAC and Wicklow Reef SAC.

8.1.5. In view of the distance and dilution I do not consider that there is any reasonable likelihood of potential significant effects on the following:

- Rockabill to Dalkey Island SAC (site code 003000)
- Wicklow Reef SAC (site code 002274).

8.1.6. In terms of the potential for impacts I refer to the nature of the development.

This involves primarily (i) site vegetation clearance (ii) transportation of spoil dredge to the site along the N11, regional and local road network and placement on site and (iii) development of an Eco-park involving landscaping works.

8.1.7. I consider that there is no potential for direct effects on European Sites. The foregoing concerns therefore the indirect effects. The requirement is to identify effects which are both likely and significant.

8.1.8. The two streams within the site flow into the Kilcoole Stream which flows in a south-easterly direction draining into Kilcoole Marsh, which is within the SAC and immediately adjacent the SPA. Thus there are downstream hydrological links between the proposed development site and the Murrough SPA and the Murrough Wetlands SAC. The direct distances to the SAC is 1.96km and to the SPA is 2.65km.

8.1.9. I agree with the applicant's assessment that the following constitute potential effects which would be likely and significant:

- Potential for pollutants or dredge material to enter the two unnamed streams located within the site and to flow into the downstream European Sites and
- Potential disturbance or displacement of birds at downstream European Sites due to an impact on habitat or prey items as a result of transport of sediment and / or pollutants.

8.1.10. The two streams within the site flow into Kilcoole Stream which flows in a south-easterly direction draining into Kilcoole Marsh. The applicant's NIS concerns the potential effects identified above. I submit that it is also appropriate that the following potential impacts be considered as part of the Stage 1 process:

- Potential spillage of material during transportation
- Potential groundwater impacts
- Potential spread of invasive species from the River Dargle site.

8.1.11. I consider that there is no reasonable likelihood that the development would have a significant effect on European Sites by reason of potential spillage

during transportation of dredge spoil and other material. In my opinion there is an extremely low risk of such occurrence such that it can be reasonably discounted.

8.1.12. In relation to the groundwater acting as a pathway to European Sites, resulting in the transportation of pollutants including sediments or facilitating the transportation of invasive species I do not consider that this would be likely to occur. This matter is considered in the application submissions including in the Environmental Risk Assessment Report (Appendix 18) which acknowledges a potential pathway if contaminated substances entered groundwater and then the surface water network. In view of the nature of the material and the controls which will be put in place I consider that there is no reasonable likelihood of contaminants being in contact with the groundwater and I note the inclusion as part of the mitigation measures of on-site monitoring of wells.

8.1.13. In relation to whether the site geology is 'X' or 'E' this matter is reasonably addressed in section 3.2.5 and I accept the categorisation of Extreme for the majority of the site.

8.1.14. Having regard to the nature of the soils and geology as outlined above, there is no reasonable likelihood of transportation of substances from the site to European Sites and nothing to suggest any possible connectivity.

8.1.15. Regarding the dredge spoil material the invasive species identified at the River Dargle site in Bray are Giant Hogweed and Japanese Knotweed. The likelihood of impacts is reduced by the mitigation measures incorporated in the River Dargle Flood Relief Scheme, which are stated to include an Invasive Species Management Plan. However, in my opinion this remains a substantial risk area arising from the proposed development due to the volume of material to be handled, the persistent nature of these species, the potential for spread and the potential consequences thereof.

8.1.16. I consider for the purposes of Stage 2 of this Appropriate Assessment that the potential likely and significant effects of the proposed development should include:

- Potential spread of invasive species Giant Hogweed and Japanese Knotweed from the River Dargle site.

8.1.17. In terms of the European Sites which might be affected I consider that there are no pathways to the following:

- Glen of the Downs SAC (site code 00719)
- Bray Head SAC (site code 000714)
- Carriggower Bog SAC (site code 000716)
- Wicklow Mountains SPA (site code 004040)
- Wicklow Mountains SAC (site code 002122)
- Ballyman Glen SAC (site code 000713)
- Knocksink Woods SAC (site code 000725)

8.1.18. I conclude in relation to the Screening Stage that in the absence of mitigation the development may have a significant effect on the following European Sites having regard to their Conservation Objectives:

- The Murrough Wetlands SAC (site code 002249)
- The Murrough SPA (site code 004186)

8.1.19. I conclude that a Stage 2 Assessment is required for these two Sites.

8.2. Stage 2 Appropriate Assessment

8.2.1. The **Conservation Objectives and Qualifying Interests** for the relevant European Sites are set out in section 4.2 of the NIS.

8.2.2. The Murrough Wetlands SAC

8.2.3. The Conservation Objectives are to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/ or Annex II species for which the SAC has been selected.

8.2.4. The Murrough SAC is a coastal wetland complex 15km in length and up to 1km inland. It is 1.96km downstream of the site of the proposed development. The site is of importance as it is the largest coastal wetland complex on the east coast and contains a wide range of coastal and freshwater habitats including six listed on Annex I as well as containing threatened plants and areas of rich invertebrate fauna. It is an important site for wintering and breeding birds and over lands with the designated SPA.

8.2.5. The qualifying interests are:

- Annual vegetation of drift lines [1210]
- Perennial vegetation of stony banks [1220]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* [7210]*
- Alkaline fens [7230].

8.2.6. The Murrough SPA

8.2.7. The Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

- Red-throated Diver (*Gavia stellata*) [A001]
- Greylag Goose (*Anser anser*) [A043]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Herring Gull (*Larus argentatus*) [A184]
- Little Tern (*Sterna albifrons*) [A195].

8.2.8. The second objective is to maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

8.2.9. This is a coastal wetland complex that stretches for 13km from a location east of Kilcoole village southwards and in places up to 1km in width. As described above the site is hydrologically connected to the site of the proposed development, which is a direct distance of 2.65km away.

8.2.10. It includes an area of marine water. The Site is of international importance for Brent Goose and nationally important for Red-throated Diver, Greylag Goose, Widgeon, Teal, Black-headed Gull and Herring Gull. The Site is probably the most important site in the country for nesting Little Tern. The site synopsis also notes regular occurrence of other birds including Short-eared Owl and Kingfisher and others. The site is of considerable importance for the wide range of coastal and freshwater habitats it supports.

8.2.11. **Potentially Significant Impacts**

8.2.12. The potential impacts on key species and habitats and on the integrity of the European Sites are considered in Sections 4.3 and 4.4 of the NIS. There are no direct effects given that the proposed development is not located within any of the designated European sites. The potential effects arising from the site clearance and dredge spoil placement and landscaping phases largely arise from the possible release of suspended solids and/or silt laden run-off into the two streams on site, with the potential for significant indirect impacts downstream of the development by way of the Kilcoole stream which reaches the coast at the northern end of the designated area and after passing through Kilcoole village, an area of relatively high development pressure.

8.2.13. Potentially significant impacts on the habitats for which The Murrough Wetlands SAC is designated are described in section 4.3.1.1. This comprises a description of the relevant habitats and an assessment of the overall Conservation Status in Ireland.

8.2.14. A similar exercise is carried out in section 4.3.2.1 of the NIS in relation to The Murrough SPA. All of the qualifying features are potentially downstream or potentially use Kilcoole Marshes - Little Tern is known to breed on the shingle shoreline downstream of the development. Red-throated Diver is included based on the precautionary principle but is known to mainly use the coastline rather than Kilcoole Marshes.

8.2.15. The basis for the evaluation of the SPA is the most recent 10 seasons of counts at the North Wicklow Marshes and similar surveys the results of which are described in the NIS for each species. I consider that use of this data is acceptable in view of the longevity of the data. The basis for the assessment effectively assumes that all birds species which are relevant in terms of the Conservation Objectives are present at the location where the Kilcoole Stream meets the Natura sites and that they may be impacted.

8.2.16. Regarding consideration of the magnitude / extent and probability / duration of impacts on identified ecological features the NIS focuses on the following Indicators:

- Loss of habitat

- Disturbance / displacement of species
- Water quality
- Operational phase impacts.

8.2.17. I accept the applicant's methodology and consider that the selected indicators provide a basis for assessment of the significance of the impacts.

8.2.18. The Murrrough Wetlands SAC could experience habitat alteration as a result of sedimentation (dredge material) or hydrocarbons or other pollutants. There are potential impacts due to invasive species in this regard, which is not addressed in the NIS.

8.2.19. Disturbance or displacement of bird species. The NIS notes the potential for disturbance of bird species and their foraging habitat within the SPA due to ingress of sediment or pollutants. Again, I consider that there is potential for impacts to be arise due to invasive species.

8.2.20. The loss of habitat within the site is not considered to be significant. Levels of disturbance due to distance to the SPA are not considered to be significant. I accept these statements.

8.2.21. In relation to the potential impact of invasive species Giant Hogweed is understood to be harmful to young wildfowl. The species has a wide tolerance in terms of habitats into which it can be introduced and the seeds which can be viable for up to 15 years often spread considerable distance by rivers and streams.

8.2.22. Regarding water quality the risk of sediment and pollutants entering the stream during construction requires assessment and could result in significant negative impact on the SAC and SPA as a result of

- Pollution of watercourses with suspended solids due to run-off from excavations and infilling during construction
- Pollution of watercourses with nutrients adsorbed to eroded suspended soils released during excavation or demolition
- Pollution of watercourses with oils or fuels due to run-off from machinery or refueling.

8.2.23. In the operational phase the NIS states that a significant impact to the Murrough Wetlands SAC and the Murrough Wetlands SPA is not envisaged. I am not satisfied with the information presented in the NIS in this regard. I consider that an assessment is required of the potential for invasive species taking hold along the stream and resulting in increased sedimentation due to vegetation die-back in winter.

8.2.24. This matter is further addressed in the Ecology section of this report.

8.2.25. Regarding the cumulative impact the NIS indicates that the following may be significant:

- Negative cumulative water quality impacts in conjunction with agriculture
- Negative cumulative water quality impacts from land development.

8.2.26. **Mitigation measures** to be implemented are in section 4.7 of the NIS.

8.2.27. Mitigation measures in relation to Ecology to be implemented prior to construction are included in the NIS. These are largely not relevant to this section of my report but I refer the Board to the Ecology section above.

8.2.28. Mitigation measures in relation to Hydrology to be implemented prior to construction include:

- Measures to reduce 'double handling' on site
- Install buffer zones, silt traps and stilling ponds
- Minimise area subject to works
- Install cross drains under site tracks and interceptor cut-off drains upslope of earthworks
- Work involving re-profiling of stream in wet in dry weather only
- Stream re-profiling to be in small stages and work from upstream point and use of suitable materials and erosion control measures at stream back
- Divert any flows in existing stream via temporary overland pipes around works
- Cover temporary storage area with sheeting and surround with silt fence and monitor
- Stockpile cleared vegetation away from streams
- Install dry wheel clean facility at site entrance
- Where works are adjacent to stream buffer zones, silt fencing will be used
- Planting at earliest possible times

- Bunding of storage area
- Procedures will be set up to deal with emergency accidents or spills
- Spill kit to be kept on site.

8.2.29. All of the above measures are stated to reduce the risk of sediment runoff or pollutants reaching Kilcoole Marsh and will in turn reduce/avoid adverse impacts on the European Sites.

8.2.30. In particular a water quality monitoring programme is to be established involving daily visual inspections and appropriate maintenance and clearance. Cessation of construction works and immediate installation of remediation measures is identified where excessive suspended solids are noted. Weekly field measurements will be recorded to include electrical conductivity, dissolved oxygen, total suspended solids, total ammonia, nitrite, molybdate reactive phosphorus, total phosphorous and chloride and hydrocarbons.

8.2.31. It is considered that these measures which have been prepared having regard to standard guidance which is presented in section 4.8 will give their provenance and when properly implemented will be successful in ensuring that the European sites are preserved at a favorable conservation status by ensure the lasting preservation of the constituent characteristics of those sites. The conclusion therefore is that there is no reasonable scientific doubt that there will be an absence of any adverse effects by the proposed development on the integrity of the Sites in the circumstances where the mitigation measures are implemented. I agree with the conclusion of the NIS insofar as it addresses the identified impacts on Hydrology.

8.2.32. Insofar as the NIS fails to address potential impacts from invasive species I do not consider that there is sufficient information available to the Board to be satisfied that there is no reasonable scientific doubt that there will be an absence of any adverse effects by the proposed development on the integrity of the Sites in the circumstances where the mitigation measures are implemented.

8.2.33. The applicant has not provided any information at all regarding what procedures have been put in place at the Dargle scheme and there is no detailed assessment of the risk of importation of invasive species to the site.

Chapter 18 refers to the nature of the material to be imported in terms of its categorisation as 'inert'. The potential risk from invasive species is noted and measures related to management at the Pretty Bush site are outlined in general.

8.2.34. I note that the record of consultations provided in Volume 3 refers to the comment by the EPA that any licence would impose a condition in relation to the prohibition of invasive species and that a Management Plan should be developed as part of the application and EIS.

8.2.35. I consider that there is not sufficient information before the Board and that there is no option but to recommend that permission be refused for this reason.

8.3. Other issues

8.3.1. I note the observers' comments in relation to the requirements for 200m buffer zones, for a landfill liner and for an aftercare programme for decades. I do not consider that these matters are relevant to the nature of the proposed development which does not provide for the landfilling of organic or contaminated material. These matters will be further considered by the EPA within whose remit the details lie.

8.3.2. I note the matter raised in relation to clearance to the power line and consider that this is capable of resolution and does not require a planning condition.

8.3.3. I note the comment that the development in the absence of information relating to the source of topsoil is contrary to the requirement of EIA following the O' Grianna judgement.

9.0 Conclusions

9.1.1. I conclude that policy NH13 reflects a long-standing vision for this site in the locality and that it is reasonable in view of the particular topography, the natural condition of the site and its ecological value in the context of a changing area:

9.1.2. I conclude that the primary impetus for the development is related to the spoil material from the River Dargle Flood Relief Scheme. There is no policy to support the provision of an Eco-park of the form proposed at this site.

- 9.1.3. While the proposed development would ensure the provision of a more accessible green area, it is one which would be significantly diminished in terms of its ecological value.
- 9.1.4. I consider that the character and ecological characteristics warrant protection in light of its location and the suite of planning policies to support biodiversity.
- 9.1.5. Policy NH13 in my opinion finds support in the local planning history context and is a reasonable and logical extension of the suite of county development plan policies.
- 9.1.6. I do not consider that it has been demonstrated that there are no alternative sites or methods of recovery of spoil. The submission presented including the EIS acknowledge the existing capacity of a total of 3 million tonnes of authorised backfilling capacity in the region between registered, permitted and licenced sites. There are other alterative including for beach nourishment for which the material is possibly suited.
- 9.1.7. Notwithstanding that some such alternatives might require further consent in view of the submission under YA0003, I consider that the need for recovery of spoil should not carry significant weight in the Board's deliberations on the merits of this case.
- 9.1.8. Based on the available information I do not consider that the Board is in a position to complete an Appropriate Assessment for this case.
- 9.1.9. I recommend that permission be refused for the reasons and considerations below.

10.0 Reasons and Considerations

1. Under Objective NH13 of the Wicklow County Development Plan 2016-2022 it is the policy of the planning authority to preserve this site in its existing state, to prohibit development of these lands and to protect them as a natural habitat and biodiversity area and protect their open nature and landscape quality. Having regard to the topography, character and ecological values of the site and its location within an area of significant levels of recent urban development and the planning history, this objective is considered

reasonable. The proposed development would significantly and adversely affect the character of the site and give rise to significant levels of disturbance to the site's vegetation and ecology. The Board is of the opinion that the proposed development constitutes a material contravention of Objective NH13 and considers that it has not been demonstrated that there are no other suitable alternatives for disposal of dredge spoil from the River Dargle Flood Relief Scheme. The proposed development is thus contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application including the EIS and NIS in particular in relation to the potential impacts arising from invasive species, the Board is not satisfied that the proposed development would not adversely affect the integrity of The Murrough Wetlands SAC and The Murrough SPA.

Mairead Kenny
Senior Planning Inspector

30th January 2017