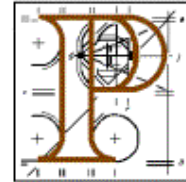


Planning Appeal Form/Check List

(Please read notes overleaf before completing)

An Bord Pleanála



1. The appeal must be in writing (e.g. not made by electronic means).
2. State the -
 - name of the appellant Buchpa Ltd (Willie Norse [086 299 6627])
(not care of agent)
 - address of the appellant 59 Avoca Park, Blackrock
(not care of agent) Co. Dublin
3. If an agent is involved, state the -
 - name of the agent White Young Green Environmental (Dublin) Ltd.
 - address of the agent (Donal Marron [01 293 1200])
Apex Business Centre, Blackthorn Road
Sandyford Industrial Estate, Dublin 18
4. State the Subject Matter of the Appeal*
 - Brief description of the development Please find a copy of the decision of the
Planning Authority as the statement of the Subject Matter of the Appeal in Appendix 1
 - Location of the development Kilmartin, Coynes Cross, Newcastle , Co. Wicklow
 - Name of planning authority Wicklow County Council
 - Planning authority register reference number Planning Register Number: 08/557

** Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.*
5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Fee of €3000 (Case type 'c' to include EIS) attached in respect of the appeal.
8. Fee of € N/A attached in respect of request for an oral hearing of the appeal, if a request is being made.
9. Ensure that the appeal is received by the Board in the correct manner and in time.

Signed _____ Date: _____

A format similar to the above may also be used where a person is making submissions or observations on an appeal in accordance with section 130 of the Planning and Development Act 2000. Substitute 'observer' for 'appellant' and 'submission/observation' for 'appeal' at each reference. Items 6 and 8 above are not applicable to the making of submissions or observations. /Over.....

Kilmartin Land Restoration Project
APPEAL to An Bord Pleanála
for
Buchpa Ltd.
June 2008

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Reference: Buchpa Ltd – Kilmartin – June 2008			
Issue		Prepared by	Verified by
V1	-		
V2	-		
V3	-		
V4	-	Natasha Murphy	Donal Marron
V5	-	Env. Scientist	Regional Director
File Ref: CE04561			
White Young Green Apex Business Centre, Blackthorn Road, Sandyford Dublin 18 Telephone: +353 (0) 1293 1200 Facsimile: +353 (0) 1293 1250 E-Mail: dublin@wyg.com			

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ATTACHMENTS

- Kilmartin Environmental Impact Statement

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1.0 INTRODUCTION

Buchpa Ltd. applied to Wicklow County Council in April 2008 for planning permission for the restoration of lands comprising the infilling and land raise of a deep valley approximately 23 ha in size with clean inert clays, soils and stones, temporary installation of a site office, access road, storage container, wheel cleaner, oil bund, parking area, waste inspection bays, waste quarantine bay, septic tank, percolation area, silt trap, oil interceptor, soak pit, drainage and settlement ponds for their site at Kilmartin, Coynes Cross, Newcastle, Co. Wicklow. On the 26th May 2008 Wicklow County Council refused to grant permission for the development based on four reasons as outlined within the refusal notice schedule, attached in Appendix 1.

White Young Green Environmental (Dublin) Ltd. (WYG) were retained by Buchpa Ltd. to submit this planning appeal to An Bord Pleanala in relation to the refusal to grant planning permission for the site, Planning reference 08/557.

An Environmental Impact Statement was submitted as part of the original planning application and a copy is attached for review as part of the planning appeal process.

We have reviewed the notification of decision to refuse planning permission, the planners report and the contributions to the planners report made by various departments of Wicklow County Council. We provide below our responses to the four reasons for refusal. These include some amendments to the proposed development having taken on board some of the local authorities concerns, scientific assessments and relevant and appropriate arguments to support our contention that the County Councils decision should be overturned and the development granted planning permission by An Bord.

2.0 LANDSCAPE

Planning Refusal notice states in Schedule 1:

It is a stated objective of Wicklow County Council to 'conserve, protect and enhance Wicklow's natural environment and landscape and to restrict development in rural areas only when it satisfies certain criteria

Having Regard to:

- The nature and scale of the proposed development*
- The existing and previous agricultural use of the subject lands*
- The waste permit currently operational on site, which is for the restoration of the land for agricultural benefit*
- The potential availability of other more suitable sites for deposition of construction and demolition waste in the county.*

It is considered that the proposed development would interfere with the character of the landscape of the landscape of which it is necessary to protect without any proven need or justification for the propose development at this location would therefore be contrary to the objective of Wicklow County Development Plan and to proper planning and sustainable development of the area

2.1 Nature and Scale of the Site

(i) The proposed development is of such a scale that it requires a waste licence from the EPA as well as planning permission. An application to the EPA for a Waste Licence is presently being prepared. The overall intention of the developers from the outset was to improve their lands so as to optimise its potential for agricultural usage. When assessing their options in this regard and realising that the best way to achieve this result was to infill the valley depression and that this could only be done on a large scale and commercial basis. It quickly became apparent that there was a need for a large scale disposal facility for clean inert clays and soils in the region. Initial assessments by WYG indicated that their lands could represent an excellent location in terms of environmental considerations (subject to detailed EIA) for a commercial activity of this nature and would achieve the ultimate goal of full land restoration. The developers have always been upfront and open with the local authority in terms of the proposed development, their methodologies, the commerciality of the development, and the ultimate goals and aims and this is evident from all of the conversations and correspondence held with the local authority. Some references in the planning report indicating that to describe the development as a 'restoration project' is misleading are unfair and are in themselves misleading. It is a restoration project and it is also a commercial activity that requires a waste licence from the EPA and all of the facts relating to the description of the development were clearly outlined to the Local Authority in meetings, conversations, correspondence and in the application documents themselves.

(ii) We note that the planning authority has reservations over the scale of the development and in reason 3 of the notification for refusal (Section 4.0) Wicklow County Council (WCC) environmental dept. indicate that the proposed final levels will be higher than the road and this may have implications for dust emissions (discussed in detail later in this document). We submit that in order to infill the valley to a suitable level that it will necessarily entail a significant scale of development. However, taking on board the local authorities concerns we have revised the site plans in terms of the proposed final heights and volumes of material to be infilled and these are shown on the accompanying drawing (Drawing 05374C2_R1). These indicate that the proposed final contours have been reduced by approximately 5m over the development area. In order that the fill levels do not exceed the road levels we have redrawn the final contours such that they coincide exactly with the existing natural levels along the western boundary road (Coynes Cross road) in a straight line to the same level on the eastern boundary road. For example, the proposed 50mOD contour starts at the existing natural level of 50mOD on the western boundary road and goes in a straight line across the valley footprint to the existing 50mOD level along the eastern

boundary road. The same procedure for the 55mOD contour and for the 60mOD contour and this will be the case for all other contours in between these. In this way the final height of fill will not go above the road level at any point along the road (for both the western and eastern boundary roads). This reduction in height translates into a significant decrease in the overall volumes of waste clays/soils to be brought to the site. It is now calculated that there will be some 1.89million m³ of clays/soils required to complete the operation. Based on 1.8 tonnes/m³ as in the original application this equates to approximately 3.4million tonnes. This is an overall reduction of some 20% in terms of the volumes of material and final heights and represents a significant reduction in the overall scale of the activity. We submit that this is the scale necessary for a commercial activity of this nature that is manifestly required in the County (Section 2.2 below) and that will satisfy the aim of full land improvement.

2.2 Need for the Development

There is a large body of evidence that can show a proven need for this particular development. Data from the Wicklow Waste Management Plan 2005 – 2010 records the volumes of construction and demolition (C&D) waste generated in the County for 2004 as detailed in Table 2.1

Table 2.1 Waste Arisings (Reported as Collected) in County Wicklow 2004

Waste Type Quantity	Quantity (tonnes)	Hazardous Fraction (tonnes)
Household	24,000	97
Commercial	48,285	1,550
Industrial	20,000	3,000
Industrial sludges (non-hazardous) tDS	155	0
Litter and street cleansing	3,000	0
Agricultural tDS	52000	No data
C&D incl. subsoils	500000	Contaminated soil
Contaminated soil	206	206
Water and wastewater treatment sludges	900	100
Healthcare waste	123	68
Mining and quarrying waste	Managed on site	
Ash and other incineration residues	0	0
Priority (excl. healthcare wastes) and C&D	7141	44

The report shows that there was some 500,000 tonnes of construction and demolition (C&D) waste being produced in the county in 2004. It can be accepted that the bulk of this C&D waste (>80%) is composed of clean clays and soils. Most of this waste comes from commercial and residential developments (site

clearance, demolition etc.) and infrastructural works such as road construction, dredging, drainage works, pipe trenching etc. In addition, it is planned to accept waste clays/soils from the south Dublin and north Wexford regions also. While it is difficult to estimate the volumes of waste clays/soils from these areas (as they are not distinct waste management regions for which there are records) it is reasonable to assume that there will be substantial volumes of materials generated and in our opinion not unreasonable to assume a similar or higher volume as that generated in County Wicklow. Therefore, assuming a very broad and conservative range of C&D wastes being generated in the catchment area as ranging from 500,000 t/a to 1,000,000 t/a, even the lower of these two figures represents a substantial volume of waste clays/soils that cannot presently be catered for in the region.

There is presently not enough landfill or waste permitted capacity to deal with this volume of waste in the county and this was confirmed to us by WCC environmental staff at our pre planning/scoping meetings on 11/11/2005, 20/03/06. Table 2.2 shows the existing licensed waste facilities in the region that are licensed to accept this type of waste. The non – hazardous landfill facility at Ballynagran operated by Greenstar Holdings Ltd. is used for the disposal of municipal waste and only accepts small quantities of C&D wastes for use as cover material. There are a number of small waste permitted sites in the County that can accept inert clays/soils. These are generally only permitted to accept relatively small volumes of waste annually mainly due to their size and location along secondary/tertiary roads where thresholds on the number of vehicle movements to/from the sites have been correctly imposed.

Table 2.2 EPA Waste Licensed Facilities in County Wicklow

Facility Licence	Location	Description	Annual Tonnage
Wicklow County Council W0011-01	Ballymurtagh Landfill Facility Wicklow, Co. Wicklow	Landfill (municipal waste)	Closed
Marrakesh Limited W0048-01	Bray, Co. Wicklow, Wicklow	Landfill (non hazardous Construction and demolition waste)	Processing of 100,000 tonnes per annum – little landfilling/deposition of materials
Greenstar Ltd. W0053-01	Bray Depot, La Vallee House, Fassaroe, Bray, Wicklow	Integrated Waste Management Facility	200,000 tonnes per annum (C&D 54,040) Recycling Centre only (no landfilling)
Wicklow County Council W0066-02	Rampere, County Wicklow, Wicklow	Landfill (treated sewage sludge, household and commercial waste)	50,000 tonnes per annum of Municipal Waste
Carnegie J.W. & Co. Ltd W0080-01	Dillonsdown, Blessington, Co. Wicklow, Wicklow.	Landfill (sand and gravel pit currently in operation – for the disposal and recovery of construction,	150,000 tonnes per annum (inert C&D) and unlimited inert mineral extraction waste arising from the

		demolition and quarry waste)	quarry - West County
Greenstar Holdings Ltd. W0165-01	Ballynagran Residual Landfill, Wicklow, Co. Wicklow	Landfill (household, commercial and industrial waste)	175,000 tonnes per annum Municipal Waste
Swalcliffe Ltd W0181-01	Disused Sand/Gravel Pit, Coolamaddra, Glen of Imaal, Co Wicklow, Wicklow	Landfill (Clean up/remediation of an unauthorised landfill)	10,000 hazardous waste (with an additional 6000 soil for the restoration phase)
Brownfield Restoration Ireland Ltd W0204-01	Whitestown Lower, Co Wicklow, Wicklow.	Landfill (Clean up/remediation of an unauthorised landfill)	180,000 (already on site historically deposited waste)
Roadstone Dublin Limited W0213-01	Blessington, Co Wicklow, Wicklow	Remediation Landfill	Historical waste excavated for processing. All recovered inert waste to be used as part of the restoration
Kings Tree Services Limited W0218-01	Kings Trees Services Composting Facility	Coolbeg, Co Wicklow, Wicklow.	40,000 tonnes of green waste

The majority of these sites are not used for the disposal of waste soils. As stated earlier, there are a number of waste permitted sites that accept inert clays/soils though these tend to be relatively small. This shows that there is presently not nearly enough available capacity in the county (particularly in the east county) to manage the volumes of waste clays/soils produced and what is available is not centrally located, often with poor access along secondary/tertiary roads with the result much of these materials are exported from the region which is environmentally unsustainable.

While there has been a downturn in the economy over the past year or so the economy is still growing albeit at a slower rate than was evident during the height of the boom and it is accepted that the growth in waste generation mirrors the growth in the economy, therefore it is expected that at the very least there will not be a decrease and likely a small increase in the volumes of waste clays/soils generated in the region. We are also aware of many ongoing and planned developments in the county that have the potential to generate large volumes of waste clays/soils. There are presently large housing developments underway in Wicklow town and Arklow town, the new Bray town centre development, harbour regeneration programme at Greystones and at other urban centres in the east county as well as in south Dublin and north Wexford and significant road infrastructural works planned for the N11 between Ballynabarney and the Arklow by-pass. These are just a few of the known developments and it is highly likely that there will be many more over the coming years.

The largest facility that is licensed to accept inert clays and soils in the country is the MCM facility (W0129-02) located in the Naul in north Co. Dublin. Records available for 2006 showed that it had to close its gates to the acceptance of waste clay/soils in October 2006 as it had reached its licensed threshold for that year and reopened in 2007. In 2007, it had reached its annual threshold limit and sought an extension. While this facility is located in north Co. Dublin and services a different region to that of Wicklow it shows the dearth of available capacity for inert clays and soils. Dunsink landfill (W0009-02) located along the M50 has taken in vast quantities of inert clays and soils for restoration purposes over the last number of years and the restoration of this former landfill is now nearing completion. Dunsink ceased taking in waste clays and soils earlier this year and this has put added strain on existing facilities that accept inert clays/soils and pushed these materials further out from the city limits.

WCC granted a waste permit to Buchpa Ltd. in 2007 for the Kilmartin site to take in 130,000 tonnes of clean inert clays and soils to aid in restoration of the base of the valley. The permit has been operational for 11 months now and has accepted in excess of 100,000 tonnes of soils in that period. The volume of soils taken in was limited by the operational capacity of site staff and the restriction of vehicle movements under the permit granted. The company have turned away many requests from developers, contractors and waste hauliers to bring inert clays/soils to the site. Many of those who have contracts with Buchpa Ltd. to bring soils to the Kilmartin site were canvassed by the company to express their opinions as to the need and suitability of the site and their responses are included in Appendix 2. The letters clearly show that these clients of Buchpa Ltd. are overtly delighted with the existence of the facility and that its location is entirely suitable to them and that they would continue to use it in the future should the proposed development be granted planning permission.

As previously outlined in the Environmental Impact Statement (EIS) which was submitted with the original planning application (a copy has been provided), the need for such a facility in County Wicklow, as outlined within the County's Waste Management Strategy for 2005-2010 has been discussed and this development is in keeping with the regions Waste Management Plan.

Given the volumes of waste clays and soils produced on an annual basis in the county there is presently a clear lack of available capacity for these materials within the county and particularly in the eastern region. This then forces producers of these waste materials to transport the materials further from the source, over great distances or along secondary/tertiary roads and with many attendant impacts on carbon usage and energy wastage among other environmental considerations that is not environmentally sustainable. The lack of available capacity is also an incentive for unscrupulous waste producers to dispose of their waste materials illegally. The development of this facility will provide a much needed outlet for these materials in the east of the county, close to many potential sources (e.g. the major towns of Bray, Greystones, Arklow, Wicklow etc.) with excellent access and low energy usage along the N11. The facility will also introduce competition into the market place which will benefit the consumer and significantly enhance the potential for general developmental progress and infrastructural development within the county and will be environmentally sustainable.

We believe that the above discussion clearly shows that there is a proven need for a facility of this nature and scale at its present location purely in terms of providing a necessary disposal outlet for waste clays and soils.

The existing valley has steep sides and precludes the owners from optimising its value in terms of agricultural usage and is presently only suitable as sheep grazing. By infilling the valley and raising the surface to a level commensurate with the adjacent topographic levels to the east and west of the site and gentle slopes to the north and south the developers plan to significantly improve the land, allowing use of normal farm machinery and making the land suitable for use for a wide range of agricultural practices (e.g. arable farming, cattle grazing etc.). There is therefore also a proven need for the scale and nature of this development in order to provide for optimal use of the land for agricultural purposes.

2.3 Waste Permit

Buchpa Ltd. met with WCC at the outset of this project with a view to infilling the entire valley depression in order to improve their lands particularly vis-à-vis water logging at the base of the valley and the steep side slopes that precluded use of farm machinery, arable farming etc. This was generally agreed as a good project for Wicklow at an excellent location in terms of access and we were advised to proceed with a planning application and waste permit application. We submitted both applications to WCC and were advised following correspondence between WCC and the EPA that the proposed development would require a waste licence from the EPA rather than a waste permit.

Information from the EPA indicated that processing a waste licence application would likely take a minimum of 8 months and possibly as much as 18 months. The developers decided to proceed with a waste licence application in the long term and to apply for a waste permit for a much smaller land restoration project in the short term as waste permits can be granted in a much shorter timeframe. The aim of the smaller project was to remedy the position of water logging at the base of the valley which would go some way towards improving the lands though would not provide the full solution. Buchpa Ltd. were completely open about their intentions and all of their thoughts and strategies were communicated to WCC environmental staff via meetings, conversations and verifiable correspondence (e.g. letter dated 25/9/2006).

WCC granted Buchpa Ltd. a waste permit for the smaller land restoration project to infill the base of the valley with 130,000 tonnes of clean clays and soils. This operation is presently ongoing and will likely be completed later this year. While the improvement to water logging brought by the smaller project is very welcome, the waste permit project will not provide the full solution to land improvement. The grant of the waste permit inherently involved alteration of the landscape albeit at a much smaller scale and therefore we believe that there is no objection in principle to altering the landscape subject to normal EIA. We would like to note again that the waste permitted facility at Kilmartin has been taking in inert clays/soils for

11 months now in accordance with the permit and to date there have been no complaints, objections or submissions by local residents, the general public or any others, that this has provided a robust trial period for such an operation (albeit at a smaller scale) and has demonstrated that it can be carried out without any significant impact on the environment.

2.4 The potential availability of more suitable sites in the County.

Our submissions relating to this point are discussed in detail in section 2 below.

2.5 Landscape Character

We would like to reiterate that any development of this nature will necessarily interfere with and alter the character of the landscape and is unavoidable where developments of this nature are desirable. It is our opinion that while there will be interference with the landscape character that the proposed site location is not one that will impact on a particularly large landscape feature, any landscape of scientific interest or natural beauty or we would argue a landscape that is even nominally enjoyed by the general public.

Whereas in local terms the site represents a relatively deep valley, when viewed in a regional context it could not be considered to constitute a large valley in terms of length, breadth or depth. The landform is not a designated area of scientific interest, a protected geological feature, is not located in or near an environmentally designated area (NHA, SPA, SAC), does not interfere with any protected views or aspects, designated walking routes (or views from designated walking routes), any specified tourist feature and in plain terms is not visible from any direction apart from a few houses located to the north of the site all of which are well screened by either trees/hedgerows or distance (>2km).

When WCC state that the proposed development will interfere with the character of the landscape it is readily accepted that any development of this nature, no matter where it is located will necessarily interfere with the landscape. We believe that we have given strong evidence to support the following:

- The scale of the development as revised here (reduced by 20% compared to original proposals) is significantly smaller than previous and is at a scale necessary to fulfil the requirements of providing a much needed outlet facility for clean inert clays/soils and to complete the land improvement project.
- There is a proven need and justification for the development.
- The current waste permit only goes a small way towards fulfilling the goals outlined above and shows that there is no objection in principle to altering the landscape albeit at a smaller scale.

- The site enjoys unique circumstances in terms of environmental considerations (see item 3.0 below) and is more suitable than any other in the County.
- The landscape character is not one that requires any particular protection or if altered will significantly impact on any scientific or visual amenity.

Therefore, we submit that the present proposal is not contrary to but rather is in keeping with the objectives of Wicklow County Development Plan and to proper planning and sustainable development of the area.

3.0 SITE SELECTION PROCESS

Schedule 2 of planning reference 05/557 Rejection for planning notice indicates

Having regard to the requirement of Article 6 of the Planning and Development Regulations 2001-2007 with respect to the information to be included in an E.I.S. it is considered that no adequate examination has been undertaken of the main alternatives or an indication of the main reasons for choosing the proposed site taking into the account the effect of an existing natural valley landform the removal of this feature in the absence of a clear assessment of suitability of the site vis-à-vis other alternatives is considered unacceptable, would lead to the loss of a naturally geological feature in the absence of substantiated assessment, would set a precedent for further similar encroachment on natural and features contrary to the protection of the landscape of Wicklow and to proper planning and sustainable development.

Wicklow County Council have indicated that the proposed development did not consider other alternative sites and therefore did not show that other sites may have less environmental impacts associated with such a development. We submit here that it is our belief that the EIS for the proposed site has more than adequately demonstrated that the site is an excellent, possibly unique location for this type of development in County Wicklow, that there will be negligible impacts on the environment and that therefore there was no need to carry out a formal site selection study for the chosen location. The information detailing the merits of this site in terms of location and demonstrating its almost unique characteristics in terms of the potential impacts on the environment are inherent in the EIS and are discussed further below.

We also submit that the subject lands are owned by members of the Norse family who are the directors of Buchpa Ltd. and are the only lands available to them. With regard to the EPA's guidance, its document titled "Guidelines on the information to be contained in Environmental Impact Statements" provides that alternatives be considered at the levels of site, process and design. Our experience of precedent decisions from An Bord Pleanála confirms that An Bord has regard to these guidelines and that

assessments are considered at these levels. With specific regard to the detail of the consideration of alternative sites, the EPA guidelines state:

“ ...it is important...to acknowledge other non-environmental factors may have equal or overriding importance to the developer e.g. project economics, land availability, engineering feasibility, planning considerations”

“The consideration of alternatives also needs to be set within the parameters of availability of land (it may be the only suitable land available to the developer) or the need for the project to accommodate demands or opportunities which are site specific. Such considerations should be on the basis of alternatives within a site e.g. design, layout” (section 2.4.3, p.12,13).

It is submitted that that the lands are the only suitable lands available to the developer and that therefore, subject to normal assessment in the EIS process, can legitimately be considered in the absence of a detailed formal site selection process.

We would also like to make the point that the developers and their consultants (WYG) requested and attended a pre planning and scoping meeting with Wicklow County Council staff. WCC attendees included three staff from the environmental department, the acting Director of Services from the planning dept. and a separate meeting was held with members of the roads dept. At the meeting we discussed in detail the proposed development and its location adjacent to the Cullenmore interchange on the N11 dual carriageway. It was agreed by all at the meeting that it would constitute an excellent site location (subject to normal environmental considerations to be assessed in an EIS). WCC were particularly taken with its location and access, expressed no reservations in this regard nor at any time mentioned the need or requirements for a detailed site selection study. It was understood that the subject site was owned by the Norse family and that they did not have availability to any other lands. WCC environmental dept. staff recognised that there was a need for this type of development in the County and expressed their concerns for existing and potentially new developments of this type located in the Co. Wicklow hinterlands along secondary/tertiary roads with poor access and the attendant environmental (particularly access and road quality) problems with these sites and that the proposed development at its specified location and scale would be very welcome in this regard. Our notes from this meeting also record outline proposals made by Wicklow County Council for a member of their staff to be resident at the site (should it be developed) on a permanent basis and paid for by the developer and that this would provide an excellent platform for policing/monitoring the development on a permanent basis and this was agreed to in principle by the developers (further demonstrating their high regard for the proposed location) In addition, we would point out that WCC have granted a waste permit for a similar landraise development to the applicant, albeit on a smaller scale, at the proposed site, that this has been ongoing for the past 11 months and is still operational. To date there have been no complaints from the public or the regulators whatsoever relating to the present permitted landraise development. In light of these circumstances we find it remarkable that the County Council would now form the view that it is not a suitable site or that it

may be possible that there may be a better alternative site in which case this one should not be considered any further. We also feel, that the four reasons for refusal stated by Wicklow County Council in their Notification of Decision to Refuse could have been and should have been dealt with by the County Council by way of a request for further information to the applicant during the planning assessment period. We feel that a project of this nature and importance should have been afforded the opportunity to address any concerns that the County Council may have had in a request for further information process rather than the Council issuing a straight refusal. In this regard we note that there were no objections or submissions made by local residents, the general public or any third parties or prescribed bodies in relation to the application.

In terms of the suitability of the site location and the need or otherwise to carry out a detailed and formal site selection process we submit here that it is an excellent location and could be considered a unique location within the county for this type of development particularly with regard to environmental considerations. All of the information relating to potential environmental impacts, proposed mitigation measures and likely significant effects on the environment was readily available in the EIS and clearly showed that the proposed development would have negligible impact on the environment.

We accept that the EPA's guidance, document titled "Guidelines on the information to be contained in Environmental Impact Statements" recommends that consideration of alternative sites is an effective methodology for ensuring the protection of the environment. However, in Section 2.4.3, p. 12 the document states "...for major infrastructure projects the intrinsic suitability of the site is the principal amelioration strategy." We submit that this particular site has excellent intrinsic suitability and provides the principal amelioration strategy for the site. The developers also propose to carry out a range of mitigation measures in terms of environmental amelioration which will further reduce or eliminate potential impacts on the environment and these are all detailed in the EIS and elsewhere in this document. While information relating to site suitability and the intrinsic ameliorative value of the proposed site is detailed in the EIS we provide here a summary of the excellent ameliorative features of the site and we also provide a site selection study for the County which shows that the proposed site is almost unique in its suitability for the proposed development.

The proposed catchment area of the site is defined as East County Wicklow and including south Dublin and north Wexford. In our selection study we have therefore considered the east of the county. This would not rule out the possibility of accepting materials from the west of the county though the distances involved may prove an economic barrier to potential clients. The site selection study is based on a series of exclusion zones based on environmental reasons/criteria and is provided in the form of a series of maps generated on Geographic Information Systems. The maps show the various levels of exclusion criteria on individual maps with the final map showing a composite of all of these layers on one single map that gives a relatively detailed overview of site suitability in the study area. We accept that this information was not provided in this format in the EIS submitted as part of the application but certainly the

environmental merits of the site suitability was clear from the content of the EIS in individual sections. The accompanying maps are based on the following assumptions and criteria.

In terms of access it has been our experience in the past that the single most significant reason for refusal for large waste management facilities has been the quality (or lack thereof) of the site access in terms of road widths, road alignment, road surface, road usage and sight lines. In our opinion there cannot be any better location than that adjacent to an interchange on a dual carriageway or motorway. We have therefore only considered sites adjacent to the N11 dual carriageway and within 1km of an interchange. We have excluded on map 1 all areas outside these zones (it is noted that while there may be suitable locations in the west of the county that the N81 national primary road servicing that part of the county is considered inferior to a dual carriageway/interchange arrangement such as along the N11 dual carriageway). It should be noted that the proposed site entrance is only 300m from the Cullenmore interchange along the road constructed by the NRA as the approach road to the interchange, the road is of adequate width and surface quality, relatively low usage in terms of vehicles or pedestrians, with adequate sightlines and there are no houses between the interchange and the site entrance. The land between the interchange and the site entrance on both sides of the road is owned by the Norse family and therefore there will not be any potential for future residential development along this stretch of road. It is likely that other potential sites identified within this zone and up to one kilometer from an interchange will not in all cases traverse a suitable approach road (in terms of width, surface quality and sightlines) and will in some cases at least pass existing houses, or potentially houses constructed in the future. Therefore, we feel that the site enjoys unparalleled merits in terms of access within the study area.

On map 2 we used environmental designations (NHA's, SPA's and SAC's) as excluded lands. There are no environmental designation sites within 2.3km of the proposed site.

On map 3 we used regionally important aquifers as excluded areas. While the proposed development will use clean clays and stones as backfill material and will therefore not impact on groundwater quality it was considered to take a conservative approach and exclude the development from regionally important aquifers. The proposed site (and most of east Co. Wicklow) is not underlain by a regionally important aquifer.

On map 4 we considered the existence of cultural heritage features such as archaeological features, sites, monuments, protected structures etc. as excluded area. There are no such features on the proposed site. There are church ruins about 50m to the north of the site that will be fenced off and not impacted at all during the development, and there is a small feature located about 10 m away from the southwestern corner of the site which also will not be impacted. While these features in themselves do not exclude large tracts of land, they do have the impact of breaking up large parcels of land in that it would not be practical in most cases to construct a landraise development around such a feature or features without impacting on it or providing large depressions within the landraise development.

On map 5 we have included for existing dwellings and placed a 100m buffer zone around dwellings. It is our opinion that this type of development should not be located in or close to urban areas and should be located in so far as it is practical remote from dwellings which then reduces any potential impacts on local residents. The nearest house to the proposed site is the Norse family home approximately 160m to the north of the site. There are a few other dwellings located c. 200m and further away. The nearest dwelling (other than the Norse Family home) to the site is located c.200m from the northwest corner of the site boundary. This is also the first dwelling encountered on the Coynes Cross Road off the N11, c.365m north of the site entrance. There are eight dwellings along this road, with the last house located c.430m away from the nearest site boundary point. All local dwellings bar four (two of which belong to the Norse family) are shielded from the site by natural hills or ridges. The houses immediately to the west of the Norse house are well screened from the site by trees and hedgerows and it is proposed that the first phase of works would comprise the construction of the northern bank of the site which would then shield all activities from this house and others located further to the north. The house immediately to the east of the Norse family home is also owned by members of the Norse family. As stated previously, there are no houses nor is there the potential for any future houses to be located along the approach road to the site entrance, therefore there will be no vehicles associated with the development passing by any houses. The presence of houses/dwellings and their 100m buffer zone does rule out significant tracts of land in the study area and also has the impact of breaking up large parcels of land.

On map 6 we excluded areas that were less than 5 ha in size as it is considered that this would be a reasonable minimum scale for such a project to be useful and viable to provide a regional facility of this nature.

These are a few important criteria used to demonstrate the unique characteristics of the site and to show that there are few, if any, similar quality sites in the study area that would share the same intrinsic qualities in terms of potential impacts to the environment. On map 7 we have combined all of the information given above and provided a composite map showing the suitable areas (yellow) and the excluded zones (red). It can be seen that this map excludes the bulk of the county (green) as there is only a narrow corridor of suitable lands along the N11 dual carriageway and within 1km of an interchange. Within this corridor much of the available lands are excluded due to the presence of environmental designations, archaeological features or houses. When these areas are removed it can be seen that there are very few areas left to consider from the entire county and the site at Kilmartin stands out as an almost unique site in the county. If one were to take into account other excluded areas such as rivers and streams, hilly areas and even level areas (hollows and depressions are generally considered superior locations to high ground or even level ground), areas where there are not adequate sightlines for the entrance, areas where there are a number of houses along the approach roads which would be impacted by truck movements etc. it is clear that even larger tracts of lands would be excluded on the composite suitability map which would further enhance the uniqueness of the Kilmartin site. The site is also particularly well located more or less in the centre of the eastern county and proposed catchment area stretching from south Dublin to north Wexford.

Wicklow County Council have made the point that the development would “*systematically remove an existing natural valley landform*” and would “*lead to the loss of a natural geological feature*”. We would like to state that in our view all landscapes are geological features, (some more pronounced than others) and that the site is not a designated area of scientific interest or a protected geological feature. The natural valley landform is not special in any way, is not visible from any direction unless standing adjacent to it along the eastern and western boundaries of the site itself or at distance (>2km) from the north of the site or at much greater distances from the south of the site and has never been visited by any interested parties apart from the landowners themselves. The valley is not particularly special in any way and is relatively small when viewed in a regional context. Therefore the infilling of this valley will not interfere with any unusual or protected landscape feature. Indeed, it is common practice for these type developments to infill valleys or depressions rather than form a large mound on a flat surface which in our opinion could cause a serious impact on a landscape environment and would have great difficulty in securing planning permission. We contend that it is the natural physiography of the site and locality that lends significant intrinsic ameliorative value to the site that would not be present at most other potential sites in the study area. The proposed infilling of the valley depression will mean that the vast bulk of the works will be carried out shielded from view from local residences, passers by and the general public. The existing landform completely shields all activities from the east and west by virtue of the steep slopes on these sides. There is high ground to the south of the site that is forested and the nearest house behind the high ground is approximately 450m distant. It is planned that the first phase of works will entail the construction of the northern bank of the landraise and this will shield the site from the north where there are presently only four houses (the nearest two of these in the ownership of the Norse family) and views of the site from a few houses located on high ground in excess of 2km away. At this stage all activities will be located in a bowl shaped depression which will contain all activities from view and significantly contain any noise or dust generated by the operation. When the landraise nears completion, site activities will then be on a level with the local natural levels and will then come back into view from some aspects and only a very few houses. However, at this stage the development will be almost finished and any potential impacts will be of very short duration to complete the final site levels. In addition, mitigation measures are detailed in the EIS to reduce potential impacts to the environment during this final phase in terms of noise and dust should it be necessary (e.g. temporary acoustic barriers, seeding/grassing in phases, facilities for dampening dust etc.). It should also be noted that the County council have already granted a waste permit to the applicants for infilling the base of the valley and this development is presently ongoing. While it is accepted that the waste permit is for a smaller scale development in terms of infill volumes and height it demonstrates that the existing landscape is not recognised as important enough to merit full protection from the local authority and has already been altered to some degree by the permitted landraise activity.

We believe therefore that, through the EIS and arguments presented in this document that there is substantiated assessment to show that this site is superior in environmental terms to any other in the study area (and by extension in the County). While any development of this nature would necessarily

encroach on natural land features, the uniqueness of this particular site and its intrinsic natural ameliorative values confirm that it would be the optimum and most sustainable location for such a development and therefore not contrary to but in keeping with the protection of the landscape of Wicklow and to proper planning and sustainable development. As stated earlier, we accept that a formal site selection study was not carried out as part of the EIS and the reasons for this are given above. We note here that precedents have already been set in this regard elsewhere in the Country. For example, site selection studies were not carried out for the redevelopment of Lansdown Road rugby stadium or for the M50 motorway and that therefore it is possible to obtain planning permission for a development that demonstrates its intrinsic suitability in the absence of a formal site selection study and that this is the case at the proposed development at Kilmartin.

4.0 Noise & Dust

As stated within the 3rd Schedule for the refusal of planning

Having regard to:

- *The height of the infill land above the current road level*
- *The volumes of traffic generated from the proposed development*
- *Deficiencies of the noise survey submitted with respect to current noise levels on site*

It is considered that the mitigation measures proposed in the EIS regarding the control of dust and noise emission from the propose development are inadequate. The failure to control such emissions would (a) injure the amenities and (b) depreciate the value of properties in the vicinity and would therefore be contrary to proper planning and sustainable development.

Having reviewed the planning and environmental reports we would like to make the following contentions in these regards:

(i) The WCC environmental section state that the infill level will be 15m above the road level. This was incorrect and the levels were significantly less than that above the adjacent road levels. Cross section A-A* of Drawing CE04561 -08-02A shows the infill 10m above the road level and we must apologise that this is also incorrect. The actual levels should have shown the infill to be 5 to 6m above the road level at the highest point (the actual level of the road on the eastern point of line A-A* should have been higher at a level of c.60mOD rather than that shown at approximately 55mOD). Notwithstanding these circumstances we have revised the site plans as discussed in item 1 above and have substantially reduced the heights and the volumes of material to be infilled. All levels are now commensurate with the road levels located along the eastern and western boundaries. This has removed approximately 5m off the overall height of the landfill and reduced the volumes by some 20%.

(ii) Noise:- It is stated in reason 3 for refusal that the mitigation measures proposed in the EIS regarding the control of noise emissions from the development are inadequate. This is misleading as the only

reference to noise emissions in the WCC planning report indicate that a survey measuring the current noise levels on site should have been provided with the application and there are no arguments in relation to noise impacts from the site. In our opinion there were no substantial developments within the immediate area of the site that would change the ambient noise levels outside of the site since the original noise survey was completed. Noise created on site by the waste permit operation are lower than those proposed in the EIS (as it is a smaller operation) and the EIS had taken into account noise generated by the larger operation and therefore there would be no impact from these noise sources and no need for an updated noise survey. Nevertheless, a current noise survey was carried out at the site and environs and is included in Appendix 3. This survey, the original survey and the assessment carried out and detailed in the EIS along with the proposed mitigation measures in the EIS indicate that there will be no significant impact on any noise sensitive receptors in the vicinity of the site. In addition, as we now propose a (c. 20%) reduction in the height and volumes of materials to be imported to the site this will mean a significant reduction in the potential for noise impact either in terms of intensity or duration (or a combination of both) and from a lower height than previously envisaged. This, along with the scientific assessments and mitigation measures detailed in the EIS will ensure no significant impact on the local noise environment from the proposed development.

We submit therefore that there will be no noise impact on amenities or local sensitive receptors and no devaluation of properties in the vicinity of the site.

(iii) Dust:- We submit that the proposals provided in the EIS for dust mitigation measures are substantial, normal practice at such a facility and perfectly adequate to control dust emissions from the site. WCC have subjectively stated that dust emissions are of concern and have not provided any scientific arguments to substantiate that case. Notwithstanding these circumstances we would like to make the following points.

Firstly, it is worth pointing out that the potential for dust emissions are only possible during dry and windy conditions. Dust is not generated in damp conditions which are prevalent for the majority of any given year in this country.

We reiterate that the height of infill and volumes of material to be imported will be some 20% less than the original application. This will automatically reduce the potential for dust impacts by 20% either in intensity or duration or a combination of both and will entail an approximate reduction in height of 5m across the site. Therefore, the final levels will be less exposed than those previously indicated. In addition, it is submitted that the bulk of site infill work will be carried out below road level in a bowl shaped depression which will shield any dust emissions from the site for the majority of the project duration. It is only when the final levels are being completed that the levels will be at or near the road level and this phase of the work programme will be of relatively short duration.. It is also planned to carry out the infill operations in phases where each completed phase will be seeded and grassed upon completion and therefore will not contribute to dust generation. Particular attention to seeding and grassing will be applied during the final

lifts (approaching the final 'road' levels) and each of the phases will measure less than 2 ha. Therefore, the size of the area exposed to the prevailing winds and the short duration of this exposure until grass has become established coupled with the need for dry and windy conditions means that there will be little opportunity for any significant dust generation from the surfaces of the site. In the unlikely event that significant dust emissions from the site occur then facilities for dampening dust will be employed such as use of water bowsers and sprinkler systems.

The EIS detailed the mitigation measures to be implemented to control dust emissions. These entailed installing a wheel cleaning system for trucks exiting the site; Providing a water bower to dampen down access roads during dry windy conditions; providing a water bower or sprinkler system to dampen down the infill activities when required; limiting truck speeds to 10km/hr within the site boundaries; requiring trucks to be covered when hauling soils to the site; power washing the site roads and approach road to the site (should it become necessary); installing a wind weather station at the site; carrying out regular dust monitoring at the site both upwind and downwind (the frequency of testing would be set by the EPA in any waste licence that may issue for the site). These are all normal practices for a facility of this nature and have been shown to be perfectly adequate to control dust emissions at similar type facilities e.g. landfills and quarries and in the former case many landfills are constructed as mounds well above local grade and not in valleys as is the case here.

WCC state that the volume of trucks at a maximum of 250 per day will make it very difficult to keep the area dampened down and this volume of traffic could raise significant amounts of dust. This is not the case. It will be a very easy matter for the mobile water bower unit to traverse the site roads in between truck movements to dampen down the site haul roads more or less at any frequency required during the day. The possibility of using a sprinkler system along the haul roads may also be used if considered beneficial to the control of dust. In any event, it can be guaranteed that the relatively simple dust control measures proposed will ensure full control of potential dust emissions from trucks entering/exiting the site.

It is noted that the nearest sensitive receptor to the site is the Norse family home at 160m distant to the north. The next nearest house is 200m distant (to the northwest of the site) and is sheltered by a natural ridge between the house and the site. The prevailing winds are from the southwest and therefore any dust blow will be away from the nearest dwellings most of the time. There is a house belonging to the Norse family located 200m to the northnortheast of the site and the nearest house to the northeast (downwind of the site) is 450m distant. It is expected that in the unlikely event of dust emissions from the site that this will be readily dispersed and dissipated over these distances particularly downwind of the prevailing winds.

We believe that the natural physiography associated with the site, where all operations will be carried out in an enclosed depression for the majority of the duration of the project along with the comprehensive mitigation measures proposed will ensure that there will be no significant impact on local sensitive

receptors, will not be injurious to amenities in any way and will not depreciate the value of properties in the vicinity of the site.

With regard to the potential for dust emissions from bare surfaces at the site it so happens that there is a perfect case study located adjacent to the Kilmartin site. The field immediately to the west of the site located between the Coynes Cross road and the N11 dual carriageway is owned by the Norse family and was planted recently with hayseed. However, prior to that it was infilled with clean clays and soils by Morris Sisk Consortium Ltd. during the construction of the N11 dual carriageway and the clay fill was brought up to a level with the Coynes Cross road. The field measures approximately 5 ha and therefore much larger than any area of bare soil that will be active at the proposed development site. The surface of the field consisted of bare, ungrassed soils for in excess of 2.5 years prior to the Norse's planting it with hayseed and was not subject to any dust control measures. During that time there has not been any evidence of dust emissions from the field, no complaints or comments from local residents, no controls required by the local authority, no evidence of dust deposition in the locality, was not injurious to local amenities and did not depreciate the value of local properties. This therefore demonstrates that the Kilmartin development, which will have smaller active bare soil surfaces than that, with its natural dust containment factors and the applied mitigation measures will not be injurious to local amenities and will not depreciate the value of local properties.

5.0 PERCOLATION TEST

The fourth and final reasons as stated in Notification of Decision letter states that:

Insufficient evidence is available that the site is suitable for septic tank effluent percolation and if found to be unsuitable that this development would be prejudicial to public health

We accept that the defined percolation tests were not carried out at the site. However, WYG provided abundant information in the planning application document to show that the site would be highly likely to be suitable for a septic tank/percolation area effluent treatment system. This included the submission of all of the forms required (apart from the percolation test result form), abundant information on the geology and hydrogeology of the site obtained from trial pits and boreholes, the fact that the normal effluent generation volumes would be equivalent to one house (4 PE – system to be over designed for 20 PE) which are routinely allowed planning permission on one acre sites, that the proposed site area is in excess of 55 acres and that it would be practically unavoidable not to find a suitable percolation area on such a site, that the system would be designed in accordance with the EPA manuals “Treatment systems for small communities, business, leisure centres and hotels” and “Treatment systems for individual houses” , and that these manuals allow for the installation of constructed sand filter/percolation areas should a natural percolation area not be found. For a project of this nature and importance we are taken aback that such information could not have been sought by the local authority in a request for further information procedure but instead was used as a reason for straight refusal. In our opinion, it is clear from

the manifest effort and resources that the developers have put into preparing the application documents that it would not have been allowed to fall over such a relatively minor technical requirement and we feel it would have been reasonable to afford the developers an opportunity to clarify the position through a request for further information procedure.

Notwithstanding the above, it is intended to provide a remedy in the following way. Due to the time constraints allowed in preparing this appeal and some unfavourable weather conditions it has not been possible to carry out the required percolation tests. Therefore, it is planned that the developers will install self contained "Portaloos" type chemical toilets incorporating a large fully contained storage tank for the effluent at the site. This will be pumped out to a road tanker on a fortnightly basis for transport to the nearest suitable wastewater treatment plant for treatment and disposal. It is planned to use this system for the first three months of operations at the site. Within this timeframe the applicants will ensure that the correct percolation tests are carried out at the site in order to design a regular (and longterm sustainable) effluent treatment system and percolation area. All investigations and designs will be carried out in accordance with the EPA manuals "Treatment Systems for small communities, business, leisure centres and hotels" and "treatment systems for individual houses" which specifically define the tests and designs and solutions that are required for these systems. Detailed proposals for the tests and designs and the results of any tests and investigations will be forwarded to WCC for their agreement and assessment. Should permission be granted for this development we would have no objection to the inclusion of a planning condition that specifically requires the provision of a suitably tested and designed effluent treatment system within that or any other timeframe considered appropriate by An Bord.

We submit that these proposals will satisfy the requirements for effluent treatment and disposal at the development.

6.0 SUMMARY

In relation to the WCC decision to refuse planning permission for this development we would like to summarise our appeal to that decision as follows:

There were no objections or submissions made by third parties to the application for planning permission. WCC stated only four reasons for refusal and did not seek to have any of these clarified under a request for further information procedure during their assessment of the application. We feel that this would have been the best course of action considering that the four reasons given could have been readily resolved as detailed above, namely:

- Proven need. The arguments given above clearly show that there is a proven need in the county for a disposal facility for waste inert clays and soils. Given the volumes of waste clays and soils produced on an annual basis in the county there is presently a clear lack of available capacity for

these materials within the county and particularly in the eastern region. This then forces producers of these waste materials to transport the materials further from the source, over great distances or along secondary/tertiary roads and with many attendant impacts on carbon usage and energy wastage among other environmental considerations that is not environmentally sustainable. The lack of available capacity is also an incentive for unscrupulous waste producers to dispose of their waste materials illegally. The development of this facility will provide a much needed outlet for these materials in the east of the county, close to many potential sources (e.g. the major towns of Bray, Greystones, Arklow, Wicklow etc.) with excellent access and low energy usage along the N11. The facility will also introduce competition into the market place which will benefit the consumer and significantly enhance the potential for general developmental progress and infrastructural development within the county and will be environmentally sustainable.

The infilling of the valley will fully remediate the lands to a position where they will be suitable for optimum agricultural usage.

- Nature and scale of the Activity. We have taken some of the comments of WCC on board and have reduced the scale of the activity by some 20%. A development of this nature will necessarily entail a significant scale to provide a suitable and sustainable facility for the management of waste clays/soils in the eastern county region, for viability reasons and to fully remediate the land. We submit that the scale is not excessive in any way and is a logical scale to infill the valley (rather than say half filling the valley).
- WCC have granted a waste permit for a relatively small scale landraise activity in the valley. While this will aid in land improvement it will not provide the scale of facility that is required as discussed in detail above. The granting of the waste permit shows that the local authority have no objection in principle to this type of development at the site accepting that it is at a smaller scale than that proposed. It is noted that the present landraise operation has been in operation for almost a year and there have been no incidents, accidents or complaints of any nature from the local residents, the local authority or third parties.
- Landscape Character. A development of this nature will of course impact on landscape character no matter where it is located. It is our contention that the landscape character does not represent any landform that is special in any way, is not an area of scientific interest, is not a protected geological feature and has already been impacted to a small extent by the waste permitted activity. Therefore, its loss will not represent a significant impact to the landscape environment and it will be replaced by an agricultural landscape that will be in keeping with the existing local landscape environment. The landscape is presently barely visible to very few third parties or to passers by and is not visited by any interested parties. The development will likewise not be visible for the majority of the project duration and will only be visible towards the end of the project which will be of relatively short duration.

- Site Location. It is our absolute belief that the site location is excellent for nearly every possible environmental criterion that could be applied, that this information was inherently evident in the EIS and that the site location itself is intrinsically ameliorative for reasons given. The site selection study provided in this appeal reinforces the point that this site is almost unique within the county for this type of development. We submit also that the lands in question are the only lands available to the Norse family, that the local authority were aware of this from the outset and that they themselves were very supportive of the site location and nature of the development at our early meetings. The summary of the EIS and information contained in this appeal demonstrates that due to the excellent access, the natural ameliorative qualities afforded by the physiography of the site and the mitigation measures proposed that there will not be any significant impact on the environment from this development.
- Noise. We have provided in the appeal a current noise survey for the site. This shows that there will be no significant impact on local amenities or residents from the development as was also detailed in the EIS.
- Dust. The proposed reduction in height and volume (20% reduction) will alleviate many of the dust concerns raised by WCC. The site surfaces will only be exposed to the prevailing winds at the final stages of the project when the levels reach their highest levels. The proposed phasing of the site completion and the immediate seeding/grassing of the final phased levels will ensure that there will be no significantly large areas of bare surfaces open to the winds and that these will be of very short duration until grassland becomes established and eliminates the potential for dust blow. Other mitigation measures such as water dampening will be employed to control dust during particularly dry and windy events. There will be no impact on dust generation from the movement of a maximum of 250 trucks at the site. All site roads and haul roads will be regularly dampened by use of a water bowser and/or sprinkler system. This is an easy and effective method for controlling dust and can be carried out during normal working hours at almost any frequency desired. Other dust mitigation measures such as max. 10km/hr. truck speeds, only accepting covered trucks at the site, sweeping and washing of site roads and approach roads, installation of a wheel cleaning system, dampening down the active areas with water during dry windy conditions etc. will ensure no significant impact on the local environment from dust. The local environmental conditions and the proposed mitigation measures detailed in the EIS and here will ensure that the development will not be injurious to local amenities and will not depreciate the value of local properties in terms of noise and dust.
- Percolation tests. The developer proposes to use contained 'Portaloo' type chemical toilets at the site in the short term and to develop a regular system of septic tank and percolation area in the first few months of operation in the event of a grant of planning permission. This will be completed in accordance with the EPA manuals and with all requirements of the local authority.

All proposals will first be submitted to the local authority for their approval, all investigations and site tests will be reported and the detailed designs carried out with their express approval and supervision if desired. It is our contention that this will provide an absolute effluent treatment system such that there will be no possibility for impact on local groundwaters or surface waters or be prejudicial to public health.

We respectfully submit our appeal to the planning authority and trust that our arguments have formed the basis of a favourable response. Please contact the undersigned in the event that any clarification is required.

Donal Marron BSc MSc PGeo

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Appendix 1
Notification to Refuse Planning; Planning Reference 08/557

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Comhairle Chontae Chill Mhantáin

WICKLOW COUNTY COUNCIL

Aras An Chontae
Cill Mhantáin
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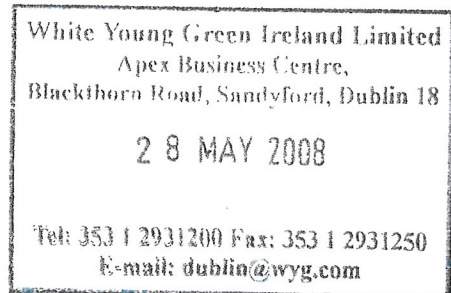
Your Ref:

Our Ref:

PLANNING & DEVELOPMENT ACTS 2000 - 2006

NOTIFICATION OF DECISION TO REFUSE

Buchpa Ltd
C/o White Young Green Ireland Ltd
Apex Business Centre
Blackthorn Road
Sandyford Industrial Estate
Dublin 18



Planning Register Number: 08/557

Valid Application Received: 04/04/2008

Further Information Received Date:

In pursuance of the powers conferred upon them by the above-mentioned Acts, Wicklow County Council has by Order dated 26/5/08 decided to REFUSE TO GRANT PERMISSION for development of land, namely:-

Restoration of lands comprising the infilling and land raise of a deep valley approximately 23 ha in size with clean inert clays, soils and stones, temporary installation of a site office, access road, storage container, wheelcleaner, oil bund, parking area, waste inspection bays, waste quarantine bay, septic tank, percolation area, silt trap, oil interceptor, soak pit, drainage and settlement ponds. Accompanied by an EIS at Kilmartin Coynes Cross Newcastle

For the 4 reasons set out in the Schedule hereto.

Signed on behalf of Wicklow County Council

SENIOR EXECUTIVE OFFICER
PLANNING & ECONOMIC DEV

Date:- 26/5/08

PLANNING AND DEVELOPMENT ACTS 2000 - 2006

Reference Number in Register: 08/557

SCHEDULE

1. It is a stated objective of Wicklow County Council to 'conserve, protect and enhance Wicklow's Natural environment and landscape and to restrict development in rural areas only when it satisfies certain criteria.

Having regard to:

- The nature and scale of the proposed development
- The existing and previous agricultural use of the subject lands
- The waste permit currently operational on site, which is for the restoration of the land for agricultural benefit
- The potential availability of other more suitable sites for deposition of construction and demolition waste in the county

It is considered that the proposed development would interfere with the character of the landscape of which it is necessary to protect without any proven need or justification for the proposed development at this location would therefore be contrary to the objectives of Wicklow County Development Plan and to proper planning and sustainable development of the area.

2. Having regard to the requirements of Article 6 of the Planning & Development Regulations 2001-2007 with respect to the information to be included in an E.I.S it is considered that no adequate examination has been undertaken of the main alternatives or an indication of the main reasons for choosing the proposed site taking into account the effects on the environment. Given that the proposal involves the systematic removal of an existing natural valley landform the removal of this feature in the absence of a clear assessment of suitability of the site vis-à-vis other alternatives is considered unacceptable, would lead to the loss of a natural geological feature in the absence of substantiated assessment, would set a precedent for further similar encroachment on natural land features contrary to the protection of the landscape of Wicklow and to proper planning and sustainable development.

3. Having regard to:

- The height of the infill land above the current road level
- The volumes of traffic generated from the proposed development
- Deficiencies of the noise survey submitted with respect to current noise levels on site

It is considered that the mitigation measures proposed in the EIS regarding the control of dust and noise emissions from the proposed development are inadequate. The failure to control such emissions would seriously (a) injure the amenities and (b) depreciate the value of properties in the vicinity and would therefore be contrary to proper planning and sustainable development.

4. Insufficient evidence is available that the site is suitable for septic tank effluent percolation and if found to be unsuitable then this development would be prejudicial to public health

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08/557

Appendix 2
Letters of Expression of Interest for the Development Site

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9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

**Re: Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

Dear Sirs & Madam,

We refer to the above mentioned facility and confirm that we have been using same for some months now. We find the location of this site particularly good due to the excellent and quick access off the N11. The site is ideally located to serve projects in Mid and North Wicklow and South Dublin.

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Yours faithfully,



ROWAN FENNEL

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

**Re: Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

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Yours faithfully,

Signature: Patrick Byrne

Company: Patrick Byrne Kilmartin Ennis Kerry

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

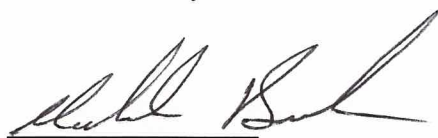
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Yours faithfully,



MICHAEL BURKE CIVIL ENGINEERING

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

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Newcastle, Co Wicklow**

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Yours faithfully,

Signature: Patrick Smith

Company: SMITH GROUND WORKS AND CIVIL ENGINEERING

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

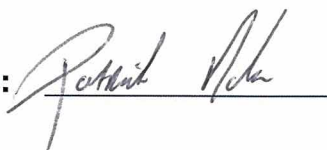
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Yours faithfully,

Signature: 

Company: PAT NOLAN PLANT Hire LTD.

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

**Re: Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

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Yours faithfully,

Signature: Gerard Devlin

Company: _____

Gerard Devlin Haulage Ltd.

Knockfadda
Roundwood
Co. Wicklow
Ph: 01-2019931
086 2701843
Vat No: 8233733P

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

**Re: Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

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Signature: 

Company: 

9th June 2008

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Buchpa Limited
59 Avoca Park
Blackrock
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**Re: Land Restoration Project at Kilmartin, Coynes Cross,
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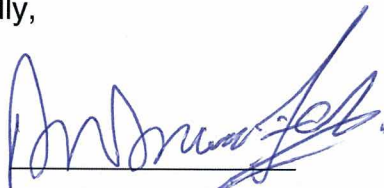
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Yours faithfully,

Signature:



Company:

ANDREW FOX TRANSPORT.

FRAN COE



HAULAGE AND SITE CLEARANCE LTD.

16, St. Brigid's Drive,
Clondalkin, Dublin 22.
Telephone: 459 2113
Fax: 411 1581
Mobile: 087-2572395

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

9th june 2008

**RE : Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

Dear Sir & Madam,

We refer to the above mentioned facility and would be interested in applying to use this facility if they receive a waste Licence permit. The location would be particularly good due to the excellent and quick access off the N11. The site would be ideally located to serve projects in Mid and North Wicklow and South Dublin.

The access to the site would be ideal as it is within 0.5km of a national primary route junction and is situated where no disturbance would be caused to local residents.

We would welcome this facility operating in the future and would like to be in a position to using it .

Yours Faithfully,

Signature

A handwritten signature in blue ink, appearing to read "Eileen Coe".

Company

A handwritten signature in blue ink, appearing to read "Fran Coe Haulage & Site Clearance Ltd".

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

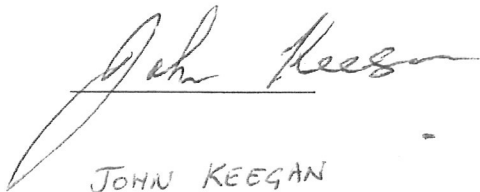
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Yours faithfully,


JOHN KEEGAN

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

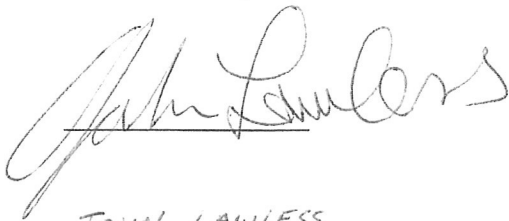
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Yours faithfully,



JOHN LAWLESS

9th June 2008

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Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

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Yours faithfully,



FRED HANRATTY

9th June 2008

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59 Avoca Park
Blackrock
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Yours faithfully,

Signature:

Michael Walsh

Company:

MICHAEL WALSH TRANSPORT.

9th June 2008

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Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

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Yours faithfully,

Signature:

Shanower Plant Hire Limited

Company:

SHANOWER PLANT HIRE LIMITED

9th June 2008

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59 Avoca Park
Blackrock
Co Dublin

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Yours faithfully,

Signature: Geoffrey Hall

Company: Geoffrey Hall

9th June 2008

The Directors
Buchpa Limited
59 Avoca Park
Blackrock
Co Dublin

**Re: Land Restoration Project at Kilmartin, Coynes Cross,
Newcastle, Co Wicklow**

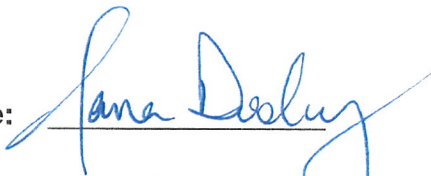
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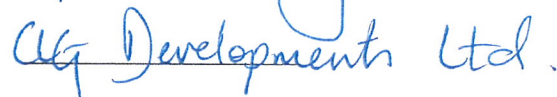
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Signature:



Company:



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Yours faithfully,

Signature:

John Gregory

Company:

Glencourt Timber Ltd.