

Administration
Environmental Licensing Programme
Office of Environmental Sustainability
Environmental Protection Agency
Headquarters
PO Box 3000
Johnstown Castle Estate
County Wexford



Date: 02/02/2018 Your Ref: Reg. No. W0295-01 Our Ref: Unsolicited Further Information

Dear Sir / Madame,

With reference to licence Application Reg W0295 - 01 I attach copies of an agreement which has been agreed between the owner of the site and the applicant in respect of their respective liabilities during and post licence activities. The agreement sees the owners jointly and severally guaranteeing the performance and obligations of the licensee under the terms of the licence.

I trust that this information is adequate and request that should you have any further information requests that you do not hesitate to contact me.

Yours Sincerely,

Raphael Mc Evoy MSc

RME Environmental

Encl: 1 original of the submission and 2 copies. In addition two copies in electronic searchable PDF format attached on CD-ROM.

Attachments to Document:

ATTACHMENT 1	Licence Agreement between Owners and Licensee
ATTACHMENT 2	
ATTACHMENT 3	

□ ReidyStafford
Solicitors

□ Moorefield Terrace
Newbridge
Co Kildare
W12 YE09
Ireland

□ DX 50001 Newbridge
T +353 45 432188
F +353 45 433019
mailto:reidystafford.com
www.reidystafford.com

Raphael McEvoy
raphaelmcevoy@gmail.com



Date

2nd February, 2018

Your Reference

Our Reference


TJS/cd

Re Landfill site at Thomastown, Kildare, Co. Kildare
Our clients - Michael & Patricia Ennis

Dear Raphael,

Further to my email of the 30th inst., I received today the signed Licence Agreement and I am attaching a copy herewith. Can you please proceed with the Licence Application.

Yours sincerely,


Thomas J. Stafford
Reidy Stafford
tjstafford@reidystafford.com



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LICENCE FOR RESTORATION OF EXISTING EXCAVATED GRAVEL PIT

LICENCE

THIS AGREEMENT ("the Licence") made the 1st day of February 2018
BETWEEN MICHAEL ENNIS of Thomastown, Rathangan, County Kildare
("the Licensor") (which expression shall include his Heirs, Executors and
Administrators) of the First Part and Kildare Sand and Gravel Limited of
Hazelwood House, Prosperous, Co. Kildare, Company No. 303089
("the Licensee) of the Second Part and Thomas Graham of Hazelwood
House, Prosperous, Naas, Co. Kildare and Christopher O'Neill of
Moyglare House, Ballycannon, Kilcock, County Kildare hereinafter called the
("The Guarantors") (which expression shall include their Heirs, Executors and
Administrators of the Third Part.

WHEREAS:

1. The Licensor is the owner of the lands described in the Schedule hereto ("the Lands").
2. The Licensor has agreed to licence to the Licensee the Lands by permitting the Licensee to enter upon the Lands for the purposes of the restoration of the existing excavated gravel pit (previously granted planning permission 01/1270, 07/188, 15/515 and 16/526) (hereinafter called The "Planning Permission") to the original ground levels by importing circa one million five hundred thousand tonnes of imported inert natural materials with access road and all necessary and ancillary works and the levelling of the surface of the Lands with a minimum of one meter of topsoil and the sowing of grass seeds to the specification of the Licensor and the aftercare monitoring of the Lands ("the Approved Scheme") which said works has been granted Planning Permission and EPA Licence WO295-01

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(hereinafter called The "EPA Licence") any subsequent licence or amendment thereof issued in respect of the Lands but subject always to the conditions hereinafter set forth.

3 NOW IT IS HEREBY AGREED:

1. That in consideration of the covenants and payments to be made by the Licensee to the Licensor as set out below the Licensor hereby licenses the Licensee for a period of 10 years from the date hereof to use the lands for the purposes of a landfill and the restoration of the existing excavated gravel pit in compliance with The Planning Permission and The EPA Licence.
 2. The Licensor hereby grants to the Licensee its servants and employees the right at all times and with or without vehicles to pass and repass over such areas of the Lands as are necessary to gain access to the Lands.
 3. The right to deposit circa one million five hundred tonnes of imported inert natural material excess soil, stones and/or broken rocks excavated on construction sites ("the Material). No other materials are to be deposited on the Lands other than the Material.
 4. The right to restore the Lands in accordance with paragraph 2 hereof.
 5. The right to apply to the relevant Local Authorities and The EPA for all necessary consents, licences and approvals.
 6. The right to carry out monitoring of the Lands in accordance with the provisions of The EPA Licence or any amendment or extension thereto.
- 4. The Licensee hereby undertakes and covenants agrees with the Licensor as follows:-**
- (a) To pay to the Licensor the sum of €0.50c (plus VAT at the appropriate rate) per tonne of Material deposited on the Land and to

make payment on a monthly basis on the 1st day of each month on the production of an invoice from the Licensor such sum to be paid direct to the Licensor within a period of seven days from the issuing of the invoice.

- (b) The Licensee shall during the restoration period and the monitoring period and upon completion of the Approved Scheme do all acts and things required by the provisions of all and any of the Acts of the Oireachtas applicable thereto and with the regulations of the Licensor and shall pay and keep the Licensor indemnified against all claims for fees, charges, fines, penalties and other payments whatsoever which may become payable during the progress of the works on the Approved Scheme and during the occupation of the Lands or which shall be demanded in respect of the said works or in respect of anything done in pursuance of the agreement herein contained and shall generally and from time to time discharge all claims, assessments and outgoings now or at any time hereafter chargeable against the owner or occupier ("the Licensor or Licensee") of lands by Acts of the Oireachtas or otherwise in regard to the Lands or any buildings or erections thereon.
- (c) The Licensee shall not and shall not allow the deposit of any materials other than the Materials allowed for in The EPA Licence. In the event of any substance or material being deposited then the Licensee shall immediately remove any such material and any materials which become contaminated and restore the Landfill to the condition it was in prior to the deposit of the unlicensed substance or material and the Licensee hereby indemnifies the Licensor for any damages thereby arising and all consequential losses thereby arising to the Licensor.
- (d) The Licensee will not at any time deposit or make up or manufacture or allow to be deposited or made up or manufactured upon the Lands any Materials except those contained in The

Planning Permission and The EPA Licence and the Licensee undertakes to monitor the Materials deposit to ensure that no deposits other than those provided for in The planning permission and the licence agreement from the EPA.

- (e) The Licensee shall not at any time do, cause or permit any public or private nuisance in or upon the Lands or do, cause or permit anything which shall cause unnecessary annoyance or disturbance to the Licensor or to the occupiers of neighbouring lands or premises.
- (f) The Licensee, its Architects or Agents shall have the right at all times to enter upon the Lands to view the state and progress of the works on the Approved Scheme, to inspect and test the Materials and for any other reasonable purpose.
- (g) Any notice permitted or required to be given to the Licensee under this Licence shall be well and sufficiently given if sent by post as a pre-paid letter addressed to the Licensee or his Solicitor at their place of business and any such notice sent by post shall be deemed to have been delivered on the day immediately following the day on which it was posted.
- (h) The Licensee shall indemnify and keep indemnified for a sum of not less than €13 million, the Licensor, his servants or agents from and against all actions, proceedings, costs, damages, compensation, expenses, claims and demands whatsoever whether at Common Law or under any Statute in respect of any accident, injury, loss or damage sustained by or caused to any person or property (including the Licensor, its servants or agents) arising out of its occupation of the Lands or any building works being carried out on the Lands or any working areas or access points thereto by the Licensee, its servants or agents.

- (i) The Licensee will take out a policy of insurance against Employer's Liability and Public Liability in the sum of €13 million in respect of any one accident with an approved Insurance Company and pay all premiums thereon and will on request produce to the Licensor or its agents the policy or policies of such insurance and the last receipt for the premium paid thereon.
- (j) The Licensee agrees not to permit or allow others to commit any act constituting a nuisance on the Lands.
- (k) The Licensee shall prior to the commencement of works on the Lands and immediately upon entering into occupation fence and secure the Lands to the Licensor's satisfaction and take all steps necessary to prevent trespass onto the Lands.
- (l) All works by the Licensee in the course of the restoration works of the Approved Scheme are to be carried out in compliance with the Licensor's requirements, Planning Permission and EPA Licence or any further Planning Permission and all the requirements of the Environmental Protection Agency to adhere to all terms and conditions of any and all licences issued by the Environmental Protection Agency.
- (m) In the event that the Licensee does not complete the Approved Scheme within 10 years of the date hereof, the Licensee will apply for a new licence if required by the EPA and a new planning permission if required by the Planning Authority to complete the Approved Scheme. The Licensee shall pay to the Licensor by way of penalty a sum of money sufficient to enable the Licensor procure the satisfactory completion of the Approved Scheme.
- (n) On the completion of the Approved Scheme the Lands are to be levelled and landscaped and sown with grass seeds by the Licensee to the specification of the Licensor and EPA. The Licensor and the Licensee jointly and severally agree to comply with all aftercare and remedial works required by the planning permission and The Environmental Protection Agency for such

period as the Environmental Protection Agency deem fit.

- (o) The Licensee will remove any temporary buildings brought onto the Lands or any part thereof.
- (p) **PROVIDED ALWAYS** that in case any dispute or difference shall arise between the Licensor and the Licensee under this Agreement as to the construction of this Agreement or as to any matter or thing arising thereunder then either party shall forthwith give to the other notice of such dispute or difference and in default of resolution of same within twenty-one days of such notice the same shall be referred within fourteen days thereafter to Arbitration and the final decision of Single Arbitrator in case the parties agree upon one otherwise such a Single Arbitrator as shall be appointed by the President for the time being of the Law Society of Ireland which Arbitrator shall be required to give his decision within twenty-eight days of the referral of the dispute and such reference shall be deemed to be a reference to Arbitration within the meaning of the Arbitration Act 2010 and any Statutory modification or re-enactment thereof.

5. AND IT IS HEREBY AGREED:

- 5.1 Nothing in this Licence shall establish any partnership or any joint venture between the Licensor and the Licensee or be construed as creating a legal transfer or grant of exclusive possession to the Licensee or create any greater interest in the Licensee than a licence on the terms set out above and the Licensee agrees not to impede in any way the Licensor and his employees servants agents invitees and licensees in the exercise by them of the Licensor's right of possession and control of the Lands.
- 5.2 This Licence is personal to the Licensee and may not be transferred assigned or otherwise disposed of and for the avoidance of doubt the Licensee may neither part with nor share possession or occupation of the Lands or any part of them nor grant a licence of the whole or any part of the Lands to any other

person or body.

- 5.3 Where the context so admits words importing the neuter gender only shall include the masculine and feminine gender as appropriate and words importing the masculine gender only shall include the feminine gender and words importing the singular number only shall include the plural number and vice versa.
- 5.4 Where the Licensee shall from time to time be or consist of a limited liability company or two or more individuals the covenants and conditions herein expressed to be made by or imposed on the Licensee shall be deemed to be made by and imposed upon such individuals and such limited liability company jointly and severally.
- 5.5 Any indemnity given by the Licensee in compliance with the conditions of this Licence or on the execution of this Agreement shall where the Licensee consists from time to time of two or more persons and/or a limited liability company be deemed to be given jointly and severally.

6. LICENCE FEE:

1. The licence fee provided for herein shall be reviewed on an annual basis by agreement between the Licensor and the Licensee. In default of agreement the Accountant for the Licensor and the Licensee shall agree the annual licencing fee and in default of agreement the provisions of paragraph 4(r) are to apply.

7. GUARANTORS:

The Guarantors hereby jointly and severally guarantee the due performance and observance by the Licensee of the terms and conditions of the within licence and the payment to the Licensor and his Successors in Title of the licence fee and all other sums at any time payable thereunder at the times prescribed therein and the due performance of the terms and conditions of the within Licence.

**SCHEDULE
THE LANDS**

ALL THAT AND THOSE part of the Lands comprised in folio 1103F of the Register County of Kildare as outlined in green on the map attached hereto.


In Witness whereof the Licensor has signed his name and the Licensee has affixed its seal and the Guarantors have signed their names the day and year first herein Written.

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SIGNED and DELIVERED


By the Licensor in the Presence of:

Thomas J. Gifford
Wardage Co. Kildare
Director.




PRESENT when the Common Seal of
The Licensee was affixed hereto:

x Thomas J. Gifford
Director

x 
Director

SIGNED and DELIVERED

By the Guarantors in the
presence of:-


Director
Kildare
Co. Kildare.

x Thomas J. Gifford

x 

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