

Unit 15
Melbourne Business Park
Model Farm Road
Cork T12 WR89



T: 021 434 5366
E: admin@ocallaghanmoran.com
www.ocallaghanmoran.com

Office of Environmental Sustainability
Environmental Protection Agency
Headquarters PO Box 3000
Johnstown Castle Estate
County Wexford.

17th October 2023

Re: Notice under the EPA (Industrial Emissions) (Licensing) Regulations 2013, in respect of a licence review from Starrus Eco Holdings Limited for an installation located at Starrus Eco Holdings Limited (Littleton), Ballybeg, Littleton, Tipperary, E41 WP83

Dear Sir/Madam

I refer to the Agency's Notice dated 25th August 2021 in accordance with Regulation 10(2)(b)(ii) of the EPA (Industrial Emissions) (Licensing) Regulations 2013 relating to the status of the planning applications.

An Bord Pleanála has granted permission for the two planning applications that were subject to third party appeals (Ref 20/550 and 21/520). Copies of the Bord's decisions and associated Inspector's Reports are in Attachment A. The EIAR prepared for 20/550 was submitted with the licence review application. In relation to 21/550, the Inspector's Report confirms that an EIAR was not required for this application.

Yours Sincerely

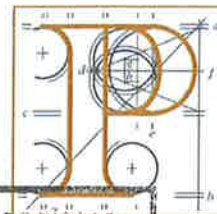

Jim O'Callaghan

ATTACHMENT A

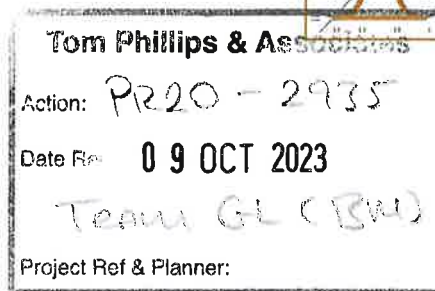
Our Case Number: ABP-310786-21

Planning Authority Reference Number: 20550

Your Reference: Starrus Eco Holdings Ltd



An
Bord
Pleanála



Gavin Lawlor, Tom Philips & Associates,
80 Harcourt Steet,
Dublin 2.

Date: 06 OCT 2023

Re: (1) an increase in the annual waste intake from 45000 tonnes/year to 80,000 tonnes; (2) single storey extensions to the east and west of the existing building (having a combined floor area of 6,083m²), (3) relocation of existing firewater lagoon (324m²), (4) construction of new firewater lagoon (401m²) The existing biological treatment process is carried out in accordance with an Industrial Emissions Licence granted by the Environmental Protection Agency. An Environmental Impact Assessment Report (EIAR) shall be submitted with this planning application. Ballybeg, Littleton, Co. Tipperary.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - Guide to the Building Control System and a copy of the Health and Safety Authority's leaflet Safety and Health on Construction Projects - The Role of Clients with the notification. These leaflets are issued at the request of the above bodies.

Tel	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,


Rita Donnelly
Executive Officer

BP100LN

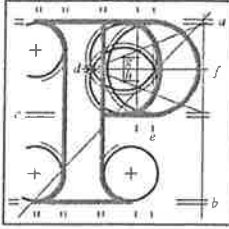
Tel
Gíao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Facs
Website
Email

(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902



**An
Bord
Pleanála**

**Board Order
ABP-310786-21**

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 20550

Appeal by Sharon Morris of 3 Derrynaflan Drive, Littleton, Thurles, County Tipperary and by Catherine Dempsey of Ballybeg, Littleton, Thurles, County Tipperary against the decision made on the 14th day of June 2021 by Tipperary County Council to grant subject to conditions a permission to Starrus Eco Holdings Limited care of O'Callaghan Moran and Associates of Unit 15 Melbourne Business Park, Model Farm Road, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) An increase in the annual waste intake from 45,000 tonnes/year to 80,000 tonnes, (2) single storey extensions to the east and west of the existing building (having a combined floor area of 6,083 square metres), (3) relocation of existing firewater lagoon (324 square metres), (4) construction of new firewater lagoon (401 square metres) and all associated site works and services to accommodate the biological treatment of the additional organic residues and production of compost at Ballybeg, Littleton, County Tipperary. The existing biological treatment process is carried out in accordance with an Industrial Emissions Licence granted by the Environmental Protection Agency.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, and European, national, regional and local planning policies, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in respect of its likely effects on the environment and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 23rd day of April, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development.

Reason: In the interest of protection of the environment and in the interest of public health.

3. Trees to be felled shall be surveyed for bats before their removal. All trees shall be felled under the supervision of an ecologist and left intact on the ground for a period of at least 24 hours. The destruction or interference of any tree identified as a bat roost shall only be carried out on receipt from the National Parks and Wildlife Service of a licence to derogate from the Habitats Directive and destroy the roost.

Reason: To conserve bat species afforded a regime of strict protection under the Habitats (92/43/EEC).

4. The clearance of any vegetation including trees, hedgerows and scrub, shall only be carried out in the period between the 1st of September and the end of February, that is, outside the main bird breeding season.

Reason: To provide for the conservation of species of fauna protected under the Habitats Directive (92/43/EEC) and the Wildlife Acts (1976 to 2018) and to provide for the conservation of bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC).

5. All measures recommended by the Auditor in the submitted Stage 1/2 Road Safety Audit (dated 04.11.2019) shall be undertaken unless otherwise agreed in writing in advance with the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

6. The haul route for heavy traffic coming to and going from the site from the west shall be via county road L4101 from the N8 national Primary Road (or as renumbered in the future) and such traffic shall not pass along any other county roads between N8 and the site in accordance with the recommendations of the submitted traffic impact assessment.

Reason: In the interests of traffic safety and management of heavy traffic.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

8. (a) No storage, either permanent or temporary, of any materials shall occur within the site which is outside of any structure shown on the Site Layout Plan (drawing number 18-173-300) submitted with the application.
- (b) Any waste vehicles parked on the apron of the facility shall not contain waste. All organic materials shall be transported to and from the site in sealed containers. No materials which would attract birds shall be present on the open areas of the site at any time.

Reason: In the interest of public health.

9. Waste shall not be accepted on site outside the hours of 0730 to 1930, Monday to Saturday inclusive.

Reason: In the interest of proper planning and sustainable development of the area.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best practice guidelines for the preparation of resource and waste management plans for construction and demolition projects 2021", published by the EPA (2021).

Reason: In the interest of sustainable waste management.

11. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

13. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

Eamonn James Kelly

Eamonn James Kelly
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 6th day of October, 2023.

19. How long should it take to get a Disability Access Certificate/ Revised Disability Access Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

20. Can I appeal if I am refused a Disability Access Certificate/ Revised Disability Access Certificate?

Yes. An applicant for either certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

21. Do the Regulations have specific requirements for access for people with disabilities?

Yes. Part M of the Regulations aims to ensure that buildings other than dwellings are accessible and usable by people with disabilities. From 1 January 2001 all *new* dwellings must be visitable by people with disabilities. The requirements cover the access and use of buildings, provision of sanitary facilities, audience or spectator facilities.

Technical Guidance Document M 2000 - Access for People with Disabilities provides guidance on the provision of:

- ◆ at least one entrance accessible to wheelchair users;
- ◆ an internal layout which allows disabled people to circulate freely;
- ◆ a passenger lift in buildings above a certain size;
- ◆ a proportion of hotel guest bedrooms suitable for disabled people;
- ◆ wheelchair spaces in theatres, cinemas, concert halls and sports stadiums; and
- ◆ facilities for people with hearing impairments in theatres, cinemas, concert halls and places of religious worship.

Part M of the Regulations is currently under review and an updated Part M/TGD-M will be published in 2010

The law governing Building Regulations and procedures is primarily set out in the Building Control Acts, 1990, and 2007, the Building Regulations, 1997-2009 and the Building Control Regulations, 1997-2009. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2 (Phone 01-6476995/4).

This leaflet is a simple guide to understanding the building control system, which applies to the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of building control law. For more information, you should consult your local building control authority.

1. What are the Building Regulations 1997-2009?

Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

Building Regulations provide for, in relation to buildings, the health, safety and welfare of people, conservation of fuel and energy, and access for people with disabilities. The Regulations can be downloaded from the Department's website www.environ.ie

The Consolidated Regulations came into force on 1 July, 1998, and replace the Building Regulations, 1991 (as amended).

2. How are the Regulations framed?

The Regulations comprise a set of legal requirements, expressed in simple functional statements.

Structure	Part A
Fire Safety	Part B
Site Preparation and Resistance to Moisture	Part C
Materials and Workmanship	Part D
Sound	Part E
Ventilation	Part F
Hygiene	Part G
Drainage & Waste Water Disposal	Part H
Heat Producing Appliances	Part J
Stairways, Ladders, Ramps and Guards	Part K
Conservation of Fuel and Energy	Part L
Access for People with Disabilities	Part M

Technical guidance on how to comply with these requirements are set out in the twelve separate Technical Guidance Documents (TGD's), which deal with each of the above areas. Amended TGD's can be downloaded from the Department's website www.environ.ie

The Regulations and related TGD's were amended as follows:

Parts M and D—2000; Part B—2006; Part G—2008; Part F—2002 & 2009; Part L (Dwellings) - 2007; Part L (Non-Dwellings) - 2008
TGD C—2004 & 2008

3. How do they affect me?

If you are having construction work carried out, the work must comply with Regulations. The Regulations do not apply to works consisting of repairs or renewal (as defined in the Regulations) except to any repair or renewal likely to affect the structural integrity of the building or building element being repaired or renewed.

Part L Regulations apply to renewal works to existing buildings involving the replacement of external doors, windows and rooflights. (S.I. 259 of 2008)

4. What if I fail to comply?

The primary responsibility for compliance rests with designers, builders and building owners. Building control authorities have powers to inspect design documents and buildings, as well as powers of enforcement and prosecution where breaches of the Regulations occur. There are heavy penalties, including fines and imprisonment, for breaches of the Regulations. In addition, when it comes to selling your property, you may have difficulties if you cannot satisfy the purchaser's solicitor that the requirements of the Regulations have been met.

5. What control arrangements are in place?

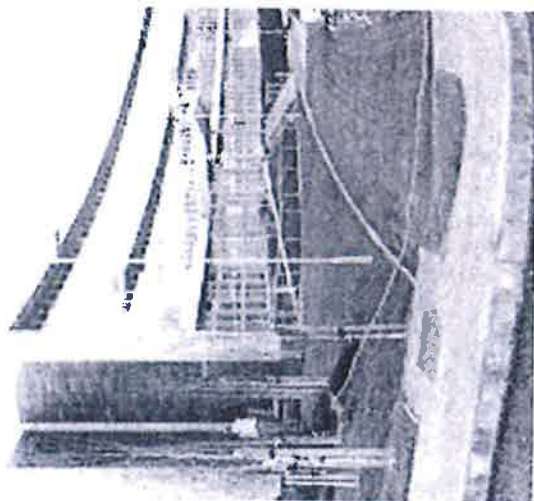
The Building Control Regulations, 1997-2009 supplement the basic system of enforcement referred to in Question 4 above.

Seven important control arrangements are provided:

- ◆ Commencement Notice
- ◆ Fire Safety Certificate
- ◆ Revised Fire Safety Certificate
- ◆ 7 Day Notice
- ◆ Regularisation Certificate
- ◆ Disability Access Certificate
- ◆ Revised Disability Access Certificate

Comhshaoil, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government

PL. 11 - Guide to the Building Control System



Building Standards Section,
Department of Environment, Heritage and Local
Government, Custom House,
Dublin 1.

Lo Call 1890 20 20 21 or 01 888 2000
www.environ.ie

May 2010

6. What is a Commencement Notice?

A Commencement Notice is a notification to a building control authority that a person intends to carry out either works or a material change of use to which the Building Regulations apply.

The notice must be given to the authority not more than 28 days and not less than 14 days before commencement of works or a material change of use.

The notice must be accompanied by a Commencement Notice Fee, based on the number of buildings (details available from your local building control authority). Copies of a Commencement Notice can also be obtained from the building control authority.

Commencement Notices are required for the following:

- ◆ the erection of a building;
 - ◆ a material alteration or extension of a building;
 - ◆ a material change of use of a building;
 - ◆ works in connection with the material alteration (excluding minor works) of a shop, office or industrial building.
- A Commencement Notice is not required:
- ◆ for works or a change of use which are exempted development under the planning code, and for which a Fire Safety Certificate is not required; or
 - ◆ where a 7 Day Notice has been submitted.

Information on exempted development is given in other leaflets in this series, including PL. 5 - Doping Work about the House, PL. 6 - Agricultural and Farm Development, and PL. 7 - Planning for the Business Person.

7. What is a Fire Safety Certificate?

A certificate granted by a building control authority certifies that the building or works, if constructed in accordance with the plans, documents and information submitted to the authority, would comply with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2009.

8. Do I need a Fire Safety Certificate?

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings. A Fire Safety Certificate must be obtained before work starts.

9. What is a revised Fire Safety Certificate?

A certificate granted by a building control authority which is required where:

- ◆ an application for a Fire Safety Certificate is made before grant of planning permission, if required by the subsequent permission, or
- ◆ where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted.

10. Where do I get a Fire Safety Certificate / Revised Fire Safety Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted. Application forms are available from the authority and should be submitted together with –

- ◆ plans, calculations and specifications for the works or building;
- ◆ details of the nature and extent of the proposed use and, where appropriate, of the existing use of the building;
- ◆ the appropriate fee, based on floor area (details available from your local authority).

Any application not including the above can be rejected by the authority as invalid.

11. How long should it take to get a Fire Safety Certificate / Revised Fire Safety Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

12. Can I appeal if I am refused a Fire Safety Certificate / Revised Fire Safety Certificate?

Yes. An applicant for a certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

13. What is a 7 Day Notice?

A 7 Day Notice is a notification to a building control authority that a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate.

A 7 Day Notice must be submitted not less than 7 days in advance of the commencement of works. The notice must be accompanied by:-

- ◆ a valid application for a Fire Safety Certificate for that purpose in the form specified and accompanied by such plans and particulars as required under paragraphs (a) and (b) of article 13(2) of the Regulations.
- ◆ a 7 Day Notice Statutory Declaration in the form specified for that purpose in the Third Schedule, and
- ◆ such fee as may from time to time be prescribed for that purpose in Part V.

Do I require a Commencement Notice as well as a 7 Day Notice?

No. A Commencement Notice will not be required in respect of buildings where a 7 Day Notice has been submitted.

14. What is a Regularisation Certificate?

A certificate granted by a building control authority where a building has been commenced or completed without a Fire Safety Certificate, where such a certificate is required and certifies that the building work is in compliance with Part B of the Second Schedule to the Building Regulations 1997 to 2009.

The application must be accompanied by:-

- (i) drawings of the relevant works as they have been commenced or constructed, so as to enable the building control authority to assess whether the said works, as commenced or as constructed in accordance with the said drawings,

documents and information submitted, will comply or are in compliance, as appropriate, with the requirements of Part B of the Second Schedule to the Building Regulations.

(ii) a Statutory Declaration from the applicant in the form specified for that purpose in the Third Schedule, and

(iii) such fee as may from time to time be prescribed for that purpose in Part V.

15. What is a Disability Access Certificate?

A certificate granted by a building control authority which certifies compliance, at design stage of non-domestic buildings and apartment blocks, with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2009.

16. What is a Revised Disability Access Certificate?

A revised Disability Access Certificate (DAC) is a certificate granted by a building control authority in respect of works where significant revision is made to the design or works of a building for which a DAC has already been granted.

17. Do I need a Disability Access Certificate?

With the exception of houses and certain agricultural buildings, a Disability Access Certificate is required for all new non-domestic buildings (including apartments and flats), material alterations and extensions to buildings and certain changes of use.

18. Where do I get a Disability Access Certificate / Revised Disability Access Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which an Disability Access Certificate has already been granted.

Safety and Health on Construction Projects The Role of Clients

A summary of the client's role under the Safety, Health and Welfare at Work
(Construction) Regulations, 2006

Who is a 'Client'?

The Safety, Health and Welfare at Work (Construction) Regulations, 2006 interprets 'client' as a person for whom a project is carried out, in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking;

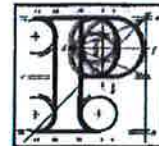
You are not a client if you are having construction work done on your own domestic dwelling e.g. an extension on to your kitchen, or you are building your own house.

You are a client if the extension onto your own domestic dwelling is in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking, e.g. if you are building on an office.

What are the duties of a Client?

The Client must for every project:

- appoint, in writing before design work starts, a competent and adequately resourced project supervisor for the design process (PSDP).
In order to be competent the PSDP must have adequate training, knowledge, experience to carry out the project the PSDP must have adequate resources available to carry out the project in a safe manner;
- appoint, in writing before construction begins, a competent and adequately resourced project supervisor for the construction stage (PSCS). In order to be competent the PSCS must have adequate training, knowledge, experience and resources;
- be satisfied that each designer and contractor appointed has adequate training, knowledge, experience and resources for the work to be performed;
- co-operate with the project supervisor and supply necessary information;
- keep and make available the safety file for the completed structure. The safety file contains information on the completed structure that will be required for future maintenance or renovation (The client must keep the file in a secure place, either on the premises to which it relates or held centrally, and if the client wishes, it may be stored electronically or on microfiche.);
- provide a copy of the safety and health plan prepared by the PSDP to every person tendering for the project. The safety plan documents show how health and safety on the project will be managed to project completion.
- notify the Authority of the appointment of the PSDP where construction is likely to take more than 500 persons days or 30 working days.



Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000, as amended, contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that any application for leave to apply for judicial review must be made within 8 weeks of the date of the decision of the Board, save for decisions made pursuant to a function transferred to the Board under Part XIV of the Planning and Development Act 2000, where any application for leave to apply for judicial review must, as set out in sub-section 50(7), be made within 8 weeks beginning on the date on which notice of the decision of the Board was first sent (or as may be the requirement under the relevant enactment, functions under which are transferred to the Board, was first published). These time periods are subject to any extension which may be allowed by the High Court in accordance with sub-section 50(8).

Section 50A(3) states that leave for judicial review shall not be granted unless the Court is satisfied that (a) there are substantial grounds for contending that the decision is invalid or ought to be quashed and (b) the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

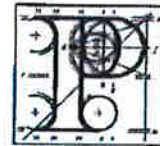
Section 50B contains provisions in relation to the costs of certain judicial review proceedings in the High Court; pursuant to Section 50B(1), Section 50B applies to the following proceedings:

- (a) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of—
- (i) any decision or purported decision made or purportedly made,
 - (ii) any action taken or purportedly taken,
 - (iii) any failure to take any action, pursuant to a statutory provision that gives effect to
 - I. a provision of the EIA Directive 85/337/EEC as amended to which Article 10a (as inserted by Directive 2003/35/EC) of that Directive applies,
 - II. the SEA Directive 2001/42/EC, or
 - III. a provision of the IPPC Directive 2008/1/EC to which Article 16 of that Directive applies, or
 - IV. Article 6(3) or 6(4) of the Habitats Directive; or
- (b) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in paragraph (a);
- (c) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in paragraph (a) or (b).

The general provision contained in section 50B(2) is that in proceedings to which the section applies each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant, to the extent that the applicant succeeds in obtaining relief, against a respondent or notice party, or both, to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on www.citizeninformation.ie

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.



Fógra faoi Athbhreithniú Breithiúnach

Athbhreithniú breithiúnach ar chinntí an Bhoird Pleanála faoi fhorálacha na nAchtanna um Pleanáil agus Forbairt (arna leasú).

Ní fhéadfaidh duine ar mian leis nó léi agóid a dhéanamh in aghaidh bhailíocht chinneadh de chuid an Bhoird é sin a dhéanamh ach trí athbhreithniú breithiúnach. Tá forálacha in Alt 50, 50A agus 50B den Acht um Pleanáil agus Forbairt 2000, arna leasú, maidir le dúshláin i leith bhailíocht chinneadh an Bhoird.

Ní féidir bailíocht cinnidh arna ghlacadh ag an mBord a cheistiú ach amháin trí iarratas a dhéanamh ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (S.I. Uimh. 15 de 1986). Ceanglaíonn fo-alt 50(6) den Acht um Pleanáil agus Forbairt 2000 go gcaithfear aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach a dhéanamh laistigh de 8 seachtaine ó dháta chinneadh an Bhoird, seachas cinní a dhéantar de bhun feidhme aistrithe chuig an mBord faoi Chuid XIV den Acht um Pleanáil agus Forbairt 2000, i gcás nach mór aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach, mar atá leagtha amach i bhfo-alt 50(7), a dhéanamh laistigh de 8 seachtaine ag tosú ar an dáta ar ar tugadh fógra faoi chinneadh an Bhoird ar dtús (nó mar a cheanglófar faoin achtú ábhartha, ar aistríodh feidhmeanna faoi chuig an mBord, a foilsíodh den chéad uair). Tá na tréimhsí ama seo faoi réir aon síneadh a fhéadfaidh an Ard-Chúirt a cheadú de réir fho-alt 50(8).

Sonraítear in alt 50A(3) nach ndeonófar cead d'athbhreithniú breithiúnach mura bhfuil an Chúirt sásta (a) go bhfuil forais shubstaintiúla ann chun a áitiú go bhfuil an cinneadh neamhbhailí nó gur chóir é a chur ar neamhní agus (b) go bhfuil leas leordhóthanach ag an iarratasóir san ábhar is ábhar don iarratas nó i gcásanna a bhaineann le measúnú tionchair timpeallachta ar comhlacht é a chomhlíonann critéir shonraithe.

Tá forálacha in alt 50B maidir le costais imeachtaí athbhreithnithe bhreithiúnaigh áirithe san Ard-Chúirt; de bhun Alt 50B(1), tá feidhm ag alt 50B maidir leis na himeachtaí seo a leanas:

(a) imeachtaí san Ard-Chúirt mar athbhreithniú breithiúnach, nó trí chead a lorg chun iarratas a dhéanamh ar athbhreithniú breithiúnach, ar—

(i) aon chinneadh nó cinneadh airbheartaithe a rinneadh nó a airbheartaítear a rinneadh,

(ii) aon ghníomh a rinneadh nó a airbheartaítear a rinneadh,

(iii) aon mhainneachtain aon ghníomh a dhéanamh, de bhun forála reachtúla a thugann éifeacht

- I. d'fhoráil de Threoir EIA 85/337/CEE arna leasú lena mbaineann Airteagal 10a (arna cur isteach le Treoir 2003/35/CE) den Treoir sin,
- II. do Threoir SEA 2001/42/CE, nó
- III. d'fhoráil de Threoir IPPC 2008/1/CE a bhfuil feidhm ag Airteagal 16 den Treoir sin maidir lél, nó
- IV. d'Airteagal 6(3) nó 6(4) den Treoir maidir le Gnáthóga; nó

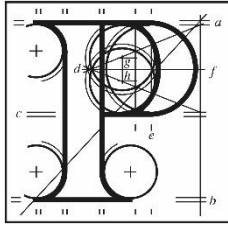
(b) achomharc (lena n-áirítear achomharc de chás ráite) chun na Cúirte Uachtaraí i gcoinne breithe ón Ard-Chúirt in imeacht dá dtagraítear i mír (a);

(c) imeachtaí san Ard-Chúirt nó sa Chúirt Uachtarach le haghaidh faoisimh eatramhach nó idirbhreitheach i ndáil le himeacht dá dtagraítear i mír (a) nó (b).

Is í an fhoráil ghinearálta atá in alt 50B(2) ná go n-íocfaidh gach páirtí in imeachtaí lena mbaineann an t-alt a chostais féin. Féadfaidh an Chúirt, áfach, costais a dhámhachtain in aghaidh aon pháirtí in imthosca sonraithe. Tá foráil ann freisin go ndéanfaidh an Chúirt costais imeachtaí nó cuid de chostais den sórt sin a dhámhachtain d'iarratasóir, a mhéid a éiríonn leis an iarratasóir faoiseamh a fháil, i gcoinne freagróra nó páirtí fógra, nó an dá cheann, a mhéid a chuir an chaingean nó an t-easnamh ar thaobh an fhreagróra nó an pháirtí fógra go páirteach leis an bhfaoiseamh atá á fháil.

Tá eolas ginearálta ar nósanna imeachta athbhreithnithe bhreithiúnaigh ar fáil anseo a leanas, www.citizensinformation.ie.

Séanadh: Mar eolas atá an méid thuas ceaptha. Ní airbheartaíonn sé a bheith ina léirmhíniú ceangailteach ó thaobh dlí ar na forálacha ábhartha agus bheadh sé inmholta do dhaoine atá ag smaoineamh ar chaingean dlí comhairle dlí a lorg.



An
Bord
Pleanála

Inspector's Report ABP-310786-21

1) an increase in the annual waste intake from 45000 tonnes/year to 80,000 tonnes; (2) single storey extensions to the east and west of the existing building (having a combined floor area of 6,083m²), (3) relocation of existing firewater lagoon (324m²), (4) construction of new firewater lagoon (401m²) The existing biological treatment process is carried out in accordance with an Industrial Emissions Licence granted by the Environmental Protection Agency. An Environmental Impact Assessment Report (EIAR) shall be submitted with this planning application.

Location

Ballybeg, Littleton, Co. Tipperary.

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

20550

Applicant(s)

Starrus Eco Holdings Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Sharon Morris; Catherine Dempsey

Observer(s)

None

Date of Site Inspection

20.02.23

Inspector

Una O'Neill

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. National Policy	8
5.2. Tipperary County Development Plan 2022-2028	9
5.3. Natural Heritage Designations	10
5.4. EIA Screening	11
6.0 Grounds of Appeal.....	11
6.1. Applicant Response	12
6.2. Planning Authority Response	13
6.3. Observations	13
6.4. Further Responses.....	13
7.0 Assessment.....	14
7.1. Introduction	14
7.2. Principle of Development	14
7.3. Impact on Residential Amenity.....	16
7.4. Roads and Traffic.....	18

7.5. Other Matters	19
8.0 Environmental Impact Assessment.....	20
8.1. Statutory Provisions	20
8.2. Likely Significant Direct and Indirect Effects	21
8.3. Major Accidents/Disasters.....	22
8.4. Alternatives	22
8.5. Assessment of the Likely Significant Direct and Indirect Effects	23
8.6. Population and Human Health	23
8.7. Biodiversity.....	24
8.8. Land and Geology.....	26
8.9. Water	28
8.10. Air and Climate	29
8.11. Material Assets, Cultural Heritage and the Landscape	33
9.0 Appropriate Assessment.....	38
10.0 Recommendation	41
11.0 Reasons and Considerations	41
12.0 Conditions	42

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 3.58ha, is located within the townland of Ballybeg, c. 2km southeast of Littleton and c. 10km from Thurles, in County Tipperary. The site is accessed off the southwestern side of the L4101, which is 5.5km from the M8 interchange.
- 1.2. The site comprises an existing waste recovery/composting building and associated bio-filter (odour control unit) and condensate tank, portabkabin/staff facilities, storage containers, two firewater retention lagoons, and a parking area to the front of the building. The site operates under an Industrial Emissions Licence from the EPA. The composting building is c. 250m from the public road, with a weighbridge located at the end of the access road. The site is bounded to the west, north and east by willow plantations and to the south by farmland. There are open drains along the boundaries of the site.
- 1.3. The area is rural in character, with a number of rural dwellings in the vicinity of the site and a closed Bord na Mona factory is located c. 1.5km to the east (now in partial use as a plastic recycling facility).

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - an increase in the annual waste intake from 45000 tonnes/year to 80,000 tonnes/year.
 - single storey extensions to the east and west of the existing building (having a combined floor area of 6,083m²) – this increases the existing red line boundary of the site, increasing the site area from 3.2ha to 3.58ha. The extension of the building to the east and west will result in the loss of 0.8ha of existing willow plantations. The western extension will be used for waste reception and primary processing and the eastern extension will be used for secondary processing. Two new pasteurising bays will be provided.
 - relocation of existing firewater lagoon (324m²).
 - construction of new firewater lagoon (401m²).

The existing biological treatment process is carried out in accordance with an Industrial Emissions Licence granted by the Environmental Protection Agency. An Environmental Impact Assessment Report (EIAR) accompanies the planning application.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 8 conditions, including the following:

C2: Surface water to be collected and disposed of within the curtilage of the site by means of soakaways.

C3: Signage.

C4: Waste shall not be accepted on site outside the hours of -7.30-19.30 Monday to Saturday inclusive.

C5: Any materials or wastes associated with the development shall be stored internally.

C6: Construction Management Plan.

C8: Financial contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The application was submitted on 04.06.20 and further information was requested on 28.07.20. Following the agreement by the PA to a time extension in relation to the response, a response was received from the applicant on 23.04.21.

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- Unauthorised works on site being addressed by way of a separate application.
- CEMP submitted following FI request.
- List of experts who contributed to the EIAR submitted following FI request.

- Surface water management plan submitted following FI.
- AA requested and was resubmitted separately to EIAR following FI request.
- Issues of noise and odour adequately addressed following FI request.

3.2.2. Other Technical Reports

District Engineer – No issues in relation to sightlines or drainage.

Environment and Waste Management – FI in relation to effluent at the plant.

3.3. Prescribed Bodies

EPA – Acorn Recycling Ltd was issued a Waste Licence (register no. W0249-01) on 09.10.09, which was transferred to Starrus Eco Holding Ltd on 12.06.19.

It is noted that in accordance with the 2013 amendment of the EPA Act and Waste Management Act and to give effect to the Industrial Emissions Directive, the licence was amended on 27.11.15 to incorporate the requirements of the Industrial Emissions Licence.

The licence may need to be reviewed or amended to accommodate the changes proposed in the planning application.

Where the Agency is of the opinion that the activities as proposed cannot be carried on, or cannot be effectively regulated under a licence, then the Agency cannot grant a licence for such an activity. Should a licence be granted, it will incorporate conditions that will ensure that appropriate National and EU standards are applied and that Best Available Techniques (BAT) will be used in the carrying on of the activities.

In accordance with Section 87 (1D)(d) of the EPA Act, the Agency cannot issue a Proposed Determination on a licence application which addresses the development above until a planning application has been made.

3.4. Third Party Observations

Twelve observations were received. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder).

4.0 Planning History

PA Reg Ref 07511853 – Permission GRANTED for facility to accommodate biological treatment of organic residues and production of class 1 compost comprising

- (a) Landscaped Fenced c.3.2 Hectare complex;
- (b) Main Building c.3870sqm. Housing Storage, Equipment & treatment activities;
- (c) Marshalling yard;
- (d) Office & staff building;
- (e) Effluent storage tank (Domestic, serving staff facilities only);
- (f) Entrance Road & Weighbridge;
- (g) Bio-filter & associated Plant;
- (h) Tree plantation (Willow & similar species);
- (i) ESB substation and all ancillary works.

An Environmental Impact Statement (EIS) is included with the application documents.

Concurrent Application:

ABP-310787-21 (PA reg ref 21520) – Retention Permission for extensions to the main building on site including all other associated site development works above and below ground - the development relates to a Biological Waste Treatment Facility which is operated under a Waste Licence (W0259-01) granted by the Environmental Protection Agency.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- National Climate Policy

- A Waste Action Plan for a Circular Economy, Ireland’s National Waste Policy 2020-2025 (Sept 2020; updated Sept 2022)
- Regional Spatial and Economic Strategy for the Southern Region 2020-2026 (January 2020)
- Regional Waste Management Plan (Southern Region of Ireland 2015-2021)

5.2. Tipperary County Development Plan 2022-2028

Chapter 8 Enterprise and Rural Development

- Policy 8-3 Facilitate proposals for employment generating developments of a ‘strategic/regional scale’ at locations outside of designated lands in settlements, subject to the demonstration of a need to locate in a particular area. These will be considered on a case by case basis, and must demonstrate that;

(a) They are compatible with relevant environmental protection standards, the protection of residential amenity and the capacity of water and energy supplies in the area, and,

(b) They would not compromise the capacity of strategic road corridors in line with the Spatial Planning and National Roads, Guidelines for Planning Authorities (DHLGH, 2012).

- Policy 8-9 Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their continued operation and expansion, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

Chapter 10 Renewable Energy and Bioeconomy

Section 10.8 The Circular Economy and Sustainable Waste Management:

The new National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) will replace the Southern Region Waste Management Plan 2015-2021. The National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) will include the new guidance document Waste Management Infrastructure – Guidance for Siting Waste Management Facilities, the scope of

which includes broad siting criteria and facility specific guidance for consideration when siting a waste facility.

It is a key objective of the Council to support the sustainable management of waste in line with the National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) and associated guidance across the delivery of its services and in the management of new development.

- Policy 10-4 Ensure the sustainable management of waste and the application of the ‘Circular Economy’ concept in line with the provisions of the National Waste Management Plan for a Circular Economy and the Waste Management Infrastructure – Guidance for Siting Waste Management Facilities, (Government of Ireland, 2022) in the development and management of new development.
- Objective 10-B Support the National Policy Statement on the Bioeconomy (Government of Ireland, 2018) and any review thereof, having consideration to the strategic importance of the bioeconomy to rural Tipperary and support the preparation of a Bioenergy Implementation Plan for the Southern Region in conjunction with the Local Authorities and the Southern Regional Waste Management office.

Chapter 11 Environment and Natural Assets

Section 11.2 Biodiversity

Section 11.3 Conservation and Protection of Sites

Section 11.4 Water Quality and Protection

Section 11.8 Noise and Light Emissions

5.3. Natural Heritage Designations

The site is not located in or close to any European sites. The closest European sites are the River Barrow and River Nore SAC (002162), which is c.12.5km to the east, and the Lower River Suir SAC (002137), which is c.8.3km to the west.

5.4. EIA Screening

- 5.4.1. The development proposed comprises a class of development for which an EIAR is required to be submitted. The application is accompanied by an EIAR prepared by O'Callaghan, Moran and Associates.

6.0 Grounds of Appeal

The grounds of appeal are submitted by two third parties and the issues raised are summarised below:

- Located in a rural area opposite bog lands that are of high ecological value, owned by Bord na Mona.
- There are 23 houses within a mile of the facility to the east and west.
- There is a plastic recycling plant a mile away in the former Bord na Mona factory. There is capacity for combined plants to recycle 104,000 tonnes of waste per annum. Concerns for health and well being of the community.
- Level of traffic generated by the two recycling plants is significant.
- Road infrastructure insufficient in this rural area.
- Traffic speed on local roads is high.
- Sightlines insufficient.
- Noxious odours from existing plant are negatively affecting the community and there are health implications.
- Potential increase in rodents requiring use of chemicals which could harm birds in the area.
- EIAR is deficient and has not demonstrated that there would not be significant effects on the environment – cumulative impacts limited to a 1km radius therefore cumulative impact of recycling plant at Bord na Mona factory not considered; ecological surveys are out of date having been undertaken in 2007; bat survey has not been undertaken; the extent of impact on biodiversity should be established prior to a decision being made on the application; air quality chapter does not include an assessment of the

proposed extension of the facility or the addition of the new waste treatment process involving the treatment of fines and location of monitoring points is not indicated. It is stated that odour modelling impact may be carried out at a later stage to inform details design of mitigation measure of the biofilter, therefore the impact with regard to air pollution has not been established.

- Proposed development is contrary to policy on non-conforming uses in that it has not been demonstrated that the proposal will not have an adverse impact in terms of air quality, particularly in regard to odour.

6.1. Applicant Response

The applicant's response to the grounds of appeal was submitted on 11th August 2021 and is summarised as follows:

- The Board is referred to the EIAR submitted which addresses a number of the third party concerns.
- Traffic
 - Plastics recycling at one of the buildings at the Bord na Mona plant commenced around October 2019, with capacity to process 24,000 tonnes of waste plastic annually and stopped operating in March 2020 and has not recommenced. It was not possible to survey traffic generated as a result. However, on basis of information known, the plant would generate approx. 8 two way heavy goods vehicles movements a day, with daily two-way private vehicle movements of 40 (assuming 40 staff and each arrive individually).
 - Traffic modelling was using baseline figures and applying growth factors for worst-case scenarios to existing traffic figure and the predicted traffic at the junction, with and without the proposed development. Data was analysed using PICADY. All lane at the junction will operate using less than 5% of available capacity in 2036. Results indicate there is more than adequate capacity at the junction to accommodate the operation of the plastics plant.

- All traffic arrives via the L4101 via the R639 (formerly the N8) to the north and the R689 to the south. All hauliers are instructed not to access the site from Littleton.
- Air Quality –
 - Chapter 13 of the EIAR addresses potential adverse impacts on human health from odours. Section 10.6 and 11.6 sets out prevention and mitigation measures. Section 13.7 states that air quality in the vicinity is good. Existing operational controls and those that will be conditioned in the revised licence will ensure no impacts in terms of odour, dust or noise nuisance.
 - Monitoring result from 2019 show no issues – see Section 10.4.2 of Chapter 10.
 - Included is an Environmental Monitoring Report which deals with odour sampling and analysis for the facility is included.
- Biodiversity –
 - The applicant has engaged a specialist pest and vermin control contractor who visits the site regularly to ensure pests and vermin are properly controlled. There is no evidence that such control measures have negatively impacted the local bird population. All wastes are and will be off-loaded and treated inside the building.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity
- Roads and Traffic
- Other Matters

7.1.2. EIA is addressed in Section 8.0 of this report and Appropriate assessment issues are addressed in Section 9.0.

7.1.3. Tipperary County Development Plan 2022 – 2028 was made on the 11th July 2022. I note the Planning Authority's assessment of this application was undertaken under the previous development plan, which was also in force at the time of the appeal submission. I assess hereunder the application against the operative development plan, namely Tipperary County Development Plan 2022-2028.

7.2. Principle of Development

7.2.1. The existing biological waste facility was permitted under PA reg ref 07511853 (permitted on 5th November 2008), and intakes commercial and household food waste from commercial waste operators (not from individual households). The main biological treatment processes within the facility are composting and anaerobic digestion, which result in the production of a soil improver, for use on farmland. The process takes on average 6 weeks to complete. The facility currently operates under an EPA Industrial Emissions Licence which limits the annual waste intake to 45,000 tonnes, and also operates under an approval from the Department of Agriculture, Forestry and Marine under the European Union (Animal By-Products) Regulations. It is proposed to extend the existing composting building to provide additional primary,

pasteurising and secondary processing capacity, and increase the annual intake of waste to 80,000 tonnes. The development will involve land take to the east to construct the extension, alterations to the surface water drainage and firewater storage systems, and an augmentation of the odour abatement system. It is proposed to start the treatment of organic fines as well as producing a soil improver. The EIAR in chapter 1 gives a detailed description of the existing activities and processes on site. The works will require a revision of the existing EPA licence governing the site, which is separate to this application.

7.2.2. The proposed development is supported by national as well as local development plan policy in relation to sustainable management of waste. The national Waste Action Plan for a Circular Economy sets out a range of aims and targets for the State and the measures by which these will be achieved, including increased regulation and measures across various waste areas such as Circular Economy and Municipal Waste. 60% of waste comes from household and commercial sources and at a national level, food waste is identified as a priority waste stream within the National Waste Prevention Programme managed by the EPA. Additional capacity for facilities which segregate wastes and feed into the circular economy, such as that proposed, are supported at a national level and in recent years increased resources have been assigned to the area in recognition of its strategic importance. The Tipperary County Development Plan 2022-2028 under chapter 10 states that it is a key objective of the Council to support the sustainable management of waste in line with the National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) and associated guidance across the delivery of its services and in the management of new development. The proposed development relates to a facility for the treatment of organic waste which would otherwise be treated at a landfill with consequential increased releases of methane gas. The development therefore supports the sustainable management of this waste stream. The development is in my opinion consistent with relevant national, regional, and local waste policy.

7.2.3. The principle of this development on this site has been previously established under parent permission 07511853, which permitted this use at this rural location. Policy 8-9 of the operative development plan supports rural enterprises which may be considered as non-conforming uses, stating: 'Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their

continued operation and expansion, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard'. The development was previously permitted at this location and is therefore acceptable in principle, subject to detailed assessment of all planning and environmental matters, as considered elsewhere in this report.

7.3. Impact on Residential Amenity

Odour and Noise

- 7.3.1. The surrounding area is rural in nature, characterised by dispersed rural dwellings, willow plantations, and bogland, with a closed Bord na Mona peat factory c. 1.5km to the east of the site (partly now in use as a plastic waste recycling plant). I consider odours and noise to be the most prominent potential sources of disturbance and nuisance to residential dwellings in the vicinity of the site. I note the nearest residential dwellings in this rural area are 300m to the east and 432m to the northeast. Littleton village is c. 2km to the northeast.
- 7.3.2. The current facility operates under an Industrial Waste Licence (ref IEL W0249-01) from the EPA and approval under the European Union (Animal By-Products) Regulations. The Industrial Waste Licence includes control measures in relation to vehicle exhausts, dust, noise, odour, and rainwater run off, and under the EPA licence emission threshold limits are set and monitored. I note that the EPA have not indicated any breach of emission limit levels currently imposed by licence at the site. The proposed development may require an amendment to its existing licence, as identified in a submission from the EPA to the PA. It is therefore the case that the assessment of emissions to the environment would be undertaken under the licencing process and that the Board is precluded from attaching conditions that relate to the control of emissions or mitigate the impact on the environment. The Planning Authority or the Board is, however, authorised to refuse permission on the basis of environmental considerations.
- 7.3.3. In relation to odour as it relates to the existing plant, an existing odour control system is utilised which extracts odorous air from inside the composting building and filters it through a filter that reduces the odours to levels that do not cause an off-site

nuisance. I note all waste is currently unloaded and treated inside the building and outside yard areas are not permitted to be utilised.

- 7.3.4. Concerns have been raised by third parties in relation to odours and non-compliance with EPA licence and impact of odours on health and well being of the community, with odours experienced by residential dwellings in the area considered noxious.
- 7.3.5. The applicant in response to the grounds of appeal states the EIAR has addressed prevention and mitigation measures and that air quality in the vicinity is good. Reference is made to monitoring of odour in 2019 (included in appendix 10 of the EIAR), required by the existing EPA licence, which indicate no issues.
- 7.3.6. The PA requested FI in relation to the level of information contained in the EIAR in relation to Odour and Noise. The applicant responded that the facility is in compliance with the EPA licence and measures in relation to odour. It is noted that the odour facilities will be upgraded as part of the expansion of the facility, including increased ducting and air extraction capacity and increased size of the biofilter. It is stated that the biofilter odour removal efficiency is in excess of 90%. The applicant responded to the issue of noise with results of a survey carried out to comply with EPA requirements (included in Appendix 11 of the EIAR). The PA noted that the report showed no tonal or impulsive noises were audible from the facilities and the facility noise was not a nuisance despite exceeding noise levels as the dominant noise source is from traffic from the local road.
- 7.3.7. Consideration of impacts relating to amenity arising from emissions from the development are considered in more detail in the sections below under the heading of EIA, and particularly under the headings of Population and Human Health and Air, and this assessment should be read in conjunction with this section.
- 7.3.8. I have reviewed all submissions made on the file and I acknowledge that the issue of odour is difficult as it affects people differently, however, the air quality monitoring undertaken regularly at the site shows compliance with the EPA licence limits. I note an issue raised that there is uncertainty with regard to the specification of some of the odour equipment to be used on the site as set out in the EIAR, however, I consider the basic analysis submitted and results of monitoring show that the applicant is applying best available techniques as required by the EPA. Odour emissions for the extended plant will be specified in the licence that will be required

to be obtained from the EPA and, given the licensable nature of the activity I do not consider that there is any clear basis relating to odours on which permission should be refused by the Board. I am satisfied that the proposed development will not give rise to significant noise or odour emissions and as such will not negatively impact current levels of residential amenity at dwellings within the area. Issues raised by third parties in relation to potential non-compliance by the applicant with the EPA licence are a matter for the EPA to enforce. I refer to section 8 hereunder in relation to air.

- 7.3.9. With regard to the impact of noise emissions from the proposed operation on amenity, the site is the subject of existing noise limits on foot of its licence with the EPA and noise monitoring has been undertaken in 2019, the results of which are included in the EIAR. Chapter 11 and Appendix 11 of the submitted EIAR set out the likely noise impact of the proposed development (See section 8 hereunder for more detail). The nature of surrounding uses is such that cumulative noise is not likely to be a significant element in the overall noise impacts, having regard to estimated levels of traffic as set out in the TTA including assumptions in relation to the plastics factory nearby, as submitted in the applicants response to the grounds of appeal.
- 7.3.10. Overall, given the results of noise monitoring to date, and having regard to distances to noise sensitive receptors, impacts are not considered likely to be significantly negative. As with odour, noise emissions will be specified in the Industrial Emissions licence that will be required to be obtained from the EPA and, given the licensable nature of the activity, I do not consider that there is any clear basis relating to noise on which permission should be refused by the Board.

7.4. Roads and Traffic

- 7.4.1. The third parties have raised concerns in relation to the volume of traffic arising from the development and impacts in terms of road safety given the quality of the roads and sightlines at the site entrance. Issues are also raised with lack of consideration of cumulative impacts, specifically to the plastics factory 1.5km to the east of the site.
- 7.4.2. Traffic and transport is addressed in Chapter 6 of the submitted EIAR, and Appendix 5 contains a Traffic and Transport Assessment and a Road Safety Audit (see Section 8 of this report also).

- 7.4.3. Access to the site is from the L4101, which is 5.5km from the M8 interchange. It is stated that at the operational stage, daily traffic generation will be 20 trips per day, which is 224% of the current traffic movements. While this is a significant increase, modelling indicates that the access T-junction from the site onto the L4104 will operate using less than 5% of available capacity in 2036, therefore there is capacity within the existing road network. The EIAR predicts a slight negative impact on the local road network. In terms of construction traffic there will be 10-12 daily heavy goods vehicles trips. However, construction impacts are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts.
- 7.4.4. I am satisfied that the required sightlines from the site entrance are in accordance with standards and the county council's road engineer has raised no issue in this regard. Littleton village (2km from the site) is not permitted to be used by lorries accessing the waste facility, as per the submission of the applicant in the response to the grounds of appeal. This is a matter of enforcement by the PA where such breaches are verified, as the haul routes were addressed by way of condition in the parent permission. While concerns are raised in relation to the quality of the road surface, especially during winter and concerns in relation to speed, I noted upon site inspection the roads were in good condition and the speed limit is 80km/hr at this location. Enforcement of speed limits and maintenance of the road network is the responsibility of the county council/An Garda Siochana and is outside the remit of this application.
- 7.4.5. The existing road network has capacity, is of good condition, and the nature and volume of the traffic predicted to be generated by the proposed development is such that I do not consider that there would be any likely significant negative effects on the wider road network surrounding the site. I consider that the proposed development would not give rise to an increased traffic hazard or impact traffic flows to such a degree as to warrant a refusal.

7.5. Other Matters

- 7.5.1. I note concerns raised in relation to vermin. As per EPA requirements, a pest control programme is in place whereby a specialist pest company puts out bait and monitors

activity on the site. There is no evidence that pest control programme is affecting other local wildlife.

8.0 Environmental Impact Assessment

8.1. Statutory Provisions

- 8.1.1. The proposed development is for the expansion of a waste/biological treatment facility with an increase in the current annual waste intake from 45000 tonnes/year to 80,000 tonnes. The current facility operates under an Industrial Emissions Licence granted by the Environmental Protection Agency.
- 8.1.2. Part 2, Class 11(b) of Schedule 5 of the Planning and Development Regulations 2001 (as amended) relates to 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. As the waste facility is permitted to take in 45,000 tonnes, this application expand the facility and requirement for an EIAR derives from Class 13(a): 'Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:
- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and
 - (ii) result in an increase in size greater than –
 - 25 per cent, or
 - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.
- 8.1.3. The application is accompanied by an EIAR prepared by O'Callaghan Moran & Associates. The document is laid out in one volume, with additional sections submitted by way of Further Information following a request from the PA.
- 8.1.4. The contributors to the EIAR were submitted to the PA on 23.04.21 further to a FI request from the PA. I am satisfied that the EIAR has been prepared by competent experts.
- 8.1.5. The opening section of the EIAR document comprises a non-technical summary. Chapter 1 provides a description of the site and proposed development, Chapter 2

addresses the regulatory environment and Chapter 3 addresses alternatives. Interactions and cumulative impacts are addressed within Chapter 16. Mitigation measures are addressed within each chapter. Appendix 1 contains the EPA licence applicable to the site; appendix 2 contains the Department of Agricultural Forestry and the Marine Approval; appendix 3 a closure plan, environmental liabilities risk assessment and financial provision report; appendix 4 an accident impact assessment; appendix 5 TTA and RSA; appendix 6 and 7 relates to Geology, Hydrogeology, and Hydrology Assessments/tables; appendix 8 comprises an AA Screening Report; appendix 9 Biodiversity Survey List; appendix 10 Odour Monitoring Reports 2019; appendix 11 noise monitoring survey 2019; and appendix 12 archaeology field survey 2006.

8.1.6. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authority, appellant, and applicant has been set out at Sections 3.0 and Section 6.0 of this report. The main issues raised specific to the EIA can be summarised as follows:

- Cumulative impacts in terms of neighbouring factory not considered.
- Ecological surveys out of date and no bat survey undertaken.
- Odour and air quality
- Traffic and Road Safety

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

8.2. Likely Significant Direct and Indirect Effects

8.2.1. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected

effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

- 8.2.2. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. I am satisfied that the information contained in the EIAR complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.
- 8.2.3. This EIA has had regard to the application documentation, including the EIAR, and the observations received. A number of the environmental issues relevant to this EIA have already been addressed in the Planning Assessment at Section 7.0 of this report. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

8.3. Major Accidents/Disasters

- 8.3.1. With respect to Article 3(2), chapter 1 addresses Risk of Major Accidents and/or Disaster. The site is not within the consultation distance for any Seveso sites. I note the site is not in an area prone to natural disasters. The site is not in an area liable to flooding. The EIAR contains an Accident Prevention Policy and a Safety Statement relating to the existing development (required by the EPA), which identifies the major on site potential hazards and describes mitigation measures to control the hazards and an Emergency Response Procedure is also included.
- 8.3.2. Having regard to these factors, it is considered that the risk of major accident hazards or potential implications arising from natural disasters and climate change are negligible.

8.4. Alternatives

- 8.4.1. Consideration of alternatives is addressed in Section 3 of the submitted EIAR.
- 8.4.2. Consideration of an alternative location would require additional land and infrastructure as well as an EPA licence which the applicant contends would not offer environmental or economic benefits compared to the continued operation of the existing facility. I am satisfied that alternative locations are not relevant to the proposal, as set out in the EIAR. The applicant states that in terms of layout and

design of the site this is in accordance with Best Available Techniques specified at EU level. A do nothing scenario will mean the plant continues to operation in its current form.

8.4.3. I am satisfied that the information contained in the EIAR with regard to the main alternatives provides a justification in environmental terms for the chosen scheme and phasing and is in accordance with the requirements of the 2014 EIA Directive (2014/52/EU).

8.5. **Assessment of the Likely Significant Direct and Indirect Effects**

8.5.1. The likely significant direct and indirect effects of the proposed development on the environment are considered under the headings below which follow the order of the factors as set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and human health
- Biodiversity, with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- Land, soil, water, air and climate
- Material assets, cultural heritage and the landscape
- The interaction between the factors referred to in points (a) to (d).

8.5.2. With respect to cumulative impacts these are addressed within chapter 12 and have been adequately considered.

8.5.3. My assessment is based on the information provided by the applicant, including the EIAR, in addition to the submissions made in the course of the application, as well as my site visit.

8.6. **Population and Human Health**

8.6.1. Chapter 13 of the EIAR addresses population and human health. The methodology for assessment is described as well as the receiving environment.

8.6.2. The closest residential dwellings in this rural area are 300m to the east and 432m to the northeast. Littleton village is c. 2km to the northeast.

- 8.6.3. Potential risk on population and human health are identified as arising from the process (particulates and bioaerosols), noise, odours, dust, pest, exhaust gases from vehicles, emissions to surface water and groundwater, traffic movement, and major incident such as a fire.
- 8.6.4. I note proposed activity on the site will be the subject of a licence from the EPA which will contain emission limits in relation to noise, dust and odours which must be complied with in the development. The EPA licence will be reviewed post planning stage, as per standard practice. The EIAR examines in more detail potential impacts and mitigation in other chapters. No likely significant negative impacts are identified. Further consideration is detailed and referenced within other chapters of the EIAR and hereunder in this report.
- 8.6.5. With respect to Residual Impacts, none are anticipated. The proposed development is rated as having an imperceptible, negative impact on population and human health.
- 8.6.6. I have considered all of the written submissions made in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

8.7. **Biodiversity**

- 8.7.1. Chapter 9 of the EIAR addresses biodiversity and the methodology is set out.
- 8.7.2. The EIAR states that as a result of the design and operation of the facility and surrounding land use, the biodiversity value of the site was deemed low and therefore an ecological survey was not considered necessary. The biodiversity value was based on desktop review of inter alia the EIS accompanying the parent application in 2008, NPWS databases and National Biodiversity Plan in addition to current site survey and habitat mapping in accordance with best practice (see Table 9.1 Habitats in Chapter 9 of EIAR).
- 8.7.3. I note the operational area of the site is covered by building, hard paving/yard areas, biofilter, with some landscaped grass areas. The extension of the building will result

in the loss of a section of tree line to the east of the building and a mixed wet grassland and section of willow plantation. I note the willow around the site is harvested in rotation for biomass fuel. The treelines along the southern and eastern site boundaries are stated to comprise a mix of ash, sycamore, alder and whitehorn, with the lower parts of the trees hosting ivy, with scrub at the bases. There is stated to be no evidence of invasive species on the site. The site is not located within or adjacent to a European site, with the closest being the Lower River Suir SAC (002137), c. 8.3km to the west and the River Barrow and River Nore SAC (002162), c. 12.5km to the east.

- 8.7.4. In terms of the receiving environment, habitats and flora are identified and a review of the 2008 field surveys are undertaken. The justification for not undertaking new surveys is stated as follows: ‘...given the size and type of operations and the heavily modified nature of the majority of the majority of the habitats that will be affected by the development, it was considered that the surveys were still generally representative of the fauna likely to be present within the development footprint’.
- 8.7.5. The loss of habitat is quantified as an 80m section of mature tree line to the east and a drainage ditch to the east (to be culverted), 920sqm of grassed area east of the composting building, a section of planted hedgerow along the western boundary, and 8000sqm of willow plantation to the east and west of the composting building. The EIAR states that it is considered that due to the relatively small size of the site it is not envisaged that any movements of migratory birds or mammals will be significantly affected by the development.
- 8.7.6. Mitigation measures are set out in section 9.6 of chapter 9 of the EIAR, including implementation of a CEMP including dust prevention and control, maintenance of a 2m buffer from the southern tree lined boundary of the site during construction, and prior to the start of construction a bat survey will be completed on the mature tree line on the eastern side of the site by an appropriately qualified and experienced ecologist to identify and address potential bat roosts.
- 8.7.7. I note a third party concern that the EIAR is inadequate due to the lack of a bat survey and concern in relation to the age of the surveys utilised as part of the assessment. While I acknowledge there is a lack of up to date specific surveys, the site has been reviewed and previous surveys used to form a view of the context. The

existing habitats have been mapped as part of this application and no habitats of significance were noted with the site rated as being of low ecological value. I do not consider a full set of ecological surveys would be warranted in this instance and I accept the rationale as set out in the EIAR. I note, however, that there is one tree line proposed for removal which is outside the boundary of the existing operations. It is stated that this treeline may have bat roosts. I consider a condition would be warranted, should the Board be minded to grant permission, to ensure the protection of bats. It is recommended that a bat survey and tree inspection survey be undertaken prior to the removal of the trees. If a bat roost is identified in a tree to be removed on site, a licence will be required to be obtained from the National Parks and Wildlife Service (NPWS) to derogate from the Habitats Directive to destroy these bat roosts. All trees should be felled under the supervision of an ecologist and left intact on the ground for a period of at least 24 hours.

- 8.7.8. There have been no significant developments in relation to the site since the existing composting facility was constructed and it is recognised that the habitat is highly modified. I am satisfied that the mitigation measure proposed in terms of bats is appropriate in this instance when balanced against the quality of the existing environment and having regard to the wider landscape in this rural area.
- 8.7.9. Residual impacts are considered to be permanent, imperceptible, and negative in terms of biodiversity.
- 8.7.10. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts on biodiversity would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity.

Land, Soil, Water, Air and Climate

8.8. Land and Geology

- 8.8.1. Chapter 7 of the EIAR addresses land and geology and sets out the methodology adopted.

- 8.8.2. The subsoils underlying the majority of the site are identified as comprising cut peat, c. 1m thick, underlain by boulder clay, sandy gravel and gravel. The western part of the site is underlain by limestone till. The bedrock is a locally important aquifer, moderately productive, with a moderate vulnerability to pollution. It is noted that there are no discharges to ground as part of the existing or the proposed development.
- 8.8.3. The impact identified is the removal of soil and subsoils for the extension of the building which equates to an area of 6083sqm and the loss of c.0.8ha of willow plantation. It is stated the willow is a source for biomass, are not a food crop and have no impact on water supplies and are not critical to nutrient cycles. The excavated soils will be retained on site for landscaping.
- 8.8.4. Risks identified include accidental spills/leaks when refuelling vehicles and mobile plants or for contaminated firewater run off to infiltrate to ground in the event of a fire.
- 8.8.5. The implementation of a CEMP to mitigate potential construction impacts, including inter alia elements relating to storage of topsoil, no refuelling of plant on site, availability of spill kits and training of staff. EPA licence requirements will also apply and it is noted such existing requirements include provision of impermeable paving in all operational areas, inspection and repair of paved areas, emergency response procedure and staff training on appropriate incidents and emergency response actions, spill containment and clean up equipment and provision of accidental spill and firewater retention capacity. Such mitigation measures are standard practice and known to be effective and will continue to be in place as per EPA licencing review as part of the extended development, if granted.
- 8.8.6. The proposed development will have a permanent, slight, negative impact on lands and soils but no impact on bedrock.
- 8.8.7. I have considered all of the written submissions and information submitted in relation to land and geology. I am satisfied that the potential for impacts on Land and Geology would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable long term direct or indirect impacts in terms of land and geology.

8.9. Water

- 8.9.1. Water is addressed within Chapter 8 of the EIAR and Appendix 6 and 7 contains a Geology, Hydrogeology and Hydrology Assessment from 2007 and Hydrology and Hydrogeology Assessment Tables (originally submitted as part of the parent application EIS). The information remains valid.
- 8.9.2. There are a number drainage ditches around the site that discharge to the Ballyley River. The Ballyley River is c. 120m to the south of the site and flows from east to west, becoming the Breegagh River, which flows northeast, discharging into the Drish River, c 7.1km to the northwest. The Drish River then joins the River Suir, c.680m to the west of this point. The site is located within the Suir catchment and is part of the Breagagh Waterbody. The groundwater body here is identified as being good, with the risk assessment under review. The Ballyley/Breegagh River is identified being of poor quality and at risk. The site is not identified as being in an area prone to flooding and there have been no recorded past flood events. The closest well to the site is 1.1km to the north.
- 8.9.3. I note that there are three on-site ground water wells which are monitored in accordance with the EPA licence requirements. In addition the EPA carries out its own monitoring. It is of note that there is no discharge arising from waste waters at the proposed development site. Wastewater from staff facilities is collected from an underground holding tank and transferred to a waste intake area and mixed with incoming waste and then composted. This is acceptable under the EPA licence.
- 8.9.4. The potential impacts are identified, specifically in relation to potential for accidental spills/leaks from vehicles and mobile plant. It is noted that there will be slight increase in the volume of run off and a slight decrease in groundwater recharge due to the increase in the impermeable areas.
- 8.9.5. Following a Further Information (FI) request from the PA, the applicant submitted a Surface Water Management Plan. Run-off from the northern section of the main compost building and the northern yard drains to a field drain at the northern site boundary via a silt trap and oil interceptor. This drain flows to the west and joins an unnamed tributary of the Ballyley River, which joins the river itself 750m west of the site. There is a shut off valve upstream of the discharge point which can be closed in the event of incident on the site and run off is in such an instance diverted to the

existing firewater retention point in the north-west corner of the site. Roof water from the southern section of the compost building discharges to a drain on the western boundary which flows to the south to join the Ballyley River.

- 8.9.6. Mitigation measures are described including the preparation of a Construction Environmental Management Plan (CEMP) and specific measures are as per section 8.8.5 above. The EPA licence also requires additional prevention and mitigation measures in relation to water.
- 8.9.7. Residual impacts are rated as having a slight, permanent impact on water flows in the Ballyley/Breagagh River, but no impact on water quality. It will have an imperceptible negative impact on the quantitative status of the bedrock aquifer but no impact on the qualitative status.
- 8.9.8. I have considered all of the written submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water.

8.10. **Air and Climate**

Air

- 8.10.1. Air is addressed in Chapter 10 of the EIAR. The methodology and receiving environment are addressed. The assessment was based on information derived from ambient air quality databases maintained by the EPA and the dust, microbiological and particulate (PM10) monitoring carried out in compliance with their EPA licence conditions. Results are contained in Appendix 10 of the EIAR.
- 8.10.2. Potential impacts to air quality as a result of the construction phase of development arise from dust and vehicle exhausts. During the operational phase, emissions may arise in terms of odours, particulates, dust, bioaerosols and vehicle exhaust gases.
- 8.10.3. Mitigation measures are described in section 10.6 in terms of CEMP for construction management issues. In terms of mitigation measures to prevent nuisance from odours, dust and particulates, I note that the operator implements control measures

specified within the EPA licence that are designed to ensure waste activities do not give rise to negative impacts on air quality. Recent results of the existing operation show no breach of limits. The odour control system will be upgraded to increase the air extraction capacity, there will be additional ducting installed and the size of the biofilter will be increased. It is stated that the specifics of the detailed design will be subject to specifications of the EPA licence. A third party submission contends that there is uncertainty with regard to the specification of some of the equipment to be used on the site and the EIAR is therefore adequate, however, I consider the basic analysis submitted and results of monitoring show that the applicant is applying best available techniques as required by the EPA. Odour emissions for the extended plant will be specified in the licence that will be required to be obtained from the EPA and, given the licensable nature of the activity I do not consider that there is any clear basis relating to odours on which permission should be refused by the Board.

8.10.4. With regard to vehicle emissions, I note it is stated that HGVs are typically fitted with a selective catalytic reduction systems to reduce nitrous oxide levels in the exhaust and as mentioned previously engines are not permitted to idle at the site.

8.10.5. Residual impacts are rated as having an ongoing imperceptible negative impact on air quality but will have no permanent impact. Given the nature and scale of the development proposed, and distance from other properties including the plastic recycling plant 1km to the east, I am satisfied that no cumulative impacts would arise in respect of air and climate.

8.10.6. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

Noise

8.10.7. Noise is addressed in Chapter 11 of the EIAR and Appendix 11. The assessment is based on the findings of the annual noise monitoring surveys required as part of the EPA licence applicable to the site. The licence specifies noise limits of 55dBA at noise sensitive locations during daytime hours.

- 8.10.8. The closest residential property is 300m to the east and 432m to the northwest. The daytime limits are measures at the residential properties and the daytime limit is to be regularly exceeded, however, this is stated to be as a result of road traffic noise. Noise from the facility was not recorded as being audible in the 2019 results submitted, with the exception of faint intermittent noise from fans and a diesel engine. No tonal or impulsive noise audible. Noise from the facility was not audible at night time.
- 8.10.9. Potential noise impacts during construction are described, including noise arising from construction plant and equipment, vehicles and the on-going waste activities at the site. During the operational phase, consideration is given to noise arising from delivery vehicles, mobile plant and aeration and extraction fans. The delivery vehicles and plant are stated to be active normally between 8am and 7pm Monday to Friday and 8am to 2pm on Saturday. The fans are operational 24/7 as the composting is a continuous process.
- 8.10.10. Mitigation measures are detailed in section 11.6 for both the construction stage, which involves best practice measures, and for the operational stage. Operational mitigation relates to design elements, including the location of fans to the rear of the composting building, which is the furthest away from the nearest noise sensitive locations; selection at procurement stage of fans not exceeding 55dB daytime and 45dB night time criteria and will be subject to EPA specifications in the licence. I note that it is stated that operations are unlikely to give rise to tonal or impulsive emissions at the noise sensitive locations, as per the existing situation.
- 8.10.11. In terms of residual impacts, the proposed development will have an on-going, imperceptible neutral impact.
- 8.10.12. It is of note that noise mitigation measures are a condition of the applicant's EPA licence and are controlled by same. All processing of waste occurs inside buildings and noise emissions from this activity are appropriately controlled. The current permission and licence pertaining to the site require noise monitoring to be carried out on a regular basis and no issues arising from the waste facility were recorded.
- 8.10.13. As mentioned above, vehicles will not be permitted to run engines when idle.

8.10.14. There are no expected cumulative impacts due to the separation distances involved.

8.10.15. I have considered all of the written submissions made in relation to noise. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise.

Climate

8.10.16. Chapter 5 of the EIAR addresses Climate.

8.10.17. Direct emissions from waste management facilities are associated with onsite processing and off-site electricity power generation whilst indirect emissions relate to transferring of waste to and from the site and staff transport. Composting is recognised as an aerobic process which reduces or prevents the release of methane during the breakdown of organic matter. Willow can sequester c. 0.12t of carbon/ha/yr, therefore the loss of 0.8ha of coppice inside the site boundary will have an impact.

8.10.18. Section 5.6 of the EIAR refers to prevention and mitigation measures. Under the EPA licence relating to the development site, the applicant is required to carry out an energy audit to identify all practicable ways for energy use to be reduced and for greater efficiencies. It is stated that diesel fuel plant engines are only turned on during processing and are not permitted to idle, the same principle applies to waste vehicles at the site. While the development will result carbon sequestering by the loss of willow, this is stated to be somewhat offset by the reduction in generating methane in landfills.

8.10.19. The overall principle of the development is to reduce wastes and recycle where possible. The increase in traffic movements and the associated emissions are not considered to be of such a significance that would impact climate change to any perceptible level. Following the implementation of mitigation measures such as preventing the running of engines and plant when not in use, it is outlined within the EIAR that residual impacts will be imperceptible and negative on climate.

8.10.20. I have considered the relevant contents of the file including the EIAR. I am satisfied that the potential for direct or indirect impacts on climate can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the potential for direct or indirect impacts on climate can be ruled out I am also satisfied that cumulative effects, in the context of existing and permitted development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

8.11. **Material Assets, Cultural Heritage and the Landscape**

Material Assets - Traffic and Transport

8.11.1. Chapter 6 of the EIAR relates to Roads and Traffic and Appendix 5 comprises a Traffic and Transport Assessment (TTA) and a Road Safety Audit (RSA). The Board is referred to section 7 of my report above also in respect of impacts on traffic and transport.

8.11.2. The TTA sets out the methodology and context of the existing road network. Baseline traffic data was gathered assessing number of vehicles entering/exiting the site over a 12 hour period and identifying the direction of traffic travelling from the site. Traffic modelling was undertaken utilising the TRICS database and the data analysed using PICADY.

8.11.3. The submitted Road Safety Audit identified two issues with the site which require improvement, including more defined road markings at the entrance gate and L4101 which have faded; and provision for a safe route from the parking area to the compost building to avoid pedestrian/vehicle collisions. The Designer Response Form within the Audit has not been filled out/proposals were not confirmed as being accepted by the applicant as part of the Audit. The two improvements recommended should be addressed by way of condition should the Board be minded to grant permission.

8.11.4. Potential impacts are described both during construction and operational stages are identified. Impacts at construction stage are temporary in nature and will be minimised through implementation of a CEMP. At the operational stage, daily traffic generation will increase to 20 trips per day, which is an increase upon existing

numbers. While I acknowledge concerns raised in submissions in relation to additional road traffic, I consider the increase of traffic within reason and the road network has the capacity to accommodate the projected increase in traffic. Based on baseline figures and projections, the T-junction access from the site onto the main road will remain well below capacity with the expanded development in place. Sightlines were assessed and considered adequate. I note the PA also accepts the sightlines in place are acceptable and raises no concerns in relation to the local road network.

8.11.5. No mitigation measures are proposed as no significant adverse impact is anticipated.

8.11.6. In terms of residual impact, the development is considered to have an on-going, slight, negative impact on the local road network.

8.11.7. Cumulative impacts are considered in the response to the grounds of appeal in relation to traffic from the plastics factory to the east, which closed for a time and therefore the actual traffic surveys did not capture that traffic, however assumptions have been made based on the reported volume of plastics to be recycled at the plant. I considered a reasoned approach to assumptions in relation to the volume of traffic likely has been taken and no significant cumulative impacts are identified having regard to the capacity of the existing road network.

8.11.8. I have considered all of the written submissions made in relation to traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts in terms of traffic and transport.

Material Assets – Natural Resources

8.11.9. Chapter 15 of the EIAR evaluates the impacts on natural resources. The examination of natural assets is based on information from the then operative North Tipperary Development Plan, CSO databases and SEHL records of resource consumption. Road infrastructure has been discussed above.

8.11.10. In terms of impacts, the existing facility is stated to benefit the local economy by maintaining local employment levels. In terms of operations at the development

site, the proposal will result in an increase in traffic movements, resulting in an increase in diesel consumption and use of electricity.

8.11.11. Mitigation measures are set out in section 15.6. Nuisance control measures as specified in the EPA licence will prevent impacts on local amenities.

8.11.12. It is stated within section 15.7 that the current operations are not a source of adverse environmental nuisance or impairment outside of the site boundaries. The proposed development will not impact negatively on amenity values and socio-economic activities in the location, with impacts being imperceptible and negative in relation to the consumption of fossil fuels/increase in traffic and electricity usage.

8.11.13. I have considered the relevant contents of the file including the EIAR. I am satisfied that the potential for significant impacts on material assets can be avoided. I am therefore satisfied that the potential for significant direct or indirect impacts on material assets can be ruled out. I am also satisfied that cumulative effects, in the context of existing and permitted development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise

Archaeology, Architectural and Cultural Heritage

8.11.14. Chapter 14 of the EIAR addresses archaeology, architectural and cultural heritage and Appendix 12 includes an archaeological field survey undertaken in 2006, where a monitoring condition was recommended.

8.11.15. It is stated that there are no recorded monuments, protected structures or other cultural heritage designations on the site,

8.11.16. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts on archaeology, architectural or cultural heritage.

8.12. Landscape and Visual Impact Assessment

8.12.1. Chapter 12 of the EIAR addresses Landscape and Visual Impact and sets out the methodology.

8.12.2. The site is located within the Littleton Farmland Mosaic and Marginal Peatlands Landscape Character Area, which is a class one area in terms of landscape

sensitivity, ie low sensitivity to change. There are no preserved views or prospects in the vicinity of the site.

- 8.12.3. The willow plantations to the north, east and west of the site effectively screen the development. The building resembles an agricultural building with mass concrete walls and grey/green wall and roof cladding. I note the extensions to the building will be in keeping with the existing design.
- 8.12.4. While a portion of the willow planting will be affected by the development, the wider plantations will continue to effectively screen the development from public view. No mitigation is considered necessary. The proposed development is considered to have a neutral impact on the existing landscape character and visual amenity.
- 8.12.5. On the basis of the information submitted with the application including that in the EIAR, the submissions on file and observations at the time of inspection of the site, I do not consider that the proposed development would have any significant adverse direct or indirect effects on material assets, cultural heritage and the landscape. Given the limited impacts predicted under this factor of the environment I do not consider that significant cumulative impacts are likely to arise when the proposed development is considered together with other permitted plans and projects in the vicinity.

8.13. Significant Interactions

- 8.13.1. Chapter 16 of the EIAR considers interactions and cumulative impacts. I have addressed the consideration of the plastics factory to the east of the site elsewhere in this report and I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis.
- 8.13.2. I consider that there is potential for population and human health to interact with a number of other factors (climate, noise, air and material assets – traffic). The details of interrelationships are set out in Chapter 16 of the EIAR which I have considered.
- 8.13.3. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

8.13.4. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

8.14. Reasoned Conclusion on the Significant Effects

8.14.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and submissions received, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- The proposed development would have potential negative impacts on **human health and population** with regard to traffic, air quality, odour and noise. Such impacts are adequately mitigated for within the EIAR submitted and can therefore be ruled out.
- Negative **odour** impacts could arise during the operation phase of the development. These impacts will be mitigated through the design of the building and operation of a biofilter system. Appropriate mitigation has been considered as part of the development.
- Negative **noise** impacts could arise during the operational phase of the development. These impacts will be mitigated through adherence to best practice, prevention of vehicle and plant engines running whilst idle and the processing of waste inside of buildings within existing buildings. Noise disturbance is not likely to arise given mitigation and the separation distances between the development site and residential properties. Impacts arising from noise disturbance during the operational stage can therefore be ruled out.
- Slight negative **traffic** impacts arise during the operational phase of the development, these impacts are not significant in terms of magnitude and can therefore be ruled out.
- Negative impacts on **water** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the drainage system. These impacts will be mitigated by measures outlined within the application and EIAR and can therefore be ruled out.

- **Biodiversity** - potential ecological impacts with the removal of mature trees. Appropriate mitigation has been considered as part of the development.

8.14.2. The proposed development is not likely to have significant adverse effects on human health, biodiversity, land and soil, climate, material assets and archaeological, architectural and cultural heritage. Further it is not likely to increase the risk of natural disaster.

8.14.3. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed and I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

9.0 **Appropriate Assessment**

9.1. Permission is sought for an extension to an existing permitted biological treatment plant to allow for an increase in the annual waste intake from 45,000 tonnes/year to 80,000 tonnes/year, relocation of an existing firewater lagoon, construction of a new firewater lagoon and all associated site services.

9.2. An Appropriate Assessment Screening document has been prepared by O'Callaghan Moran & Associates on behalf of the applicant. The Screening document describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development.

9.3. The site is not located within or adjacent to any European site. There is a drainage ditch along the northern and western boundaries of the site where surface water is discharged to, and from here it enters the Ballyley Stream/Breegagh River (c. 120m south of the site). From here the river travels c. 7.1km northwest to meet the Drish River, which flows into the River Suir a further c. 680m to the west. The Lower River Suir SAC is a further 2.8km to the east.

9.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated

Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

9.4.1. There are two European sites in the wider area, namely the River Barrow and River Nore SAC (002162), which is c.12.5km to the east, and the Lower River Suir SAC (002137), which is c.8.3km to the west. The qualifying interests/features of interest associated with the European site closest to the site and indirectly connected hydrologically via the Breeagh stream to the southern boundary of the site is the Lower River Suir SAC (002137). The River Barrow and River Nore SAC is not hydrologically connected to the site and is not therefore considered further.

9.5. Site specific conservation objectives and qualifying interests have been set for the River Barrow and River Nore SAC as follows:

European Site	Conservation Objective	QIs/SCIs
Lower River Suir SAC (002137)	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.	<p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p>

		Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaite Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]
--	--	--

- 9.6. It is noted that whilst mitigation measures are proposed within the EIAR, such measures are not for the purposes of avoiding or reducing any potential harmful effects to any European sites and relate to the overall maintenance of the site which is controlled by an EPA licence. The current EPA licence specifies the control measures that must be implemented to ensure the emissions do not cause pollution and it requires the monitoring of emissions to air and surface water, a noise survey and groundwater monitoring, with all results reported to the EPA. The only change to emissions as a result of the proposed development will be an increase in the volume of rain water run-off due to the additional impermeable areas.
- 9.7. Given the scale of works involved, the nature of the existing intervening environment, the distance from the stream to the Lower River Suir SAC and discharge from the site of clean water only into the Breegagh Stream, I am satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of the Lower River Suir SAC. Furthermore, given the significant distance separating the proposed works and the SAC, in the event of pollution or sediment entering an adjacent watercourse, such pollution would be diluted and dispersed to an imperceptible level at the point of

contact with the Lower River Suir SAC and as such significant effects to this designated site is not likely to arise and can be ruled out.

9.8. No cumulative impact issues arise.

Screening Determination

9.9. Having regard to the nature and scale of the proposed development, to the intervening land use, and distance from European sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site no. 002137 (Lower River Suir) or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

9.10. This determination has been based on the significant distance of the proposed development from any designated sites and the lack of any meaningful pathway between the development site and such designated sites. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects on the projects on any European Sites.

10.0 Recommendation

I recommend that permission is GRANTED, subject to conditions.

11.0 Reasons and Considerations

Having regard to European, national, regional and local planning policy, including the provisions of the Tipperary County Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the amenities of the area or of property in the vicinity and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

12.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All mitigation and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>Trees to be felled will be surveyed for bats before their removal. All trees should be felled under the supervision of an ecologist and left intact on the ground for a period of at least 24 hours. The destruction or interference of any tree identified as a bat roost shall only be carried out on receipt from the NPWS of a licence to derogate from the Habitats Directive and destroy the roost.</p> <p>Reason: To conserve bat species afforded a regime of strict protection under the Habitats (92/43/EEC).</p>
4.	<p>The clearance of any vegetation including trees, hedgerows and scrub, shall only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.</p> <p>Reason: To provide for the conservation of species of fauna protected under the Habitats Directive (92/43/EEC) and the Wildlife Acts (1976 to 2018) and to provide for the conservation of bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC).</p>

5.	<p>All measures recommended by the Auditor in the submitted Stage 1/2 Road Safety Audit (dated 04.11.2019) shall be undertaken unless the Planning Authority approves a departure in writing.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services as appropriate.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
7.	<p>(a) No storage, either permanent or temporary of any materials shall occur within the site which is outside of any structure shown on the Site Layout Plan (Drawing no. 18-173-300) submitted with the application.</p> <p>(b) Any waste vehicles parked on the apron of the facility shall not contain waste. All organic materials shall be transported to and from the site in sealed containers. No materials that would attract birds shall be present on the open areas of the site at any time.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Waste shall not be accepted on site outside the hours of 07.30-19.30 Monday to Saturday inclusive.</p> <p>Reason: In the interest of proper planning and sustainable development of the area.</p>
9.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best practice guidelines for the preparation of resource & waste management plans for construction & demolition projects 2021”, published by the EPA (2021).</p> <p>Reason: In the interest of sustainable waste management.</p>
10.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted</p>

	<p>to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
12.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the</p>

<p>application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>
--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

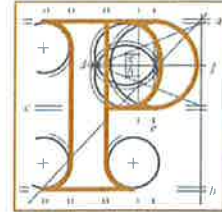
Una O'Neill
Senior Planning Inspector

31st March 2023

Our Case Number: ABP-310787-21

Planning Authority Reference Number: 21520

Your Reference: Starrus Eco Holdings Ltd



An
Bord
Pleanála

Tom Phillips & Associates,
C/o Brian Minogue,
80 Harcourt Street,
Dublin 2.
D02 F449

Tom Phillips & Associates	
Action:	PR20 - 2935
Date Rec'd:	09 OCT 2023
	Team GC (BLU)
Project Ref & Planner:	

Date: 06 OCT 2023

Re: Extensions to the main building on site including all other associated site development works above and below ground - the development relates to a Biological Waste Treatment Facility which is operated under a Waste Licence (W0259-01) granted by the Environmental Protection Agency. Ballybeg, Littleton, Thurles Co. Tipperary.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

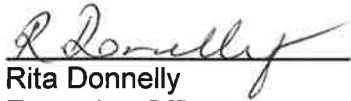
In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - Guide to the Building Control System and a copy of the Health and Safety Authority's leaflet Safety and Health on Construction Projects - The Role of Clients with the notification. These leaflets are issued at the request of the above bodies.

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,

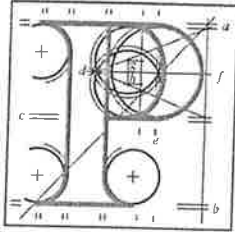


Rita Donnelly
Executive Officer

BP100LN

Tel	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



An
Bord
Pleanála

Board Order
ABP-310787-21

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 21520

Appeal by Ann Morris of 6 Saint Bridget Terrace, Littleton, Thurles, County Tipperary against the decision made on the 10th day of June, 2021 by Tipperary County Council to grant subject to conditions a permission to Starrus Eco Holdings Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retention of extensions to the main building on site including all other associated site development works above and below ground. The extensions to the main building are to the northern, southern, eastern and western elevations of the existing recycling facility and measure circa 1,015.86 square metres, extensions to the biofilter that is located to the rear of the building are also sought (circa 43.23 square metres), staff welfare prefabricated structure located to the north of the site (circa 65.49 square metres), two number storage/maintenance containers (circa 26.6 square metres), toilet block (circa 5.1 square metres), biofilter condenser tank (circa 72.4 square metres) and two number firewater retention ponds (circa 713.17 square metres), all on a site of circa 3.58 hectares at an existing biological waste treatment facility at Ballybeg, Littleton, Thurles County Tipperary. The

development relates to an existing biological waste treatment facility which is operated under a waste licence (W0259-01) granted by the Environmental Protection Agency. No alteration to the balance of the development is sought by this application nor is an alteration to the permitted use sought.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the retention of the development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in respect of its likely effects on the environment. The retention of the development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out in accordance with the terms and conditions of the permission granted on the 1st day of October 2008, under planning register reference number 07/511853, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *6th* day of *October*, 2023.

19. How long should it take to get a Disability Access Certificate/ Revised Disability Access Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

20. Can I appeal if I am refused a Disability Access Certificate/ Revised Disability Access Certificate?

Yes. An applicant for either certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

21. Do the Regulations have specific requirements for access for people with disabilities?

Yes. Part M of the Regulations aims to ensure that buildings other than dwellings are accessible and usable by people with disabilities. From 1 January 2001 all *new* dwellings must be visitable by people with disabilities. The requirements cover the access and use of buildings, provision of sanitary facilities, audience or spectator facilities.

Technical Guidance Document M 2000 - Access for People with Disabilities provides guidance on the provision of:

- ◆ at least one entrance accessible to wheelchair users;
- ◆ an internal layout which allows disabled people to circulate freely;
- ◆ a passenger lift in buildings above a certain size;
- ◆ a proportion of hotel guest bedrooms suitable for disabled people;
- ◆ wheelchair spaces in theatres, cinemas, concert halls and sports stadiums; and
- ◆ facilities for people with hearing impairments in theatres, cinemas, concert halls and places of religious worship.

Part M of the Regulations is currently under review and an updated Part M/TGD-M will be published in 2010

The law governing Building Regulations and procedures is primarily set out in the Building Control Acts, 1990, and 2007, the Building Regulations, 1997-2009 and the Building Control Regulations, 1997-2009. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2 (Phone 01-6476995/4).

This leaflet is a simple guide to understanding the building control system, which applies to the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of building control law. For more information, you should consult your local building control authority.

1. What are the Building Regulations 1997-2009?

Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

Building Regulations provide for, in relation to buildings, the health, safety and welfare of people, conservation of fuel and energy, and access for people with disabilities. The Regulations can be downloaded from the Department's website www.environ.ie

The Consolidated Regulations came into force on 1 July, 1998, and replace the Building Regulations, 1991 (as amended).

2. How are the Regulations framed?

The Regulations comprise a set of legal requirements, expressed in simple functional statements.

Structure	Part A
Fire Safety	Part B
Site Preparation and Resistance to Moisture	Part C
Materials and Workmanship	Part D
Sound	Part E
Ventilation	Part F
Hygiene	Part G
Drainage & Waste Water Disposal	Part H
Heat Producing Appliances	Part J
Stairways, Ladders, Ramps and Guards	Part K
Conservation of Fuel and Energy	Part L
Access for People with Disabilities	Part M

Technical guidance on how to comply with these requirements are set out in the twelve separate Technical Guidance Documents (TGD's), which deal with each of the above areas. Amended TGD's can be downloaded from the Department's website www.environ.ie

The Regulations and related TGD's were amended as follows:

Parts M and D—2000; Part B—2006; Part G—2008; Part F—2002 & 2009; Part L (Dwellings)—2007; Part L (Non-Dwellings)—2008
TGD C—2004 & 2008

3. How do they affect me?

If you are having construction work carried out, the work must comply with Regulations. The Regulations do not apply to works consisting of repairs or renewal (as defined in the Regulations) except to any repair or renewal likely to affect the structural integrity of the building or building element being repaired or renewed.

Part L Regulations apply to renewal works to existing buildings involving the replacement of external doors, windows and rooflights. (S.I. 259 of 2008)

4. What if I fail to comply?

The primary responsibility for compliance rests with designers, builders and building owners. Building control authorities have powers to inspect design documents and buildings, as well as powers of enforcement and prosecution where breaches of the Regulations occur. There are heavy penalties, including fines and imprisonment, for breaches of the Regulations. In addition, when it comes to selling your property, you may have difficulties if you cannot satisfy the purchaser's solicitor that the requirements of the Regulations have been met.

5. What control arrangements are in place?

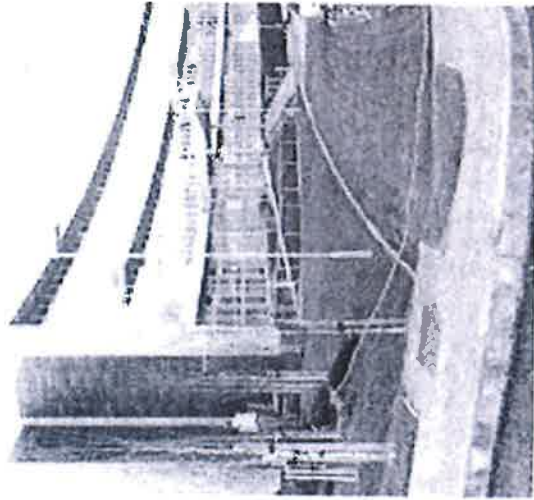
The Building Control Regulations, 1997-2009 supplement the basic system of enforcement referred to in Question 4 above.

Seven important control arrangements are provided:

- ◆ Commencement Notice
- ◆ Fire Safety Certificate
- ◆ Revised Fire Safety Certificate
- ◆ 7 Day Notice
- ◆ Regularisation Certificate
- ◆ Disability Access Certificate
- ◆ Revised Disability Access Certificate

Comhshaol, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government

PL. 11 - Guide to the Building Control System



Building Standards Section,
Department of Environment, Heritage and Local
Government, Custom House,
Dublin 1.
Lo Call 1890 20 20 21 or 01 888 2000
www.environ.ie

May 2010

6. What is a Commencement Notice?

A Commencement Notice is a notification to a building control authority that a person intends to carry out either works or a material change of use to which the Building Regulations apply.

The notice must be given to the authority not more than 28 days and not less than 14 days before commencement of works or a material change of use.

The notice must be accompanied by a Commencement Notice Fee, based on the number of buildings (details available from your local building control authority). Copies of a Commencement Notice can also be obtained from the building control authority.

Commencement Notices are required for the following:

- ◆ the erection of a building;
 - ◆ a material alteration or extension of a building;
 - ◆ a material change of use of a building;
 - ◆ works in connection with the material alteration (excluding minor works) of a shop, office or industrial building.
- A Commencement Notice is not required:
- ◆ for works or a change of use which are exempted development under the planning code, and for which a Fire Safety Certificate is not required; or
 - ◆ where a 7 Day Notice has been submitted.

Information on exempted development is given in other leaflets in this series, including PL. 5 - Doping Work about the House, PL. 6 - Agricultural and Farm Development, and PL. 7 - Planning for the Business Person.

7. What is a Fire Safety Certificate?

A certificate granted by a building control authority certifies that the building or works, if constructed in accordance with the plans, documents and information submitted to the authority, would comply with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2009.

8. Do I need a Fire Safety Certificate?

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings. A Fire Safety Certificate must be obtained before work starts.

9. What is a revised Fire Safety Certificate?

A certificate granted by a building control authority which is required where:

- ◆ an application for a Fire Safety Certificate is made before grant of planning permission, if required by the subsequent permission, or
- ◆ where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted.

10. Where do I get a Fire Safety Certificate/ Revised Fire Safety Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted. Application forms are available from the authority and should be submitted together with –

- ◆ plans, calculations and specifications for the works or building;
- ◆ details of the nature and extent of the proposed use and, where appropriate, of the existing use of the building;
- ◆ the appropriate fee, based on floor area (details available from your local authority).

Any application not including the above can be rejected by the authority as invalid.

11. How long should it take to get a Fire Safety Certificate/ Revised Fire Safety Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

12. Can I appeal if I am refused a Fire Safety Certificate/ Revised Fire Safety Certificate?

Yes. An applicant for a certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

13. What is a 7 Day Notice?

A 7 Day Notice is a notification to a building control authority that a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate.

A 7 Day Notice must be submitted not less than 7 days in advance of the commencement of works. The notice must be accompanied by:-

- ◆ a valid application for a Fire Safety Certificate from the applicant in the form specified for that purpose in the Third Schedule and accompanied by such plans and particulars as required under paragraphs (a) and (b) of article 13(2) of the Regulations.
- ◆ a 7 Day Notice Statutory Declaration in the form specified for that purpose in the Third Schedule, and
- ◆ such fee as may from time to time be prescribed for that purpose in Part V.

Do I require a Commencement Notice as well as a 7 Day Notice?

No. A Commencement Notice will not be required in respect of buildings where a 7 Day Notice has been submitted.

14. What is a Regularisation Certificate?

A certificate granted by a building control authority where a building has been commenced or completed without a Fire Safety Certificate, where such a certificate is required and certifies that the building work is in compliance with Part B of the Second Schedule to the Building Regulations 1997 to 2009.

The application must be accompanied by:-

- (i) drawings of the relevant works as they have been commenced or constructed, so as to enable the building control authority to assess whether the said works, as commenced or as constructed in accordance with the said drawings,

documents and information submitted, will comply or are in compliance, as appropriate, with the requirements of Part B of the Second Schedule to the Building Regulations,

(ii) a Statutory Declaration from the applicant in the form specified for that purpose in the Third Schedule, and

(iii) such fee as may from time to time be prescribed for that purpose in Part V.

15. What is a Disability Access Certificate?

A certificate granted by a building control authority which certifies compliance, at design stage of non-domestic buildings and apartment blocks, with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2009.

16. What is a Revised Disability Access Certificate?

A revised Disability Access Certificate (DAC) is a certificate granted by a building control authority in respect of works where significant revision is made to the design or works of a building for which a DAC has already been granted.

17. Do I need a Disability Access Certificate?

With the exception of houses and certain agricultural buildings, a Disability Access Certificate is required for all new non-domestic buildings (including apartments and flats), material alterations and extensions to buildings and certain changes of use.

18. Where do I get a Disability Access Certificate/ Revised Disability Access Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which an Disability Access Certificate has already been granted.

Safety and Health on Construction Projects The Role of Clients

A summary of the client's role under the Safety, Health and Welfare at Work
(Construction) Regulations, 2006

Who is a 'Client'?

The Safety, Health and Welfare at Work (Construction) Regulations, 2006 interprets 'client' as a person for whom a project is carried out, in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking;

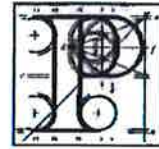
You are not a client if you are having construction work done on your own domestic dwelling e.g. an extension on to your kitchen, or you are building your own house.

You are a client if the extension onto your own domestic dwelling is in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking, e.g. if you are building on an office.

What are the duties of a Client?

The Client must for every project:

- appoint, in writing before design work starts, a competent and adequately resourced project supervisor for the design process (PSDP).
In order to be competent the PSDP must have adequate training, knowledge, experience to carry out the project the PSDP must have adequate resources available to carry out the project in a safe manner;
- appoint, in writing before construction begins, a competent and adequately resourced project supervisor for the construction stage (PSCS). In order to be competent the PSCS must have adequate training, knowledge, experience and resources;
- be satisfied that each designer and contractor appointed has adequate training, knowledge, experience and resources for the work to be performed;
- co-operate with the project supervisor and supply necessary information;
- keep and make available the safety file for the completed structure. The safety file contains information on the completed structure that will be required for future maintenance or renovation (The client must keep the file in a secure place, either on the premises to which it relates or held centrally, and if the client wishes, it may be stored electronically or on microfiche.);
- provide a copy of the safety and health plan prepared by the PSDP to every person tendering for the project. The safety plan documents show how health and safety on the project will be managed to project completion.
- notify the Authority of the appointment of the PSDP where construction is likely to take more than 500 persons days or 30 working days.



Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000, as amended, contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that any application for leave to apply for judicial review must be made within 8 weeks of the date of the decision of the Board, save for decisions made pursuant to a function transferred to the Board under Part XIV of the Planning and Development Act 2000, where any application for leave to apply for judicial review must, as set out in sub-section 50(7), be made within 8 weeks beginning on the date on which notice of the decision of the Board was first sent (or as may be the requirement under the relevant enactment, functions under which are transferred to the Board, was first published). These time periods are subject to any extension which may be allowed by the High Court in accordance with sub-section 50(8).

Section 50A(3) states that leave for judicial review shall not be granted unless the Court is satisfied that (a) there are substantial grounds for contending that the decision is invalid or ought to be quashed and (b) the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the costs of certain judicial review proceedings in the High Court; pursuant to Section 50B(1), Section 50B applies to the following proceedings:

(a) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of—

- (i) any decision or purported decision made or purportedly made,
- (ii) any action taken or purportedly taken,
- (iii) any failure to take any action, pursuant to a statutory provision that gives effect to
 - I. a provision of the EIA Directive 85/337/EEC as amended to which Article 10a (as inserted by Directive 2003/35/EC) of that Directive applies,
 - II. the SEA Directive 2001/42/EC, or
 - III. a provision of the IPPC Directive 2008/1/EC to which Article 16 of that Directive applies, or
 - IV. Article 6(3) or 6(4) of the Habitats Directive; or

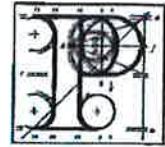
(b) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in paragraph (a);

(c) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in paragraph (a) or (b).

The general provision contained in section 50B(2) is that in proceedings to which the section applies each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant, to the extent that the applicant succeeds in obtaining relief, against a respondent or notice party, or both, to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on www.citizeninformation.ie

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.



Fógra faoi Athbhreithniú Breithiúnach

Athbhreithniú breithiúnach ar chinntí an Bhoird Pleanála faoi fhorálacha na nAchtanna um Pleanáil agus Forbairt (arna leasú).

Ní fhéadfaidh duine ar mian leis nó léi agóid a dhéanamh in aghaidh bhailíocht chinneadh de chuid an Bhoird é sin a dhéanamh ach trí athbhreithniú breithiúnach. Tá forálacha in Alt 50, 50A agus 50B den Acht um Pleanáil agus Forbairt 2000, arna leasú, maidir le dúshláin i leith bhailíocht chinneadh an Bhoird.

Ní féidir bailíocht cinnidh arna ghlacadh ag an mBord a cheistiú ach amháin trí iarratas a dhéanamh ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúrteanna (S.I. Uimh. 15 de 1986). Ceanglaíonn fo-alt 50(6) den Acht um Pleanáil agus Forbairt 2000 go gcaithfear aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach a dhéanamh laistigh de 8 seachtaine ó dháta chinneadh an Bhoird, seachas cinní a dhéantar de bhun feidhme aistrithe chuig an mBord faoi Chuid XIV den Acht um Pleanáil agus Forbairt 2000, i gcás nach mór aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach, mar atá leagtha amach i bhfo-alt 50(7), a dhéanamh laistigh de 8 seachtaine ag tosú ar an dáta ar ar tugadh fógra faoi chinneadh an Bhoird ar dtús (nó mar a cheanglófar faoin achtú ábhartha, ar aistríodh feidhmeanna faoi chuig an mBord, a foilsíodh den chéad uair). Tá na tréimhsí ama seo faoi réir aon síneadh a fhéadfaidh an Ard-Chúirt a cheadú de réir fho-alt 50(8).

Sonraítear in alt 50A(3) nach ndeonófar cead d'athbhreithniú breithiúnach mura bhfuil an Chúirt sásta (a) go bhfuil forais shubstaintiúla ann chun a áitiú go bhfuil an cinneadh neamhbhailí nó gur chóir é a chur ar neamhní agus (b) go bhfuil leas leordhóthanach ag an iarratasóir san ábhar is ábhar don iarratas nó i gcásanna a bhaineann le measúnú tionchair timpeallachta ar comhlacht é a chomhlíonann critéir shonraithe.

Tá forálacha in alt 50B maidir le costais imeachtaí athbhreithnithe bhreithiúnaigh áirithe san Ard-Chúirt; de bhun Alt 50B(1), tá feidhm ag alt 50B maidir leis na himeachtaí seo a leanas:

(a) imeachtaí san Ard-Chúirt mar athbhreithniú breithiúnach, nó trí chead a lorg chun iarratas a dhéanamh ar athbhreithniú breithiúnach, ar—

- (i) aon chinneadh nó cinneadh airbheartaithe a rinneadh nó a airbheartaítear a rinneadh,
- (ii) aon ghníomh a rinneadh nó a airbheartaítear a rinneadh,
- (iii) aon mhainneachtain aon ghníomh a dhéanamh, de bhun forála reachtúla a thugann éifeacht
 - I. d'fhoráil de Threoir EIA 85/337/CEE arna leasú lena mbaineann Airteagal 10a (arna cur isteach le Treoir 2003/35/CE) den Treoir sin,
 - II. do Threoir SEA 2001/42/CE, nó
 - III. d'fhoráil de Threoir IPPC 2008/1/CE a bhfuil feidhm ag Airteagal 16 den Treoir sin maidir léi, nó
 - IV. d'Airteagal 6(3) nó 6(4) den Treoir maidir le Gnáthóga; nó

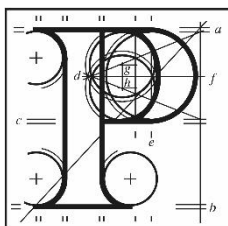
(b) achomharc (lena n-áirítear achomharc de chás ráite) chun na Cúirte Uachtaraí i gcoinne breithe ón Ard-Chúirt in imeacht dá dtagraítear i mír (a);

(c) imeachtaí san Ard-Chúirt nó sa Chúirt Uachtarach le haghaidh faoisimh eatramhach nó idirbhreitheach i ndáil le himeacht dá dtagraítear i mír (a) nó (b).

Is í an fhoráil ghinearálta atá in alt 50B(2) ná go n-íocfaidh gach páirtí in imeachtaí lena mbaineann an t-alt a chostais féin. Féadfaidh an Chúirt, áfach, costais a dhámhachtain in aghaidh aon pháirtí in imthosca sonraithe. Tá foráil ann freisin go ndéanfaidh an Chúirt costais imeachtaí nó cuid de chostais den sórt sin a dhámhachtain d'iarratasóir, a mhéid a éiríonn leis an iarratasóir faoiseamh a fháil, i gcoinne freagróra nó páirtí fógra, nó an dá cheann, a mhéid a chuir an chaingean nó an t-easnamh ar thaobh an fhreagróra nó an pháirtí fógra go páirteach leis an bhfaoiseamh atá á fháil.

Tá eolas ginearálta ar nósanna imeachta athbhreithnithe bhreithiúnaigh ar fáil anseo a leanas, www.citizensinformation.ie.

Séanadh: Mar eolas atá an méid thuas ceaptha. Ní airbheartaíonn sé a bheith ina léirmhíniú ceangailteach ó thaobh dlí ar na forálacha ábhartha agus bheadh sé inmholta do dhaoine atá ag smaoineamh ar chaingean dlí comhairle dlí a lorg.



An
Bord
Pleanála

Inspector's Report

ABP-310787-21

Development

Extensions to the main building on site including all other associated site development works above and below ground - the development relates to a Biological Waste Treatment Facility which is operated under a Waste Licence (W0259-01) granted by the Environmental Protection Agency.

Location

Ballybeg, Littleton, Thurles Co. Tipperary.

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

21520

Applicant(s)

Starrus Eco Holdings Ltd.

Type of Application

Retention Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Ann Morris

Observer(s)

None

Date of Site Inspection

20.02.23

Inspector

Una O'Neill

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	6
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. National Policy	8
5.2. Tipperary County Development Plan 2022-2028	8
5.3. Natural Heritage Designations	10
5.4. EIA Screening	10
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Applicant Response	12
6.3. Planning Authority Response	14
6.4. Further Responses.....	14
7.0 Assessment.....	14
7.1. Introduction	14
7.2. Principle of Development and Requirement for an EIAR	15
7.5. Impact on Residential Amenity.....	18
7.6. Roads and Traffic.....	19

8.0 Appropriate Assessment..... 19

9.0 Recommendation..... 23

10.0 Reasons and Considerations 23

11.0 Conditions 23

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 3.58ha, is located within the townland of Ballybeg, c. 2km southeast of Littleton and c. 10km from Thurles, in County Tipperary. The site is accessed off the southwestern side of the L4101, which is 5.5km from the M8 interchange.
- 1.2. The site comprises an existing waste recovery/composting building and associated bio-filter (odour control unit) and condensate tank, portabkabin/staff facilities, storage containers, two firewater retention lagoons, and a parking area to the front of the building. The site operates under an Industrial Emissions Licence from the EPA. The composting building is c. 250m from the public road, with a weighbridge located at the end of the access road. The site is bounded to the west, north and east by willow plantations and to the south by farmland. There are open drains along the boundaries of the site.
- 1.3. The area is rural in character, with a number of rural dwellings in the vicinity of the site and a closed Bord na Mona factory is located c. 1.5km to the east (now in partial use as a plastic recycling facility).

2.0 Proposed Development

- 2.1. The development relates to a permitted Biological Waste Treatment Facility (composting facility) which is operated under an Industrial Emissions Licence granted by the Environmental Protection Agency and an approval from the Department of Agriculture, Forestry and the Marine under the European Union (Animal By-Products) Regulations. The annual waste intake is limited to 45,000 tonnes.
- 2.2. The proposed development comprises the following:
 - Retention of extensions to the main building on site including all other associated site development works above and below ground - the extensions to the main building are to the northern, southern, eastern and western elevations of the existing recycling facility and measure c. 1,015.86 sqm.,
 - Retention of extensions to the Biofilter that is located to the rear of the building are also sought (c. 43.23 sqm.), staff welfare prefabricated structure located to the

north of the site (c. 65.49 sqm.), 2 no. storage/maintenance containers (c. 26.6 sqm.), toilet block (c. 5.1 sqm), Bio-Filter Condenser Tank (c. 72.4 sqm.) and 2 no. Firewater retention ponds (c. 713.17 sqm.)

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 3 conditions, including the following:

C2: Surface water to be collected and disposed of within the curtilage of the site by means of soakaways.

C3: Financial contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- Policy ED10 relates to non conforming uses. The extensions as designed and located are acceptable.
- EIAR is not required and it is considered that the proposal is not likely to have a significant effect on the environment having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended.
- AA is not required.

3.2.2. Other Technical Reports

District Engineer – Condition in relation to surface water.

3.3. Prescribed Bodies

EPA – This installation is authorised by the EPA under Industrial Emissions Licence W0249-01 and not a waste licence. Note concurrent application which is accompanied by an EIAR. The applicant is advised that they are required to

correspond with the Agency prior to construction or installation of additional infrastructure, some of the changes may trigger a licence review.

3.4. **Third Party Observations**

Four submissions were received. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder).

4.0 **Planning History**

PA Reg Ref 07511853 – Permission GRANTED for facility to accommodate biological treatment of organic residues and production of class 1 compost comprising

- (a) Landscaped Fenced c.3.2 Hectare complex;
- (b) Main Building c.3870sqm. Housing Storage, Equipment & treatment activities;
- (c) Marshalling yard;
- (d) Office & staff building;
- (e) Effluent storage tank (Domestic, serving staff facilities only);
- (f) Entrance Road & Weighbridge;
- (g) Bio-filter & associated Plant;
- (h) Tree plantation (Willow & similar species);
- (i) ESB substation and all ancillary works.

An Environmental Impact Statement (EIS) is included with the application documents.

Concurrent Application:

ABP-310786-21 (PA Reg Ref 20550) – Permission is sought for:

- (1) an increase in the annual waste intake from 45000 tonnes/year to 80,000 tonnes;
- (2) single storey extensions to the east and west of the existing building (having a combined floor area of 6,083m²),
- (3) relocation of existing firewater lagoon (324m²),

(4) construction of new firewater lagoon (401m²) and all associated site works and services to accommodate the biological treatment of the additional organic residues and production of compost. The existing biological treatment of the additional organic residues and production of compost.

The existing biological treatment process is carried out in accordance with an Industrial Emissions Licence granted by the Environmental Protection Agency. An Environmental Impact Assessment Report (EIAR) shall be submitted with this planning application.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- National Climate Policy
- A Waste Action Plan for a Circular Economy, Ireland's National Waste Policy 2020-2025 (Sept 2020; updated Sept 2022)
- Regional Spatial and Economic Strategy for the Southern Region 2020-2026 (January 2020)
- Regional Waste Management Plan (Southern Region of Ireland 2015-2021)

5.2. Tipperary County Development Plan 2022-2028

Chapter 8 Enterprise and Rural Development

- Policy 8-3 Facilitate proposals for employment generating developments of a 'strategic/regional scale' at locations outside of designated lands in settlements, subject to the demonstration of a need to locate in a particular area. These will be considered on a case by case basis, and must demonstrate that;

(a) They are compatible with relevant environmental protection standards, the protection of residential amenity and the capacity of water and energy supplies in the area, and,

(b) They would not compromise the capacity of strategic road corridors in line with the Spatial Planning and National Roads, Guidelines for Planning Authorities (DHLGH, 2012).

- Policy 8-9 Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their continued operation and expansion, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

Chapter 10 Renewable Energy and Bioeconomy

Section 10.8 The Circular Economy and Sustainable Waste Management:

- The new National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) will replace the Southern Region Waste Management Plan 2015-2021. The National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) will include the new guidance document Waste Management Infrastructure – Guidance for Siting Waste Management Facilities, the scope of which includes broad siting criteria and facility specific guidance for consideration when siting a waste facility.
- It is a key objective of the Council to support the sustainable management of waste in line with the National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) and associated guidance across the delivery of its services and in the management of new development.
- Policy 10-4 Ensure the sustainable management of waste and the application of the ‘Circular Economy’ concept in line with the provisions of the National Waste Management Plan for a Circular Economy and the Waste Management Infrastructure – Guidance for Siting Waste Management Facilities, (Government of Ireland, 2022) in the development and management of new development.
- Objective 10-B Support the National Policy Statement on the Bioeconomy (Government of Ireland, 2018) and any review thereof, having consideration to the strategic importance of the bioeconomy to rural Tipperary and support the preparation of a Bioenergy Implementation Plan for the Southern Region in

conjunction with the Local Authorities and the Southern Regional Waste Management office.

5.3. **Natural Heritage Designations**

The site is not located in or close to any European sites. The closest European sites are the River Barrow and River Nore SAC (002162), which is c.12.5km to the east, and the Lower River Suir SAC (002137), which is c.8.3km to the west.

5.4. **EIA Screening**

- 5.4.1. The applicant has submitted an Environmental Impact Assessment Screening Report. The applicant contends that Class 13(a)(ii) of Part 2 of Schedule 2 of the regulations is not applicable as there is no increase in the size of the site, there will be no change to the quantities of waste already authorised and therefore no exceedance of the appropriate threshold. The Report concludes that the proposed development does not require permission to be used as a biological waste treatment facility and does not require permission to increase the quantities of waste accepted annually, therefore it does not fall under any of the listed activities in Parts 1 and 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended.
- 5.4.2. Part 2, Class 11(b) of Schedule 5 of the Planning and Development Regulations 2001 (as amended) relates to 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. As the waste facility is permitted to take in 45,000 tonnes, this is application to which Class 13(a) relates: 'Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:
- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and
 - (ii) result in an increase in size greater than –
 - 25 per cent, or
 - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.

5.4.3. I note the size of the site, as stated in the parent application (pa reg ref 07/511853), was 3.2ha and in the current application it is stated to be 3.8ha, which is an 11% increase in site area. The applicant has confirmed that the tonnage permitted (45000 tonnes) to be accepted into the site has not increased as a result of the increased floor area and therefore the appropriate threshold has not been increased by 50% as it remains at that permitted. The permitted composting/biological treatment building (reg ref PA 07/511853) was 3870sqm in area with a stated gross floor area of all works, ie the main building, bio filter and offices (as per the then application form) of 5200sqm. The application form with this application states that this development is for retention of a total floor area of 1113.05sqm, which is 21% greater than the permitted floor area. The main composting/waste building is stated to have increased in size by 893sqm/23% greater than that permitted. Having regard to all the information submitted, I do not consider the development gives rise to a requirement for an EIAR.

5.4.4. Having regard to:

(a) the nature and scale of the proposed development, which is an extension to a permitted facility,

(b) the absence of any significant environmental sensitivities in the area,

(c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

it is concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by a third party and the issues raised are summarised below:

- Development exceeds the relevant threshold listed in Part 2, Class 11(b) of Schedule 5 of the Planning and Development Regulations 2001 (as amended) as proposal increases floor area by 25%. An EIAR is required.
- The unauthorised increase in the size of the main building will have resulted in differing air volume and consequently emissions to air, the impact of which has not been assessed.
- The Bio Filter Condenser Tank and Fire Retention Ponds have the potential to cause environmental pollution. It has not been demonstrated that the proposed development would not give rise to significant effects on the environment and an EIAR is therefore required.
- Submitted EIA screening report from the applicant is inadequate. As the facility has not been constructed in line with the permission, the processes on site have not been assessed and it cannot be assumed that the works will not result in significant impacts on the environment.
- The development is located near sensitive receptors of dwellings that are affected by the processes carried out. The related application of PPR20550 acknowledges these sensitive receptors and assesses the impacts in terms of noise, air pollution, etc.
- The screening report does not consider cumulative impacts of nearby facilities, including the former Bord na Mona factory which is proposed to be reused as a plastics recycling facility, which is now operational.
- Previous accidents as reported in EIAR with file PPR20550 have not been considered.
- The proposed wastewater treatment system on site has not been altered.

6.2. Applicant Response

The applicant's response to the grounds of appeal is summarised as follows:

- Proposal is in line with policy of the development plan to support non-conforming but long established commercial/industrial enterprises, as long as

there is no loss of amenity, adverse impact on the environment, visual detriment to the character of the area or creation of traffic hazard.

- The extensions were developed to provide enlarged working areas for existing operations. There has been no increase in the intensity of use nor any alteration to the balance of the development. Additional office space and a plant room also form part of the retention application for the main building but do not affect the balance of development/intensity of applications.
- Facility operates under an EPA licence and an approval from the Department of Agriculture with all activities carried out within the enclosed building with air extraction and biofiltration. The process takes 5-7 weeks from when the material enters the building to when it leaves.
- Compost produced is an EPA Class 1 quality product, used by local tillage farmers as an organic fertiliser and soil improver given the high organic matter, which is of significant commercial and environmental benefit.
- The facility provides a secure and ethical outlet for 'brown bin' waste, contributing to the circular economy.
- There is no increase in tonnages accepted at the site. The building is approx. 23% greater than that permitted. No material EIAR or planning issues arise.
- There has been no intensification of works on the site as a result of the extensions and there has been no alteration to the balance of the development.
- No material change is proposed to the bio filter condenser tank or the firewater ponds and there have been no complaints made relating to odours or air quality.
- There can be no impact on neighbours as the operations remain the same as those previously approved. The impact on surrounding properties is negligible.
- Any cumulative impact with the Bord na Mona site is considered negligible and does not warrant an EIAR.

- Two fires took place in 2011 and in 2015. In 2015 the EPA amended the licence to bring it into conformance with the Industrial Emissions Directive. There were no environmental impacts caused by the fire.
- There have been no alterations to the wastewater treatment system on site.

6.3. **Planning Authority Response**

None.

6.4. **Further Responses**

A further response was received by the third party appellant, which is summarised as follows:

- Air pollution from odour's comings from the plant 1.5 miles from the village – concern odours are hazardous, causing uncertainty, stress and anxiety among the community.
- Impact on household and quality of life - odour resulting in COPD itchy, red and tearing eyes; unable to open windows; smell coming through vents; embarrassment when visitors call; unable to hang out washing; can't allow children out to play; stress; anxiety.
- Increase in volume of traffic passing through the village has made the road dangerous.
- Extra traffic passing the school causing risks to kids.
- Poor road leading to the site, uneven surfaces, bumps, treacherous conditions in winter and ongoing situation of loose horses.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the

site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development and Requirement for an EIAR
- Impact on Residential Amenity
- Roads and Traffic
- Other Matters

7.1.2. Appropriate assessment issues are dealt with in section 8.0 of this report.

7.1.3. Tipperary County Development Plan 2022 – 2028 was made on the 11th July 2022. I note the Planning Authority's assessment of this application was undertaken under the previous development plan, which was also in force at the time of the appeal submission. I assess hereunder the application against the operative development plan, namely Tipperary County Development Plan 2022-2028.

7.2. Principle of Development and Requirement for an EIAR

7.2.1. The existing development of a compost waste facility was permitted under PA reg ref 07511853, which included an EIS (permitted on 5th November 2008), and the facility operates under an EPA licence. The Planning Report submitted with the application sets out the rationale for the application, stating that due to changes in interpretation of requirements of EU regulations at the time of construction and to achieve efficiencies in the facility, additional space was required and constructed, hence the requirement for this retention application. It is further stated there has been no change to the permitted tonnage accepted on the site (45,000 tonnes) and no change to the intensity of the operation.

7.2.2. The PA references the development plan policy for non-conforming uses in the open countryside. Policy 8-9 of the operative development plan supports rural enterprises which may be considered as non-conforming uses, stating: 'Where commercial/industrial enterprises exist as non-conforming but long-established uses, to support their continued operation and expansion, provided such does not result in loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard'.

- 7.2.3. The permitted composting/waste facility as it currently operates takes 'brown bin' waste and commercial food waste from commercial waste companies (not directly from the public) and this waste is composted over a five to seven week process, resulting in the production of a soil improver and organic fertiliser.
- 7.2.4. The principle of this development on this site has been previously established under parent permission 07511853, which permitted this use at this rural location. The Tipperary County Development Plan 2022-2028 under chapter 10 states that it is a key objective of the Council to support the sustainable management of waste in line with the National Waste Management Plan for a Circular Economy (Government of Ireland, 2022) and associated guidance across the delivery of its services and in the management of new development. The proposed development relates to a facility for the treatment of organic waste which would otherwise be treated at a landfill and the development therefore supports the sustainable management of waste. The development was previously permitted at this location and is therefore in compliance also with Policy 8-9 of the operative development plan, as referenced above, and is supported by development plan policy.
- 7.2.5. A third party submission considers the increase in the floor area proposed for retention will result in the proposal requiring the submission of an EIAR.
- 7.2.6. The applicant has submitted an EIA Screening Report and in response to the grounds of appeal states that the retention works relate to the structures on site and that the scale of waste treated is as permitted, has not increased, with no intensification as a result of the increased floor area. The building is approx. 23% greater than that permitted. No material EIAR or planning issues arise. The applicant contends there has been no intensification of works on the site as a result of the extensions and there has been no alteration to the balance of the development/intensity of development.
- 7.2.7. I note under Part 2, Class 11(b) of Schedule 5 of the Planning and Development Regulations 2001 (as amended) relates to 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. As the waste facility is permitted to take in 45,000 tonnes, this is application to which Class 13(a) relates: 'Any change or extension of development already authorised,

executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:

(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and

(ii) result in an increase in size greater than –

- 25 per cent, or

- an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.

7.3. The extension in question relates to the buildings and facilities, with the threshold of waste not having increased or intensified above what was permitted. The site area as stated in the parent application (pa reg ref 07/511853) was 3.2ha and in the current application is 3.8ha, which is an 11% increase in site area. The permitted composting/biological treatment building (reg ref PA 07/511853) was 3870sqm in area with a stated gross floor area of all works, ie the main building, bio filter and offices (as per the then application form) of 5200sqm. The application form with this application states that this development is for retention of a total floor area of 1113.05sqm, which is 21% greater than the permitted floor area. The main composting/waste building is stated to have increased in size by 893sqm/23% greater than that permitted. The applicant has confirmed that the tonnage permitted (45000 tonnes) to be accepted into the site has not increased as a result of the increased floor area and therefore the appropriate threshold has not been increased by 50% as it remains at that permitted.

7.4. It is noted that the retention areas have not affected the volume of waste permitted to be accepted, and have not resulted in any new emissions to air, surface water, ground or groundwater, any change to the volume or quality of the existing stormwater emission, any changes to the methods of waste processing and operational house, or any new processing plant and equipment.

7.4.1. I do not consider the proposed development gives rise to EIAR and I consider the proposal acceptable in principle at this location. I have reviewed the submitted EIA Screening Report and I am satisfied that the development for which retention permission is sought will not likely give rise to a significant effect on the environment.

7.5. Impact on Residential Amenity

Visual Impact

- 7.5.1. The areas of retention relating to the main waste building involves an overall area of c. 1941.85 sqm, which comprises alterations to the northern and southern elevations and to the eastern and western wings of the building, relating to the waste reception area, and primary and secondary processing areas. The building as permitted was a stated 3870sqm in area, with the constructed building being 4763sqm. In terms of visual impact, the proposed works are in keeping with the design and scale of the existing building on site.
- 7.5.2. The additional areas of development for which retention is sought relates to a biofilter that is located to the rear of the building (c. 43.23 sqm.), staff welfare prefabricated structure located to the north of the site (c. 65.49 sqm.), 2 no. storage/maintenance containers (c. 26.6 sqm.), toilet block (c. 5.1 sqm), Bio-Filter Condenser Tank (c. 72.4 sqm.) and 2 no. Firewater retention ponds (c. 713.17 sqm.) The additional works are modest in scale and are not highly visible from areas outside of the site given its low lying nature and given it is bound on either side by willow plantations. The firewater retention ponds have no visual impact and their operation is governed by EPA licence, as is the overall facility.

Odour

- 7.5.3. The third party raises concerns in relation to the emissions of odours from the site and the impact on the health and quality of life of the community.
- 7.5.4. I note the facility has not increased or intensified its operations above that permitted and the issue of odours is governed separately by the EPA under licence. The odour emissions from the plant are monitored regularly and the EPA has not indicated any issues relating to odours from the site. I refer the Board to the submitted copies of Annual Environmental Reports relating to the facility. The latest report from 2019 has recorded three complaints received in relation to odours from the facility dated over three consecutive days in January. The EPA carried out a site inspection on the second day of one of the complaints and noted no unusual activities on site noting odour possibly caused by trucks delivering waste. In the preventative action section

of the report it is stated that operator is to ensure all trucks covered when arriving on site and no vehicles to take breaks on driveway or entrance to the facility.

- 7.5.5. Having regard to all the information on file and given the licensable nature of the activity I do not consider that there is any clear basis relating to odours on which permission should be refused by the Board.

7.6. Roads and Traffic

- 7.6.1. The third party had raised concerns in relation to the volume of traffic arising from the development and impacts in terms of road safety.
- 7.6.2. I note the parent permission approved in 2008 was accompanied by an EIS and traffic impact was assessed and the development permitted having regard to the road network.
- 7.6.3. The approved volume of waste was 45,000 tonnes per annum, which remains the volume of waste treated on site. There has therefore been no increase in waste output or associated truck movements as a result of this proposed development for retention. I note the roads conditions in the surrounding area were, upon site inspection, observed to be in good condition and the PA has raised no concerns in relation to the quality or capacity of the existing road network.
- 7.6.4. I am satisfied that the development as proposed does not give rise to significant additional traffic volumes over and above that which arises from the existing permitted development.

8.0 Appropriate Assessment

- 8.1. Permission is sought for retention of extensions to the main composting building on site including all other associated site development works above and below ground - the extensions to the main building are to the northern, southern, eastern and western elevations of the existing recycling facility and measure c. 1,015.86 sqm. Retention permission is also sought for extensions to the Biofilter that is located to the rear of the building (c. 43.23 sqm.), staff welfare prefabricated structure located to the north of the site (c. 65.49 sqm.), 2 no. storage/maintenance containers (c. 26.6 sqm.), toilet block (c. 5.1 sqm), Bio-Filter Condenser Tank (c. 72.4 sqm.) and 2 no.

Firewater retention ponds (c. 713.17 sqm.). It is noted that the retention areas have not affected the volume of waste permitted to be accepted, and have not resulted in any new emissions.

- 8.2. The site is not located within or adjacent to any European site. There is a drainage ditch along the northern and western boundaries of the site where surface water is discharged to, and from here it enters the Ballyley Stream/Breeagh River (c. 120m south of the site). From here the river travels c. 7.1km northwest to meet the Drish River, which flows into the River Suir a further c. 680m to the west. The Lower River Suir SAC is a further 2.8km to the east.
- 8.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 8.4. There are two European sites in the wider area, namely the River Barrow and River Nore SAC (002162), which is c.12.5km to the east, and the Lower River Suir SAC (002137), which is c.8.3km to the west. The qualifying interests/features of interest associated with the European site closest to the site and indirectly connected hydrologically via the Breeagh stream to the southern boundary of the site is the Lower River Suir SAC (002137). The River Barrow and River Nore SAC is not hydrologically connected to the site and is not therefore considered further.
- 8.5. Site specific conservation objectives and qualifying interests have been set for the River Barrow and River Nore SAC as follows:

European Site	Conservation Objective	QIs/SCIs
Lower River Suir SAC (002137)	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed	Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and

	<p>conservation objectives for each qualifying interest are provided by the NPWS.</p>	<p>Callitricho-Batrachion vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p>
--	---	---

8.6. It is noted that site management measures in relation to emissions are not for the purposes of avoiding or reducing any potential harmful effects to any European sites and relate to the overall maintenance of the site as controlled by an EPA licence for such waste facilities. No mitigation measures have been proposed for the purposes of avoiding or reducing any potential harmful effects to any European sites. The current EPA licence specifies control measures that must be implemented to ensure

emissions from the site as it currently operates do not cause pollution and the licence requires the monitoring of emissions to air and surface water, a noise survey and groundwater monitoring, with all results reported to the EPA.

- 8.7. Given the limited scale of works involved in the retention application, the nature of the existing intervening environment, the distance from the stream to the Lower River Suir SAC, and discharge from the site of clean water only into the Breegagh Stream as governed by the Industrial Emissions Licence from the EPA, I am satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of the Lower River Suir SAC. Furthermore, given the significant distance separating the proposed works and the SAC, in the event of pollution or sediment entering an adjacent watercourse, such pollution would be diluted and dispersed to an imperceptible level at the point of contact with the Lower River Suir SAC and as such significant effects to this designated site is not likely to arise and can be ruled out.
- 8.8. No cumulative impact issues arise.

Screening Determination

- 8.9. Having regard to the nature and scale of the proposed development, to the intervening land use, and distance from European sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site no. 002137 (Lower River Suir) or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.
- 8.10. This determination has been based on the significant distance of the proposed development from any designated sites and the lack of any meaningful pathway between the development site and such designated sites. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects on the projects on any European Sites.

9.0 Recommendation

9.1. It is recommended that permission for retention is granted.

10.0 Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the amenities of the area or of property in the vicinity and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out in accordance with the terms and conditions of the permission granted on 1st day of October 2000, under planning register reference number 07/511853, and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Una O'Neill
Senior Planning Inspector

31st March 2023