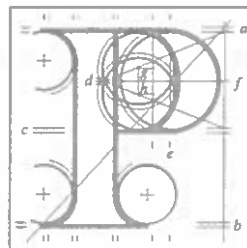


Our Ref: 09.CH3351  
P.A.Reg.Ref:

Your Ref:

1

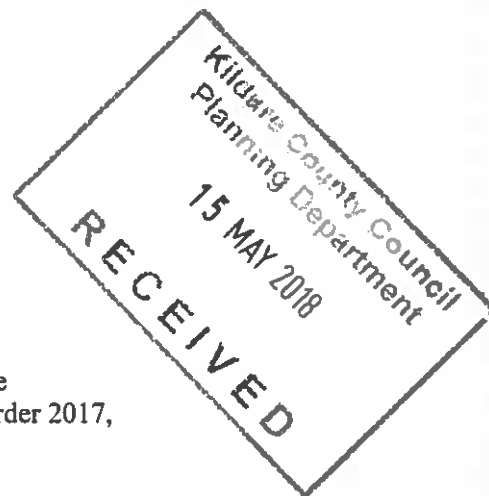


An  
Bord  
Pleanála

Joe Boland  
Kildare County Council  
Áras Chill Dara  
Devoy Park  
Naas  
Co. Kildare

Date: 14 MAY 2018

Re:  
Kildare County Council Compulsory Purchase  
Kerdiffstown Landfill Remediation Project Order 2017,  
Co. Kildare



Dear Sir,

An order has been made by An Bord Pleanála determining the above mentioned case. A copy of the order is enclosed.

Please be advised that under section 217(5) of the Planning and Development Act, 2000, as amended, a notice of the making of a confirmation order should be published or served as the case may be in accordance with section 78(1) of the Housing Act, 1966 within 12 weeks of the making of the order.

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 the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website ([www.pleanala.ie](http://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 attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,



Muiriosa Cassells  
Executive Officer  
Direct Line: 01-8737130

CH20.LTR

**Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, 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 substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

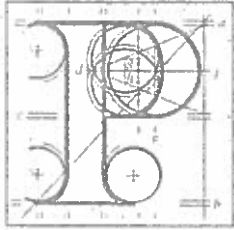
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks beginning on the date on which notice of the Board's decision was first published. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that 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 cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases 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 against a respondent or notice party where relief is obtained 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 the following website, [www.citizensinformation.ie](http://www.citizensinformation.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.





An  
Bord  
Pleanála

**Board Order**  
**09.CH3351**

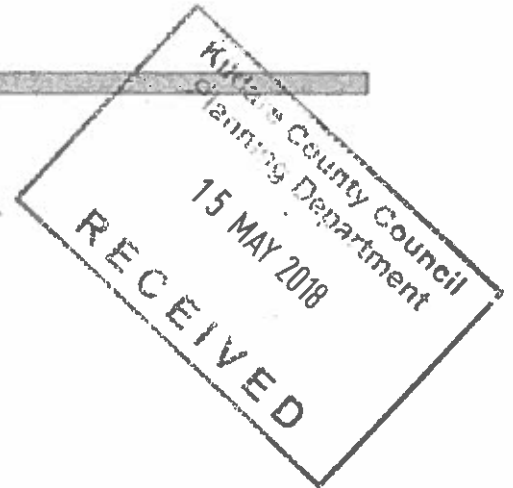
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**Local Government (No. 2) Act, 1960**

**Housing Act, 1966**

**Planning and Development Acts, 2000 to 2017**

**Planning Authority: Kildare County Council**



**Application** received by An Bord Pleanála on the 30<sup>th</sup> day of August, 2017 from Kildare County Council pursuant to section 76 of, and the Third Schedule to, the Housing Act, 1966 as extended by section 10 of the Local Government (No. 2) Act, 1960 (as substituted by section 86 of the Housing Act, 1966) and the Planning and Development Acts, 2000 to 2017, for confirmation of a compulsory purchase order authorising compulsory acquisition of lands and entitled **Kildare County Council Compulsory Purchase Kerdiffstown Landfill Remediation Project Order 2017**.

### **Decision**

**CONFIRM** the above compulsory purchase order for the reasons and considerations set out below.

### **Reasons and Considerations**


Having regard to the objections made to the compulsory purchase order, and not withdrawn, and also having regard to:

(a) the purposes of the compulsory acquisition in question,

- (b) the need to ensure the future minimisation of emissions to the environment arising from the site,
- (c) the risk of future environmental pollution given the volume of waste material stored on the site, the unlined nature of the site and the proximity of the site to sensitive environmental receptors, including the Morell River,
- (d) the obligations on Kildare County Council under the EC Environmental Objectives (Groundwater) Regulations 2010,
- (e) the community need, public interest served and overall benefits, including benefits in terms of additional recreational and sports facilities for the residents of Johnstown, Naas and the wider Kildare area arising from the acquired lands,
- (f) the provisions of the Kildare County Development Plan 2017-2023 and the policies and objectives stated therein, which specifically identify the desirability of remediating the Kerdiffstown landfill site and the development of an appropriate end use for the site (Policy WM16),
- (g) the proportionate design response to the identified need, and
- (h) the report and recommendation of the Inspector who conducted the oral hearing into the objections,

it is considered that the acquisition by the local authority of the lands in question, and the extinguishment of rights of way and compulsory acquisition of wayleave rights, as set out in the compulsory purchase order and on the deposited maps, are necessary for the purposes stated and that the objections cannot be sustained having regard to the said necessity.



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

Dated this *11<sup>th</sup>* day of *MAY* 2018