

# Guidance on the Regulation of Greenfield Soil in Construction and Development

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# Contents

1.0 Introduction .....	1
2.0 Scope .....	2
3.0 Greenfield soil.....	3
4.0 Off-site re-use .....	4
5.0 Compliance .....	7
6.0 Declaration.....	7
7.0 Further Information.....	8
8.0 Contacts.....	8
Appendix 1 Flowchart.....	9
Appendix 2 Declaration.....	10

## 1.0 Introduction

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The Northern Ireland Environment Agency (NIEA) and the Construction Employers Federation (CEF) have developed this guidance to promote the sustainable re-use of greenfield soil. It has been developed in collaboration with the Quarry Products Association (QPA), Agri-Food and Biosciences Institute (Afbí), the Waste and Resources Action Programme (WRAP), the Northern Ireland Planning Service and the Geological Survey of Northern Ireland (GSNI).

Excess soils from development sites are generally regarded as a waste and their end use requires a waste management licence or a registered exemption. The Waste Framework Directive (Directive 2008/98 EC) makes it clear that this is so even if the soils are uncontaminated. However, in order to promote the sustainable re-use of uncontaminated greenfield soils, NIEA takes the view that if such soils are put to agreed, suitable end uses as described in this guidance, the soils will not be subject to the waste regulatory controls.

If producers and users of greenfield soil comply with this guidance NIEA will not regulate its use under waste legislation. Whilst producers and users are not obliged to comply with this guidance, if they do not then the greenfield soil will be classified as a waste and fall subject to the requirements of waste legislation. Consequently, the storage, treatment, transportation, deposit, or disposal of such material without the requisite licences or permits may constitute an offence. Similarly, soils that do not fit the description given in this guidance will not be covered by this guidance. **This guidance applies only in Northern Ireland.**

This guidance has been produced as part of NIEA's Better Regulation programme to provide light-touch, risk based regulation which helps promote the sustainable re-use of uncontaminated, greenfield soils.

## 2.0 Scope

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This guidance relates solely to soil from “greenfield” sites. For the purposes of this guidance “Greenfield” means land that has not been previously developed and is uncontaminated. It does not apply to contaminated soils or to soils whose provenance or history is unknown or is in doubt. The onus is on persons excavating and transporting the greenfield soil and on the user of the greenfield soil to satisfy themselves that this is the case.

Re-use of uncontaminated greenfield soil on the site of production is not, in most circumstances, considered a waste activity.

While this guidance seeks to provide clarity on the re-use of greenfield soils, it remains the responsibility of the producers and users of this guidance to ensure and be able to demonstrate that the greenfield soil is certain to be used, that it is uncontaminated and that its use is lawful. Sections 3 and 4 provide illustrative examples of what are and what are not defined as greenfield soils and examples of compliant and non-compliant uses for greenfield soils. These examples are not exhaustive.

This guidance may be reviewed and updated at any stage based on experience of practical applications, technological developments or legislative amendments. NIEA reserves the right to depart from the position outlined in this guidance and to take appropriate action to avoid harm to human health or pollution of the environment.

## 3.0 Greenfield Soil

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As stated in section 2.0 this guidance relates solely to natural soil from “greenfield” sites.

### Soil covered by this guidance —

- ✓ Soil from undeveloped, uncontaminated land.
- ✓ Uncontaminated soil from agricultural and forestry land.
- ✓ Uncontaminated soil overburden from new mines and quarries.
- ✓ Greenfield soil may include vegetation removed as part of the site preparation works.  
e.g. grass, turf, mulch and leaf debris but not tree stumps.

### Soil not covered by this guidance —

- ✗ Excavated peat arising from construction activities on peat land.
- ✗ Soil from land which is or was occupied by a permanent structure, and/or associated fixed infrastructure. Previously developed land may occur in both built-up and rural settings.
- ✗ Soil from land previously classed as industrial or for military use, e.g. former mines and quarries, landfill sites, former infill sites, Ministry of Defence land.
- ✗ Soil contaminated by flytipping, chemicals or where invasive species listed under Part II of Schedule 9 of the Wildlife (Northern Ireland) Order 1985 are present.
- ✗ Soil with naturally elevated concentrations of metals (e.g. nickel, chromium, arsenic, etc). Information about ambient levels of metals in soils can be obtained from the Geological Survey of Northern Ireland (see sections 7.0 and 8.0).
- ✗ Soil contaminated with any other substances including, though not restricted to, ash, asbestos, oil shale, mining spoil, plastics, glass, metals, and liquids.
- ✗ General construction and demolition wastes including concrete, bricks, tiles and plasterboard.
- ✗ Slurries or sewage sludge.
- ✗ Dredging spoil - European Waste Catalogue Code 17 05 05 and 17 05 06.
- ✗ Soil from any site containing noxious weeds or notifiable plant diseases or soil from any area that is subject to restrictions from the Department of Agriculture and Rural Development (DARD). Further information and advice can be obtained from DARD (see section 8.0 for contact details).
- ✗ Any other controlled waste or soil containing any other controlled waste.

## 4.0 Off-site Reuse

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Prior to beginning any excavation works, the person responsible for the excavation site must establish that there is an identified and certain end-use for the greenfield soil.

All uses must be in accordance with a current planning permission or in the case of a road scheme permitted development rights including a Direction Order or Designation Order, incorporating approved drawings. Therefore this guidance applies only to uses of greenfield soil in construction, development and restoration projects.

### Uses covered by the regulatory position —

- ✔ Use of greenfield soil from one development on another development where the soil is required for engineering works as per the planning permission (such uses include for front and rear gardens).
- ✔ Use of greenfield soil in developments on brownfield land to meet site-specific capping requirements for remediation.
- ✔ Use of greenfield soil in sustainable drainage schemes (SuDS).
- ✔ Use of greenfield soil in the construction of roads and road verges in accordance with permitted development rights including a Direction Order or Designation Order, incorporating approved drawings.

### Uses not covered by the regulatory position —

- ✘ Greenfield soil deposited in volumes exceeding those specified by the planning permission or roads Direction Order or Designation Order.
- ✘ Greenfield soil deposited outside the boundary outlined on the planning permission or the Direction Order or Designation Order.
- ✘ Backfilling disused quarries.
- ✘ Any construction activity where: planning permission is required but has not been obtained (eg bunds, raising of levels); or the works affect any watercourse where an authorisation is required and has not been obtained.
- ✘ Storage of greenfield soil on third party sites pending use.

Any works carried out at or near water courses should be done in accordance with the NIEA Pollution Prevention Guidelines to prevent contamination of water courses. Surface water run-off from any working areas may require consent to discharge under the terms of the Water (Northern Ireland) Order 1999. Full details of any proposed works must be provided to NIEA's Water Management Unit (see section 8.0 for Industrial Consents Unit contact details) so that an assessment of the requirement for consent can be made.

## \*Is it Greenfield?



Agricultural land



Contaminated land



Forestry land



Made ground or ground with fly tipping



Undeveloped land



Invasive species

\*These examples are for illustration only and do not represent an exhaustive list of what is and what is not considered to be a greenfield site.

\*Is it an Approved Use?



Road and verge construction



Backfilling quarries



Landscaping



Stockpiling on third party land



Sustainable Drainage Systems



Abandoned or flytipped soil

\*These examples are for illustration only and do not represent an exhaustive list of what is and what is not considered to be a greenfield site.

## 5.0 Compliance

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NIEA has adopted a regulatory position that waste controls are not likely to be applied to soil if:

- the soil is derived from a greenfield site as defined in Sections 2 and 3;
- the soil is used off-site in one of the approved uses listed in Section 4.

This enables the soil to be used without a waste management licence or exemption in place. A flowchart illustrating this regulatory position is given in Appendix 1.

However the re-use of soil at the receiving site may require authorisation under other regulatory regimes including, but not restricted to:

- Building control approval
- Water Order consent

Where soil has not met the conditions set out in this guidance or is put to uses other than those approved in this guidance, then it is likely to be subject to waste regulatory controls for its storage, use, treatment and disposal. Details of these controls can be found by following the links listed in Section 7.0.

## 6.0 Declaration

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In order to benefit from this regulatory position, the producer or receiver of the soil must:

- Complete and sign the declaration form; email this declaration form to NIEA using the following email address: [greenfieldsoil@doeni.gov.uk](mailto:greenfieldsoil@doeni.gov.uk)
- or you can submit a declaration form online at [www.ni-environment.gov.uk/apply\\_online.htm](http://www.ni-environment.gov.uk/apply_online.htm)
- Map of the source of the greenfield soil outlining the area from which the greenfield soil will be removed (scale 1:10,000)
- Map of the destination site outlining the area where the soil will be deposited (scale 1:10,000)

If soil is delivered to more than one site, additional declaration forms must be completed for each receiving site and emailed to NIEA.

No formal response will be issued by NIEA but the paperwork should be retained by the producer and user of the soil for at least two years as it may be required for audit purposes to ensure full compliance with this guidance. In the absence of full compliance, NIEA will consider taking enforcement proceedings.

## 7.0 Further Information

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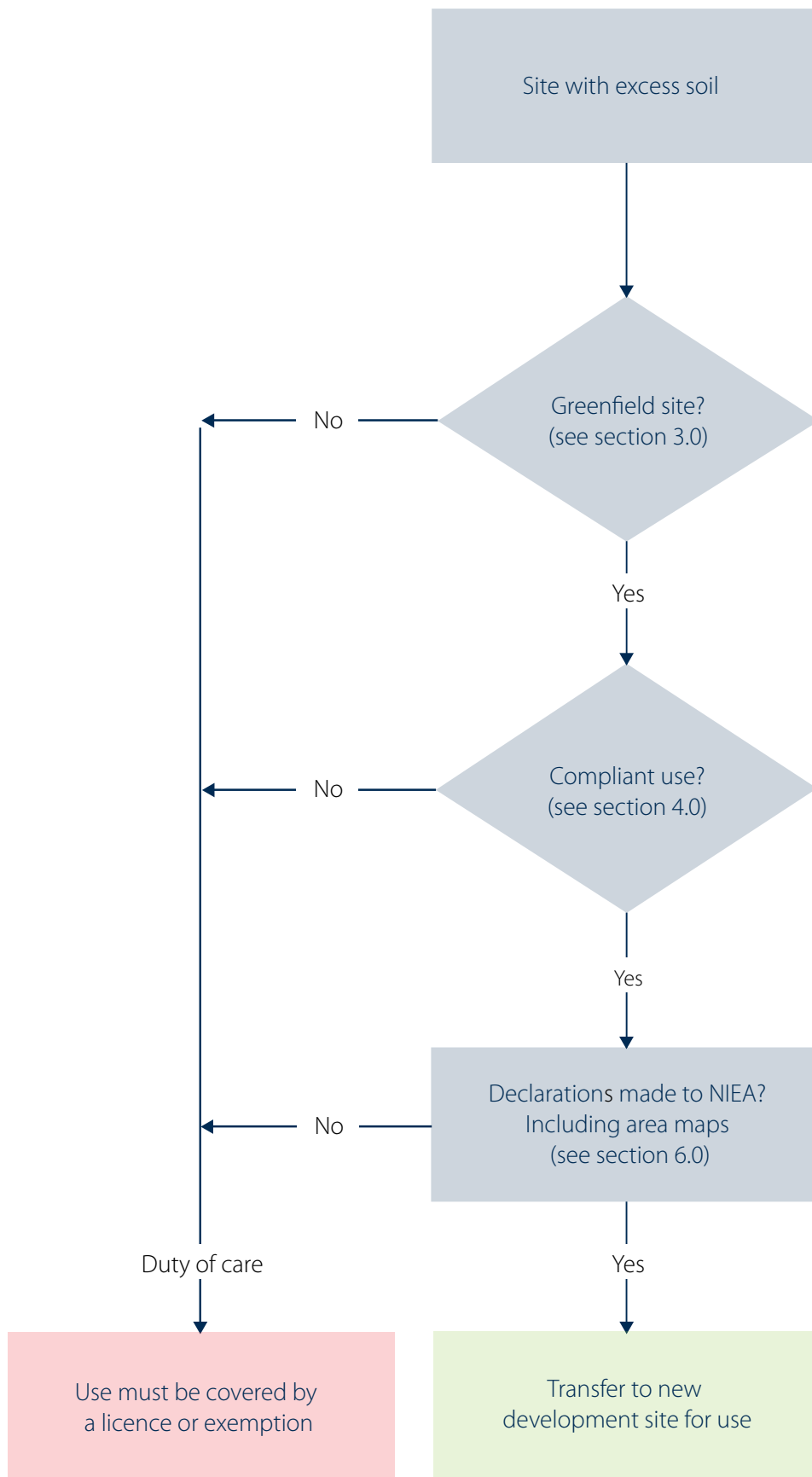
- NIEA Pollution prevention guidelines “Works in, near or liable to affect watercourses: PPG5”: [www.ni-environment.gov.uk/ppg05.pdf](http://www.ni-environment.gov.uk/ppg05.pdf)
- Guidance on land contamination: “Model Procedures for the Management of Land Contamination (CLR11), (2004).” [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)
- Guidance on identifying and managing invasive species: [www.invasivespeciesireland.com](http://www.invasivespeciesireland.com)
- Guidance on waste management requirements: [www.ni-environment.gov.uk/waste-home](http://www.ni-environment.gov.uk/waste-home)
- Guidance on environmental regulations: [www.netregs.gov.uk](http://www.netregs.gov.uk)
- Maps showing the levels of metals in soils across Northern Ireland: [www.bgs.ac.uk/gsni/data](http://www.bgs.ac.uk/gsni/data). For further information on the geochemistry of Northern Ireland: [www.bgs.ac.uk/gsni/tellus](http://www.bgs.ac.uk/gsni/tellus)

## 8.0 Contacts

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- Fully completed declaration forms can be emailed to [greenfieldsoil@doeni.gov.uk](mailto:greenfieldsoil@doeni.gov.uk) or they can be submitted online at [www.ni-environment.gov.uk/apply\\_online.htm](http://www.ni-environment.gov.uk/apply_online.htm)
- General enquiries relating to the use of this guidance can be emailed to [greenfieldsoil@doeni.gov.uk](mailto:greenfieldsoil@doeni.gov.uk) or [mail@cefni.co.uk](mailto:mail@cefni.co.uk)
- Emergency Pollution Hotline Tel: 0800 80 70 60 (to report a pollution incident of an urgent nature) or email: [Emergency-Pollution@doeni.gov.uk](mailto:Emergency-Pollution@doeni.gov.uk) to report incidents of a non-urgent nature
- Water Management Unit (Industrial Consents) contacts: email [industrialconsents@doeni.gov.uk](mailto:industrialconsents@doeni.gov.uk) or telephone 02892 623034.
- For queries relating to contaminated soils contact the Land Quality team in NIEA on Tel 028 9056 9348 or visit [www.ni-environment.gov.uk/land-home/land-quality.htm](http://www.ni-environment.gov.uk/land-home/land-quality.htm)
- DARD NI Helpline: 028 9052 4999 and website: [www.dardni.gov.uk](http://www.dardni.gov.uk)
- Planning Service (NI): [www.planningni.gov.uk](http://www.planningni.gov.uk)
- For queries relating to the geochemistry of soils contact the Geological Survey of Northern Ireland at [gsni@detini.gov.uk](mailto:gsni@detini.gov.uk)

## Appendix 1 Flow Chart



## Appendix 2 Declaration of Compliance with NIEA Greenfield Soil Guidance

You must complete all parts the declaration and email to [greenfieldsoil@doeni.gov.uk](mailto:greenfieldsoil@doeni.gov.uk)

### Supplier Details

Name: _____
Address: _____
Contact Name and Phone Number: _____

### Receiver's Details

Name: _____
Address: _____
Contact Name and Phone Number: _____

### Source

From which type of greenfield site is the soil derived? (please tick the appropriate box)	
Agriculture <input type="checkbox"/>	Forestry <input type="checkbox"/> Other <input type="checkbox"/> (please specify) _____
Source Site Name: _____	Irish Grid: _____
Source Site Address: _____	Postcode: _____

### Destination/Use

Which use(s) will the soil be put to? Construction <input type="checkbox"/>		Roads <input type="checkbox"/>	Landscaping <input type="checkbox"/>
Other <input type="checkbox"/>	(please specify) _____		
Destination Site Name: _____	Irish Grid: _____		
Destination Site Address: _____	Postcode: _____		
Quantity of soil transferred (tonnes) _____			
Estimated Completion Date: _____			
You must provide <b>at least one</b> of the following: Planning reference number or for a road scheme, a Direction Order or Roads Designation Order reference number: _____			

### Declaration

I certify that I have complied with this guidance -	
Full Name: _____	
Position: _____	
Signature: _____	Date: _____

'No formal response will be issued by NIEA but the activity and paperwork should be retained by the producer of the soil for at least two years as it may be audited to ensure full compliance with this guidance.

Before proceeding to dispatch any soil, you must submit a fully completed declaration by email to NIEA at the email address listed in section 8.0 or submit it online at [www.ni-environment.gov.uk/apply\\_online.htm](http://www.ni-environment.gov.uk/apply_online.htm) and attach maps indicating source and destination sites as described in Section 6.0



### **Acknowledgements:**

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Our aim is to protect, conserve and promote the natural environment and built heritage for the benefit of present and future generations.

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