



An
Bord
Pleanála

Inspector's Report ABP 305059-19

Development	Restoration of sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone.
Location	Tinnaclash, Hacketstown, Co. Carlow.
Planning Authority	Carlow Co. Council
Planning Authority Reg. Ref.	18444
Applicant	Smith Ground works & Civil Engineering works Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellants	Smith Ground works & Civil Engineering works Ltd.
Observers	None
Date of Site Inspection	17/1/2020
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site has an area of 6.17 ha and is located in the townland of Tinnaclash, Hacketstown in Co. Carlow. The site lies circa 1.4km south of Kiltegan Village and circa 4.3km to the north-west of Hacketstown. The Douglas River a tributary of Doreen River traverses the area to the north and east of the site. They form part of the River Slaney drainage network. The landscape in the area is characterised by rolling agricultural lands where the lands are in a between 150-260m OD elevation band. The Wicklow Mountains lie 8km to east.
- 1.2. Access to the site is from the R747 route. There is an existing gated entrance which is setback from the road by circa 40m. There are two detached dwellings to the south of the entrance. They adjoin a section of the western site boundary. To the north of the site there a dwelling and farmyard complex.
- 1.3. The site comprises a disused sand and gravel quarry. On inspection, I observed were some waterlogged areas particularly in the central of the site and also stockpiles of soil where vegetation has grown.

2.0 Proposed Development

- 2.1. Permission is sought for the restoration of sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone.
 - (1) the restoration of a 6.17 hectare abandoned sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone;
 - (2) the construction of a blockwork boundary wall and
 - (3) all temporary ancillary development including a) 1 no. site office; b) 1 no. portable toilet; c) 1 no. wheel wash and d) improvement to the site entrance, access gates and access road and internal access tracks
 - (4) the application was accompanied with a Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons;

1. The site of the proposed development was the subject of an assessment under Section 261A of the Planning and Development Act 2000 (as amended), on foot of which a 4(a) notice was issued to the quarry owners(s)/operator(s) on the basis that the quarry constituted unauthorised development. The 4(a) notification was based on a determination by the Planning Authority under Section 261A that (1) development carried out on the site after 01/02/90 (EIA Directive) would have required EIA, but no such EIA was carried out, and (2) development carried out on the site after 26/02/97 (Habitats Directive) would have required Appropriate Assessment (AA) but no such AA was carried out. The decision to issue a 4(a) notice was also based on findings that (a) there was no evidence of quarrying works which would provide a Pre-1964 Authorisation and (b) a search of the Planning Register in Carlow County Council revealed that planning permission for a quarry development was never obtained on the lands. For these reasons, the underlying quarry development comprising the site on which the proposed development would take place is not authorised and the proposed development would therefore represent works to unauthorised development. Having regard to the foregoing including the existing unauthorised development on the site, it is considered by the Planning Authority that permit the proposed development would set an undesirable precedent and would not be appropriate having regard to the proper planning and sustainable development of the area.
2. On the basis of the submitted application documentation, it is considered that there is a lack of clarity regarding the proposed silt trap design and the capacity of same to cater for the proposed soakaway design area. In the absence of this information, it is considered that to permit the proposed development would present a risk of pollution to groundwater and surface

water, which would be prejudicial to the environment and to public health and would therefore not be in accordance with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested in relation to the following matters;

1. The references to the details of the An Bord Pleanála decision for PL27.249167 in the submitted documentation have been reviewed by the Planning Authority. However, it is considered that there are differences between the current planning application site and the site subject of the Board's decision. The applicant was requested to submit further information to address the differences and submit any additional information in support of the position outlined.
2. Provide details how, in the event of a planning permission being granted, the proposed development would not be likely to circumvent the purposes and objectives of the EIA Directive and the Habitats Directive, in light of the Planning Authority's decision under Section 261A of the Planning and Development Act 2000 (as amended).
3. Submit further information – amendment of infilling cross sections to show in all cases the pre-quarry ground levels, clarification of existing boundary berms will be removed, site plan showing proposed final contours, revised site plan of the area extent of the proposed berm on the eastern side of the site which will prevent the escape of surface water, clarification on how the proposed soakaway will be maintained as infilling progresses and design details for the proposed oil interceptor.
4. Submit site plan clearly showing with the use of colour coding how the restoration of the site filling is to be phased and revised site plan detailing proposed cut areas as shown on longitudinal section drawings.

5. Submit revised site plan identifying 'Proposed Infilling Area' (Drawing No. JCA-001) to also detail proposed hedgerow removal and 1.5m high x 4m wide earth mound.
6. Submit further information and revised plans as appropriate to clarify how existing stockpiles of inert soil on the site are to form part of infilling works.
7. The maintenance of a buffer and the construction of a wall to safeguard adjoining residential amenities is welcome, however it is not clear on what basis a 10m wide buffer zone is sufficient and why a berm at this location is not considered. Also measures have not been identified to take account of the location of a dwelling and farmyard to the north.
8. Section 3.2 and 4.0 of the submitted Environmental Report refers to the proposed buffer zone and to new planting (hedgerow and trees). It is not clear from the submitted plans that planting proposed as part of the buffer, you are requested to submit further information and a revised site plan to address this.
 - Following the submission of a response to the further information the Planning Authority were not satisfied that the issues raised were addressed.

3.2.2. Other Technical Reports

Carlow Municipal District – Report dated 20/11/18 – No objection subject to conditions.

Water Services – Report dated 27/11/18 – No objection

Transportation Department – Report dated 14/12/18 – Grant of permission recommended subject to condition.

Chief Fire Officer – Report dated 27/11/18 – No objection subject to condition.

Environment Department – Report dated 13/13/18 – Further information required.

Environment Department – Report dated 13/7/19 – Clarification of further information required.

3.3. Prescribed Bodies

- 3.3.1. Irish Water – Report dated 27/11/18 – No objection

3.4. Third Party Observations

- 3.4.1. The Planning Authority did not receive any observations/submission in relation to the application.

4.0 Planning History

PA Reg. Ref. 17/222 – Permission was refused for the phased filling and re-contouring of two existing dormant sand/gravel pits (contained in the same landholding) with inert soil and stone which will be partly imported and partly derived from the existing piles of overburden surrounding each pit.

1. The site of the proposed development was the subject of an assessment under Section 261A of the Planning and Development Act 2000 (as amended), on foot of which a 4(a) notice was issued to the quarry owner(s)/operator(s) on the basis that the quarry constituted unauthorised development. The 4(a) notification was based on the determination by the Planning Authority under Section 261A that (1) development carried out on the site after 01/02/90 (EIA Directive) would have required EIA, but no such EIA was carried out, and (2) development carried out on the site after 26/02/97 (Habitats Directive) would have required Appropriate Assessment (AA) but no such AA was carried out. The decision to issue a 4(a) notice was also based on findings that (a) there was no evidence of quarrying works which would provide a Pre-1964 Authorisation and (b) a search of the Planning Register in Carlow County Council revealed that planning permission for a quarry development was never obtained on the lands. For this reason, the underlying quarry development comprising the site on which the proposed development would take place, is not authorised. Accordingly, the proposed development would consolidate and facilitate an existing unauthorised development. Would set an undesirable precedent, and therefore to permit the proposed development would not be appropriate having regard to the proper planning and sustainable development of the area.
2. It has not been demonstrated due to the submission of insufficient information that the development, individually or in combination with other plans or

projects, would result in potential significant effects on any of the habitats or species listed as special conservation interest for the Slaney River Valley SAC (Site Code 000781), and would not require Stage 2 Appropriate Assessment. Having regard to the absence of such information, it is considered that to permit the proposed development would be contrary to the policy (Heritage – Policy 2) of the Carlow County Development Plan 2015-2021 which seeks to *“protect and maintain the favourable conservation status and conservation value of all natural heritage sites designated or proposed for designation in accordance with European and National legislation... and to promote the maintenance and as appropriate the achievement of favourable conservation status of protected habitats and species”*, would be contrary to Article 6(3) of the Habitats Directive, and would therefore be contrary to the proper planning and sustainable development of the area.

3. The site adjoins and is partly within an identified flood risk area. It has not been demonstrated due to the submission of insufficient information, in the form of a site specific flood risk assessment, that the proposed development would not give rise to displacement of flood waters potentially impacting on the amenities of adjoining properties and the ecological integrity of the area. The proposed development would therefore be contrary to the provisions (Heritage – Objective 4) of the Carlow County Development Plan 2015-2021 which seeks *“to ensure that floodplains and wetlands within the plan area are retained for their biodiversity and flood protection value”*, would be contrary to the DoEHLG and OPW ‘Planning and Flood Risk Management Guidelines’ 2009, and would therefore be contrary to the proper planning and sustainable development of the area.
4. On the basis of the application documentation, it is considered that there is a lack of clarity regarding (a) proposals to mitigate against suspended solids pollution of the adjoining watercourse from the smaller watercourse which rises in the centre of the quarry, (b) the capacity and future efficiency of the settlement ponds to fully address the threat of pollution to the adjoining watercourse, and (c) the drainage arrangements for Area 2 and the link road to Area 1. In the absence of this information, it is considered that to permit the proposed development would present a risk of pollution to groundwater and

surface water, which would be prejudicial to the environment and public health. And would therefore not be in accordance with the proper planning and sustainable development of the area.

S261A/QY/2: Section 3 noticed issued in respect of extraction outside permitted boundary of PPR 99/1815 directing the owner/operator to apply to An Bord Pleanala for substitute consent.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operational development plan is the Carlow County Development Plan, 2015 – 2021. Some of the key provisions in relation to subject proposal include the following.

- Section 3.5.7 refers to Aggregate Resources and Extractive Industry
- Section 3.5.8 refers to Agriculture & Food
- Policy 14 – It is the policy of Carlow County Council to: take a positive approach to applications for agricultural developments generally, subject to the protection of groundwaters, residential amenities, designated habitats and the landscape, rural amenities, conservation areas and scenic views.
- Chapter 10 refers to Environmental Management, Infrastructure and Water Services
- Env – Policy 1 – It is the policy of Carlow Council to; Implement the provision of the Waste Management Hierarchy the Regional Waste Management Plan 2005-2021, and any subsequent review of this Waste Management Plan as it applies to this Council area.

5.2. Southern Region Waste Management Plan 2015-2021

- Section 16.4.4 refers to Recovery – Backfilling
- Backfilling activities (of inert waste), which meet the recovery definition and are in compliance with Articles 4 and 13 of the WFD, sit on the other recovery

tier of the waste hierarchy. Local authorities in the region authorise such activities through the award of WFPs and CoRs. Similarly the EPA authorises significant backfilling of inert waste at large sites such as old quarries for restoration purposes.

5.3. Natural Heritage Designations

- 5.3.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:
- 5.3.2. The River Slaney Valley Special Area of Conservation (Site Code: 000078), is located approximately 967m to the north-west of the application site.
- 5.3.3. Douglas River a tributary of the River Slaney is circa 295m to the north of the application site.

5.4. Environmental Impact Assessment

- 5.4.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIAR. Part 1, Schedule 5 outlines classes of development that require EIAR and Part 2, Schedule 5 outlines classes of developments that require EIAR but are subject to thresholds. The proposed development falls below the threshold levels in Schedule 5 of the Regulations in relation to EIA, and does not involve potential impacts on any sites or areas of specific environmental sensitivity. Having regard to the limited nature of the development, the absence of any nature conservation designation in the immediate area, the absence of any emission from the development and the absence of any connection to watercourses, it must be concluded that the development will not have a significant impact on the environment. Overall it is considered that the proposed development does not come within the scope of the classes of development requiring the submission of an EIAR as set out in Schedule 5 of the Planning and Development Regulations 2001-2018. The submission of an environmental impact assessment report is not required.
- 5.4.2. The application was not accompanied by an EIAR. However, an EIAR Screening Report and Environmental report were submitted. The application is for an activity to

which Article 11(b) of Part 11 of Schedule 5 of the Planning and Development Regulations 2001, as amended, applies but does not exceed the threshold of 25,000 tonnes annual deposit rate specified in the class.

5.4.3. Where a development is within a class but does not exceed the threshold therein the application should be screened for EIA by reference to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended and having regard to the EIS Guidance for Consent Authorities regarding Sub-Threshold Development (EPA 2003). There are three criteria which must be considered when screening for sub-threshold EIA. These are;

(a) the characteristics of the proposed development,

(b) the location/the environmental sensitivity of the area where the development is located, and

(c) the characteristics of potential impacts.

5.4.4. The characteristics of the proposed development are identified in the Regulations and the more applicable in this case is the size of the proposed development, the use of natural resources, production of waste, potential for pollution arising from the proposed development. It may be noted that the area covered by the application is circa 6.17 hectares, that the use of natural resources is limited to machinery fuel and the land area required for the infill by inert stone and soil and that no additional waste will be produced. Surface water run-off from the road and site is proposed to be discharged to soakaway and silt traps upstream. The closest watercourse to the site is located approximately 226m to the east. The stream is connected to the Douglas River which is hydrologically linked to the Slaney River Valley SAC (000781) having regard to the details submitted with the application and appeal, I am satisfied that the proposal would not represent any undue impact. Notwithstanding this it would not be desirable that soil/silt be deposited into the adjacent watercourse, therefore I would recommend the attachment of a condition requiring the management of the process to avoid such an occurrence.

5.4.5. The location and the environmental sensitivity of the area where the development is located should be considered, inter alia, having regard to its landscape value, proximity to European sites, sea coast or populated areas. The site is located in a relatively sparsely populated rural area circa 37kms inland from the coast. Slaney

River Valley SAC (000781) is 0.9km from the site. The County Development Plan includes Map 15 as part of its landscape character assessment and the site is within the River Slaney East Rolling Farmland which is described as increasingly sensitive. The site is not located within any protected views or scenic routes.

5.4.6. The third criterion is the characteristics of potential impacts arising from the proposed development. The present case will have very limited geographical and no transfrontier impact; the foreseeable impacts (for example traffic and visual landscape) will be limited.

5.4.7. Having regard to the above criteria I conclude that the proposed development is not likely to have significant effects on the environment and that submission of an EIAR and carrying out of an EIA, therefore, is not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by HRA Planning on behalf of the applicant Smith Ground works & Civil Engineering works Ltd. The issues raised concern the following;

- The Planning Authority refused permission on the basis that the proposed development would represent works to an unauthorised quarry and that the development due to a lack of clarity regarding the design of the silt traps would represent a risk of pollution to groundwater and surface water.
- There has been no quarrying on site since 2009 and no site remediation has been undertaken in that timeframe.
- It is stated that the quarry activity on site is extinguished and therefore no unauthorised use or activity is in place. There are ad hoc stockpiles of varying heights positioned along the boundaries of the site and a number of hillocks on the quarry floor.
- The side slopes of the quarry are steep and uncontrolled and the site as present cannot be used for any beneficial function.

- The site appearance is unkept it is submitted that the proposed development provides an opportunity to visually enhance the appearance of the area and restore the lane to beneficial agricultural use.
- Having regard to site specific characteristics and the nature and extent of development as proposed, it is submitted to the Board that the proposed development is in accordance with the proper planning and sustainable development of the area and that the development does not seek to enhance, modify or extend existing unauthorised works.
- The Planning Authority places reliance on the planning history of the site and the status of the quarry under Section 261 & Section 261A of the Planning and Development Act 2000.
- The Planning Authority sought registration of the quarry under Section 261 of the Planning and Development Act 2000, as amended. The Planning Authority accepted that the quarry had pre-1964 status and issued a letter dated 1st of January 2006 which requested that a planning application be made including the submission of an Environmental Impact Statement. The planning application and EIS were never submitted as the quarry was nearing 'the end of life' and future quarrying activity would not be required.
- In 2012 the Planning Authority issued a notice advising of the new requirements under Section 261A and requested that the owner of the quarry submit information to demonstrate the quarry had pre-1964 status.
- The owner of the quarry did not respond to this request as quarrying had ceased since 2009 and future operations were not envisaged.
- The first party stated that contrary to the decision issued by the Planning Authority in 2006 under Section 261 that the quarry did not have pre-1964 authorisation and therefore deemed the quarry unauthorised. The Planning Authority issued a letter in August 2012 which advised the owner that the quarry was unauthorised.
- The owner sent a letter of response in September 2012 and advised the Planning Authority that it was his intention to apply for planning permission to restore the quarry to agricultural use on a phased basis. However, he advised

the Planning Authority that he was not in a financial position to do so at this time.

- Permission was sought under PA Reg. Ref. 17/222 to restore the quarry to agricultural use in 2017. It related to a larger site than that currently proposed. Permission was refused for four reasons, that it would consolidate and facilitate an existing unauthorised development, potential significant effects on Slaney River Valley SAC, the location of the site within an area of floor risk, lack of detail regarding potential impacts arising from surface water treatment. The decision was not appealed as it was considered that it could be improved with the environmental issues addressed via a revised application to the Planning Authority.
- The current proposal seeks to address the previous reasons for refusal. It is noted that the current proposal was successful in addressing the environmental concerns raised in the previous reason for refusal.
- The overall site has an area of 6.17 hectares. It is proposed to fill 4.2 hectares with inert soil and stone. The site contains circa 95,000 tonnes of existing overburden. However, as there is inadequate material on site it will be necessary to import 75,000 tonnes of soil and stone over a period of five years, comprising 15,000 tonnes per annum.
- Five phases of infilling is proposed. A 10m buffer is proposed to be maintained along the western site boundary to the rear of the existing houses fronting onto the public road. An earthen berm is proposed along the eastern boundary to function to contain all fill and ancillary site works.
- In relation to the unauthorised use it is highlighted that the proposal does not include quarrying activity but rather seeks the restoration of an old quarry that has ceased operations.
- It is submitted that as quarry activity is a works development then any contravention of the previous obligations ceased and the quarry resource was exhausted therefore the existing established use is now extinguished.
- The first party argue that there can therefore be no unauthorised development attributed to these lands and that there have been no findings of unauthorised

development by any court competent jurisdiction has been made and even if it were possible to make an allegation of unauthorised development there is no jurisdiction within which such allegations could be raised.

- Therefore, it is submitted that there is no basis upon which this issue is relevant in the context of the application for which planning permission has been made.
- The refusal reason issued by the Planning Authority is based on their consideration that the proposed development would represent works to an existing unauthorised development and to permit the proposed development would set an undesirable precedent and would not be appropriate having regard to the proper planning and sustainable development of the area.
- The first party submit that consideration of the proposed development must be in the interest of the common good and the amenity of the area.
- The site in its current condition is unattractive with spoil heaps and top-soil heaps along with steep and unsafe boundary slopes. It is submitted that the proposed development provides an opportunity to restore the lands to agricultural use only. The report of the Planning Officer acknowledges that such restoration would be a positive development.
- It is highlighted that the Planning Authority had an opportunity to use alternative process and procedures in dealing with unauthorised development. If the Planning Authority had adhered to the requirements of the S261A process, it should have issued an enforcement notice to the owner/occupier requesting the cessation of activity/use and restoration of the site to its original condition. If this process were followed, then the site could have been restored without necessarily availing of the planning application process.
- It is not proposed to continue quarrying at this location nor are there any proposals to remove material including stockpiles from the site. There is therefore no possibility that granting permission for the proposed works would facilitate and consolidate quarrying at this location. There is nothing in law to preclude the Board from granting planning permission for the proposed development.

- The first party submit to the Board that there is clear precedence in support of granting planning permission for the development is the decision made in respect of PL27.249167. An appeal was made against the decision of Wicklow Co. Council to refuse permission for the restoration of a disused sand and gravel quarry at Davidstown, Donard, Co. Wicklow. Permission was refused for two reasons. The first reason stated that the proposed development would consolidate an existing unauthorised development. The second reason related to groundwater. The Board overturned the decision of the Planning Authority and based the decision on the proposed works which was remediation and restoration of the land rather than the historic use of the quarry. The Board concluded that the proposed development would accord with the proper planning and sustainable development of the area.
- It is submitted to the Board that the proposed development must be considered looking forward and having regard to the proper planning and sustainable development of the area. The Planning Authority have focused on the past in determining the application and the decision serves to maintain the status quo of the quarry in terms of the visual appearance and unsafe condition.
- The Planning Authority also refused permission on the basis of inadequate information regarding the proposed silt trap design and the capacity of it to cater for the proposed soakaway design area. The refusal reason also states that to permit the proposed development would present a risk of pollution to groundwater and surface water which would be prejudicial to public health.
- The report from Engineering Section dated 3rd of July 2019 does not recommend a refusal of permission. A clarification of further information is sought. The report therefore does not suggest that there is an issue with the proposed development but that further design details are requested. It is submitted that the second reason for refusal is onerous and unnecessary and that such issues could be addressed by condition.
- The surface water design proposals are detailed on Drawing No. JCA-007 including the location of the proposed silt trap manhole and also the typical construction detail for the silt trap. The further information requested on 16th of

January 2019 sought clarification on how the proposed soakaway will be maintained as infilling progresses.

- The further information response has provided the required information and this was deemed acceptable by the Environment Section. The Environmental Report confirmed that for Item 3(e) that 'Details of the proposed soakaway management methodology has been submitted.
- The Environment Section did require additional details to be submitted on the proposed silt trap design along with measures to combat the build up of silt in the operational phase. Details of the silt trap design were previously submitted on Drawing JCA-007.
- Inspection and maintenance is proposed to remove any build up of silt within the trap thereby ensuring it continuous and efficient operation.
- It is submitted that the second reason for refusal is superfluous and that adequate details regarding surface water management were provided. The additional information required by the Environment Section could be a condition of a grant of permission.
- It is therefore submitted that the proposed development would not present a risk of pollution to groundwater and surface water and therefore the proposed development would not be prejudicial to public health or the environment.
- In conclusion it is submitted that the activity comprises filling of extant quarried land with the aim of restoring and levelling the land appropriate to agricultural use.
- The proposed works will be short term and the temporary impact associated with construction can be managed. It is submitted that the restoration of the site to be a beneficial use is appropriate.
- It is requested that the Board overturn the decision of Carlow Co. Council and grant planning permission for the development as proposed.

6.2. Planning Authority Response

- The Planning Authority acknowledged that the restoration of the site would be a positive development as it would return the land to agricultural use. However, they also noted that the planning status of the site, its unauthorised status cannot be overlooked in the assessment of the proposed development.
- The planning history of a site is a key consideration in the assessment of any planning application. The provisions of the Planning and Development Act 2000 (as amended) facilitate applications for retention permission substitute consent and for refusals of permission in the case of a previous planning compliance failure/unauthorised development.
- The first party appeal refers to the fact that the proposed development will not involve further quarrying on the site. This approach is based on the premise that the restoration of the site infilling would not consolidate unauthorised development because the restoration of the works would not a continuation of quarrying activities.
- The Planning Authority consider that the unauthorised quarrying that took place on the site would be accommodating the proposed importation of material to fill and raise the level of the site. Therefore, it is submitted that the quarry as an unauthorised development and the proposed development are two interconnected and related issues.
- The proposed development incorporates an existing quarry that is unauthorised development, would represent works to an unauthorised development and therefore to permit any further development in this quarry would not be appropriate nor in accordance with the proper planning and sustainable development of the area.
- Reference is made in the appeal to the Board decision PL27.249167 as a precedence which would have a direct correlation with the current case.
- That appeal case was complex and legal opinion informed the Inspector's Report and the decision of the Board.
- The Planning Authority set out that the current application site differs from the cited appeal case in Co. Wicklow. Notwithstanding the details submitted by

the applicant in response to the further information. The Planning Authority have concerns in relation to the following;

- The application site was the subject of a 4(a) notice under Section 261A of the Act setting out the intention of the Planning Authority to issue an enforcement notice.
- The appeal site in Wicklow was the subject of a 3(a) notice requiring a substitute consent application be submitted to the Board.
- Planning permission was never obtained for the current planning application site. Permission was obtained in relation to the appeal site in Wicklow.
- The unauthorised development as relating to the application site stemmed from Section 261A, by reason that EIA and AA was required, and by reason that the site was not deemed to have pre-1964 authorisation and never obtained planning permission.
- It is noted that the unauthorised development as relating to the appeal site in Wicklow was based on departures from a planning permission i.e. depth of extraction below the permitted level.
- The response to the further information included reference to a supreme court case in relation to EIA. The applicant's agent put forward that EIA can and should only be undertaken for proposed development for which planning permission is sought.
- The cited case was *Fitzpatrick & Daly v An Bord Pleanála, Apple Distribution International, the Minister for Housing, Planning and Local Government and the Attorney General (SC Appeal No. 157/2017)*.
- *Fitzpatrick & Daly* maintained that future (projected) plans identified by Apple in their planning application on a masterplan should have been subject to EIA and not just the proposed development of the DATA centre.
- The Planning Authority considered that the case law example does not satisfactorily address their concerns.

- The cited case law related to EIA for a planning application for a proposed development and future (projected) plans submitted as part of a masterplan with the application.
- The Planning Authority consider that the current application differs as it relates to existing unauthorised development (i.e. the quarry) and the proposed development (i.e. the restoration of the quarry to agricultural grasslands).
- In terms of the unauthorised development as noted, planning legislation does provide for EIA and AA of existing development e.g. enabling the regularisation of same through the substitute consent application process. Section 177D of the Planning and Development Act 2000 (as amended) provides for remedial environmental impact assessment report and remedial Natura impact statement.

7.0 Assessment

Having inspected the site and examined the associated documentation including the associated NIS and carried out a site inspection, the following are the relevant issues in this appeal.

- Principle and policy
- Landscape and visual impact, adjoining amenity
- Surface water/groundwater
- Traffic impact
- Appropriate Assessment

7.1. Principle and policy

- 7.1.1. The proposal entails the restoration of lands formally where sand and gravel were extracted. The type of infill material proposed to be imported and used in the restoration of the lands for agricultural purposes is inert soil and stone. It is proposed to import a total of 75,000 tonnes, comprising 15,000 tonnes per annum. The type of material to be utilised in the infilling activity would be subject to a Waste Facility

Permit which is a separate permitting process. The site contains a further 95,000 tonnes of overburden which will be also used in the restoration process.

- 7.1.2. The proposed development would serve to the raise the ground level of the existing low-lying hollow area and return it to agricultural use. This would allow it to be used more productively. It would be in accordance with policy 14 of the Carlow County Development Plan 2015-2021 which seeks to take a positive approach to applications for agricultural developments generally, subject to the protection of groundwaters, residential amenities, designated habitats and the landscape, rural amenities, conservation area and scenic views.
- 7.1.3. In relation to the proposal to import materials on site which are subject to a waste facility permit, Env – Policy 1 of the Carlow County Development Plan refers to waste management and states it is the policy of Council to implement the provision of the Waste Management Hierarchy the Regional Waste Management Plan 2005-2021, and any subsequent review of this Waste Management Plan as it applies to this Council area.
- 7.1.4. County Carlow is part of the Southern Waste Region. The area is subject to the Southern Region Waste Management Plan 2015-2021. Section 16.4.4 of the Plan refers to Recovery – Backfilling. It is set out that backfilling activities (of inert waste), which meet the recovery definition and are in compliance with Articles 4 and 13 of the WFD, sit on the other recovery tier of the waste hierarchy. It is stated that Local authorities in the region are responsible for the authorisation of such activities through the award of WFPs and CoRs. Similarly the EPA authorises significant backfilling of inert waste at large sites such as old quarries for restoration purposes. Accordingly, it is responsibility of the Local Authorities to ensure that the backfilling/infilling of inert waste is carried out in accordance with the provisions of the Southern Region Waste Management Plan. I would consider that the subject scheme is in accordance with the provisions of the Southern Region Waste Management Plan 2015 – 2022 which seeks to facilitate waste treatment facilities, and the report ‘Construction and Demolition Waste – Soil and Stone Recovery/Disposal Capacity’ prepared for the three waste regions and published in December, 2016.

- 7.1.5. The first reason for refusal issued by the Planning Authority states that the proposal would consolidate unauthorised development. Permission was refused on the basis that the proposal would consolidate unauthorised development and that such unauthorised development would have required a determination as to whether an EIS was required, and would have required an Appropriate Assessment.
- 7.1.6. The Planning Authority in their response to the appeal state that they consider that unauthorised quarrying took place on the appeal site. The former quarry would then be accommodating the proposed importation of material to fill and level the site. The Planning Authority therefore content that the quarry which is an unauthorised development and the proposed infilling of that area under the subject proposal are two interconnected and related issues.
- 7.1.7. The first party make the following case in respect of the proposal. They state that the proposed development will not involve the further quarrying on the site. They argue that the restoration of the site through infilling would not consolidate unauthorised development because the proposed restoration of the lands to agricultural use would not constitute continuation of quarrying activities.
- 7.1.8. The first party have cited a previous decision of the Board under PL027.249167 where permission was granted for the restoration of a 2.3 hectare disused sand and gravel quarry to agricultural grassland by backfilling using imported inert soil and stone. The case was made in respect of that appeal that the proposal did not represent consolidation of unauthorised development as it was not a continuation of quarrying activity, that it was the restoration of a disused quarry where quarrying activity has ceased. That appeal relied on the opinion of Professor Yvonne Scannell that substitute consent could not be applied for as it only relates to further development of a quarry. In that appeal case at Davidstown, Donard, Co. Wicklow the quarrying had ceased for some time on the site. The primary difference between the current proposal and that cited appeal is that there was a previous permission for quarrying on the site, while the current application site did not have a previous permission for quarrying.
- 7.1.9. The first party have set out the planning history in the appeal. In 2006 the Planning Authority sought the registration of the quarry under Section 261 of the Planning and Development Act 2000 (as amended). It is further detailed in the appeal that the

Planning Authority also acknowledged the pre-1964 status in a letter dated 1st of January 2006. The letter requested that the owner of the quarry make a planning application including the submission of an Environmental Impact Statement. The first party acknowledge that an application for planning permission including an EIS were never submitted because the quarry was nearing 'the end of life' and future quarrying activity would not be required.

- 7.1.10. The appeal states that quarrying on the site ceased in 2009. The Planning Authority issued a notice to the owner of the quarry in 2012. The notice advised the owner of the new requirements under Section 261A of the Planning and Development Act (as amended) and requested that they submit information to demonstrate the quarry had pre-1964 status. It is acknowledged in the appeal that quarry owner did not respond to this request as quarrying had ceased since 2009 and future operations were not envisaged.
- 7.1.11. Section 37L of the Planning and Development Act 2000, (as amended) which refers to quarry substitute consent applications and is only relevant in respect of applications for the further development of a quarry for quarrying purposes. The subject proposal does not entail any further quarrying and therefore is not directly relevant to the determination of the application and appeal.
- 7.1.12. The Planning Authority in their response to the appeal referred to Section 177D of the Planning & Development Act 2000 (as amended). This refers to the provision for the Board to determine leave to apply for substitute consent in respect of an application under section 177C whereby a they are satisfied that an environmental impact assessment, a determination as to whether an environmental impact assessment is required or an appropriate assessment was or is required of the development concerned.
- 7.1.13. While, I would note the provisions of Section 177D, I would consider that having regard to information before me on file I would not concur with the Planning Authority's assessment that the proposal would consolidate unauthorised development because the unauthorised nature of the former quarry was not established. The Planning Authority previously acknowledge the pre-1964 status of the quarry in a letter to the owner at the time in 2006. The applicant has confirmed that quarrying ceased over ten years ago and therefore, I consider that the proposal

can be assessed on its merits. The current application is accompanied by a NIS and was subject to screening for EIA and these matters are fully addressed in proceeding and subsequent sections of this report.

7.2. Landscape and visual impact and adjoining amenity

- 7.2.1. The site lies within the River Slaney East Rolling Farmland landscape character area, which is described as increasingly sensitive. There are no protected views or prospects in the vicinity of the site.
- 7.2.2. Following a further information request section drawings the pre-quarry ground level on the site was submitted. A detailed phasing plan for the proposed restoration was also submitted in response to the further information request. The submitted drawings and sections indicate the proposed infilling and re-contouring on the site including some areas to be cut. I am satisfied that while views of the infilling operations would be evident in the local area particularly from the regional road and the houses the vicinity along the local road network which current overlook the site, the proposed infilling of the lands from its current condition and the grading, capping and seeding of soil on the lands to provide for the agricultural use of the lands is in keeping with the site context and surrounding land use.
- 7.2.3. Having inspected the site, I consider that the site topography and existing land cover are such that the proposed development involving the importation and filling of soil and stone to a maximum depth of 4m above the existing ground level would not significantly impact views of the wider landscape. Accordingly, I consider once the development is carried out and completed that it would not result in any undue adverse visual or landscape impacts.
- 7.2.4. In relation to impact upon residential amenity the site is immediately adjacent to a pair of detached dwellings. These dwellings are located on lands which are elevated above the appeal site. The proposed access is located circa 13m to the north of the closest dwelling. It is projected that 3 - 4 no. of trucks a day would be accessing the site. It is likely that this would vary depending on the time of year. Should the Board decide to grant permission, I would recommend the attachment of a condition requiring the installation of a wheelwash at the site entrance to provide mud and dust control. While the proposed development would involve some noise and disturbance

to the neighbouring properties the proposed development would involve relatively low average daily traffic movements for a limited time period and the beneficial reclamation of land for agricultural purposes from its current condition to should in my opinion be the overriding consideration.

7.3. Surface water

- 7.3.1. The second reason for refusal refers to the matter of surface water drainage. It stated that on the basis of documentation submitted with the application that it was considered that there is a lack of clarity in relation to the proposed silt trap design and the capacity of it to cater for the soakaway. It was concluded that in the absence of these details that to permit the development would present a risk of pollution to groundwater and surface water.
- 7.3.2. In response to the matter the first party has submitted that the report from Engineering Section dated 3rd of July 2019 did not recommend a refusal of permission but rather sought a clarification of further information. Drawing No. JCA-007 indicates the surface water design proposals. The location of the 7 no. proposed silt trap manholes are indicated on this drawing. They are proposed along the access/haulage road, at the bunded area for refuelling and adjacent to the soakaway. The drawing also indicates the typical construction design detail of the silt traps.
- 7.3.3. Details of proposed soakaway management methodology was provided in response to the further information. The response confirmed that the soakaway will be lined with terram to prevent silt infiltration and that a silt trap manhole will be located upstream of the soakaway. It is proposed to clear that silt within the manhole on a monthly basis and that the cover levels of the manholes within the infilling areas will be raised as the ground level is raised.
- 7.3.4. Furthermore, I note the mitigation measures to combat the built up of silt during the operational which are part of the proposals. These measures include the inspection and maintenance of the silt traps to remove any built up, there will be no fuel stored on site and refuelling or machinery or vehicles will take place on site. In relation to the treatment of surface water on site it is proposed that surface water run-off from hard standing will be diverted to a soakaway via an oil/grit interceptor. The propose

of infilling of the site will be carried out to ensure that the level of infilling around the perimeter of the site will be higher than the centre of the site to ensure that the direction of flow will not be away from the site boundary. The final measure proposed is that a silt fence which will be erected around the perimeter of the site through out the extent of the infilling to prevent silt escarpment.

- 7.3.5. Accordingly, having regard to the details set out above I consider that the measures set out in the application which include the proposed soakaway and design of the drainage system would satisfactorily. Details of silt control measures include the proposed mitigation measures will ensure that the proposed development would not give rise to an unacceptable risk of water pollution and sedimentation due to run-off from soils and other material. Should the Board decide to grant permission, I would recommend the attachment of a condition requiring the submission of full design details of the proposed silt traps be submitted to the Planning Authority for their agreement prior to commencement of development.

7.4. Traffic impact

- 7.4.1. The proposed development involves the importation of circa 75,000 tonnes of material to the site in heavy vehicles over a period of five years. A 'Traffic Management Report prepared by John Creed & Associates was submitted with the application. The appeal site lies to the south of Kiltegan. The road fronting the site is the R747. The proposed haul route to and from Kildare is via the M9 Motorway, with the exit to the R747 and through Baltinglass and Kiltegan to the site. The proposed haul route to and from North Wicklow is via the N81 with the exit to the R747 and through the Kiltegan. There are two possible haul routes to and from Carlow either via Tullow or via Hacketstown.
- 7.4.2. The site is served by an existing entrance which features an agricultural gate. It is proposed to widen the existing vehicular entrance and set back the gates 14m from the edge of the public road. This design ensure that trucks can park away from the road before the gates to site are opened and closed. In relation to visibility sightlines, as indicated on Drawing No: JCA-006, 150m are available to the north and south at the proposed site entrance.

- 7.4.3. As detailed in the Traffic Management Report a maximum of 15,000 tonnes of material would be imported per annum. The traffic movements which the proposal would generate were estimated in the report as 3-4 truck movements to the site and 3-4 truck movements from the site per day. It is proposed to erect road safety signage for a distance of 300m to the north and south of the entrance. The signage would provide advanced warning of the entrance.
- 7.4.4. The Planning Authority's Transportation Department report and the report from the Carlow Municipal District Area Engineer had no objection to the proposal. The regional road has good width and horizontal and vertical alignment. I note that the road network has relatively low traffic volumes having regard to the rural nature of the area.
- 7.4.5. I consider that the road network is suitable to accommodate the traffic which would be generated. Having regard to these factors and the purpose of the application to restore the lands for agricultural purposes, to the limited nature of the proposed development and the measures proposed including the setting back of the vehicular entrance and proposals to install road safety signage, I would conclude that the proposed development will not endanger public safety by reason of traffic hazard.

7.5. Appropriate Assessment

- 7.5.1. Stage 2 Appropriate Assessment
- 7.5.2. A Natura Impact Statement (dated October 2018) was prepared by Openfield Ecological Services and was submitted with the application.
- 7.5.3. Under Stage 2 Appropriate Assessment it is necessary to establish will the proposed development individually or in combination with other plans or projects adversely affect the integrity of the European sites in view of the sites' conservation objectives.
- 7.5.4. Having regard to the 'source-pathway-receptor' model the submitted NIS identified potential impacts on the Slaney River Valley SAC (00781). The European site is located circa 0.9km to the west of the development site. The site is within the catchment of the Douglas River which flows east and west approximately 300m to the north of the site. The Douglas River is a tributary of the Dereen River which is a tributary of the River Slaney. A drainage ditch is located to the east of the site which provides a pathway to the Douglas River.

7.5.5. The qualifying interests/special conservation interests of the designated sites referenced above, are summarised as follows:

Slaney River Valley SAC (00781)
Estuaries [1130]
Mudflats and sandflats not covered by seawater at low tide [1140]
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]
Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]
<i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]
<i>Petromyzon marinus</i> (Sea Lamprey) [1095]
<i>Lampetra planeri</i> (Brook Lamprey) [1096]
<i>Lampetra fluviatilis</i> (River Lamprey) [1099]
<i>Alosa fallax fallax</i> (Twaite Shad) [1103]
<i>Salmo salar</i> (Salmon) [1106]
<i>Lutra lutra</i> (Otter) [1355]
<i>Phoca vitulina</i> (Harbour Seal) [1365]
Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
* Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]

7.5.20. The Conservation Objectives for the above qualifying features of Slaney River Valley SAC [000781] are as follows;

- **Sea Lamprey *Petromyzon marinus* [1095]** – to restore the favourable conservation condition of Sea lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Brook Lamprey *Lampetra planeri* [1096]** – to restore the favourable conservation condition of Brook lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **River Lamprey *Lampetra fluviatilis* [1099]** – to restore the favourable conservation condition of River lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Twaite Shad *Alosa fallax* [1103]** – to restore the favourable conservation condition of Twaite shad in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Atlantic Salmon *Salmo salar* (only in fresh water) [1106]** – to restore the favourable conservation condition of Salmon in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Estuaries [1130]** – to maintain the favourable conservation condition of Estuaries in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Mudflats and sandflats not covered by seawater at low tide [1140]** – to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Otter *Lutra lutra* [1355]** – to restore the favourable conservation condition of Otter in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Harbour Seal *Phoca vitulina* [1365]** – to maintain the favourable conservation condition of Harbour Seal in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- **Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation [3260]** – to maintain the favourable conservation condition of Water courses of plain to montane levels with the

Ranunculion fluitantis and Callitriche-Batrachion vegetation in the Slaney River Valley SAC, which is defined by a list of attributes and targets.

- **Old sessile oak woods with Ilex and Blechnum in the British Isles Water [91A0]** – to restore the favourable conservation condition of old sessile oakwoods with Ilex and Blechnum in the Slaney River Valley SAC, which is defined by a list of attributes and targets.
- * **Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]** – to restore the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion) in the Slaney River Valley SAC, which is defined by the following list of attributes and targets.

7.5.21. It is set out in the NIS that the Douglas River features River & Brook Lamprey and Atlantic Salmon. Surveys indicate the presence of otter in the area. The Freshwater Pearl Mussel was not recorded in the Doulgas River, however it is recorded in the River Dereen downstream of the confluence with the Douglas River. As detailed in the NIS the conservation objectives of the following qualifying interests are relevant; Old sessile oak woods, floating river vegetation, Sea/River Brook Lamprey, Atlantic Salmon, Otter and Freshwater Pearl Mussel.

7.5.22. It is set out in the NIS that there would be no direct effects upon the Slaney River Valley SAC. There would be no direct habitat loss or fragmentation as a result of the proposed project. During the construction phase an access road and surface water soakaway would be constructed. It is set out in the NIS that there is no pathway for pollutants at this stage to reach the River Douglas.

7.5.23. In relation to the operational phases there is the potential for indirect adverse effects on the integrity of the European site arise from potential surface water run-off containing sediment or other pollutants entering via surface and groundwater pathways and the potential for these effects to reach downstream European sites. The potential for a deterioration of water quality can be considered as likely to result in significant effects on the SAC particularly given the sensitivity of its qualifying interests particularly those which water quality conservation objectives have been set i.e. Freshwater Pearl Mussel, Atlantic Salmon and Floating River Vegetation.

7.5.24. It is stated in the NIS that the implementation of the Water Framework Directive and the Freshwater Pearl Mussel action plan will ensure the improvement of water quality along the Derren River.

7.5.25. Having regard to the details set out above it is considered that the integrity of the Slaney River Valley SAC may be affected specifically there is potential for impacts to the habitat of the Freshwater Pearl Mussel during the operational phase. Mitigation measures have been integrated into the project design.

7.5.26. The mitigation measures are as follows;

- Dangerous substances such as oils etc will be stored in a bunded area.
- No fuel will be stored on site and no refuelling of vehicles or equipment will occur.
- Surface water run-off from new areas of hard standing will be diverted to a soakaway via an oil/grit interceptor.
- The direction of flow from any surface water is towards the centre of the site because due to the former quarrying the natural contours of the land have created a bowl shape. The infilling of the site will be carried out so that the rim of the bowl remains above the level of infill to ensure the direction of flow will not be away from the site boundary.
- To provide a further line of defence to prevent silt escarpment, it is proposed to erect a silt fence along the rim for the duration of the project. The silt fence will be maintained by the site manager in accordance with the manufacturer's instructions.

7.5.27. It is concluded in the NIS that the implementation of the mitigation measures will ensure that there will be no adverse effects to the conservation objectives or integrity of the Slaney River Valley SAC, or any other European Site, either along or in combination with other plans and projects.

7.5.28. Having regard to all of the above and having examined the information before me, I am satisfied that the mitigation measures to be put in place, will ensure that the conservation objectives and integrity of the Natura 2000 site identified above will not be adversely affected by operational phase related surface water discharges from the proposal. I consider that the proposed measures are clearly described, are

reasonable, practical and enforceable. I also consider that they fully address the potential impacts arising from the proposed development such that it will not give rise to significant impacts either alone or in combination with other potential impact sources. I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site, in view of their Conservation Objectives.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of Carlow County Development Plan 2015 – 2021, which seeks to support the continuing viability of agriculture and to promote agricultural related industries in rural areas and to facilitate waste treatment facilities, the provisions of the Southern Region Waste Management Plan 2015 – 2021, and the report ‘Construction and Demolition Waste – Soil and Stone Recovery/Disposal Capacity’ prepared for the three waste regions and published in December, 2016, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the further plans and particulars submitted on the 19th day of June 2019, 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. The period during which the development hereby permitted may be carried out shall be seven years from the date of this order.

Reason: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. 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.

Reason: In the interest of public health.

4. Full design details of the proposed silt traps shall be submitted to the Planning Authority for their written agreement prior to the commencement of development.

Reason: In the interest of public health.

5. The developer shall submit annually to the planning authority for the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

Reason: In order to facilitate monitoring and control of the development by the planning authority.

6. Operations shall occur between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or Public Holidays.

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

7. A maximum of 75,000 tonnes of material shall be imported into the site within the lifetime of this grant of permission.

Reason: To limit traffic impacts in the interests of road safety and residential amenity.

8. The developer shall submit by the 31st January annually for the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including drawings based on an up-to-date 3D topographic survey which facilitates the planning authority to monitor the progress of the phases of restoration.

Reason: In order to facilitate monitoring and control of the development by the planning authority.

9. Only clean, uncontaminated soil and stones shall be imported into the site.

Reason: In the interest of amenity.

10. A wheel-wash facility shall be provided adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and convenience, and to protect the amenities of the area.

11.

(a) During backfilling operations, the site shall be screened in accordance with a scheme of screening measures and boundary treatment, details of which shall include all planting proposed on existing and proposed screen berms, details of the ongoing care and management of such planting as well as details of an adequate barrier to prevent unrestricted access to the site from adjacent lands shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) A detailed landscape plan, which shall include details of all planting, hedging and boundary treatment to be undertaken on completion of

backfilling, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to safeguard the amenities of residential property in the vicinity during the operating phase of the development.

12. 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.

Siobhan Carroll
Planning Inspector

30th of March 2020