



An
Bord
Pleanála

Inspector's Report ABP-305329-19.

Development	Permission sought to infill the subject site of 28.86 hectares in order that the site, which is presently a disused sand and gravel pit, can be restored to agricultural use in keeping with the surrounding land use.
Location	Wolfstown, Eadestown County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	18/839.
Applicant(s)	John Morrin.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	John Morrin.
Observer(s)	Residents of Eadestown.
Date of Site Inspection	06/02/2020.
Inspector	A. Considine.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
4.0 Planning History.....	15
5.0 Policy and Context.....	16
5.1. National Planning Framework – Project Ireland 2020.	16
5.2. The Eastern and Midland Regional and Spatial Economic Strategy, 2019 .	17
5.3. The Eastern-Midlands Region Waste Management Plan 2015-2021.....	17
5.4. The Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity, December 2016	18
5.5. Development Plan.....	19
5.6. Natural Heritage Designations	21
5.7. EIA Screening	21
6.0 The Appeal	21
6.1. Grounds of Appeal	21
6.2. Planning Authority Response	24
6.3. Observations	24
6.4. Applicant Response to Third Party Observations.....	28
6.5. Observers Response to Applicants Response to Third Party Observations	31
6.6. Response From EPA	33
6.7. First Party Response to EPA Submission	33

7.0 Assessment.....	34
8.0 Planning & Sustainable Development Assessment	35
8.1. Principle of the proposed development:	35
8.2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards.....	36
8.3. Roads & Traffic	39
8.4. Ground and Surface Water Impacts.....	43
8.5. Flood Risk	45
8.6. Ecological Impacts	46
8.7. Visual Impacts.....	50
8.8. Other Issues.....	51
9.0 Environmental Impact Assessment.....	54
9.1. Introduction	54
9.2. Environmental Impact Assessment Report:	55
9.3. Environmental Impact Assessment	60
10.0 Appropriate Assessment	74
11.0 Recommendation	76
12.0 Reasons and Considerations	77

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area of east Co. Kildare and within the townlands of Wolfstown and Eadestown. The site lies approximately 6.9km to the south east of the town of Naas in Co. Kildare and approximately 3.3km to the north west of the town of Blessington, Co. Wicklow. The site lies approximately 1.2km from the boundary of Co. Wicklow to the east and 6.4km to the boundary with South County Dublin to the north.
- 1.2. The site fronts onto the R410 which connects Naas to Blessington and the area is characterised by single rural houses and farms. There is an extensive quarry area located within 1km of the subject site, to the east.
- 1.3. The site has a stated area of 28.86 ha and the existing site access lies off the cul-de-sac road and adjacent to the existing farm buildings to the east of the site.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to infill the subject site of 28.86ha at Wolfstown, Eadestown, Naas, Co. Kildare in order that the site, which is presently a disused sand and gravel pit, can be restored to agricultural use in keeping with the surrounding land use.

The applicant proposes, subject to planning, to operate this facility as an infill facility for inert non-hazardous soil and stone. The incoming soil and stone will be deposited on site and the site contoured to final restoration levels. These will be designed in order to ensure that the restored site will be fully in keeping with the surrounding landscape. It has been estimated that there is approximately 1.8 million tonnes of void space remaining within the site. The applicant proposes to fill this at approximately 200,000 tonnes per annum. The applicant also proposes to install a site office and canteen, weighbridge, wheel-wash, new entrance, internal haul road and carry out all ancillary site works. The application relates to an activity requiring a Waste Licence from the Environmental Protection Agency and is accompanied by an Environmental Impact Statement Report (EIAR).

- 2.2. The application included a number of supporting documents as follows;

- Plans, particulars and completed planning application form

- Cover letter.
- Environmental Impact Assessment Report (EIAR)
- Appropriate Assessment Screening Report

2.3. The proposed development relates to a development area of 28.68ha, from a landholding of 47.43ha, and will provide for an actual fill area of 16.81ha.

2.4. Following a request for further information, the development was amended to provide for a septic tank and percolation area to service the development rather than the provision of a chemical toilet. The response to the request included a number of appendices as follows:

- Tier 3 Environmental Risk Assessment
- Geophysical Survey
- Photographic Logs
- Borehole and Trial Pit Logs
- Groundwater Elevation Survey
- Topographical Survey
- Hvorslev Slug Test Method
- Laboratory Analytical Records – note that the text is very small and difficult to read.
- Analytical Tables – again, some of the tables are very small and difficult to read.
- Landfill Gas Field Measurements
- Ammonia Leachate Calculation
- Attachment 2 – Traffic Technical Note & Drawings
- Attachment 3 – Drawings
- Attachment 4 – Site Characterisation Report
- Attachment 5 – Appropriate Assessment Screening
- Attachment 6 – Restoration and Landscaping Plan

- Attachment 7 – Site Management Plan
- Attachment 8 – Noise Impact Assessment
- Attachment 9 – Dust Impact Assessment Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following 2 stated reasons:

1. Having regard to the nature and scale of the proposed development, the restricted width, alignment and carrying capacity of the road network in the area, the volumes of HGV traffic associated with this proposal over a ten year time frame, the volumes of HGV traffic already using this local road network, and the absence of proposals to address these traffic safety issues, it is considered that the proposed development, be likely to result in increased traffic conflicts and a significant traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that, based on the information submitted in support of the subject application, the proposed access road construction and associated drainage details may result in surface water runoff from the subject site onto the R410 Regional Road which might result in a road safety hazard and endanger public safety which would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to a number of issues in terms of

- the legacy landfill,
- roads and traffic issues,
- site area and other discrepancies,
- the planning history of the site,
- existing and proposed site level sections,
- details of waste to be recovered at the facility,
- clarification on the duration of the permission sought,
- details of the proposed drainage system for the site,
- detailed site layout plan,
- wastewater treatment issues,
- proposals for water source,
- detailed haul routes,
- design of the proposed entrance to include sightlines and swept path analysis,
- the submission of an AA Screening report which address the impact of leachate pollution,
- a fully detailed landscaping plan and a visual impact assessment of the proposed development,
- details of a site management plan,
- an assessment of the cumulative impacts of noise and dust given the location of neighbouring quarries.

The FI advises that the EIAR is considered deficient in relation to a number of issues which are required to be addressed and finally, the FI requests the clarification of boundary treatments and seeks that the applicant address the third-party concerns.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is not acceptable. The Planning Officer

recommends that permission be refused for the proposed development, for reasons relating to roads and traffic and drainage issues which will result in surface water runoff onto the R410 and the potential for flooding. The report includes an updated AA Screening Report and an Environmental Impact Assessment report which concludes that the EIAR submitted, including the response to the further information request, has not adequately identified and assessed the effects of the proposed development on various environmental factors, including water, material assets and roads and traffic.

In addition to the Planning Officers report, the Board will note that the Senior Planner supported the recommendation for refusal and states that as the applicant took a full nine months to respond to the further information request, there was no time to seek clarification and / or modifications. Refusal is recommended.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Chief Fire Officer: No objection subject to obtaining a Fire Safety Certificate for the welfare facilities.

Naas Municipal District Engineer: Refusal recommended for the following reason:

The proposed development access located between a series of bad bends and in close proximity to another junction on a section of a Regional Road where the 80km/h speed limit applies would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of extra traffic generated.

Transportation Department: The report raises serious concerns in relation to the proposed development and associated entrance off the R410. The Department is minded to recommend refusal of permission. Further information is required in relation to haul routes, mitigation measures to address possible queuing of HGVs on the R410, detailed design of the proposed site entrance and sightlines, details of a swept path analysis for articulated and rigid trucks at the entrance and proposals for the treatment of surface water runoff and wheel wash runoff.

Following the submission of a response to the FI request, the Transportation Department recommends refusal of permission for three stated reasons.

Heritage Officer: The AA screening makes no reference to the local hydrogeology and if there is a link between the site and Red Bog SAC. If the quarry has breached the ground water, there is potential for impact on the SAC. The EIAR refers to the potential for leachate pollution but this is not considered in the AA. Further information is required to be submitted to address same as well as details to be provided of safeguards that will be taken to ensure no invasive species are brought on to the site with the inert soil and stone.

Following the submission of a response to the FI request, the Heritage Officer advises no further comments.

Environment Section: Further information required in relation to a detailed description of all waste types including the European Waste Catalogue (2015 edition) code reference. In addition, FI is required in relation to the specific quantity in tonnes per annum of each waste type, a site layout plan showing the drainage system proposed, detailed designs for the waste quarantine area holding tank, detailed design on size and capacity of the silt trap and petrol oil interceptor, clarification on connections to foul drainage system, a report in compliance with the EPAs Code of Practice 'Environmental Risk Assessment for Unregulated Waste Disposal Sites'. The report also questions if a temporary chemical toilet is acceptable or should an Effluent Treatment System be installed or a connection to foul sewer if available.

Following the submission of a response to the FI request, the Environment Section advises no objection subject to compliance with conditions.

Water Services: Notes that there is no public watermain at the site. Recommends that the file be referred to Environment for filling / licence etc. A condition in relation to land and roadside drainage is recommended.

3.2.3. Prescribed Bodies

Environmental Health Officer: Notes that the report will only comment on Environmental Health Impacts under headings relating to Human Beings, Surface water / Groundwater, Air Quality and Noise. The report raises a number of serious concerns with regard to the proposed development in relation to the actual area of the site to be filled, the lack of a fully detailed and costed remediation plan to address the legacy of unauthorised municipal dumping on the site and insufficient information included in the EIAR in regard to Air Quality and noise. It is concluded that in the absence of such information, the HSE is unable to fully assess the impacts of the proposed development on the health and wellbeing of the population in the surrounding area.

Following the submission of a response to the FI request, the Environmental Health Officer submitted a further report noting the amended proposal to install a septic tank and percolation area to service the development. The report requests that the potable water supply meet the requirements of the EU (Drinking Water) Regulations 2014 and details of the rainwater harvesting system to be used for wheel wash and dust suppression to be clarified.

Pest control measures proposed are acceptable.

The Noise Impact Assessment continues to include a number of concerns including the statement 'due to the volume of traffic during the measurement period the LAeq values obtained were not felt to accurately represent the existing soundscape'. Other concerns with the assessment relate to noise from traffic movement to and from the site which appears to have been excluded.

Further issues raised in relation to the Dust Impact Assessment with regard to the zonal categorisation for background air quality and the predictive modelling needs to be verified if permission is granted. The report further advises that the TA-Luft limit is not a statutory standard and compliance with this limit does not, per se, indicate an absence of nuisance.

The report concludes with a number of comments noting that a clear complaints procedure that identifies responsibilities and actions taken is required, restrictions on hours of operation as per the response to FI and a record of who is 'suitably trained' in waste acceptance procedures for the site is required as part of the Site Management Plan.

Irish Water: No objection subject to compliance with conditions.

3.2.4. **Third Party Submissions**

There are 21 no. third party objections/submissions, including a number with multiple signatories, noted on the planning authority file. The issues raised are summarised under the following headings:

Roads Issues:

- Entrance to the site in its present form constitutes a serious safety hazard on this narrow rural road.
- There is insufficient information provided in relation to the finish and quality of the road structure and entrance and from the entrance to the weigh bridge.
- No indication of restrictions of truck size.
- Access and egress routes should be designated and restricted to primary and regional roads.
- The R410 is already at capacity with up to 40 trucks parked on the road in the morning waiting to access the quarry in the mornings.
- The proposed development will give rise to up to an additional 38 trucks per day.
- The road is currently incapable of coping with natural weather conditions and floods numerous times during the year.
- Non-compliance with the CDP with regard to road policies

Landscape Issues:

- A comprehensive landscaping planting scheme is required to be submitted.

- Non-compliance with the CDP with regard to landscape and screening given the location within the North Eastern Kildare Uplands.
- The proposed new entrance will necessitate the destruction of mature native hedgerows/tree boundary for a distance of 50.5m with a 15m wide entrance.
- The site layout ignores the location of existing trees. Is it proposed that all trees are to be removed?
- Restoration levels are much higher than the original land contours.

Environmental Issues:

- There is no indication how run-off from the wheel washing facility will be addressed.
- Inadequate detail of dust suppression techniques and controls.
- Impacts on existing trees along the narrow roads
- Impacts on flora and fauna including Glending Forest, one of the last Irish indigenous forests within a few km.
- Water supply issues raised with previous refusals to connect to existing water main. Any new well may impact on existing private local wells.
- Surface water disposal proposals inadequate.
- Issues raised in relation to the quarantine area.

Residential amenity issues:

- Working hours not indicated. The local community would be desirous of limiting to five working days per week.
- No indication given how noise will be managed or monitored which is unacceptable.
- Health issues associated with dust and noise.
- Impact on property values.
- Exempted development provisions would facilitate structures, works, plant, machinery and on-site accommodation to be carried out without seeking permission. Such exemptions should not apply.

Monitoring:

- It is requested that a local monitoring committee, consisting of local residents, would be given a right of access to the site for monitoring purposes, with the Council and the EPA. This should be a condition of permission.

Levy:

- A local development levy, recommended 50c, should be imposed on each tonne of material delivered to the site with the money collected to be used for environmental and social improvements in the immediate vicinity. There is precedent for such initiatives.

Other Issues:

- A comprehensive Management Plan is required for the site, including a construction management plan.
- The impact of additional trucks on the roads will impact tourism, the safety of cyclists and will make the road unsuitable for all.
- Scale of the development is excessive and will take approximately 10 or more years to complete which would be outside the normal appropriate period of 5 years.
- Inadequacies of EIAR noted particularly with regard to the consideration of alternatives. There is a proliferation of existing sites which should be fully utilised and filled before adding this site.
- Current unauthorised landfill present on site with the EIAR noting up to 137,000 tonnes (57,000m³) of mixed municipal solid waste across 5 different infill areas of the quarry.
- Lack of public consultation.
- Issues with public notices
- Lack of responses from other bodies indicates an incomplete application.
- A crushing machine will be part of the plant, yet no such activity has been specified in the public notices
- Concerns that blasting may occur.

- A permission of 5 years only should be considered in order that any further application can be based on the experience of the previous 5 years and can take into account any possible future changes to landfill legislation.

Errors in application:

- The application contains numerous errors and omissions:
 - Incorrect reference numbers for previous applications on the site.
 - Scant reference to the fact that the site contained a Moat and a Castle, both of which may have been of significant archaeological interest.
 - No mention of the quality of recyclable material that will be delivered and removed from the site, and which could extend the life expectancy of the project, estimated as 9 years.
 - The site is no longer accessed through a field gate on a local access / cul-de-sac road as stated.
 - The development now requires a new entrance and exit onto a regional road. This change of entrance location could constitute grounds for invalidating the application.
- Clarification required on the material to be deposited – public notices refer to inert non-hazardous soil and stone while the EIAR includes construction and demolition waste.
- The description of the development does not include the crusher.
- Questions the ‘temporary’ nature of the welfare unit if the construction phase of the development will take 10 years.
- Details in relation to the inspection and quarantine areas not included.

3.2.5. **Elected Representatives**

James Lawless TD and Senator Anthony Lawlor submitted objections to the proposed development which reflects the concerns of their constituents as detailed above, particularly in relation to the scale of the development and the impact on local property values, roads and traffic issues, the nature of the materials to be brought to

the site, increased noise and dust, impact on the local amenity and landscaping issues.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref: 05/295: Permission granted for the phased restoration of a former sand and gravel quarry (circa 16 ha) to be affected through the controlled importation of inert materials (soils and subsoils 200,000m³) to restore said lands to agricultural use. The activity is subject to a waste permit issued by Kildare County Council.

The Board will note that permission was granted for the importation of 150,000m³ of inert material to the site.

The following conditions are considered relevant:

4. The permission shall be for a temporary period up to and including 6 years from the date of the granting of this permission only.

Reason: In the interest of visual amenity, and to ensure that the site is restored within a satisfactory time-frame.

5. Only clean, clear, inert hardcore (or other material which shall be subject to the prior written approval of the planning authority) and subsoil and topsoil shall be used to reclaim / raise the site. No other material shall be deposited on site.

Reason: In the interests of public health and to ensure proper planning and sustainable development.

13. Prior to the commencement of the development, applicant shall submit proposals for improvements to the existing public road along the site frontage for the agreement of the Planning Authority.

Reason: In the interest of traffic safety.

14. No development shall take place, until the details of proposed road improvement works have been agreed in full in writing with the Planning Authority in accordance with Condition 14 above.

Reason: In the interest of traffic safety.

15. The frequency of heavy goods traffic using the site shall not exceed 35 trucks per day as described in the applicants submission received on 23/12/05. Trucks shall not travel in convoys and shall not queue on the public road outside the facility.

Reason: In the interest of traffic safety.

PA ref QRA-25-013: Section 261A Quarry Assessment deemed the quarry to have been abandoned on the 8th day of August 2012.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2020.

5.1.1. The National Planning Framework (NPF) which was published in 2018 is a strategic plan to guide development and future growth of Ireland to 2040. It is envisaged that the population of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands that growth will place on the environment and the social and economic fabric of the country. The Plan sets out 10 goals, referred to as National Strategic Outcomes.

5.1.2. Under National Strategic Outcome 9, the emphasis is on the sustainable management of water, waste and other environmental resources. It expressly provides in relation to waste that it will require:

‘Adequate capacity and systems to manage waste, including municipal and construction and demolition waste in an environmentally safe and sustainable manner’.

5.1.3. The NDF supports circular economy principles that minimise waste going to landfill and maximise waste as a resource. National Policy Objective 56 states:

‘Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, re-use, recycling and recovery to support a healthy environment, economy and society’.

5.2. The Eastern and Midland Regional and Spatial Economic Strategy, 2019

5.2.1. This document builds on the foundations of Government policy in Project Ireland 2040. It seeks to determine at a regional scale how best to achieve the shared goals set out in the National Strategic Outcomes of the NPF and sets out 16 Regional Strategic Outcomes (RSO's) which set the framework for city and county development plans. It supports the circular economy to make better use of resources and become more resource efficient.

5.2.2. Regional Strategic Outcome 7 - Sustainable Management of Water, Waste and other Environmental Resources states:

'Conserve and enhance our water resources to ensure clean water supply, adequate wastewater treatment and greater resource efficiency to realise the benefits of the circular economy'.

5.3. The Eastern-Midlands Region Waste Management Plan 2015-2021

5.3.1. Section 16.4.4 of the Plan notes that backfilling activities make up a significant treatment capacity in the region at both local authority authorised sites and EPA licensed sites. The Plan further notes that due to depressed activity in the construction sector (figures from 2012) capacity exceeds current demand.

5.3.2. The following policies are considered relevant:

Policy E13: Future authorisations by local authorities, the EPA and An Bord Pleanála must take account of the scale and availability of existing backfilling capacity.

Policy E14: The local authorities will co-ordinate the future authorisations of backfilling sites in the region to ensure balanced regional development serves local and regional needs with a preference for large scale restoration sites ahead of smaller scale sites with shorter life spans. All proposed sites for backfilling activities must comply with environmental protection criteria set out in the plan.

5.3.3. The Regional Waste Management Plan further deals with Construction and Demolition Waste at Section 11.2, noting as follows:

‘Traditionally the recovery of much of the C&D waste stream has been managed by placing it in a variety of land use applications. This treatment, collectively known as backfilling includes landfilling, improvement or infill works. The largest fraction of the C&D waste is soil and stones, which (if uncontaminated) typically undergoes little if any treatment prior to recovery at these sites’.

‘Given the sharp decrease in the number of operational landfills nationally, which has been a significant outlet for C&D waste in the past, alternative recovery options will be required to facilitate the recovery of C&D waste arising in future years. It needs to be considered if the placement of inert waste at many of the types of infill sites used in the past is an appropriate land-use strategy or indeed best use of a potentially recyclable material. Concrete, stone and other masonry-type waste can be crushed and screened and used as a substitute for virgin quarry stone material in a variety of engineering applications if the appropriate technical criteria have been met, e.g road construction, access tracks for agricultural or forestry holdings. Quarries also frequently require large quantities of soil material to fill voids and for other remediation and landscaping applications’.

5.4. The Construction and Demolition Waste: Soil and Stone Recovery/Disposal Capacity, December 2016

5.4.1. This document was commissioned on behalf of the regional waste authorities to analyse the national waste capacity market for the safe treatment of soil wastes, defined as clean inert soil and stone waste arising from construction activities. It reviewed existing soil recovery facilities and quantified the capacity available to meet current and future market demand. It confirms that the capacity available to recover soil and stone wastes is an issue in each region.

5.4.2. It is concluded that there is a lack of licensed capacity nationally and in particular in the Greater Dublin Area to meet current and forecasted growth. The change in waste arisings from construction activities has been abrupt and the excess capacity reported at the time of the regional waste plans has been eroded. While waste facility permits and CoR’s are available at low volumes to the market they are not considered long terms solutions. The preferred solution is providing secure and

longer-term outlets for soil waste recovery. Locations which are considered to offer these benefits include exhausted quarries or pits. It is noted in the report that this approach is favoured by the regional waste management plan with policy preference for large central sites which require restoration through the placement of clean soil returning the site back to its original profile.

5.5. Development Plan

5.5.1. The Kildare County Development Plan 2017-2023 is the relevant policy document pertaining to the subject site. The site is located within the rural area.

5.5.2. Chapter 5 of the Plan deals with Economic Development, Enterprise and Tourism where section 5.12 deals with Rural Enterprise

5.5.3. Chapter 6 of the Plan deals with Chapter 6 of the Kildare County Development Plan 2017-2023 deals with Movement & Transport and section 6.6 deals with Road & Street Network. Section 6.6.3 deals with Regional Roads. The Plan states that it is important for the sustainable economic and social development of the county that the carrying capacity of these routes is preserved. In terms of policies, the following are relevant:

Policy RR2 where it states that it is the policy of the Council to 'restrict new access onto regional roads where the 80km per hour speed limit currently applies, except in the following circumstances:

- Developments of strategic, local, regional or national importance, where there is a significant gain to the county through employment creation or other economic benefit.

Policy RR 3 where it states that it is the policy of the Council to 'identify the strategic road network needed for the future development of County Kildare and an order of priority for future road improvements.

Policy RR 4 where it states that it is the policy of the Council to 'improve and re-align where necessary and as funds allow, the regional roads.

Objective RRO 2 is also relevant in that it 'seeks to progress the regional roads identified for improvement as set out in Table 6.2 subject to funding. Table 6.2 includes the 'R410 Naas to county boundary via Eadestown'.

5.5.4. Chapter 7 of the Plan deals with Infrastructure, with Section 7.2 dealing with Infrastructure provision, including 7.2.4 Flooding and 7.5.5 detailing the policies relating to Surface Water and flooding. Section 7.6 relates to Environmental Services. It is the stated aim of the Plan 'to conform to European, National and regional policies in relation to the provision of waste management and to protect and enhance water, air and noise quality'. Section 7.6.5 deals with policies relating to Waste management.

5.5.5. Chapter 10 of the Plan deals with Rural Development and Section 10.5 details the Councils policies in this regard.

5.5.6. Chapter 13 of the Kildare County Development Plan deals with Natural Heritage & Green Infrastructure and Section 13.4 presents the relevant natural heritage policies and objectives. Section 13.5.2 deals with Natural Heritage Areas.

5.5.7. Chapter 14 of the plan deals with Landscape, Recreation and Amenity and includes, in Section 14.4, a Landscape Character Areas map 14.1. The subject site is located within the 'Eastern Uplands' landscape character area, which is classified as a Class 3 'high sensitivity'. Such areas are described as 'Areas with reduced capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to prevalent sensitivity factors.'

Section 14.6 of the plan deals with Scenic Routes and Protected Views, and the subject site lies within 5km of Scenic Route no. 12 - Views west of Kildare Plains from Redbog Area and Views towards Caureen; from Rathmore Cross Roads to Pipershall and Scenic Routes no. 22 - Views to the North-West of the Open Countryside; from Killeel Village to Rathmore Village.

Section 14.8 and 14.9 of the Plan presents the general landscape and scenic routes and protected views policies relevant to the site and area.

5.5.8. Chapter 17 of the plan deals with Development Management Standards with Section 17.10 dealing with Waste Disposal and Recovery, and Section 17.10.1 dealing with Waste Recovery / Disposal facilities.

5.6. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Ref Bog, Kildare SAC (& pNHA) (Site Code 000397) which is located approximately 1km to the east of the site. The Poulaphouca Reservoir SPA, (Site Code 004063) (& pNHA Site Code 000731) is located approximately 3.3km to the south east of the site.

The Wicklow Mountains SAC (Site Code 002122) is located approximately 6km to the south east of the site and the Wicklow Mountains SPA, (Site Code 004040) is approximately 9km to the south east of the site.

The Glenasmole Valley SAC (&pNHA) (Site Code 001209) is located 13.1km to the north east of the site

5.7. EIA Screening

The Board will note that an Environmental Impact Assessment Report has been submitted in support of the proposed development.

6.0 The Appeal

6.1. Grounds of Appeal

This is a First party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- In terms of reason for refusal no 2, it is submitted that the applicants engineer is of the opinion that the proposed design would not have a surface water runoff effect but have submitted a design upgrade which if permitted by the Board, will guarantee this does not happen.
- It is considered that this issue could have been conditioned in a grant of permission and does not constitute a valid reason for refusal.
- In terms of reason for refusal no 1, the following submission is made:

- The development is to be provided with a new purpose-built access on the R410 Blessington Road with a wide splayed frontage and setback access gate to accommodate a large haul truck turning into the site, stopping at the gate without extending back onto the carriageway.
- The entrance location maximises sight lines in both directions, of 160m.
- Existing road markings on the R410 approaches to the bend to the south could be supplemented.
- The existing road carriageway is in reasonable condition and the repainting of the centre lines could be a condition of permission.
- In terms of the road width of 5.5m average noted in the EIAR, it is submitted that this relates to the width between the two yellow dashed edge of the carriageway lines, measured from the centre of each line.
- It is submitted that the width of the road pavement is at least 100mm more than the yellow line measurement.
- The average road width therefore is 5.8m.
- The proposed development would lead to 36 truck arrivals and 36 departures per working day – a total of 72 truck movements over a 10-hour working day.
- All haul routes would use the National and Regional Road networks and would not be directed to use local L roads, or travel through Naas town centre. This fully complies with KCC requirements.
- The unimplemented permission for the site, PA ref 05/295, and the conditions attached allowed an import rate of 35 HGVs per day which is similar to the current proposal, albeit over a longer period.
- The applicant would accept a condition where the import volume per annum is reduced while increasing the overall number of years of the proposed import, reducing the operational number of haulage movements per day and per year.

- The current proposal has had full regard to the conditions of the previous permission.
- A special contribution towards the upgrades to the R410 was required under the previous permission and it is submitted that a similar condition could be attached to the current proposal.
- The Transportation Department memo provides inconsistencies.
- The volume of traffic on the road is not significant.
- The Planning Report on file accepted that the traffic was not significant and was considered acceptable.
- There is a lack of consistency in dealing with the current application when there are a number of other sites located off the R410 to the south of Naas which generate substantial haul traffic volumes.
- These sites are located on the west side of the R410 Blessington Road Baltreacy Cross and Walshestown, which are former quarry sites currently being used for a similar infill import by HGVs. The permitted total import volume for both is an aggregated 730,000 tonnes per annum and in addition, there is also an active quarry operation further to the south east on the same road.
- The permitted volume of trucks accessing these two import sites would be as follows:
 - 730,000 tonnes / 29 tonne payload trucks = 25,172 trucks each way per year.
 - 275 working days = 92 trucks each way per working day.
- These import sites, which also access the R410 Blessington Road appear to be acceptable to KCC and have not been required to provide upgrades or improvements even though these have a greater impact on the R410.
- It is submitted that the submission in support of the first party appeal adequately considered the KCC Transportation Department comments and associated roads and traffic reasons for refusal.

There are a number of enclosures with the appeal.

6.2. Planning Authority Response

6.2.1. The Planning Authority responded to the first party appeal advising as follows:

- Having reviewed the applicants' grounds of appeal, the PA has no further comment or observation to make.
- The Board is referred to the PAs Planning Report and reports of the various technical departments referred to during the assessment of the application.

It is requested that the Board uphold the decision to refuse planning permission.

6.2.2. The Roads Section of the Planning Authority responded to the first party appeal advising as follows:

- The Roads, Transportation & Public Safety Department acknowledge the additional drainage proposals and the proposal by the applicant to surface the access road from the wheelwash to the edge of the R410 Blessington Road.
- It is agreed that this should help to reduce the amount of dirt and debris being distributed onto the R410.
- The additional drainage proposals should help to reduce the potential for flooding at the development entrance.
- However, Kildare Co. Co still have concerns in relation to the proposed development from which the analysis would be likely to result in increased traffic conflicts and a significant traffic hazard at this location.
- The main comments on the appeal are outlined in the KCC Roads Reports on file.

6.3. Observations

James McInerney, Planning Consultant, on behalf of The Residents of Eadestown, has submitted an observation in relation to this first party appeal noting that they are concerned that An Bord Pleanala may grant the appeal for a development which will be injurious to the residential and visual amenities of the area and which will endanger public safety by reason of traffic hazard. The submission presents a

background to the development on the site, including the planning history, a description of the site location and context and policy context.

The issues raised in the observation are summarised as follows:

- The proposed development will have an adverse effect on the well-being of the local residents and will not give rise to community building.
- The site is located in a Class 3 'High Sensitivity' Character Area.
- Roads and traffic issues raised including the destruction of an existing mature hedgerow to accommodate a new vehicular access as well as the inability of the public road to accommodate additional HGVs and the impact on existing road users.
- The area is well served by similar sites and these should be completed before any new sites are approved.
- The TIA fails to address a number of dangers to the public and local community.
- The development has the potential to impact on groundwater in terms of both quality and flow regime. The site is adjacent to 11 wells serving local houses and others serving agricultural uses.
- The development will impact upon the tourism of the area and the visual amenity of the area, including scenic routes.
- Issues raised in relation to what will constitute the completion of a phase of works and the timing of the proposed restoration works.
- The Board is requested to carry out its own AA.
- The flooding concerns raised by the PA are real.
- In terms of EIA, it is noted that the Environment Section of KCC requires that the applicant engage further with them. Until such consultations take place, the development is premature.
- It is also questions why the other stated adverse impacts other than traffic and access, noted in the Statement of the Decision Maker, were not included as reasons for refusal.

- The development will devalue property and will impact on residential amenity by reason of dust, noise and generally.
- There is a history of non-compliance with planning conditions associated with the site, including unauthorised development consisting of the importation and deposit of unauthorised material. The Board should invoke Section 35 of the Planning & Development Act, 2000 as amended and refuse permission.
- The intended development – i.e. the removal of approximately 1,000 tonnes of waste material from 4 areas of the site – has not been included in the description of the development.
- The site is a registered Legacy Landfill Site listed on the Waste Management Acts, Section 2.2- Register of Unregulated Waste Disposal Sites, Site ID S22-02834 – Category Risk ‘A’. Section 2.2 and Section 3.4.4.8 of the EIAR refers to 13 trial pit excavations with 7 indicating the presence of contaminated waste (toxic waste). Planning permission is required for the removal of the unauthorised waste material and should not be the subject of a condition of planning permission.
- The applicants’ response to the FI request did not reply to all third-party concerns and did not satisfy or allay any fears.

The Observation concludes that the proposed development has the potential to negatively impact on the local community, the environment and future generations if not managed appropriately. Third parties will experience a reduction in the quality of their lives over the lifetime of the development. Leaving the site as it is will not impact on any of the local residents. Existing similar sites in the area have the capacity to absorb further infill. The EIA did not adequately assess the likely significant environment effects. Roads and traffic issues also raised. It is requested that the development be refused.

In addition to the above, TPS, as specialist traffic engineers, submitted a traffic report outlining the third-party objections to the proposed development. This report is summarised as follows:

- The PA raised a number of concerns in relation to the proposed development in their FI request. The applicant did not provide technical information to address these.
- The report refers to the previous application on the site and notes the requirement to pay a special development contribution in the amount of €381,456.00 for the provision of road improvement works on the R410 and advises that character of the area has changed little since the 2005 application.
- The current application containing no off-site improvement works should be rejected on the grounds of giving rise to a potential traffic hazard.
- In terms of the FI response, and with regard to the swept path assessments, no simultaneous inbound or outbound heavy goods vehicle turning movements was undertaken. The proposed gated road width does not facilitate these simultaneous turning movements.
- The design of the entrance may result in heavy vehicles queuing on the R410.
- The 160m sight lines can be considered to be substandard and as almost 100% of the vehicles using the landfill access will be slow moving heaving vehicles 215m sightlines should be provided.
- The access to the land fill site constitutes a serious traffic hazard.
- Issues raised in terms of the heavy vehicles attending the landfill site noting that 12-18 tonne rigid tipper heavy vehicles would be more likely to haul materials to landfill.
- This would result in additional traffic and undermines the projected 36 vehicle trips per day. It would be more realistic to have provided the LA with a traffic impact of 150-200 heavy vehicle trips accessing the landfill per day, being the worst-case scenario.
- Road safety issues raised which are considered difficult to overcome.
- No exceptional circumstances exist to enable the PA to depart from policy RR 2 which seeks to restrict new access onto regional roads where the 80km per hour speed limit applies.

- A 7-day traffic survey was carried out which recorded high road speeds and the results support the PA decision to refuse the application.

It is requested that the Board uphold the decision of Kildare County Council and refuse permission.

6.4. Applicant Response to Third Party Observations

The first party submitted a response to the third-party observation. The submission is summarised as follows:

- In terms of the planning history of the site, both permissions were allowed to lapse, and no development took place. The last application lapsed due to the recession.
- The waste on the site is at least 30 years old and is not related to the grants of permission on the site. The purpose of this application and if granted a subsequent application to the EPA for a Waste Licence is to ensure that any remediation works carried out on the site are done under strict environmental controls.
- The applicant is also a local resident and farmer and will agree to reduced opening hours on Saturdays to demonstrate good faith with his neighbours.
- The observers have failed to demonstrate that the existing nearby facilities referred to in the submission has had any impact locally on the economy or otherwise. In fact, the statement that the R410 is a popular route for tourist traffic and cyclists would suggest that these existing facilities are not having any effect in this regard.
- In terms of potential impacts on groundwater, the applicant identified risks and addressed same in the EIAR. An Environmental Management System will also be prepared as a condition of the EPA licence.
- In terms of the potential for non-conforming loads entering the site, this is considered extremely low given that the site will only accept clean greenfield soil and stone from a single source supplier to ensure consistency of quality and supply.

- A quarantine procedure will be in effect to ensure that non-conforming loads do not contaminate the fill area.
- Comments in relation to land drains have no basis and the monitoring programme is normally submitted and agreed with the PA as a condition of permission.
- With regard to the comments on tourism, as the proposed development is designed to restore the landscape to its previous character this should be welcomed. The development will not give rise to any significant changes to the landscape during the operational phase other than the site entrance.
- A phasing plan is submitted as part of the planning application and it is proposed to finish one phase before commencement of the next phase. The subdivision of the land into fields will be determined by the applicant according to his agricultural requirements.
- The current applicant was not the landowner when the land was either quarried or infilled with waste. He recognises his obligations and wishes to remediate the land in order for it to be of use to him.
- The proposed entrance is approximately 30m wide and the hedgerow either side will be maintained.
- The Observers submission is confusing AA and EIA. The proposed development will have potential to reduce any risk on Natura 2000 sites by remediating the historic landfill under licence and there is no proposal to import C&D waste.
- Roads issues have been addressed by the revised plan submitted to the Board.
- In terms of the EIAR, the conclusion of the PA Planners Report is that the EIAR was determined not to be adequate because the Roads Department recommended a refusal rather than any inadequacy in the report itself.
- The proposed mobile crusher will not be used and there will be no crushing or screening activities on site.

- There is no evidence to suggest that the existing facilities in the area are impacting on property values and it is submitted that the proposed development will have an overall positive impact on property values and will improve the visual impact of the area.
- In terms of the remediation of the site and the addressing of the legacy waste issues, it is submitted that it cannot be fully addressed until the exact nature and extent of the waste is determined and a proposed remediation plan agreed with the Environment Section of Kildare Co. Co and the EPA. Once agreed, if planning permission is required, it will be sought at that time.
- The primary objective for the application is not for financial gain but to restore the value of the land. Given the operating cost of the facility and infrastructure, planning and licencing costs and the potential cost of site remediation work there will not be any substantial financial return.
- In reality, there will be no significant impact on the local community, the environment or future generations by the proposed development. The implication that the applicant will engage in illegal activity is disingenuous and should be disregarded.
- The application is not premature and the issue of any remediation of an historic landfill will be addressed during the land restoration if permission is granted.
- Kildare Co. Co. concluded that the only concern relates to roads and traffic, which the applicant considers to be an error and requests that the Board reverse the decision to refuse permission.
- With regard to Roads and Traffic issues, a separate report is submitted where the following comments are submitted:
 - The observers' submission makes a number of claims that are incorrect, including a misrepresentation of the applicable design standards in order to discredit the work submitted in the first party appeal.
 - The sight distance measurements of 160m submitted in the first party appeal are correct.

- The findings in the observers' submission show the results are below the 85km/h design speed and therefore there is no valid reason why the sightline requirement would have to be increased to the 215m.
- Concerns regarding the location of the lane junction 90m to the south east of the proposed entrance are unfounded as the lane serves only two houses and farm buildings. There are very little movements generated at the junction.
- A Road Safety Audit was not requested by the PA. A condition to undertake an RSA could be included as a condition of permission.
- Significant financial contributions can be attached as a condition of permission and as the Board assesses the case de novo, specific contributions towards improvements on the R410 could be applied as they were in the 2005 permission for a similar development at the site.

6.5. Observers Response to Applicants Response to Third Party Observations

The observers responded to the first party response to the third-party observation.

The submission is summarised as follows:

- The offer to reduce working hours on Saturdays shows that the appellant accepts that the development is injurious to the amenities of the area. The use of the facility on Saturdays must be completely banned.
- The local residents have every right to be concerned that there is still the potential for accidental spillages despite what the appellant considers to be addressed in the EIAR. No EMS for the site has been seen or prepared and given the amount of unauthorised hazardous material deposited on the lands, a more pro-active approach should be taken, and the site should be under constant supervision.
- Local residents are concerned that leachate from the site will affect their water supplies. The monitoring programme is required to be seen to be able to make a submission / observation. To require a monitoring programme as a condition of permission excludes third parties.

- The attachment of conditions is a matter for the PA or ABP and is not a matter for the applicant / appellant to anticipate.
- The local residents have valid concerns and strongly object to a number of issues. With regard to consultations, only 3 of the group represented in this observation were approached prior to the submission of the application and no details of the development were given.
- The Board is requested to carry out their own AA and assessment of the impact of the development on the landscape.
- Concerns regarding historical unauthorised development and bad management of the lands remain. Fly tipping concerns remain.
- The development will give rise to a concentration of this type of development in the area.
- The issue raised in relation to the prematurity of the application pending the granting of planning permission for the remediation of the site remains. As the remediation works was not included in the description of the proposed development, a separate planning application is required.
- Remediation works are of great concern to the third parties and their rights under the P&D Acts must be protected.
- Roads and traffic issues remain a concern and a further report has been included, the contents of which are summarised as follows:
 - The highest road design standards should be applied
 - The proposal to provide a financial contribution towards the upgrade of the R410 is finally the realisation by the applicant that the proposed land fill development cannot be delivered without substantial off site works to the R410.
 - The off-site works may require third party property or land to deliver improvements.
 - The PA has been opposed to this development throughout the course of the application and specific traffic and transportation issues raised by the LA have not been addressed.

The Board will note that a USB was submitted with the observers response to the first party response to the third-party observation detailing the drive from Naas to the subject site. I have watched the footage in full.

6.6. Response From EPA

The EPA, by email, submitted comments in relation to the proposed development as follows:

- The development may require a licence under the Waste Management Act. No application for a licence has been received for the current proposed development.
- Should the EPA receive a licence application, the associated EIAR will be required to be submitted which will be considered and assessed by the Agency.
- Consultation on the licence application and EIAR will be carried out in accordance with Section 42(1B) to (1H) of the Waste Management Act.
- Should a licence application be received, all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIAR will be considered and assessed by the Agency.
- Where the Agency is of the opinion that the activities cannot be carried on or cannot be effectively regulated under a licence then the Agency cannot grant a licence.

6.7. First Party Response to EPA Submission

The First Part submitted a response to the EPA submission advising that following preliminary discussions with the licencing section of the Agency, it was decided to defer more detailed discussions until after a planning decision was reached. It is submitted that the applicant fully intends to apply for a Waste Licence from the EPA subject to a grant of planning permission.

7.0 Assessment

7.1.1. The proposed development seeks to infill the subject site of 28.86 hectares in order that the site, which is presently a disused sand and gravel pit, can be restored to agricultural use in keeping with the surrounding land use. The site will operate as an infill facility for inert non-hazardous soil and stone, with the incoming soil and stone being deposited on site in three stages. It is proposed to fill this site at approximately 200,000 tonnes per annum over a period of nine years. A 10-year permission is sought in order to complete the restoration plan and to allow for the removal of all infrastructure from the site.

7.1.2. The phasing of the infill will be in a circuitous movement from the south west area of the site comprising 4.26ha, moving to the northern area, 6.2ha and finishing in the south eastern area of the site comprising 4.603ha. A closure and restoration programme will be developed as part of the conditions of an EPA licence, and approved and agreed with the EPA. The application relates to an activity requiring a Waste Licence from the Environmental Protection Agency and is accompanied by an Environmental Impact Statement Report (EIAR). The Board will note that this is the third application for such filling, the previous two having both been permitted by the Planning Authority many years ago. Neither of the previous applications came to the Board with the last permission granted in 2005, PA ref 05/295.

7.1.3. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, and in the context of the Act requirements, I propose to assess the proposed development under the following headings:

- Planning & Sustainable Development Assessment
- Environmental Impact Assessment (EIA)
- Appropriate Assessment (AA).

While it is likely that there is potential for repetition in terms of certain aspects of the above sections, I will endeavour to ensure avoidance of same.

8.0 Planning & Sustainable Development Assessment

I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the proposed development
2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
3. Roads & Traffic
4. Ground & Surface Water Impacts
5. Flood Risk
6. Ecological Impacts
7. Visual Impacts
8. Other Issues

8.1. Principle of the proposed development:

8.1.1. The site is located in the countryside, approximately 6.9km to the south east of the town of Naas and approximately 3.3km to the north west of the town of Blessington, Co. Wicklow. The development proposes to import from a single source, being a developer who operates in the wider area, as advised by the appellant in the response to the third party observation on the appeal. The material to be accepted is indicated as being:

- EWC (LoW) Code 17 05 04 – soil and stones other than those mentioned in 17 05 03. The applicant indicates that this is the principle material being accepted and it is proposed to accept 198,000 tonnes per annum of this material.
- EWC (LoW) Code 17 01 07 – mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06. It is proposed to accept up to 2,000 tonnes per annum of this material for road building purposes only. This material will not be included in the proposed fill material.

8.1.2. If permitted, imported material will be deposited on the site and the site will be contoured to final restoration levels. The submitted EIAR states that the restoration levels will be designed in order to ensure that the restored site will be fully in keeping with the surrounding landscape. On completion of the filling of the site, it is submitted that the all of the infrastructure will be removed. In the event of a grant of planning permission, the infrastructure referred to should include the entrance to the site and all internal roads. This should be dealt with by way of condition with proposals for the reinstatement of the roadside boundary to be agreed with the Planning Authority.

8.1.3. The Board will note the intended purpose of the filling of the site is stated as to improve the land for agricultural purposes. The site has not operated as a quarry for many years and has revegetated in the intervening years. In the context of the wider area, the site is naturalised and less managed than adjoining lands. The site is located in the rural area and I note a number of similar proposals to fill and reclaim lands for agricultural purposes throughout the County. I also note the concerns and questions which arise as to the fact that the development amounts to a waste management facility during the period of the filling, in this case, approximately 10 years. In this regard, there is a commercial element to the proposal, beyond the primary purpose, which is to improve the quality and usability of agricultural lands. I also note that the applicant will be required to apply for a Waste Facility Permit to import inert material to the site.

8.1.4. In principle however, I have no objection to the intention of improving the quality of agricultural lands, through raising, grading and levelling as proposed. As such, I am satisfied that the proposed development can be considered acceptable in principle at this location. That said, there are potential issues arising in relation to roads and traffic, visual and residential impacts and impacts on ecology which I will consider further in this report below.

8.2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards

8.2.1. In the context of national guidelines, the Waste Management Acts established a waste hierarchy in the order of (a) prevention (most preferred), (b) preparation for re-use (c) recycling, (d) other recovery and (e) disposal (least preferred). National and regional policy documents support this waste hierarchy and based on the

information submitted with the application, including the EIAR, I would accept that the proposed development correlates with the permitted recovery activities identified in the fourth schedule of the Waste Management Act 1996, as amended being a 'land treatment resulting in a benefit to agriculture or ecological improvement' activity.

8.2.2. In the context of the National Planning Framework, the development is supported by National Objective 56 which requires the sustainable management of waste and National Strategic Outcome 9 (Sustainable Management of Water and Other Environmental Resources) seeks to ensure that there is adequate capacity and systems to manage waste, including C&D waste, in an environmentally safe and sustainable manner. The Waste Framework Directive (2008/98/EC) sets a target for member states to achieve 70% material recovery of non-hazardous, non-soil & stones C&D wastes by 2020 and notes that the biggest amount of C&D waste was used for backfilling (a recovery operation), reflecting the dominance of soil and stones.

8.2.3. In terms of the above, the proposed use of soil and stone to infill the subject site with a view to bringing it into beneficial agricultural use can be considered as complying with the stated national policy objectives. The development would result in the recovery of waste which would otherwise be destined for landfill and is therefore considered to be a sustainable method of waste management.

8.2.4. In terms of Regional Policy, the Eastern-Midlands Region Waste Management Plan 2015-2021 is the relevant Waste Management Plan for County Kildare. The Plan notes that that backfilling of inert waste meets the recovery definition of the Waste Framework Directive and may be subject to permissions by Local Authorities and EPA licences, specifically where it occurs in worked out quarries. The following policies are considered relevant in this regard:

- Policy E13: 'Future authorisations by local authorities, the EPA and An Bord Pleanála must take account of the scale and availability of existing backfilling capacity'
- Policy EH14: 'The local authorities will co-ordinate the future authorisations of backfilling sites in the region to ensure balanced development serves local and regional needs with a preference for large

restoration sites ahead of smaller scale sites with shorter life spans. All proposed sites for backfilling activities must comply with environmental protection criteria set out in the plan’.

In terms of the proposed development, I am generally satisfied that the proposal accords with the requirements of the Regional Waste Management Plan.

8.2.5. The Kildare County Development Plan is the relevant local policy document pertaining to the subject site. Section 7.6.5 of the Plan deals with Waste Management Policies which seek to support the national and regional policy requirements. the following policy is considered relevant:

Policy WM 17: Facilitate the development of waste management infrastructure that is of an appropriate scale and is related to the needs of the county and the Eastern and Midlands Waste Region, subject to the protection of the environment, landscape character, road network and the amenities of the area.

In addition to the above, Section 17.10 of the Plan deals with Waste Disposal and Recovery, with Section 17.10.1 dealing with Waste Recovery / Disposal Facilities.

8.2.6. In terms of agriculture, Section 10 of the Plan is relevant, and the policies seek to support agricultural development while Section 10.7 of the Plan deals with the extractive industry. The Plan encourages quarrying with gradual restoration and Section 10.7.4 deals with Post Closure of Extractive Industry. The Plan notes that rock quarries usually result in steep rock faces and a flooded pit while sand and gravel workings can easily be restored to agricultural use. The policies relating to extraction seek to ensure that restoration / rehabilitation forms part of any proposed quarry proposal.

8.2.7. In terms of the CDP, I would accept that the principle of the development is acceptable. There are, however, a number of issues which require to be considered in advance of a positive recommendation, including roads and traffic issues, visual and residential amenity impacts, design and layout of the site and other issues. I will consider these matters further below.

8.3. Roads & Traffic

8.3.1. The Board will note that the PA refused planning permission for the proposed development for two stated reasons relating to roads and traffic impacts. Indeed, the Municipal District Engineer and the Transportation Department of Kildare Co. Council both recommended that permission be refused for reasons relating to endangering public safety by reason of traffic hazard and obstruction of road users due to the movement of extra traffic generated. In addition, concerns were raised regarding the entrance to the site. Following the submission of the response to the further information request, the Transportation Department recommended refusal of permission for three stated reasons.

8.3.2. Section 3.9 of the EIAR deals with traffic. Subject to the cutting back of the roadside hedgerow and the relocation of an existing ESB utility pole, the EIAR submits that the necessary 160m of unobstructed visibility is achievable at the proposed entrance. The site is located on a section of the R410 which has a speed limit of 80kph and where there is a solid white line in the centre of the road to the east of the proposed entrance.

8.3.3. Chapter 6 of the Kildare County Development Plan 2017-2023 deals with Movement & Transport and section 6.6 deals with Road & Street Network. Section 6.6.3 deals with Regional Roads. The Plan states that it is important for the sustainable economic and social development of the county that the carrying capacity of these routes is preserved. In terms of policies, the following are relevant:

Policy RR2 where it states that it is the policy of the Council to 'restrict new access onto regional roads where the 80km per hour speed limit currently applies, except in the following circumstances:

- Developments of strategic, local, regional or national importance, where there is a significant gain to the county through employment creation or other economic benefit.

Policy RR 3 where it states that it is the policy of the Council to 'identify the strategic road network needed for the future development of County Kildare and an order of priority for future road improvements.

Policy RR 4 where it states that it is the policy of the Council to ‘improve and re-align where necessary and as funds allow, the regional roads.

8.3.4. Objective RRO 2 is also relevant in that it ‘seeks to progress the regional roads identified for improvement as set out in Table 6.2 subject to funding. Table 6.2 includes the ‘R410 Naas to county boundary via Eadestown’. As such, it is the policy of the CDP to progress the improvement of the R410 in the vicinity of the subject site. No further details are provided with regard to the improvement of the R410.

8.3.5. In light of the above, it must be determined that the proposed development complies with the specified circumstances detailed in Policy RR2. The applicant has submitted that the need for the project is established by the need to provide additional secure pasture lands to enable him to develop his farming activities, which include sheep farming and horse breeding. In addition, it is submitted that having adequate authorised treatment capacity for construction and demolition waste is vital to avoid unauthorised waste disposal. In addition, it is noted that if permitted, the development would give rise to the creation of 5 jobs. As such, it might be considered reasonable to conclude that the development complies with the requirements of Policy RR2 of the Plan.

8.3.6. In terms of Policy RR 3 and Policy RR 4, the Board will note that the CDP identifies the R410 as a road which is to be improved and re-aligned where necessary and as funds allow. No details of the improvement works to the regional road have been identified however, the Transportation Department of the Council has identified that the proposed access to the site lies in an area where ‘a series of dangerous bends, together with a narrow width of 5.5m (average) will result in the erosion of the roadside verge due to insufficient space for HGVs to pass’. In this context, it may be considered reasonable to conclude that the proposed development is premature pending the upgrading of the R410 to a standard which could accommodate appropriately, the level of HGV traffic generated by the proposed development, as well as the existing traffic on the road. In this context, I am not satisfied that the proposed development adequately complies with the policy requirements of the Kildare County Development Plan.

8.3.7. In terms of traffic movements, the EIAR identified that the average speed on the R410 in the vicinity of the site is 78.9kph westbound and 75.7kph eastbound.

The average daily traffic flow, two-way, on the road is 3,816 vehicles, of which 4.4% are HGVs, amounting to 167.9 HGVs daily. The proposed development will result in the creation of 72 additional HGV movements on the R410, which represents an increase of 43% of the HGV movements on the regional road. The traffic movements will be generated by the importation of 200,000 tonnes of inert material to the site per annum.

8.3.8. In terms of the planning history of the site, I note that permission has been granted in the past for a similar type development. PA ref 05/295 sought permission for the phased restoration of a former sand and gravel quarry (circa 16 ha) to be affected through the controlled importation of inert materials (soils and subsoils 200,000m³) to restore said lands to agricultural use. The Board will note that permission was granted for a period of 6 years and for the importation of 150,000m³ of inert material to the site, and subject to a number of conditions. The permitted entrance is similar to that currently proposed.

8.3.9. In order to address the concerns raised by the Planning Authority, the appellant submitted details in terms of a design upgrade to surface water proposals to prevent any runoff from the site onto the public road. A precast tank with a capacity of 9m³ will be installed on the western side of the wheel wash to collect initial runoff from the trucks passing through the wheel wash. In addition, the appeal submits proposals to surface the road from the wheel wash to the edge of the R410, a distance of 142m in length, to ensure trucks leaving the site will not pick up any debris / muck or dirt leaving the site and therefore, will not be distributed any onto the R410. The entrance gate to the facility will be located 315mm below the road level and therefore, will eliminate the possibility of any water running on to the R410.

8.3.10. In addition to the appeal cover letter, a report from Stephen Reid Consulting Traffic and Transportation Ltd. was also submitted to address the PAs reasons for refusal. The report submits details of the road width from Craddockstown Golf Club to approximately 1km south of the site. The haul routes to and from the site will be via the national and regional routes and will not travel through Naas town centre or use inappropriate local routes. It is submitted that this is in compliance with the requirements of the Kildare County Council. The appeal also notes the previous planning permission for the site which accepted and permitted similar volumes of HGV traffic. The appellant submits that he would be willing to accept a condition

where the import volume per annum is reduced while increasing the overall number of years of the proposed import to reduce the operational number of haulage movements per day.

8.3.11. The appeal cites a number of similar sites which are located off the R410 and L2023 roads where collectively they import 730,000 tonnes of material per year equating to approximately 92 trucks each way per day. These sites are accessed off roads where sight lines are substandard and it is considered that these have a greater impact on the R410 than the proposed facility. As such, it is submitted that there are inconsistencies in KCCs dealing with such applications. The Board will note that the above cited sites are located on a road which has speed limit of 60kph.

8.3.12. The submitted EIAR concludes that the proposed development will not give rise to any traffic impacts. The EIAR assumes that the development will result in a 2/3 – 1/3 split in terms of traffic directions associated with HGV traffic with 2/3 of traffic to/from the north and 1/3 to/from the south. This assumption equates to 48 truck movements through Eadestown / Naas and 24 through Blessington daily, and for 278 operational days of the year. The EIAR submits that the increase in traffic on the R410 arising from the proposed development will be +1.8%.

8.3.13. Having considered all of the information presented in support of the proposed development, and notwithstanding the comments in the appeal, I am concerned that the EIAR provides little in terms of an assessment on the actual capacity of the road network to accommodate the development or indeed, the potential impacts on the roads surfaces. I note the details presented in terms of the average road widths, but also note the current capacity of the road in terms of width and surface as well as sight lines available at the proposed entrance. I am satisfied that the issue of surface water runoff onto the R410 can be adequately addressed so as to prevent a road safety hazard. However, I am further satisfied that cumulative impacts on traffic arising from the proposed development in conjunction with existing, planned or proposed developments, are likely to arise given the scale of the proposed development. I also note the concerns of the Planning Authority in terms of the proposed development in terms of roads and traffic. The road network serving the site currently supports a significant HGV fleet serving other developments in the vicinity.

8.4. Ground and Surface Water Impacts

8.4.1. Section 5 of the EIAR examines the impact of the proposed development on the water environment. The Board will also note the submission of the Tier 3 Environmental Risk Assessment, where Section 2 describes the environment site setting. In addition, the proposed development will require a licence under the Waste Management Act and an application for same will have to be made to the EPA. In such circumstances, all matters to do with emissions to the environment, the EPA licence will apply limits for such emissions, including parameters for ground and surface water quality. Under the provisions of S175(10) of the Planning and Development Act, a planning authority or the Board shall not attach conditions which would restrict or limit environmental emissions during the operational phase of the development.

8.4.2. It is the stated policy of the Kildare County Development Plan 2017-2023, Policy WS11 refers, 'to protect groundwater in the county from risk of pollution and ensure the implementation of the Kildare Groundwater Protection Scheme and other relevant documents and legislation as may be introduced. Policy SW1 states that it is the policy 'to manage, protect and enhance surface water quality to meet the requirements of the EU Water Framework Directive'.

8.4.3. The proposed development has the potential to impact groundwater and surface water given the presence of the Wolfestown Stream within the site boundary. In the context for the current site conditions, the Board will note the existence of a volume of unauthorised waste on the site, including elements with asbestos fibre. The submitted Tier 3 Environmental Risk Assessment is discussed below in section 9 of this report and provides full details of the results of the assessments. The Assessment notes that leachate where identified within the waste material is considered to be primarily generated due to the infiltration of rainfall. It is stated in the submitted documents that downward migration of groundwater may be restricted where clay lenses are encountered in the sand and gravel deposits resulting in lateral migration. Recharge to the bedrock aquifer may also be restricted as the aquifer is considered to be poor with limited storativity and groundwater flow is considered to be controlled by topography, towards the northwest / west.

8.4.4. Bedrock aquifer underlying and surrounding the site is classified as locally important 'PU', in areas to the west of the site with 'PI' across the majority of the site, being generally unproductive except for local zones. The underlying aquifers have a high vulnerability rating and there are no source protection zones within or in the immediate area surrounding the site. No karst features are located proximate to the site and there is stated to be no public water supply or group water scheme in the immediate area of the site. The existing properties and farms in the vicinity are serviced by private wells, with 68 wells and springs recorded within a 2km of the site. The Wolfestown Stream is located within the site and discharges to the Westown River, before discharging to the River Morell.

8.4.5. Groundwater monitoring was undertaken in 2018 and the results are presented in the Tier 3 Environmental Risk Assessment with Table 5-4 providing a summary of groundwater exceedances by reference to the European Communities Environmental Objectives (Groundwater) Regulations 2010, as amended. Surface water results for samples collected, and exceedances, are summarised in Table 5-5. The Risk Assessment concludes that a number of SPR (Source – Pathway – Receptor) linkages remain valid for the site to the aquifer and surface waters. Impacts to the aquifer directly beneath the waste body (Area A and B) site have been identified but there have been no impacts to groundwater quality at the site downgradient of the waste body. It further concludes that given the heterogeneous nature of the waste and the fact that some leachate breakout has occurred, remedial action to address the leachate source at the site is warranted.

8.4.6. Chapter 8 of the Tier 3 Environmental Risk Assessment provides details of the remediation proposed to address the identified risks. Full details are provided in section 9.2.10 of this report. Mitigation measures outlined, Section 3.5.9 of the EIAR, are largely centred around active management of existing waste on the site including capping and removal of waste materials existing on the site and the removal of historical drains leading to the Wolfestown Stream and the Westown River. Other protective or mitigation measures include avoidance of the areas of wet grassland along the banks of the Westown River, where possible, fuel and plant and machinery management on site and the prevention of pollution. Mitigation measures are identified in Section 3.3.8 of the EIAR with regard to biodiversity and Section 3.4.8 which relate to land and soil, to include ecological measures, runoff and sediment

control and storage, stockpiling and waste generation management. In terms of impacts of the development on the water environment, the EIAR concludes that they relate to impacts on surface water and groundwater flow regime and quality.

8.4.7. Following the implementation of mitigation measures as proposed, no significant negative residual impacts are predicted. It is considered that restorative works together with the mitigation measures will have an overall significant positive long-term impact on the water environment. In addition, a water quality monitoring programme is to be implemented at the site for the construction and operational phases of the development.

8.4.8. Overall, and while I acknowledge that the proposed development may have a risk in terms of ground and surface waters, given the current situation on the site, I consider that the proposed development is likely to result in a positive impact by reducing the risk of pollution of waters. I consider as such, that the proposed development would comply with the policy requirements of the Kildare County Development Plan as they relate to the protection of surface and ground waters.

8.5. Flood Risk

8.5.1. The EIAR states that based on a review of available Preliminary Flood Risk Assessment (FRA) records presented by the OPW (OPW 2018) under the Catchment Flood Risk Assessment and Management (CFRAM) Programme, the Westown River to the north of the site is identified as being at potential flood risk as a result of fluvial flooding with an Annual Exceedance Probability (AEP) of 1%, which in terms of fluvial flooding has a medium probability of flooding i.e. more than 1% probability or more than 1 in 100 chance of occurring or being exceeded in any given year. The extent of this mapped area is confined to the wet grassland areas to the north of the subject site and lies outside the area the subject of filling proposed in this appeal. The Wolfestown Stream is not identified as being within a potential flood risk area.

8.5.2. There are also some localised areas within the site identified as being at potential flood risk as a result of pluvial flooding, also with an Annual Exceedance Probability (AEP) of 1%. These areas include the ponds identified within the old

quarry and a localised area to the south of the site entrance and haul road which experiences seasonal ponding.

8.5.3. Having regard to the nature of the proposed development which seeks to fill in a former quarry with inert material to restore the land to its former contours and to bring it back into agricultural use, together with the mitigation measures outlined in the EIAR, and given the location of the site outside an area where there is a high probability of flooding, I am satisfied that the risk of flooding is low.

8.6. Ecological Impacts

8.6.1. In support of the proposed development, the applicant has included a section on Biodiversity in the submitted EIAR, Section 3.3 refers. The purpose of this EIAR Section is to provide a description of potential ecological impacts arising from the proposed development. The section notes that the subject site does not lie within any designated lands and notes the relevant designated sites which are located within 15km of the site. I will address issues in relation to biodiversity in further sections of this report below in terms of EIA and AA. It is my opinion, as set out in section 10 of this report, that the proposed development is not likely to have significant effects on any European site in light of the conservation objectives of the site.

8.6.2. In relation to habitats, Section 3.3.4.3 of the EIAR identifies that the surrounding area of the study site is dominated by agricultural grassland and that the project site comprises a former sand and gravel quarry pit. The primary habitats identified on the site include Improved Agricultural Grassland (GA1), Dry Humid Acid Grassland (GS3), Wet Grassland (GS4), Scrub (WS1), Hedgerows (WL1), Treelines (WL2), Eroding / Upland Rivers (FW1), Other Artificial Lakes & Ponds (FL8), Recolonising Bare Ground (ED3), Exposed Sand, Gravel or Till (ED1) and Buildings and Artificial Surfaces (BL3). In relation to the above, the following is relevant:

- Agricultural Grassland - Makes up the majority of the unquarried area of the site and the area is currently being used as pasture for sheep.
- Dry Humid Acid Grassland - This habitat extends throughout the majority of the former quarry area.

- Wet Grassland - Primarily confined to wetter areas within the old quarry section and associated with the streams present in the site.
- Scrub - This habitat is located within the old quarry, in scattered patches throughout the centre of the study area.
- Hedgerows - Forms much of the boundaries of the site.
Identified as being a significant commuting / foraging route for numerous groups of fauna, as well as providing potential roosting / nesting / setts / dens etc.
- Treelines - A few locations within the site where it comprises sections of field boundaries.
To the northwest there is a line of mature ash trees adjacent to a field access track.
To the south east of the study area, at the corner of the old quarry, there is a line of three mature sycamore trees.
- Eroding / Upland Rivers - The Westown Stream flows through the northern section of the study area.
The Greenmount Stream rises from a spring within the site and joins the Westown Stream.
- Other Artificial Lakes & Ponds - Located near the centre of the old quarry area at the base of a steep incline.
This is a surface water pond and is not hydraulically connected to groundwater.
- Recolonising Bare Ground - Habitat found on some stockpiles of sand and gravel that have been almost entirely recolonised by vegetation.
- Exposed Sand, Gravel or Till - Habitat exclusively covers the steep sides of the former quarry area and some stockpiles of sand and gravel scattered throughout the site
Numerous rabbit burrows are present on these faces

along with sand martin burrows on the upper sections of the main pit quarry faces.

8.6.3. The EIA concludes that there are no impacts arising in relation to a number of the above mentioned habitats as a result of the proposed development, as they have been shaped either by agriculture or previous quarrying works. No protected or invasive species were recorded within the study site during the surveys. Of the habitats identified, wet grassland, hedgerows, scrub and eroding upland river habitats, as well as artificial lakes and ponds were identified as having a higher conservation value requiring further consideration. In relation to these habitats, the EIA advises;

- The development will avoid the areas of wet grassland along the banks of the Westown Stream where possible, but it is submitted that it is not necessary to avoid the areas within the former quarry.
- In terms of impacts on the hedgerows, the EIA notes that they provide corridors that facilitate wildlife movement in the local area and that the loss / fragmentation could impair wildlife mobility. It is recommended that the hedgerows bounding the project site be retained where possible.
- Patches of scrub occur almost exclusively within the confines of the former quarry. They are of low conservation value and are of low importance. This habitat will be lost to the proposed development.
- The small pond located within the area of the former quarry is densely vegetated and contains water that has drained from land containing waste material. No fauna was observed within the confines of the pond and it is considered to be of low value, local importance. This habitat will be lost to the proposed development.
- The Westown Stream is classified as an upland / eroding river and is located within the northern section of the study area. It is considered a higher value habitat of local importance and the Wolftown River is considered more akin in structure to a drainage ditch. It is considered that the development and future remediation of the site, will have a long-term positive impact on the watercourses.

- 8.6.4. In terms of mammals and species, the EIAR noted that no species of conservation concern were recorded within the project site. It is noted that the site supports a high number of rabbits and that the hedgerows and areas of scrub have the potential to support a range of mammals including badgers, hedgehogs, hare and pygmy shrew. The boundary habitat is also identified as being important for movement and foraging. Increased noise and dust levels has the potential to cause disturbance / displacement of mammal species during the lifetime of the facility. In terms of mitigation, the development will result in the loss of the scrub area but will retain the existing hedgerows bounding the site.
- 8.6.5. In terms of bats, the EIAR notes that no bat species or potential bat roosts were identified during the site survey. It is considered that the hedgerows bounding the site have potential to be used by commuting and foraging bats. Given the intention to retain the hedgerows, it is not anticipated that there will be any significant loss of habitat as a result of the development. It is further noted that no lighting will be used at the site during the hours of darkness. It is concluded that there will be no impact on the local bat population predicted.
- 8.6.6. With regard to breeding birds, it is submitted that of the 24 bird species recorded within the site, 18 are green-listed, 5 are amber listed and 1 is red-listed. A number of active sand martin (amber listed) burrows were observed at a section along the southern face of the main pit, along with an exposed sand face to the east of the former quarry area. A woodcock (red-listed) was observed among the gorse scrub to the northwest of the study area. The operation of the recovery facility has the potential to cause disturbance to bird communities as a result of displacement caused by construction activities, machinery and increased human activity. However, given the low value of the habitats present within the project area for birds, the potential impacts on birds is not considered to be significant. It is also noted that the habitats to be impacted by the development are abundantly available in the wider area.
- 8.6.7. Overall, the EIAR concludes that no significant negative impacts on habitats or protected species are predicted and that the development, either alone or in conjunction with other development in the area will not impact negatively on any site of national or international importance. I am satisfied that the applicant has considered the potential impacts arising due to the introduction of invasive species.

Having regard to the information on file, I would generally concur with this assessment and conclusion.

8.6.8. Should the Board be minded to grant planning permission in this instance, the mitigation measures indicated should be fully conditioned. In addition, conditions should be included specifically:

- to avoid the area of wet grassland completely (not where possible as indicated in the EIAR) in order to protect this habitat for the species it supports.
- Retain all bounding hedgerows and treelines and maintain a 10 buffer zone.

8.7. Visual Impacts

8.7.1. The subject site lies within the 'Eastern Uplands' landscape character area as defined in the Kildare County Development Plan, Map 14.1 refers. This landscape is classified a Class 3, high sensitivity landscape which are areas 'with reduced capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to prevalent sensitivity factors'. The EIAR identifies 2 scenic routes and no protected views within 5km of the site.

8.7.2. A landscape assessment was submitted in support of the proposed development detailing the current view of the site. No photomontages representing the proposed development were provided. Having undertaken site visits in, the development site is intermittently visible from the R410 on approach to the site from the north. The site itself is set back from the public road and is elevated above the road. There are existing site boundary features which provide some screening towards the site from a large number of vantage points surrounding the site. While I would acknowledge that there may be spots along the public roads where views into the site may be achievable, given that the proposed development seeks to reinstate the site for agricultural use, I would not consider that the visual impacts are significant or would be significant in the long term.

8.7.3. In support of the proposed development, the applicant submitted a Proposed Layout Plan Fill Area Only map presenting a topographical survey and assessment of the land. The land was surveyed to produce contours of the proposed fill area, to

aid in determining the volume of material required to raise the land and to provide an even surface to facilitate agricultural activities.

8.7.4. In the context of visual impacts associated with the proposed development, I refer the Board to the Sections Drawings no FI-03 and FI-04 submitted with the response to the further information request. These drawings represent the existing and proposed ground levels associated with the site and following the completion of the development. On completion of the filling of the site, the ground is to suitably graded across the fill site area to minimise any visual impacts.

8.7.5. On completion of the filling of the site, I am generally satisfied that the development will have no visual impacts on the landscape in this area subject to compliance with conditions which require that the edges of the filled area are sloped and graded across the fill area to provide for a smooth transition from the filled area of the site. The retention of existing hedgerows and treelines bounding and within the site should be conditioned in the event of a grant of planning permission to ensure the assimilation of the development into the landscape, and particularly during the operational phase of the facility, if permitted.

8.8. Other Issues

8.8.1. Water Services

Wastewater:

The Board will note that following the request for further information the proposal to install a chemical toilet was replaced with a proposal to install a septic tank and percolation area to serve the proposed WC. The further information response included a Site Suitability Assessment. The trial hole was dug to a depth of 2.3m and the water table or bedrock were not encountered at this depth. The tests on the site resulted in a *T value of 7.33 and a *P value of 11.22. The Site Suitability Assessment concludes that the subject site is suitable for the installation of a septic tank and percolation area.

I am satisfied that the proposed installation of a septic tank and percolation area to service the proposed development is acceptable.

Water:

It is proposed that the development will be serviced by a private well for a potable supply for employees at the site.

In terms of the proposed wheel wash etc, the development will be serviced with a rainwater harvesting system, supplemented when necessary by the well.

I have no objections in relation to the above.

8.8.2. Residential Amenity Issues

The Board will note that the subject site is located within a rural area with limited residential development, save for those identified along the public roads in the vicinity of the site. There is no residential property directly abutting the subject site where the filling is proposed. Impacts on residential amenity include impacts on the landscape and visual amenity, roads and traffic and the water environment. I have addressed these issues above in this report. Other than impacts in terms of roads and traffic, I would consider that there is limited potential to impact on residential amenities in the area and as they relate to the above environmental aspects. In addition to the above, potential impacts on residential amenity arise in relation to air quality and noise. In order to address any potential impacts however, the applicant sought to address noise in section 3.6 of the EIAR and air & climate in Section 3.7.

With regard to Noise, the EIAR provides an appraisal of potential noise impacts associated with the proposed development and identifies all houses within 500m of the site. Noise monitoring was carried out at 8 locations and the primary source of noise was identified as road traffic along the R410, with air traffic intermittently dominant when present, and bird-song and livestock. The EIAR predicts that the worst-case scenario noise level at the nearest sensitive receptors will range between 48dB(A) and 51dB(A) with all plant items running together. Mitigation measures for noise control are also identified in the EIAR.

In terms of the air and climate, the EIAR identifies that the subject site lies within a Zone D for the purposes of the EPA Clear Air for Europe Directive. An assessment of the impact of the proposed development on dust emissions to the receiving environment and propose mitigation measures for same is detailed in the EIAR. The sources of likely impacts on air quality are identified as arising from traffic as well as

the operation phase of the development. Mitigation measures are detailed and include measures relating to water spraying of transfer points, stockpiles and roads as well as wheel washing of vehicles exiting the site, machine maintenance and landscaping.

Overall, and having regard to the 9-10 year life of the development, the nature of the material to be deposited on the site and the distance between the site and residential properties, I am generally satisfied that the development will not give rise to significant adverse impacts on existing residential amenities.

8.8.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission. Having regard to the information presented in support of the proposed development, I am satisfied that the nature of the development proposed falls within the category of (viii) Waste Recovery Facility including the deposition of soil / stones on Lands as provided for in Section 8 of the Kildare County Council Development Contribution Scheme 2015-2022. As such, I am satisfied that a contribution of €15,000 per hectare or part thereof is applicable.

9.0 Environmental Impact Assessment

9.1. Introduction

9.1.1. This application was submitted after the 1st September 2018, the date that Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment was transposed into Irish legislation as part of the provisions of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018). These Regulations transpose the requirements of the EIA Directive into planning law, providing a clear definition of EIA, further clarity regarding the process and the need to identify, describe and assess the direct and indirect significant effects of the project on specified environmental factors. The Minister for Housing, Planning and Local Government has published updated 'Guidelines for Planning Authorities and An Bord Pleanála on carrying out environmental impact assessments (EIA)', replacing the 2013 Guidelines.

9.1.2. The new legislation did not make any changes to Annex I or II of Directive 2011/92/EU, which identifies projects for the purposes of EIA. Therefore, Schedule 5 of the Planning and Development Regulations 2001-2019, for the purposes of EIA, still applies. The proposed development falls within the category of prescribed development for the purposes of Part 10 under Schedule 5. Part 2 (11)(b) of the Planning and Development Regulations 2001: 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'.

9.1.3. I note that the development relates to a waste recovery facility involving the importation of c.200,000 tonnes of inert material per annum such that the disused sand and gravel pit can be restored to agricultural use in keeping with the surrounding land use, over a period of ten years. The proposed development comprises a development which requires the submission of a mandatory EIAR as it exceeds the threshold intake of 25,000 tonnes per annum set out under Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2019.

9.2. Environmental Impact Assessment Report:

9.2.1. The EIAR submitted with the planning application is presented in three volumes including a non-technical summary (Volume 1), main report (Volume 2) and appendices (Volume 3). Volume 2, Section 3 of the EIAR provides 12 chapters and seeks to address all environmental matters associated with the proposed development in a grouped format. It is also to be noted that the EIAR considers the cumulative impacts arising and is supplemented by information submitted to the PA in response to the further information request dated 05th September 2018. The EIAR is advertised in the public notices and I have read this EIAR in its entirety.

9.2.2. The EIAR seeks to:

- Describe the proposal, including the site, and its surroundings, as well as the development's design and size;
- Describe the likely significant effects of the project on the environment;
- Describe the features of the project and measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Describe the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.
- A non-technical summary is also provided.
- The EIAR also includes, at Section 1.6, details of the project team who contributed to the preparation of the document.

9.2.3. **Volume 2 Section 1** of the EIAR deals with planning and policy requirements and also includes a site description, alternatives considered and planning history while also setting out the national and local policy and legislative requirements. Details of consultations and scoping are also provided, as are details of contributors to the EIAR preparation.

9.2.4. In terms of Alternatives Considered, the EIAR identifies 3 options, including the proposed site. The EIAR submits that once the need for a 200,000 tonne per annum facility was identified, the alternatives considered included a greenfield site, another site owned by the applicant and the proposed site, Alternative 3. It was deemed that Alternative 3 is the most favourable proposal given that the existing site

can accommodate a 200,000 per annum facility and has good existing access, making it the most sustainable option. In terms of alternatives, the do-nothing scenario at the site would result in the void associated with the disused sand and gravel pit remaining in place while the development, if permitted, would result in the reinstatement of land for beneficial agricultural use.

9.2.5. **Volume 2 Section 2** provides a description of the development. This section of the EIA also notes the presence of unauthorised waste at a number of locations on the site. The initial EIA advised that the exact nature and extent of this waste has not been fully determined. It is submitted that the scope of any required remediation works would be agreed with the EPA based on the findings of a Detailed Qualitative Risk Assessment which is to be completed as part of the Waste Licence application process. Section 2.2.2 of the EIA also provides details of decommissioning and aftercare of the site where it is advised that the applicant will complete a Closure, Restoration and Aftercare Management Plan (CRAMP) as would be required under conditions of an EPA Licence. It is also noted that as the proposed development is a remediation project, the successful outcome will be the remediation of the existing site and restoration of same to agricultural lands.

9.2.6. In response to the FI request, the applicant submitted a suite of further documents and assessments including an Environmental Risk Assessment Report and a Site-Specific Remediation Plan. The Tier 3 Risk Assessment identifies that the infilling of approximately 5ha of the old quarry with waste ceased approximately 30 years ago, with the composition of the waste material described as mixed municipal solid waste, with the source of the waste unknown. The Board will note that Section 2.2.2.12 of the report states, incorrectly, that there are no SACs, SPAs, or NHAs within 5km of the site.

9.2.7. The Environmental Risk Assessment identified potential contaminant sources associated with gas and leachate migration which resulted in further investigation of gas, soil and water. The site investigation included the excavation of 13 trial pits to investigate the underlying soils and 4 boreholes as groundwater monitoring wells, as well as a geophysical survey. A second phase of investigation included the excavation of a total of 37 trial pits and 8 boreholes. The results of the initial assessment identifies that the extent of waste on the site, determined by the geophysical survey, amounts to an area of 21,375m² with a volume amounting to

82,005m³ and following the intrusive site investigation, the revised area and volume are 14,297m² and 26,591m³.

9.2.8. A quantitative risk assessment was undertaken to evaluate pollutant linkages in the Conceptual Site Model (CSM). The CSM formed the basis for the Generic Quantitative Risk Assessment whose purpose is to allow for additional assessment or remedial measures to be proposed where a risk is identified. The Environmental Risk Assessment provides a review of the analytical results obtained during the site investigations with respect to the relevant generic assessment criteria for human health and environmental receptors for soil, soil leachate, groundwater, surface water, leachate and landfill gas applicable to the site.

9.2.9. The following are the findings of the Environmental Risk Assessment:

Sources:

- An analysis of samples of the waste material identified asbestos from 13 sample locations.
- Leachate where identified within the waste is considered to be primarily generated due to the infiltration of rainfall.
- The chemical composition of the leachate sampled suggests that the landfill is in the later stages of leachate generation and is considered weak, with the key contaminant sources including ammonia and heavy metals – nickel, chromium and lead.
- The potential for landfill gas generation within the waste body is considered low to moderate.

Pathways:

- In terms of leachate migration -
 - Groundwater impacts have been identified therefore the vertical and horizontal groundwater pathways remain valid.
 - Groundwater flow direction beneath the site is to the northwest / west and therefore, impacted groundwater likely migrates from the site in the downgradient aquifer and potentially discharges to the Wolfestown Stream and the Westown River, before discharging to the River Morell.

- Downward migration may be restricted where clay lenses are encountered and recharge to the bedrock aquifer may be restricted as the aquifer is considered to be poor.
- Drainage infrastructure associated with the historical quarrying operations was identified during site surveys from the quarry to the water bodies but were dry on inspection.
- There are a number of nearby off-site groundwater users including private residential and agricultural sources abstracting from the bedrock aquifer. These supplies are located cross-gradient and up-gradient of the waste body and therefore, there is no pathway to these receptors.
- In terms of Landfill Gas –
 - The potential for lateral migration of the landfill gas is considered to be limited given the geological site setting, distance to receptor and potential for vertical venting of any residual traces of landfill gas.

Receptors & SPR Linkages:

- In terms of Leachate Migration –
 - It is considered that there is no plausible potential risk to private groundwater users within 1km of the site associated with the waste.
 - In terms of off-site aquifers and the Wolfestown Stream and downstream rivers, elevated levels of some metals were identified, and while an impact to the downgradient groundwater has not been identified there remains a potential for migration of leachate.
 - There was no significant impact to the receiving surface water of the Wolfestown Stream and downstream rivers.
 - However, while leachate continues to be generated at the site through infiltration of rainfall and in the absence of an extensive monitoring data set to verify seasonal fluctuations in water quality, it is considered that there is a linkage, warranting further consideration.
- In terms of Landfill Gas Migration –

- The potential for landfill gas generation is considered to be low to moderate.

Risk Evaluation:

- The following SPR Linkages remain valid for the site:
 - SPR 1 Leachate to Surface Water
 - SPR 5 Leachate to Aquifer
 - SPR 7 Leachate to Surface Water
 - SPR 8 Leachate to Surface Water.
- Impacts to the aquifer directly beneath the waste body (Area A and B) site have been identified but there have been no impacts to groundwater quality at the site downgradient of the waste body.
- Given the heterogeneous nature of the waste and the fact that some leachate breakout has occurred, remedial action to address the leachate source at the site is warranted.

9.2.10. With regard to remediation, the Site-Specific Remediation Plan recommends as follows:

- Landfill Capping
It is recommended that a low permeability cap, 1m thick, is placed on the waste materials to minimise infiltration of rainfall and reduce the contaminant mass loading.
- Removal of Waste Materials
Localised hotspots of waste should be removed from the site for off site disposal at an appropriate facility amounting to approximately 1,000 tonnes. The recommended locations include those where asbestos fibre bundles have been identified and include as follows:

Area 1:	600 tonnes
Area 2:	150 tonnes
Area 3:	100 tonnes
Area 4:	150 tonnes

- **Removal of Historical Drainage**
The historical land drains leading to the Wolfestown Stream and the Westown River are likely blocked but are to be removed as a precaution and to remove any potential linkage with the receiving water environment.
- **Landfill Gas Management**
Given the low to moderate risk at the landfill, an active landfill gas management strategy is not required. However, given the potential for the proposed capping layer to trap any residual gas generated, it is recommended that a passive venting system is provided.
- **Monitoring Programme**
A monitoring programme should be agreed with Kildare County Council and the EPA as part of the Waste Licence application procedure with the EPA, to verify that the recommended remedial works have been properly implemented.

9.2.11. **Volume 2 Section 3** of the EIAR includes 12 parts, including an introduction, and seeks to address the main likely significant direct and indirect effects arising from the proposed development, and the interaction of the environmental aspects in accordance with the requirements of Schedule 6 of the Planning & Development Regulations, 2001 as amended. Section 3.12 considers the interactions by means of cross referencing each environmental aspect against all other aspects considered.

9.2.12. I am satisfied that the EIAR has been prepared by competent experts, is generally complete and of acceptable quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2001-2019.

9.3. **Environmental Impact Assessment**

This assessment has had regard to the application documentation, including the Environmental Impact Assessment Report, and all other supporting reports submitted, as well as all written submissions. In accordance with the requirements of Article 3 of the EIA Directive and Section 171A of the Planning and Development

Act, 2000 (as amended), my environmental assessment is carried out against the following factors, and using the order and structure of the submitted EIAR:

- (a) population and human health,
- (b) biodiversity,
- (c) land, soil, water, air and climate,
- (d) material assets, cultural heritage and the landscape, and
- (e) the interaction between the above factors.

9.3.1. **Population and Human Health**

The EIAR, Section 3.2, seeks to address impacts associated with the development on population & human health and notes that there are 11 properties, comprising low density one-off houses and farms, within 500m radius of the site boundary. The site is located in a rural area with a low population density.

In terms of potential impacts arising, the EIAR advises as follows:

- Air and climate impacts are dealt with separately in further chapters of the EIAR but there are no significant impacts on population and human health identified.
- Noise is identified as the most significant likely impact on surrounding sensitive receptors, arising from vehicles moving to and from the site. Noise is also dealt with in a separate chapter of the EIAR and it is predicted that there are no adverse noise impacts arising as a result of the development on population and human health or residential amenities subject to mitigation measures.
- No Landscape and Visual impacts are predicted given that the site is adequately screened with mature hedgerows and trees, and the finished site will result in the restoration to the original series of grassed fields, which is deemed a positive change to the landscape in the area.
- Impacts on hydrology and hydrogeology are separately addressed and mitigation measures are outlined to prevent the operation of the development having impacts on human health.

- With regard to Traffic, the EIAR identifies two potential haul routes and details the hours of operation of the facility. It is concluded that traffic is not predicted to significantly impact on the dwellings along the R410.
- Employment in the local area is mainly generated by agriculture and proximity to potential employment in Naas and Blessington. The development, if permitted will generate 5 jobs when operational and will diversify the local economy and will support ancillary services such as engineering, mechanical and construction businesses.
- With regard to social, tourist and community aspects, the EIAR notes that the site is not located on a tourist route, there are no tourist attractions within 5km of the site, nor are there any community sports facilities with the nearest school located 2.2km from the site. It is not envisaged that the development will have any impact on tourism.

I propose to assess further, the impacts of the proposed development on population and human health as part of my assessment of other environmental aspects below, particularly as they relate to noise and traffic.

9.3.2. **Biodiversity**

Section 3.3 of the EIAR deals with biodiversity and includes an Ecological Impact Assessment. The closest Natura 2000 site is the Ref Bog, Kildare SAC (& pNHA) (Site Code 000397) which is located approximately 1km to the east of the site. The Poulaphouca Reservoir SPA, (Site Code 004063) (& pNHA Site Code 000731) is located approximately 3.3km to the south east of the site. The EIAR notes that the Westown River, a tributary of the River Morell, flows westerly across the northern section of the study area. Habitats present on the site include improved agricultural grassland, dry-humid acid grassland and scrub, wet grassland, recolonised bare ground, hedgerows, treelines and exposed sand, gravel or till.

In terms of flora, the EIAR notes that no protected species and no invasive species were recorded during the site survey. There were numerous rabbits and sika deer recorded and there is potential habitat for other species of mammal along the hedgerows bounding the site. No mammal species of conservation concern were recorded. While no badger setts were recorded during the site visit, there is the likelihood that setts could exist within the hedgerows and steep soil banks along the

western boundary of the study area. In addition, potential pine martin dens and rabbit burrows also exist in the hedgerows while the Westown River offers potential habitat for otter. With regard to bats, the site offers limited potential for bats to roost while the hedgerows and areas of scrub offer potential foraging habitat.

Of the 24 bird species recorded within the site, 18 are green-listed, 5 are amber listed and 1 is red-listed. A number of active sand martin (amber listed) burrows were observed at a section along the southern face of main pit, along with an exposed sand face to the east of the former quarry area. A woodcock (red-listed) was observed among the gorse scrub to the northwest of the study area.

In terms of impacts, the EIAR concludes that

- there will be no likely significant negative effects on any Natura 2000 sites
- the development will avoid the areas of wet grassland along the banks of the Westown River where possible
- the hedgerows bounding the site will be retained where possible
- the small pond is densely vegetated and contains water drained from land containing waste materials and is considered to be of local importance
- The remediation of the on-site waste material is likely to have a long-term positive impact on watercourses
- The retention of the majority of hedgerows and the establishment of a 10m buffer zone around the hedgerows included in the design, will minimise impacts on mammals
- It is not envisaged that there will be any significant impact on bats as a result of the development.

In terms of impacts on birds, the development will result in the loss of approximately 30 sand martin nest burrows. The EIAR recommends that any disturbance to the face of the former quarry where the burrows are located should occur outside the breeding season as activity during the breeding season would constitute a regionally important negative impact due to the conservation concern for this species. The location of the nest burrows is not clear in the information submitted and it is not clear if alternative nesting habitat is available in proximity to the site. In addition, a

woodcock was flushed from an area of scrub. It is concluded that impacts on bird communities will be localised and not significant.

I note the proposed mitigation measures to be incorporated into the development to address the impacts of the proposed development on the ecology of the site. The mitigation measures are identified in Section 3.3.8 of the EIAR and relate to ecological measures, runoff and sediment control: Surface Water Management Plan, Storage, Stockpiling and Waste Generation Management and residual impacts. The EIAR concludes that provided all mitigation measures are implemented in full and remain effective throughout the lifetime of the facility, with routine inspections and monitoring, there will not be any significant negative impact to any valued habitats, designated sites or individual or group of species from the subject development.

Overall there is no doubt that the development works are likely to have an impact on birds in the short term and at a local level. However, and while I acknowledge the proposals in terms of mitigation, I consider that the long-term impacts associated with the restoration of the site to agricultural lands would be largely positive in the context of the local biodiversity.

9.3.3. **Land & Soil**

In terms of likely significant impacts arising with regard to land, soils and geology, I refer the Board to Section 3.4 of the submitted the EIAR as well as my comments above in Section 9.2 of this report, on the Risk Assessment and Remediation Plan submitted following the request for further information by the Planning Authority. Direct impacts are likely to arise during construction of the proposed development, notably as the proposed development will involve soil stripping to construct the access and haul road. It is considered that there will be a negligible impact on the quality of soil. The imported soil will be inert and will therefore have an overall neutral impact.

Mitigation measures are proposed and include good construction management and compliance with best practice guidelines including measures to prevent pollution/spillages. No deleterious materials will be stored or handled on the site. The proposed restoration of the quarry for agricultural use is considered to have a significant positive, permanent impact on the land.

9.3.4. **Water**

Section 3.5 of the EIAR deals with the water environment and seeks to address issues relating to impacts on surface water, ground water and flood risk. I have considered the issue of flood risk above in my planning assessment.

With regard to ground waters, it is noted that the underlying aquifer and groundwater levels have been assessed as part of the preparation of the EIAR. The GSI Vulnerability Map identifies the aquifer underlying the area of the subject site as locally important 'PU', in areas to the west of the site with 'PI' across the majority of the site, being generally unproductive except for local zones. The underlying aquifers have a high vulnerability rating. In terms of impacts of the development on the water environment, the EIAR concludes that they relate to impacts on surface water and groundwater flow regime and quality.

Mitigation measures are proposed and no significant negative residual impacts are predicted. It is considered that restorative works together with the mitigation measures will have an overall significant positive long-term impact on the water environment. In addition, a water quality monitoring programme is to be implemented at the site for the construction and operational phases of the development.

9.3.5. **Air & Climate**

Section 3.7 of the EIAR deals with Air & Climate. The EIAR notes that the subject site lies within 'Zone D' category based on the EPA Clean Air for Europe Directive. Dust nuisance and impact on air quality is identified as the primary potential impact arising from the proposed development in terms of the transport, stockpiling and handling of the material imported to the site. The operation of the facility will give rise to 72 truck movements in total to and from the site daily (traffic section of EIAR). It is submitted that this will not result in any significant effects to climate.

Mitigation measures are detailed in the EIAR and include a number of measures which include water spraying of transfer points, stockpiles and roads, as well as wheel washing of vehicles exiting the site, machine maintenance, landscaping amongst others.

Overall, I would consider that the restoration of the site is unlikely to have any impact, either locally or globally, on climate or would contribute to climate change. I further consider that the development will have no significant impacts on air quality.

9.3.6. **Noise**

The nature of the proposed quarry restoration development gives rise to a variety of noise sources and section 3.6 of the EIAR deals with noise issues. The chapter describes the existing environment and identifies all houses within 500m of the site. Noise monitoring was carried out at 8 locations and the recorded average ambient noise levels ranged between 43dB(A) and 69dB(A) $L_{Aeq(30 mins)}$. The primary source of noise was road traffic along the R410, with air traffic intermittently dominant when present and bird-song and livestock.

It is noted that potential noise sources associated with the proposed development will be the short-term construction noise and the longer-term operational noises. In terms of the construction noise, I would accept that this is not significant given its short-term nature. The operational noises associated with the development will arise due to the presence of a variety of mobile and fixed plant.

The EIAR predicts that the worst-case scenario noise level at the nearest sensitive receptors will range between 48dB(A) and 51dB(A) with all plant items running together. Mitigation measures for noise control are also identified in the EIAR. Subject to the adoption of noise control measures identified and ensuring operational times are controlled, I am satisfied that the development would have no material or significant noise impacts.

9.3.7. **Material assets**

The description of Material Assets in the EPA Guidelines, 2002, include architectural, archaeological and cultural heritage, designed landscapes, natural resources of economic value, buildings and structures and infrastructure. Having regard to the format of the EIS submitted, these aspects of the environment are covered under a number of sections as follows:

Section 3.4: Land, Soils & Geology

Section 3.5: Water

Section 3.9: Traffic

Section 3.10: Cultural Heritage & Archaeology

Section 3.11: Landscape

The Board will also note Section 3.8 of the EIAR specifically deals with Material Assets which includes as follows:

- property values: Given the rural location and the presence of a disused quarry on the site, the development, which seeks to restore the site, is unlikely to have a negative impact on property prices in the area in the long-term.
- agriculture: The development will not result in any significant environmental impacts relating to land severance, land access or disruption to current agricultural land use. On completion, the development will have a long-term positive impact on agriculture in the area and the availability of agricultural land.
- electric and water supply: The proposed development will require single phase electricity in order to power the site infrastructure. A back-up generator will also be located on the site. In terms of water services, the Board will note that the applicant, following the submission of a response to the FI request, intends to install a proprietary wastewater treatment system to serve the on-site WC. In addition, it is noted that there is no public water supply in the area. The applicant has confirmed that the water supply will be from an existing potable well on the landholding and the water for the wheel wash and dust suppression will be sourced from rainwater harvesting, supplemented with groundwater when necessary.
- waste management: There will be two type of waste potentially arising on site, one from the office which will be collected by an authorised collector by way of wheelie bin or skip and all other waste will be dealt with in compliance with the EPA licence for the facility.

9.3.8. **Traffic**

Section 3.9 of the EIAR deals with traffic. The assessment concludes that the development is noted as requiring 160m of unobstructed visibility at a point 3m back from the edge of the carriageway. Adequate sightlines are available subject to the cutting back of the roadside hedgerow, within the applicants' control, and the relocation of an existing ESB utility pole.

In terms of the existing traffic volumes, an automatic counter was installed on the R410 for a continuous 7-day period in December 2017. This survey provided the following results:

- 85th Percentile Speeds:
 - Westbound – 78.9kph
 - Eastbound - 75.7kph
- Average Daily Flow on R410:
 - Westbound – 1,787 vehicles – 3.7% HGV
 - Eastbound – 1,856 vehicles – 4.9% HGV
 - Two-Way - 3,816 vehicles – 4.4% HGV

The proposed development will result in the accepting of 1.8million tonnes of inert waste over a 9-year operational period, with a further year of restoration works to the site. The EPA Licence will seek permission to accept 200,000 tonnes of soil and stone per annum and the EIAR estimates that an average of 10,000 laden trucks, with an average of 20 tonnes per load, will arrive at the site, with 10,000 trucks departing the site, per year. This will result on an average of 36 trucks per day arriving and 36 trucks per day leaving the site, equating to 3.6 trucks per (7.2 in total). These figures amount to an increase of 1.8% having regard to the current average weekday traffic volumes.

The proposed development will include the creation of a new vehicular access onto the R410, where a speed limit of 80kph is applicable. The sight distance required at an entrance onto this road is 160m in both directions. The EIAR notes that the sight distances at the proposed entrance are available subject to the cutting back of the existing boundary hedgerow to either side of the proposed access, which is in the control of the applicant. The Board will note that the proposed access is located at a point in the public road where there is a solid white line to the east of the proposed entrance.

Further information was submitted by the applicant in relation to haul routes, mitigation measures to address possible queuing of HGVs on the R410, detailed design of the proposed site entrance and sightlines, details of a swept path analysis for articulated and rigid trucks at the entrance and proposals for the treatment of

surface water runoff and wheel wash runoff. The Board will note the report from the Roads & Transportation Section of Kildare County Council with regard to the traffic assessment. The report raises serious concerns in relation to the proposed development and associated entrance off the R410. Following the submission of a response to the FI request, the Transportation Department recommends refusal of permission for three stated reasons.

In terms of the figures presented in the EIAR, the Two-Way average daily flow is indicated at 3,816 vehicles, 4.4% of which are HGVs. This amounts to 167.9 HGVs. While the applicant suggests that the increase of vehicles on the public road arising from the proposed development will be 1.8%, an additional 72 HGVs is not insignificant, in my opinion which is almost a 43% increase in this type of vehicle using the R410. I am also concerned regarding the narrow nature of the road and the relatively high speeds achievable together with the presence of a solid white line on the road in the vicinity of the proposed entrance. The CDP also seeks to restrict new access points on Regional roads where the 80kph speed limit applies except in certain circumstances.

Having considered all of the information presented in support of the proposed development, I am satisfied that cumulative impacts on traffic arising from the proposed development in conjunction with existing, planned or proposed developments, are likely to arise given the scale of the proposed development. I also note the concerns of the Planning Authority in terms of roads and traffic issues arising. The road network serving the site currently supports a significant HGV fleet serving other developments in the vicinity. Overall, I do not consider that the existing road network is suitable to accommodate the development.

9.3.9. Archaeology & Cultural Heritage

Section 3.10 of the EIAR deals with archaeology and cultural heritage. There is one national monument recorded within the project site. Following a field walkover, no signs of the previously recorded enclosure / moat were uncovered and it is advised that the feature was removed in the 1960s during previous quarrying activities at the site. A second site, an enclosure, is located approximately 50m to the west of the site boundary with 5 further sites identified within 2km of the site.

There are no designated Architectural Conservation Areas (ACAs), protected structures or structures listed in the NIAH within the site. There are 3 structures within 1.5km of the site listed on the NIAH, including a fountain in Eadestown and a church/chapel and farmhouse in Rathmore West. The Board will note that while outside the boundaries of the proposed development site, the haul routes associated with the proposed development pass in close proximity to the above 3 NIAH structures. Following the submission of further information, this issue was addressed by the applicant.

In terms of archaeology, mitigation is proposed in the form of archaeological monitoring during soil-stripping. I conclude that the proposed development would not negatively impact on the Archaeology and Cultural Heritage of the area.

9.3.10. Landscape & Visual

Section 3.11 of the EIAR deals with landscape & Visual. The Landscape Character Assessment for Co. Kildare places the subject site within the Landscape Character type 'Eastern Uplands'. This landscape character has a Class 3, high sensitivity with such areas described as 'areas with reduced capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to prevalent sensitivity factors'. The EIAR identifies 2 scenic routes and no protected views within 5km of the site.

The visual assessment submitted in support of the proposed development, includes a series of photographs as a visual reference point but did not include photomontages representing the proposed development. The EIAR submits that the proposed development will result in a slight positive visual impact at residential properties in proximity to the site given that the development is to restore a previous quarry to agricultural land. Overall, the visual impact would be neutral and imperceptible to slight and positive. Worst case scenario visual impacts will occur during the winter months when deciduous vegetation is dormant.

Mitigation measures to reduce visual impacts include the retention of existing perimeter vegetation including hedgerows, trees and earth banks and additional new planting in gaps in existing screening. In addition, fixed and mobile plant will be positioned with stockpiles of unprocessed and processed material in the base of the quarry where they are least intrusive in the landscape. Overall, I am satisfied that the

works would result in slight long-term positive impacts in terms of Landscape and Visual environment.

9.3.11. Interaction of the Foregoing

Section 3.12 of the EIAR seeks to deal with the interactions of the environmental aspects considered and the means of reducing the impacts of the development during the operation phase of the development. The matrix presented clearly notes that there is potential for population and human health to interact with many other environmental factors including water, noise, air & climate, traffic and landscape. In addition, there is potential for water to interact with biodiversity and land.

Overall, I am satisfied that the EIAR documents has satisfactorily addressed interactions. I am also satisfied that the proposed development, is not, in my view, likely to result in significant adverse impacts in terms of the interaction of individual environmental factors. That said, I have raised concerns in terms of roads and traffic but I am satisfied that each section of the EIAR, supplemented by the response to the Planning Authority's further information request, adequately sets out the mitigation measures proposed with the information on potential residual effects and their significance.

9.3.12. Cumulative Impacts

The conclusions regarding the acceptability of the likely cumulative and main residual effects of this proposal are identified and assessed under the various headings of the main assessment above. I am generally satisfied that the significant environmental effects arising as a consequence of the development, including the residual and cumulative impacts have been identified.

9.3.13. Reasoned Conclusion on Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submission from the Planning Authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Impact on **population and human health** arising from roads and traffic issues as well as noise arising from the operational phase of the development. Mitigation measures are proposed with regard to noise. There will be a positive impact on population with regard to the creation of jobs, and following the remediation of the site, the impacts on the landscape will be positive.
- In terms of **biodiversity**, the development will give rise to the loss of approximately 30 sand martin nest burrows. Works in the area where the nest burrows are located will occur outside the breeding season in order to prevent a significant negative impact on the species. It is proposed to retain the majority of the hedgerows and establish a 10m buffer around them, in the interests of minimising impacts on mammals, including possible badgers, pine martins and rabbits. The development proposes to avoid the areas of wet grassland along the banks of the Westown Stream with mitigation measures proposed in relation to ecological measures, runoff and sediment control, and storage, stockpiling and waste generation management (Section 3.3.8 of the EIAR).
- Effects on the receiving **land, soil** and **water** environments may arise during the construction and operational and remediation phases. Impacts will be mitigated through good construction management and compliance with best practice guidelines, including measures to prevent pollution/spillages and non-storage of deleterious materials on site, avoidance of the wet grassland areas in proximity to the Wolfestown Stream and water quality monitoring (Sections 3.4.8 and 3.5.9 of the EIAR). In addition, the Site-Specific Remediation Plan recommends measures in relation to Landfill Capping, Removal of Waste Materials from localised hotspots which include those where asbestos fibre bundles have been identified, Removal of Historical Drainage to remove any potential linkage with the receiving water environment, Landfill Gas Management and a monitoring programme. The proposed restoration of the quarry for agricultural use is considered to have a significant positive, permanent impact on the land.

- In terms of **Visual and Landscape Impacts**, the proposed development will, if permitted, see the restoration of the old quarry for agricultural use. Such a proposal will overall have a positive impact on the landscape.
- In terms of **Roads & Traffic** impacts, the proposed development will result in the creation of a new entrance onto the Regional Road, R410, at a location where an 80kph speed limit applies and where there is a solid white line in the middle of the road to the east of the proposed entrance. The figures submitted in the EIAR suggest that at present, there are 167.9 HGV movements on the road daily. The proposed development will result in an increase of 72 HGV movements daily on the public road, representing a 43% increase in HGV movements on the R410. The Roads & Transportation Section of Kildare County Council has raised serious concerns in relation to the proposed development and associated entrance off the R410, recommending refusal of permission for three stated reasons. Mitigation measures proposed do not address the impacts on the public roads associated with the proposed development.

In conclusion, having regard to the above identified significant effects, I am satisfied that subject to mitigation measures proposed the proposed project would not have any unacceptable direct or indirect impacts on the environment as it relates to all but roads and traffic.

10.0 Appropriate Assessment

10.1. Introduction:

The site is not located within any designated site. The Natura 2000 sites within 15km of the site are as follows:

Site Name	Site Code	Distance to Site
Special Areas of Conservation (SAC)		
Bog, Kildare SAC (& pNHA)	000397	1.2km
Low Mountains SAC	002122	6.1km
Slasmole Valley SAC (&pNHA)	001209	13.1km
Special Protection Areas (SPA)		
Loughouca Reservoir SPA	004063	3.5km
Low Mountains SPA	004040	9km

10.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

10.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The Board will note that an Appropriate Assessment Screening Report was submitted by the applicant in support of the proposed development.

10.2. Screening for Appropriate Assessment:

10.2.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and

- b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.

10.2.2. The AA Screening Report considered Natura 2000 sites within 15km of the subject site. The initial report was deemed to be insufficient by the Heritage Officer of Kildare County Council as it failed to address the impact leachate pollution may have on ground waters which support any Natura 2000 sites within the zone of influence of the quarry site. The AA Screening made no reference to the local hydrogeology or considered any possible link between the site and Red Bog SAC. If the quarry has breached the ground water, there is potential for impact on the SAC. The EIAR refers to the potential for leachate pollution but this is not considered in the AA.

10.2.3. Following a request for further information, the applicant submitted an updated AA Screening Report which notes that the SAC is located at a higher elevation than the proposed project and is also located within a differed sub-catchment. In addition, the site surveys identified that the groundwater flow at the site runs in an east to west direction. There is no hydrological connectivity between the site and any Natura 2000 site. As such, surface water run-off from the project site is not considered a potential impact on the designated site.

10.2.4. The nature of the proposed development is to restore the site by implementing an appropriate remediation plan, in consultation with the EPA. The proposed restoration of capping the waste on the site is also considered to remove the potential risk of contamination of waters and the site investigation report concluded that the risks from the existing waste on site to be minimal. A Drainage Management Plan will also be implemented as part of the project works which will include a number of measures, to be built into the construction and operation phases of the facility, to ensure no sediment, fuel or other potentially harmful substances are released into the adjacent Westown River and Wolfestown Stream or any other watercourses either directly or via surface run-off from the site.

10.2.5. In terms of potential impacts on SPAs in the vicinity of the subject site, the Poulaphouca Reservoir SPA, Site Code 004063, lies approximately 3.5km to the east. The general conservation objective for the site is 'to maintain or restore the

favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A043	Greylag Goose	<i>Anser anser</i>
A183	Lesser Black-backed Gull	<i>Larus fuscus</i>

Neither of these species were recorded on the site and it is noted that the Sand Martin is not a qualifying interest for the nearest SPA.

10.3. Conclusion on Stage 1 Screening:

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal, individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

11.0 Recommendation

I recommend that planning permission be **refused** for the proposed development for the following stated reason.

12.0 Reasons and Considerations

12.1. Proper Planning & Sustainable Development

Notwithstanding, and having regard to:

- the nature and scale of the development as set out in planning application documentation and the pattern of development in the area;
- the current nature of the site being a former sand and gravel quarry;
- the applicable legislative and policy context, including in particular the provisions of the Eastern-Midlands Region Waste Management Plan 2015-2021, the provisions of the Kildare County Development Plan 2017 – 2023, the Waste Framework Directive 2008/98EC and A Resource Opportunity – Waste Management Policy in Ireland, July 2012
- the Environmental Impact Assessment Report and information in support of the application and also the licencing regime under which the operational phase of the facility would be regulated;
- the contents of the appeal, the observation and the responses to the appeal;
- the report and recommendations of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to the proper planning and sustainable development, appropriate assessment and environmental impact assessment;

The Board considers, having regard to the nature and scale of the proposed development, the restricted width, alignment and carrying capacity of the road network in the area, the volume of HGV traffic associated with the proposed facility and the existing level of HGV traffic on the local road network, it is considered that the proposed development would endanger public safety by reason of increased traffic conflicts, would result in an obstruction to road users and a significant traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

12.2. Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development in a previous worked sand and gravel quarry;
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application;
- (c) all submissions, observations made in the course of the application and the contents of the appeal, observation and response from the applicant and the planning authority in the course of the appeal;
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment report and associated documentation submitted by the applicant and submissions made in the course of the application and appeal.

The Board considered, and agreed with the Inspector's reasoned conclusions that, the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Impact on **population and human health** arising from roads and traffic issues as well as noise arising from the operational phase of the development. Mitigation measures are proposed with regard to noise. There will be a positive impact on population with regard to the creation of jobs, and following the remediation of the site, the impacts on the landscape will be positive
- In terms of **biodiversity**, the development will give rise to the loss of approximately 30 sand martin nest burrows. Works in the area where the nest burrows are located will occur outside the breeding season in order to prevent

a significant negative impact on the species. It is proposed to retain the majority of the hedgerows and establish a 10m buffer around them, in the interests of minimising impacts on mammals, including possible badgers, pine martins and rabbits. The development proposes to avoid the areas of wet grassland along the banks of the Westown Stream with mitigation measures proposed in relation to ecological measures, runoff and sediment control, and storage, stockpiling and waste generation management (Section 3.3.8 of the EIAR).

- Effects on the receiving **land, soil** and **water** environments may arise during the construction and operational – remediation phases. Impacts will be mitigated through good construction management and compliance with best practice guidelines, including measures to prevent pollution/spillages and non-storage of deleterious materials on site, avoidance of the wet grassland areas in proximity to the Wolfestown Stream and water quality monitoring (Sections 3.4.8 and 3.5.9 of the EIAR). In addition, the Site-Specific Remediation Plan recommends measures in relation to Landfill Capping, Removal of Waste Materials from localised hotspots which include those where asbestos fibre bundles have been identified, Removal of Historical Drainage to remove any potential linkage with the receiving water environment, Landfill Gas Management and a monitoring programme. The proposed restoration of the quarry for agricultural use is considered to have a significant positive, permanent impact on the land.
- In terms of **Visual and Landscape Impacts**, the proposed development will, if permitted, see the restoration of the old quarry for agricultural use. Such a proposal will overall have a positive impact on the landscape. No mitigation required
- In terms of **Roads & Traffic** impacts, the proposed development will result in the creation of a new entrance onto the Regional Road, R410, at a location where an 80kph speed limit applies and where there is a solid white line in the middle of the road to the east of the proposed entrance. The figures submitted in the EIAR suggest that at present, there are 167.9 HGV movements on the road daily. The proposed development will result in an increase of 72 HGV movements daily on the public road, representing a 43% increase in HGV

movements on the R410. The Roads & Transportation Section of Kildare County Council has raised serious concerns in relation to the proposed development and associated entrance off the R410, recommending refusal of permission for three stated reasons. Mitigation measures proposed do not address the impacts on the public roads associated with the proposed development.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed in the Environmental Impact Assessment Report, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable, save in regard to roads and traffic issues. In doing so, the Board generally adopted the report and conclusions of the Inspector.

12.3. Appropriate Assessment

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report and concluded, on the basis of the information submitted and all other relevant submissions, that the proposal, individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

A. Considine
Planning Inspector
14th April 2020