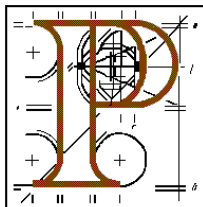


An Bord Pleanála



Inspector's Report

Site Address: Coolroe, Kilmallock, Co. Limerick.

Proposal: Backfill remainder of disused quarry, retention of entrance, site works, passageway and office (EIS).

Planning Application

Planning Authority: Limerick City and County Council

Planning Authority Reg. Ref.: 15/101

Applicants: Noel Halpin

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant: Concerned Residents of Quarry Hill

Type of Appeal: 3rd party –v- grant

Observers: None

Date of Site Inspection: 16th January 2016

Inspector: G. Ryan

1.0 SITE

- 1.1 The site is located in a rural area around 1km north east of Kilmallock in south County Limerick. The site has a stated area of 2.63ha, is roughly rectangular, and is bounded by public roads to the north and west. This route is known as the Bulgaden Road. The site consists of a worked out quarry which has since partially backfilled in the western and central portions, bringing it level with the surrounding roadways to the north and west.
- 1.2 The weathering of the old quarry faces to the east of the site and the grassed base of the old quarry floor indicate that at least this part of the quarry finished active production many decades ago. Judging by historical mapping, quarrying on this site commenced at least 175 years ago (evident on 6" series). Indeed, that the area is known as 'Quarryhill' is significant in this regard.
- 1.3 The site is located in the rural area outside the town and the site is adjoined to the south and east by open fields. There is scattered housing in the vicinity of the site and a nursing home to the west. The land falls generally from north to south in the vicinity.

2.0 PROPOSAL

2.1 BROAD OVERVIEW

- 2.1.1 The application arises from the terms of Condition 2 of the previous similar permission on the site (see section 5.0 below) which set the permission as a temporary permission, expiring on 15th January 2013, which was subsequently extended to 13/1/15.
- 2.1.2 The proposed development is to backfill the remainder of a disused quarry with 23,381 tonnes of inert topsoil and subsoil.
- 2.1.3 Also proposed is the retention of the existing entrance and ancillary site works including temporary passageway, wheelwash, and office facilities for the duration of the works.
- 2.1.4 The application form states that the proposed hours of operation are 7am to 8pm, and that there would be 20 truck movements per day. It also states that waste products inadvertently brought onto the site will be removed immediately upon discovery by the carriers. One person is to be employed. Water supply is to be via a private well, with surface water via a soakpit. An oil interceptor is to be de-sludged when appropriate.

2.2 ENVIRONMENTAL IMPACT STATEMENT

2.2.1 The application is accompanied by a document titled 'Environmental Impact Statement', with the following structure. Appendices are numbered A to H.

Section	Topic
Non Tech	Non-Technical Summary
EIS	Environmental Impact Statement
A	Drawings
B	Ecology Report
C	Geology and Soil Report
D	Water Report
E	Air and Climate
F	Noise Report
G	Landscape Photographs
H	Archaeological Report

2.2.2 My assessment at Section 8.2.1 below draws on the contents of the EIS where relevant to the issues raised in the appeal.

2.3 FURTHER INFORMATION REQUEST AND RESPONSE

2.3.1 Prior to issuing a decision, the planning authority sought further information on 3 points, which can be summarised as follows, along with the response from the applicant.

Planning authority request	Applicant's response
1. In the interests of traffic safety, the applicant is requested to submit a revised site layout plan and an entrance layout plan in accordance with the drawing reference ARUP T-001 as per planning reference 07/3665/PL13.232462	Revised site plan (Drawing No. 100 Rev B) submitted. The drawing has been revised to incorporate the information contained in ARUP T-100. The original ARUP T-100 is also included.

<p>2. The applicant is requested to submit a comprehensive aftercare plan for the site to include a comprehensive boundary and landscaping plan. The plan shall include a timeframe for the implementation of the scheme.</p>	<p>Drawing No. 101 Rev A submitted, showing boundaries, landscaping, and a timeframe for implementation. Completion of fill to October 2018, First grazing July 2019.</p>
<p>3. The applicant is requested to submit full details including scaled drawings and discharge calculations for the wheel wash.</p>	<p>Drawings and discharge calculations included.</p>

Table 1

3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

3.1 DEPARTMENTAL REPORTS

3.1.1 Executive Archaeologist

3.1.2 Operations shall not impact on the Recorded Monument LI047-091. Recommends conditions.

3.1.3 Fire officer

3.1.4 No objections.

3.1.5 Environment Department

3.1.6 Recommends requesting further information in relation to wheel washing arrangements, particularly discharge.

3.1.7 Following the receipt of further information, a 2nd report notes that the original report requested the submission of details regarding the oil interceptor, but that these were not included in the further information request. The details submitted with regards to the wheel wash facility are satisfactory.

3.1.8 Area Engineer – Roads

3.1.9 A copy of an email exchange on file post-dating the further information request implies that the Area Engineer is satisfied with the revised drawing 100 Rev B in relation to entrance arrangements.

3.1.10 Heritage Officer

- 3.1.11 There is an email on file from an unidentified author named Thomas O'Neill who is later identified in the planning officer's second report as being the Heritage Officer. This report states that bearing in mind the age of the ecology report and the necessity to reflect current on-site conditions including the presence or absence of badgers, the applicant should be asked to submit an updated ecology report that reflects current conditions on site and which includes a badger survey with necessary appropriate mitigation measures to ensure they are not disturbed.
- 3.1.12 A second email words this recommendation as a suggested condition.

3.2 EXTERNAL CONSULTEES

3.2.1 Irish Water

- 3.2.2 No objections subject to conditions.

3.2.3 Health Service Executive

- 3.2.4 The HSE is in agreement with the decision taken to remediate the site as submitted.
- 3.2.5 The exposure of bedrock at parts of the site and the limited overburden is a cause for concern. The infilling will serve to protect the limestone aquifers underlying the site. The inert nature of the infill material will protect the existing soils, provided that the inspection of all waste entering the site is strictly supervised.
- 3.2.6 The proposed oil interceptor is acceptable but should be verified by site inspection.
- 3.2.7 The on-site well should be re-tested. The nearest dwelling houses are not at risk, as they are supplied by mains water. Further information on the water supply to the 2 houses on the Bulgaden Road should be sought.
- 3.2.8 The dust monitoring undertaken did not represent the worst case scenario, and the dust monitoring sites are not shown. There is no evidence of a wheelwash facility on site.
- 3.2.9 Noise monitoring methodology is inconsistent.
- 3.2.10 On the issue of the types of waste being deposited on this site, the HSE has received a complaint regarding unauthorised access to the site, which has been referred to the planning authority.
- 3.2.11 The proposed development is acceptable to the HSE subject to a number of the above matters being investigated.

3.2.12 Department of Arts Heritage and the Gaeltacht (DoAHG)

- 3.2.13 The nearby River Loobagh contains Annex species (Otter and Freshwater Crayfish)
- 3.2.14 Badgers are a protected species. A 2006 survey found a sett near the site and badger activity within the site. An updated survey should be carried out.
- 3.2.15 The field visit for the ecology report is nearly 10 years old. A new visit/assessment should be conducted.

3.3 REPRESENTATIONS

One objection was received, from the current appellants, which covers largely the same topics as the appeal.

3.4 PLANNING OFFICER'S FIRST REPORT

- 3.4.1 The planning officer 'screened out' for Appropriate Assessment.
- 3.4.2 Notes a number of items from the submitted EIS.
- 3.4.3 Notes the recommendations on noise from the 'Guidelines for Planning Authorities on Quarries and Ancillary Activities'.
- 3.4.4 As per previous planning assessments, it is considered that both the previous use on the site (quarrying) and the proposed reinstatement are normal land uses for a rural area. The proposed development would have a positive visual impact.
- 3.4.5 Recommends requesting further information.

3.5 PLANNING OFFICER'S SECOND REPORT

- 3.5.1 Following the receipt of further information, the planning officer produced a second report.
- 3.5.2 All responses to the 3 further information request items are considered acceptable.
- 3.5.3 Recommends a grant of permission.

4.0 PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 8 conditions, many of which could be considered 'standard' conditions. Others of note can be summarised as follows.

- 2 Inert landfill only. To be deposited in accordance with EIS
- 3 Limits HGV movements to 50 per day.

- 4 Requires protection of kiln site [recorded monument].
- 5 Site to be reinstated in accordance with landscape plan.
- 6 Road widening to be in accordance with requirements of planning authority.
- 7 Financial Contribution
- 8 Prior to commencement of development, an ecological survey to be submitted.

5.0 HISTORY

PL13.215711 (PAR Ref. 05/2102) – permission refused by the planning authority and refused on appeal by the board to the current applicant at this site for filling of a quarry with inert material and retention of existing landfill. The following Reasons and Considerations were given by the board.

“Having regard to the lack of information/conflicting information in relation to the quantities of material to be deposited at this site, that is, the quantities identified at planning application stage, at Environmental Impact Statement stage and at post Environmental Impact Statement stage, and to the lack of detailed drawings setting out the finished profiles for the entire site as related to the quantities of material to be deposited, the Board is not in a position to assess the impacts of the development. The Board is, therefore, precluded from considering granting permission for the proposed development.”

I note that the inspector had recommended refusal on the basis of traffic hazard due to HGV turning movements on this narrow road. The board in their direction acknowledged this recommendation and shared the concerns, but considered that this issue would need to be assessed in the context of more complete information regarding the quantities of material to be deposited, and the duration of the development.

PL13.232462 (PA Ref. 07/3665) - Permission granted by the planning authority and granted on appeal by the board to the current applicant at this site for the following development:

- (a) *To backfill a disused quarry with inert topsoil and sub-soil,*
- (b) *modification of the existing quarry site entrance and road boundary,*
- (c) *ancillary site works including temporary passageway, wheelwash and office facilities, and the retention of inert landfill material on part of the quarry site*

Conditions of note from the board’s decision in that instance can be summarised as follows.

2. *“This permission shall be for a period of three years from the date of this order. [15th January 2010 plus 3 years is 15th January 2013] If the filling of this quarry is not complete within this time, a second planning application shall be submitted for the remainder of the site.”*
3. *“The backfilling of the disused quarry shall consist of inert landfill material only...”*
7. *“All road widening, provision of road works and signage shall be in accordance with the detailed requirements of the planning authority. “*

PA Ref. 12/7094 – Extension of duration of PA Ref. 07/3665 up until 13/01/15

PA Ref. WFP/L/2014/45A/R2 – Waste Permit License (dated 30/09/15) in respect of this site. License on file.

6.0 POLICY

6.1 LIMERICK COUNTY COUNCIL DEVELOPMENT PLAN 2010-2016

The site is located with the Agricultural lowlands LCA. This is the largest of the Landscape Character Areas in the County and comprises almost the entire central plain. This landscape is a farming landscape and is defined by a series of regular field boundaries, often allowed to grow to maturity.

Objective IN O41 states that it is the objective of the Council to implement the provisions of the Waste Management Hierarchy and the Regional Waste Management Plan 2006-2011, and any subsequent review of this Waste Management Plan as it applies to this Council area.

Objective EH O25 relates to the Preservation of the Archaeological Heritage and states that *“It is the objective of the Council to seek the preservation (in situ, or at a minimum, preservation by record) of all known sites and features of historical and archaeological interest. This is to include all the sites listed in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act 1994.”*

6.2 SOUTHERN REGION WASTE MANAGEMENT PLAN 2015-2021

Section 11.2.2 of the plan refers to Construction and Demolition Waste in the region, noting that 68% of such waste is stone and soil, which is primarily managed at local authority permitted infill sites by way of ‘backfilling’.

Policies E13 and E14 are of relevance to the subject proposal.

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

E14 The local authorities will coordinate the future authorisations of backfilling sites in the region to ensure balanced 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.

6.3 RECORDED MONUMENTS

Recorded Monument LI047-091 is present on site.

7.0 GROUND OF APPEAL

The 3rd party appeal was submitted by Teresa O'Doherty and others – 'Concerned Residents of Quarry Hill. The main grounds of this appeal can be summarised as follows.

- 7.1.1 The development did not comply with Condition 2 of the board's previous permission.
- 7.1.2 Backfilling has continued at this site since the expiry of the previous permission in 2013.
- 7.1.3 Materials other than topsoil and subsoil have been dumped at this site through the last number of years. Photos show domestic waste and other demolition/building materials.
- 7.1.4 The proposed road widening works were not undertaken. A gate was only put on the site 4 years after the '2010' permission was granted. The road network is unsuitable. This road is part of an advertised cycle and walking route.
- 7.1.5 The under-utilisation of whatever wheelwash facilities are available on site means that the roadway is continually dirty.
- 7.1.6 Refers to planning enforcement proceedings.
- 7.1.7 The proposed development is presented as a short term operation, but it is in practice a long term operation.
- 7.1.8 The proposed development is contrary to the Local Area Plan.
- 7.1.9 The re-use of the 2007 EIS does not adequately address environmental concerns.
- 7.1.10 The proposed development would have a detrimental impact on nearby residents, including the elderly.

8.0 SUMMARY OF RESPONSES

8.1 PLANNING AUTHORITY

8.1.1 The planning authority have not responded to the matters raised in the appeal.

8.2 FIRST PARTY RESPONSE TO THIRD PARTY APPEAL

8.2.1 The applicant has not responded to the matters raised in the appeal.

9.0 ASSESSMENT

- 9.1 A mandatory EIA is not required in this instance. Class 11 (b) of Schedule 5 of the Planning Regulations 2001 (as amended) is “Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.” The total tonnage to refill the quarry is cited as 23,381 tonnes. Therefore it is below the mandatory threshold, but is a ‘class of development’. Screening for sub-threshold development under Section 172(1) of the Act is therefore required in the first instance.
- 9.2 However, Article 102 of the Regulations state that “Where a planning application for sub-threshold development is accompanied by an EIS, the application shall be dealt with as if the EIS had been submitted in accordance with section 172(1) of the Act.” As such, and by my reading of the legislation, the board is obliged to undertake an EIA at this point, irrespective of the potential outcome of a screening exercise.
- 9.3 In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning & Development Act 2000-2010, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority, in this case by the Board. In effect, it is the board that undertakes the EIA. In this assessment, the direct and indirect effects of the proposed project need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive.
- 9.4 Such an EIA undertaken here in this report will, by virtue of the specific range of issues pertinent to this appeal, cover most of the issues that would in any event have been covered in an inspector’s assessment in a non-EIA case.
- 9.5 Other issues can be addressed under the following headings;
- Principle of Development and policy context
 - Legal and Procedural matters

9.6 In the interests of clarity, I propose that my assessment be structured on the basis of the 2 headings above, followed by a series of headings addressing the EIA of the scheme, mirroring the structure of the Applicants' original EIS (grouped where appropriate), but also drawing on the submissions of other parties to the appeal, on relevant policies, data, and my own observations, analysis, and conclusions. I propose that these subsequent headings be laid out as follows.

- EIS – Compliance with Planning and Development Regulations 2001
- EIA – Alternatives Considered – EIS Section 3.0
- EIA – Human Beings – EIS Section 4.1
- EIA – Ecology – EIS Section 4.2
- EIA – Soils and Geology, Hydrology – EIS Sections 4.3 and 4.4
- EIA – Air and Climate, Noise – EIS Sections 4.5 and 4.6
- EIA – Material Assets, Landscape, Cultural Heritage – EIS Sections 4.7, 4.8, 4.9
- Screening for Appropriate Assessment

9.7 PRINCIPLE OF DEVELOPMENT AND POLICY CONTEXT

9.7.1 The planning officer considers that the proposed development is a normal rural landuse. I would tend to agree with this broad assertion. The county development plan makes provision for waste disposal facilities, albeit without a spatial component. It is almost invariably the case that such uses arise in rural areas in reasonable proximity to urban centres, as is the case here.

9.7.2 I note objective O41 of the County Development Plan, which is to implement Regional Waste Management Plan. In turn, the Regional Waste Management Plan incorporates a policy that local authorities, the EPA, and the Board take account of the scale and availability of existing backfilling capacity, and to coordinate the provision of such facilities, with a preference for larger scale facilities. Under the current application, there is no information on this topic. I have no access to details of the distribution or capacity of such facilities in the area such that I could apply the terms of this policy.

9.7.3 While it would be very desirable to have this information to hand, I do not consider that its absence precludes the consideration of a grant of permission in this instance.

9.8 LEGAL AND PROCEDURAL MATTERS

9.8.1 As stated by the appellant, the applicant has 'overshot' the period of the temporary permission as set out in Condition 2 of the board's decision under the '07' application, which was extended in 2012 up until 2015. It is now 1 year since the expiry of that permission. While this is far from desirable, I do not consider that this matter could reasonably be brought to bear on the current appeal, as requested

by the appellant. The board is obliged at this juncture to consider the proposed development on face value, and to confer no additional benefits nor penalties on the applicant by virtue of these circumstances.

- 9.8.2 The appellant criticises the applicant for re-using content from the 2007 EIS. In my opinion, this is not in itself a cause for concern. The question to be answered is whether the EIS, irrespective of the age of some of its content, is fit for purpose.

9.9 EIS – COMPLIANCE WITH PLANNING AND DEVELOPMENT REGULATIONS 2001

- 9.9.1 Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended, set out the information to be contained in an EIS. The appellants assert that the EIS is inadequate due to the age of much of its content.
- 9.9.2 In my opinion, the EIS accompanying the application technically accords with the legislative requirements and with the subjects to be addressed set out therein. The re-use of reports and studies from 2005-2007 – a decade ago – is unusual and an initial cause for concern. However, having assessed the content of these reports, it is my opinion that they remain relevant to the issues that fall within the remit of the EIA process, and can be validly used by the board in this instance.

9.10 EIA – ALTERNATIVES CONSIDERED – EIS SECTION 3.0

- 9.10.1 Section 3.0 of the EIS provides something of an exploration of this issue, and in my opinion is sufficient for the purposes of EIA. Information regarding other similar facilities in the vicinity, as discussed at Section 9.7 above would have been useful at this point, but not a requirement.

9.11 EIA – HUMAN BEINGS – EIS SECTION 4.1

- 9.11.1 The appeal asserts that the proposed development would be detrimental to residents, particularly the elderly. The planning officer asserts that this is a normal rural landuse. I do not consider these two positions to be mutually exclusive. It is clear from the information presented in the EIS that the proposed development would result in impacts on surrounding residences by virtue of noise, dust, traffic, poor visual outlook (machinery, stockpiles). However, such impacts are indeed a feature of many agricultural practices.
- 9.11.2 On the basis of the information submitted, the negative impacts arising from the proposed development on surrounding residences would be within relevant limits, and would not amount to an undue impact.

9.12 EIA – ECOLOGY – EIS SECTION 4.2

- 9.12.1 Section 4.2.1 of the EIS refers to habitats present on site. Appendix B (Fig 1) maps these habitats, albeit that there may have been a shift in these habitats due to the backfilling that has occurred in the central part of the site since the survey.
- 9.12.2 Section 4.2 of the EIS notes swallows nesting in a shed on the quarry floor, and a possible bat roost in the lime kiln. The EIS recommends a number of measures around timing of works during the year so as to minimise impacts on sensitive species. The DoAHG state that the nearby River Loobagh contains ‘Annex species’.
- 9.12.3 The EIS also notes the presence – In 2006 at least - of a Badger latrine on the northern site boundary that is in use in connection with a sett to the southeast, and outside the site. Comparing the mapping in Appendix B with contemporary aerial photography, it would seem that the site of the latrine has yet to be backfilled. It is not clear whether it is still in use. The DoAHG recommend that there be an updated badger survey, and indeed that there be a new visit/assessment in general terms. The planning authority’s Heritage Officer also raises concerns about the age of the surveys.
- 9.12.4 I note that Condition 8 of the planning authority’s decision was to require the submission of an ecological survey, outlining current on-site ecological conditions including the presence or absence of badger and any mitigation measures that may be required to ensure their non-disturbance should they be present, and that this be subject to the agreement of the planning authority.
- 9.12.5 I do not consider that this is an appropriate approach. Section 5.12 of the EIA Guidelines (DoEHG 2013¹) state that “*Conditions should not be used to obtain information required to assess the significant effects of the development.*” This position is consistent with ECJ judgements in this area.
- 9.12.6 While it is open to the board to request up to date information for the EIA process, it is my opinion that a precautionary approach can be taken on the basis of the information available. In other words, I consider it appropriate to assume that the site is still in use by badgers, and to act accordingly. On the basis of such an assumption, I do not consider that ongoing filling of the quarry void, including destruction of the badger latrine, would represent an undue impact on this species.

¹<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload,32720,en.pdf>

9.12.7 In my opinion, the proposed development is acceptable in terms of its potential impact on ecology.

9.13 EIA – SOILS AND GEOLOGY, HYDROLOGY – EIS SECTIONS 4.3 AND 4.4

9.13.1 Nature of fill material

9.13.2 One area of contention relates to the 'inert' (or otherwise) nature of the fill material to date, and by extension, into the future. The HSE notes a complaint in this area, and the appeal notes enforcement proceedings, asserting that materials other than topsoil have been dumped here over the years. The appeal includes photos of domestic waste and other demolition/building materials.

9.13.3 Condition 3 of the board's '07' permission required inert material only, and the Condition 2 of the planning authority's decision on the current case reiterates this requirement. The subject application refers to 'inert topsoil and subsoil'.

9.13.4 At the time of my site inspection, the most recent material deposited in stockpiles and on the leading 'face' of the fill area showed a significant amount of construction and demolition waste that would not fall under the terms of 'topsoil and subsoil', but could conceivably be classified as 'inert'. There were bricks, blocks, slates, sections of pipe, scraps of plastic, and some metal fragments. There was no evidence of domestic refuse.

9.13.5 Section 35 of the Planning and Development Act 2000 (As amended) deals with situations where *"there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted.."*, and allows for planning authorities to take such considerations into account in deciding subsequent planning applications. However, this power is not extended to An Bord Pleanála. In my opinion, the board is obliged to assess the proposed development on face value in the first instance. Any transgressions outside the terms of the permission, such as the type of fill in this instance, would be a matter for enforcement proceedings, which again lie with the planning authority.

9.13.6 Potential impacts on surface water and groundwater

9.13.7 Section 4.3 of the EIS refers to a walkover of the site in 2006. The HSE raise concerns about the current minimal depth of overburden in terms of aquifer vulnerability. Section 4.4 of the EIS asserts that the additional overburden that would be provided by the filling of the site would protect the aquifer. The HSE concur with this assertion subject to a caveat about the nature of the infill material.

- 9.13.8 In my opinion, this issue needs to be considered in terms of the source-pathway-receptor model, with the aquifer being the receptor and the overburden being the pathway. As things stand, in the eastern part of the site, while the pathway is short, with high transmissibility of pollutants, there is no clear source of such pollutants.
- 9.13.9 Looking at the proposed scenario, while it is the case that an increased overburden of inert fill material would serve to protect the aquifer, it is not clear what it would be protecting the aquifer from. Indeed, and critically, if the fill material is not inert, and contains potentially polluting material, it would no longer play the role of a longer 'pathway' or buffer, but would itself become the source of pollutants.
- 9.13.10 In my opinion, the nature of the infill material is critical to the question of impacts on groundwater and surface water. If it is to be as proposed by the applicant, risks would be acceptable. If it is to be as asserted by the 3rd parties, the issue would warrant further consideration. On balance, I consider it appropriate to assess the proposed development under the former scenario

9.13.11 Wheelwash

- 9.13.12 The HSE in their submission state that they could not find the wheelwash on site. The appellants state that it is underutilised. It was the subject of Item 3 of the planning authority's further information request in terms of quantitative calculations, and was ultimately deemed to be acceptable by the planning authority's environment section.
- 9.13.13 Having inspected the site, it is clear that the wheelwash is in existence, although it does not align with the entrance in a way that would encourage its use. To use it would require sharp turns on the western exit, over rough ground. However, the eastern approach does show signs of the wheelwash having been in use.
- 9.13.14 The drawings submitted to the planning authority by way of further information show amendments to the entrance and approach road such that the wheelwash would be better integrated into the access and egress arrangements. If implemented, I consider that this would be an appropriate remedy to this situation.

9.14 EIA – AIR AND CLIMATE, NOISE – EIS SECTIONS 4.5 AND 4.6

- 9.14.1 Section 4.5 of the EIS deals with the issue of Air and Climate, asserting that dust and particulate matter levels are to be within limit values. The HSE criticise the applicant's approach, stating that their dust survey was not undertaken at the worst time.

- 9.14.2 Section 4.6 of the EIS covers the issue of Noise, and is based on surveys from 2005. The EIS states that noise levels are to comply with SI320 of 1988. The HSE assert that the noise monitoring methodology is inconsistent
- 9.14.3 On balance, I consider that the potential impacts in terms of dust and noise have been adequately described in the EIS. I do not consider these issues represent an undue negative impact on the surrounding area.

9.15 EIA – MATERIAL ASSETS, LANDSCAPE, CULTURAL HERITAGE – EIS SECTIONS 4.7, 4.8, 4.9

9.15.1 Archaeology

- 9.15.2 The presence of a lime kiln on site – a recorded monument – is acknowledged by all parties. It is clear from my site inspection that the area has been fenced off as per previous undertakings. There are photos of the lime kiln contained in Appendix H of the EIS.
- 9.15.3 The planning authority's County Architect raises no objections to the proposed development, and the ongoing protection of the monument is incorporated into Condition 4 of the planning authority's decision. I consider that this matter has been satisfactorily addressed.

9.15.4 Landscape

- 9.15.5 The question of an 'aftercare plan' was the subject of Item 2 of the planning authority's further information request, and is also covered by Condition 5 of their decision. While I acknowledge that the site would appear somewhat industrial during its operational phase, it remains the case that it would not be too dissimilar to many other rural and agricultural land use practices. On reinstatement, the proposed development would have a neutral or positive impact on the surrounding area.

9.15.6 Traffic

- 9.15.7 The issue of traffic movements had been central to the planning inspector's recommended refusal reason under the '05' application. Under the '07' application, improvements to the entrance and the public road, including a right-turning lane, were proposed by the applicant, and incorporated into the terms of the permission under Condition 7 of the board's decision. As pointed out by the appellant, these works were never undertaken.
- 9.15.8 Under the current proposal, the planning authority addressed this issue under Item 1 of the further information request, which sought a revised layout plan as per the '07' undertakings. The applicant duly submitted these details, and the requirement to implement these works is incorporated into the planning authority's Condition 6.

Condition 3 of the planning authority's decision limits the number of HGV movements.

- 9.15.9 However, there is no information available as to why in the intervening years – almost a decade – the applicant chose not to implement the mitigation measures expressly required under the terms of the permission granted by the board.
- 9.15.10 Notwithstanding the limitations of Section 35 of the Act, as discussed previously, I am loath to recommend a grant of permission which would further the development rights afforded to the applicant, while allowing a situation to persist whereby the responsibilities that come as part of those rights are consistently evaded.
- 9.15.11 In my opinion, an appropriate remedy to this situation would be to expressly require the completion of these works as a 'condition precedent' in advance of any further importation of material onto this site.

9.16 SCREENING FOR APPROPRIATE ASSESSMENT

- 9.16.1 The nearest Natura 2000 site is the Ballyhoura Mountains SAC, around 10km to the south. Given the minor nature of the proposed development, I do not consider that the proposed development would be likely to have any significant effects on the integrity of a European site having regard to its conservation objectives.

10.0 CONCLUSION AND RECOMMENDATION

Based on the above, I recommend that permission be granted subject to conditions based largely on those applied by the planning authority in their decision, subject to the modifications outlined in my assessment above. In addition, I consider that it should be a temporary permission for a period of 5 years – the previous board permission had been for 3 years - to allow for further review, if necessary.

11.0 REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, and the policies of the planning authority as set out in the Limerick County Development Plan 2010-2016, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not detract from the character of the area, would not represent an undue risk to groundwater, surface water, or ecology, and would be in accordance with the policies set out in the said development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as modified by the plans and particulars submitted to the planning authority on the 24th February 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason - In order to clarify the development to which this permission applies.

2. All road widening, provision of roadworks, and signage shall be in accordance with the detailed requirements of the planning authority.

The works outlined in drawing reference ARUP T-001 as submitted with planning reference 07/3665/PL13.232462, and resubmitted in respect of the current application by way of further information, shall be completed in full at the applicant's expense, and to the satisfaction of the planning authority.

No further landfilling activity may be undertaken on this site until such time as these road works have been completed.

Reason – in the interests of traffic safety.

3. The backfilling of the disused quarry shall consist of inert landfill material only. This material shall be deposited within the site in accordance with the details contained in the Environmental Impact Statement submitted with the planning application, in terms of overall volumes of material to be deposited on the site, the manner of deposition within the site, and the phasing of development during the lifetime of the planning permission.

Reason – In order to control the rate of development, and in the interest of protecting surface water and ground water.

4. This permission shall be for a period of five years from the date of this order. If the filling of this quarry is not complete within this time, a second planning application shall be submitted for the remainder of the site

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

5. The maximum number of heavy goods vehicle movements to and from the site on any day shall be limited to 25 (50 movements).

Reason – in the interests of traffic safety and to protect residential amenity

6. The protection of the existing kiln area within the site shall be carried out in accordance with the details contained in the Environmental Impact Statement submitted with the planning application. Adequate protection measures shall be provided to prevent damage to the kiln area during the operation of the landfill activity.

Reason – in the interests of protecting historical and archaeological features within the landscape.

7. The site shall be reinstated in accordance with the detailed landscape plan received on the 24th August 2015.

Reason – in the interests of visual amenity.

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

Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

G. Ryan
Planning Inspector
5th February 2016