



An
Bord
Pleanála

Inspector's Report PL 09.246641

Development

Development which seeks to improve the quality of the land for agricultural purposes for the importation of 52,000 tonnes of soil and stones to be spread on an area of land of 3.9529 ha over a period of between 3 and 5 years at Fleshtown, Sallins, Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

16/210

Applicant(s)

Julie Doyle

Type of Application

Permission

Planning Authority Decision

Refuse permission

Appellant(s)

1. Julie Doyle

Observer(s)

1. Estate of the late Iris Belinda
Jacob

Date of Site Inspection

25th August and 8th November 2016

Inspector

Sarah Moran

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1.0 Site Location and Description

- 1.1. The site is located in a rural area c. 2.3 km north west of Sallins, Co. Kildare and adjacent to the Grand Canal. The River Liffey flows northwards c. 2km to the east of the site. There is a protected structure nearby to the south, Digby Bridge and Lock, located at the Grand Canal. The Grand Canal proposed Natural Heritage Area (pNHA) is also adjacent to the site. The site is accessed via a laneway off a local road L-2004, which links the settlement of Clane to the R409 to the west. The L-2004 serves a ribbon of individual residential properties nearby to the north east of the site. The laneway also serves a commercial premises to the north of the subject site, 'Dolly Skip Hire' and a recycling facility comprising a shed and yard to the rear of residential properties. There is a junction between two local roads immediately in front of the laneway entrance.
- 1.2. The site is currently in agricultural use (sheep grazing) and is an irregularly shaped field with a stated area of 3.9529 ha. Ground levels fall from east to west across the site, between c. 79m AOD and c. 76m AOD with a dip to c. 73m AOD at the north western corner. There are trees and hedgerows along the site boundaries. The eastern side of the site is relatively dry, however there are poor drainage conditions to the west, with ponding and areas of reeds and rushes. There is a stream along the western site boundary. The site is bound by hedgerows and does not have a separate access to the public road. The southern part of the site is traversed by a 10kv electricity transmission line. The immediate surroundings of the site are generally agricultural in nature. There is an existing woodland between the southern end of the site and the Grand Canal.
- 1.3. See enclosed maps, photos and aerial photo of the site.

2.0 Proposed Development

- 2.1. The development involves the importation of c. 52,000 tonnes of soil and stone, to be spread on the site, raising the ground level with the stated purpose of making the site suitable for agricultural use over a period of 3-5 years. Also a temporary 4.5m wide haul / access road linking the existing driveway serving the adjacent Dolly Skip Hire premises to the site and a related truck turning area and wheel wash; installation of a portable chemical toilet for the duration of the site works; site reinstatement works following completion of development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 Kildare County Council refused permission on 28th April 2016 for 2 no. reasons relating to:

1. Location of the site within a rural area designated as High Amenity, where there is a pNHA and a protected structure at Grand Canal Lock; County Development Plan policy to protect Areas of High Amenity; development would contribute to the erosion of the natural rural character of the landscape, negative impact on ecology and natural drainage patterns; undesirable precedent for further such development in the area.
2. Generation of additional traffic movements due to nature, scale, location and intensity of development; serious injury to the amenities of the area due to noise, traffic generation and general disturbance; increased volume of HGVs would lead to further deterioration of an already structurally distressed local road network.

3.2. Planning Authority Reports

- 3.2.1. The report of the area planner, dated 26th April 2016, recommends refusal on grounds relating to impacts on the adjacent pNHA and protected structure; erosion of the natural rural character of the landscape; negative impact on ecology and drainage patterns; undesirable precedent; generation of unsustainable additional

traffic, related impacts on the amenities of the area; increased volume of HGV traffic would lead to further deterioration of an already structurally distressed local road network. Attached AA screening report states that there are no potential significant effects on designated sites and that AA is not required.

- 3.2.2. Naas Municipal District Area Engineer 12th April 2016. Recommends refusal on grounds relating to adverse structural impacts on an already distressed local road network.
- 3.2.3. Kildare County Council Transportation Department 12th April 2016. Requires further information regarding compliance of site access with DMRB, also agreement of adjoining landowners to achieve same if necessary.
- 3.2.4. Kildare County Council Water Services 25th April 2016. Recommends one condition.
- 3.2.5. Kildare County Council Environmental Health Officer 13th April 2016. No objection subject to conditions.
- 3.2.6. Kildare County Council Conservation Officer 28th April 2016. Refers to Heritage Officer for comment on natural heritage impacts.
- 3.2.7. Kildare County Council Environment Section 20th April 2016. No objection subject to conditions.

3.3. **Prescribed Bodies Submissions to PA**

- 3.3.1. DoAHG 11th April 2016. The following points are noted:
 - Based on the information provided it is not possible to make any meaningful comment on the proposed development. Further information comprising an Environmental Report on the nature of the materials to be brought on site would

be required, with particular reference to their origin and the type of material to be brought on site and any bio security measures that may be put in place.

- The Department of Agriculture may need to be consulted, particularly with reference to S.I. No. 456 of 2011 European Communities (Environmental Impact Assessment) (Agriculture) Regulations.

3.3.2. Inland Fisheries Ireland 13th April 2016. The main points made may be summarised as follows:

- The Liffey catchment is one of the foremost salmonid fisheries in this region. The stream which borders the site is a tributary of the Liffey.
- Ground preparation and associated construction works, including large-scale topographic alteration (as proposed) have significant potential to cause the release of sediments and pollutants into surrounding watercourses. Pollution of adjacent fresh waters from poor on-site construction practices could have a significant negative impact on the fauna and flora of this sensitive and important freshwater system.
- Recommends a construction management plan and other mitigation measures.
- Asks if there will be a dedicated inspection area for the proposed fill material, in order to identify any unacceptable consignment arriving at the site. Will there be a quarantine storage area or other such mitigation measures in place?
- Will all drainage go to groundwater? If so, it must be in compliance with European Communities (Groundwater) Regulations 2010. All surface water must be compliance with the European Communities (Surfacewater) Regulations 2009.

3.4. **Third Party Observations**

- 3.4.1. A submission by the estate of the late Iris B. Jacob, owner of an adjacent property at Digby Bridge Lock Cottage, objected to the development on grounds similar to those raised in the observation submitted in response to the first party appeal.
- 3.4.2. David Egan, with an address at Woodville, Prosperous, Co. Kildare and Gary O'Callaghan of Yeomanstown Stud objected to the development on grounds relating to environmental impacts; potential impacts on water quality; lack of information regarding the material to be imported; previous refusals at this location.

4.0 **Planning History**

4.1. Subject Site 03/653

- 4.1.1. Christy Dolly sought permission for reinstatement and raising of approx. 9 acres of land for agricultural benefit using invert subsoil and topsoil only. The PA refused permission for 3 no. reasons relating to (1) traffic hazard and associated adverse impact on residential amenities due to significant additional traffic generated and the location of the site access in proximity to a junction; (2) erosion of rural character and serious injury to the visual amenities of the area, conflict with County Development Plan policy to preserve and protect the visual amenities of the area, undesirable precedent; (3) generation of unsustainable additional traffic movements, conflict with County Development Plan policy on sustainable development.

4.2. Adjacent Sites Within the Dolly Landholding

- 4.2.1. Dolly Skip Hire premises to the north of the site, accessed via the same laneway. Permission sought by Catherine Dolly under reg. ref. 06/2713 for (1) change of use from a domestic garage (permission for which was previously granted under planning ref. No. 93/1289) to a commercial shed; (2) retention permission for the commercial shed and yard, including the entrance/driveway off the public road. The PA granted a 5 year permission. Permission sought by Catherine Dolly under reg. ref. 13/491 for (1) continuation of use of permission ref. 06/2713; (2) retention

permission for the following: extended hard-standing yard areas to accommodate HGV and car parking onto site previously approved under 06/2713, provision of additional mobile office units, extension onto existing domestic shed previously approved under 06/2713, weighbridge and relocation of re-fuelling compound on site and all associated site works. The PA refused permission for 4 no. reasons relating to (1) contravention of rural development policies in development plan Chapter 10; (2) injury to the amenities of the area due to noise, traffic and general disturbance; (3) contravention of County Development Plan objective SO8 on rural settlements; (4) inappropriate use for agriculturally zoned lands.

4.2.2. Reg. Ref. 07/2747. Permission sought by Dolly Skip Hire to carry out site improvement works including change of use of existing agricultural storage shed for the purpose of temporary storage of chain and lift skip containers and to re-surface a partially concreted yard. The PA refused permission for 3 no. reasons relating to (1) landscape and visual impacts; (2) contravention of County Development Plan policies on development in rural areas; (3) serious injury to the amenities of the area due to noise, traffic and general disturbance.

4.2.3. Reg. ref. 08/2169. Permission sought by Paul Dolly to construct a dormer bungalow and wastewater treatment system on a site to the immediate south of the laneway access to the subject site, north east of the current proposal. The PA refused permission for 4 no. reasons relating to (1) excessive density of development in a rural area, contravention of County Development Plan rural housing policy; (2) undesirable ribbon development; (3) unsustainable development; (4) inadequate sight distances at vehicular access.

4.3. Adjacent Site to Southeast

4.3.1. Reg. ref. 04/450. Relating to a site on the southern side of the Grand Canal, south east of the subject site. Permission sought by Gerry Walsh to raise c. 1.7 ha of land by an average height of c. 2.5m above ground level together with its restoration and

rehabilitation. The PA had previously refused permission for a similar development at the site under reg. ref. 03/784. The PA also refused permission for 04/450. The Board refused permission, ref. PL09.207252, for one reason relating to adverse impacts on adjoining lands; adverse impact on drainage of subject site and adjoining lands; impacts on visual amenities and traffic impacts.

5.0 Kildare County Development Plan 2011-2017

- 5.1. Chapter 7 Water, Drainage and Environment Services. Section 7.10.1 policies on waste management.
- 5.2 Chapter 10 Rural Development. Section 10.5.2 on agriculture, policies AG1, AG2, AG3, AG4. Section 10.6 rural development objectives including RD04.
- 5.3 Chapter 12 Architectural and Archaeological Heritage. Digby Bridge and Lock 16 Grand Canal Main Line is listed as protected structure B14-46. Section 12.8.1 policy on protected structures including policies PS1, PS2. Section 12.9 architectural and archaeological objectives including objective AAO12 relating to the Royal Canal and Grand Canal.
- 5.4 Chapter 13 Natural Heritage / Biodiversity. Section 13.4.4 Natural Heritage Areas. Section 13.7.3 Inland Waterways, Rivers, Streams, Canals, Wetlands and Groundwater. Section 13.8.6 Inland Waterways, River, Streams, Canals, Wetlands and Groundwater including policies IW1 and IW4.
- 5.5 Chapter 14 Landscape, Recreation and Amenities. Landscape character areas map 14.1 Section 14.4.1 landscape sensitivity. Section 14.5 Areas of High Amenity including section 14.5.4 on the Grand and Royal Canal corridors. Section 14.6.1 on views to and from the county's waterways including the Grand Canal. Table 14.6 lists views to and from the Grand Canal including Digby Bridge, ref. GC5. Section 14.8.2 Lowland Plains and Boglands Character Area policies including policy LL3. Section 14.8.5 policy on water corridors as Areas of High Amenity, policies WC3, WC4 and

WC5. Section 14.9.2 14.9.2 Water Course and Canal Corridor Views including policies WV1, WV2 and WV4. Section 14.10 landscape objectives including LO5.

5.6 Chapter 19 development management standards. Section 19.6.3 on access to public roads. Section 19.12.2 Development within the Curtilage, Attendant Grounds and Setting of Protected Structures. 19.12.3 (a) Development within view of the Curtilage, Attendant Grounds and/ or Demesne of Protected Structures. Section 19.12.5 on natural heritage.

6.0 Natural Heritage Designations

6.1 The site is situated to the immediate north of the Grand Canal proposed Natural Heritage Area (pNHA), site code 002104.

6.2 The following Natura 2000 sites are within 15km of the proposed development:

Site	Site Code	Distance to Development site (km)
Ballynafagh Bog SAC	000391	c. 5 km north west
Pollardstown Fen SAC	000396	c. 12.3 km south west
Redbog Kildare SAC	000397	c. 13.5 km southeast
Ballynafagh Lake SAC	001387	c. 5 km north west
Mouds Bog SAC	002331	c. 7.5 km south west

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The appeal is submitted by Vincent JP Farry and Co. Ltd, planning and development consultants, on behalf of the applicant. The main points made may be summarised as follows.

7.1.2. Nature and Purpose of Development:

- The applicant seeks to improve the quality of the land to facilitate agricultural activity. The site is under used farmland with no outstanding physical features. Drainage at the site is severely impaired, as a result of the land being low-lying and of high clay content, with widespread ponding and a maximum of 150-200mm topsoil depth. The site is therefore unsuitable for any form of tillage. The current use of the site by the applicant is irrelevant as the aim of the development is to improve the land for future agricultural use.
- The site is not immediately proximate to any designated Natura 2000 sites.
- The soil and stones to be imported to the site would generally be drawn from development sites, chiefly in central and north Co. Kildare and especially from lands within the adjacent large growth towns of Newbridge and Naas.
- Section 39(4) of the Waste Management Act provides for waste management permits. The Waste management (Facility Permit and Registration) Regulations 2007 (as amended) provide that a waste permit can be issued for operations falling within Part 1 of the Third Schedule, ref. Class 5 thereof.
- The development is a low profile activity of limited duration.
- It is submitted that the Board has granted similar developments in rural areas, ref. PL04.121112 at Rathpeacon, Co. Cork; PL04.229343 at Mourneabbey, Co. Cork; PL18.223997 at Castleblayney, Co. Monaghan; PL31.234224 at Ballindud, Co. Waterford. Kildare County Council permitted a land reclamation development at Curryhills, Prosperous, Co. Kildare, reg. ref. 01/465.
- The PA opposition on principle to the development may stem from third party actions on other land, which are in separate ownership and control, i.e. the Dolly Skip Hire premises.
- The current County Development Plan does not include any presumption against the importation of soil and subsoil where the objective is to improve the quality of the land for agricultural purposes. The Inspector's report on case PL09.211422,

relating to land restoration and the importation of inert fill materials at Blacktrench, Naas, Co.Kildare, did not consider that the development would have adverse impacts on visual amenities or result in a fundamental loss of character or erosion of rural amenity arising from that development.

7.1.3. Visual and Landscape Impacts:

- The site is not within an area designated as having a scenic / visual quality in the current development plan. It is located in the Northern Lowlands landscape character area, designated in the development plan as a low sensitivity landscape.
- The current condition of the site is visually poor. The overall appearance would be vastly improved by the proposed development. There is no evidence that there would be injury to visual amenity from any specific vantage point.
- The visual impact of the development would be confined to the immediate vicinity of the site, due to the undulating nature of the topography. The entire site is set well back from local road L-2004 and the development would not be visible from the road. The Board attached weight on the low visual impact nature of such landfill activities in appeal ref. PL18.223997. The Board also considered localised visual impacts to be acceptable in the appeal ref. PL31.234224.
- The protected structure Digby Bridge is c. 200m from the closest point of the development, with the majority of the land being further away up to 350m distant. The appeal refutes the likelihood of any heritage related impacts.

7.1.4. Residential Amenity:

- There is no difference between the current proposal and that permitted on the adjacent site under 06/653 with regard to impacts on residential amenity. None of the occupiers of the closest dwellings oppose the development. The rural area is a

working environment. The development would generate minimal noise and would be temporary in nature.

7.1.5. Water Quality and Ecological Impacts:

- The proposed fill material comprises solely of soil and stone of a type which falls within entry no. 17 05 04 in the European Waste Catalogue, a classification which distinguishes between different waste streams. Inert matter of this type is generally considered to be less harmful to the environment than many other types of waste.
- The principle of infilling in rural areas using soil and stones has been endorsed in several previous appeals including PL18.223997, PL31.234224, PL20.210394.
- The development would have a minimal impact on drainage due to the type of material to be deposited. The inspector's reports of PL09.204461 and PL22.218827 reached similar conclusions regarding this type of development. A hydrological assessment is submitted with the appeal. This states that the drainage of the site is currently severely impaired due to low lying topography and low permeability clay rich subsoil, resulting in ponding at the ground surface. The importation of higher quality soil material would improve the ability of the ground to percolate rainfall, reducing ponding. The development would improve drainage conditions at the site and there would be no interaction with or alterations to drainage conditions in the third party land around the site.
- The appeal is accompanied by a NIS and a Hydrological Assessment, which consider potential impacts on the salmonid River Liffey. These conclude that the risk associated with such potential impacts can be reduced to a negligible level through the implementation of proposed suitable mitigation / preventative measures. The applicant agrees to implement the recommended measures.
- The NIS identifies a risk of the spread of invasive species but states that this risk can be reduced to a negligible level with the implementation of suitable

mitigation / preventative measures. Appendix C of the appeal comprises an invasive plant species management and control plan.

7.1.6. Roads Issues:

- The site is served by a longstanding entrance off a relatively linear section of the carriageway. While the PA opposed the use of the site access for landfill purposes in application reg. ref. 03/653, it later endorsed the safe use of this entrance as part of a haulage business in reg. ref. 06/2713.
- The existing skip hire business to the north of the site is in the process of relocating elsewhere.
- The Roads report on file did not recommend refusal but sought further information on the site access. A sight line drawing is submitted with the appeal.
- The proposed development would require c. 2,750 truck movements over a 3-5 year period, involving between 10 and 18 movements per week into and out of the site, depending on the availability of fill material. Such activity would barely be perceivable to local residents.
- The development includes a wheel wash facility.
- There is no evidence of structural distress on the local road network.

7.2. Planning Authority Response to Appeal

7.2.1. The main points made may be summarised as follows:

- Notwithstanding the additional environmental documentation submitted with the appeal, the PA remains concerned that the development could potentially negatively impact on the amenity value of the Grand Canal.
- Although the site does not have road frontage, the landowner would appear to have road frontage further to the north, which might eliminate the need to access the site through third party lands.

- There are a number of technical concerns associated with the proposal, including the traffic implications for the local road network, impacts on the natural flow and drainage of the lands, particularly given the proximity of the site to a watercourse that flows into the River Liffey and to the Grand Canal, a pNHA.
- Having regard to the level of information submitted with the application, it was considered that the proposal failed to satisfy the PA that:
 - It would not impact adversely on the heritage value of adjoining lands;
 - It would not adversely affect drainage of the subject and adjoining lands;
 - It would not detract from the visual amenities of the area and
 - It would not seriously injure the amenities of the area and property in the vicinity given the additional traffic movements (especially heavy trucks) that would be generated on a structurally distressed local road. The subject site is only c. 40 m from the Grand Canal, listed as an Area of High Amenity in the Kildare County Development Plan section 14.5.

7.3. Third Party Observation by the Estate of Iris Belinda Jacob

7.3.1. A third party observation was submitted by John M. O'Brien Architects, on behalf of the estate of the late Iris Belinda Jacob, who owned the adjacent property to the southeast referred to as Digby Bridge Lock Cottage. The main points made may be summarised as follows:

- The submission questions the nature of the proposed works. It is submitted that drainage conditions at the site could easily be improved by the implementation of an appropriate drainage scheme. The applicant is a relation of the Dolly family and works in the Dolly Skip Hire premises. The development would have commercial benefits beyond the simple improvement of agricultural lands.
- The existing access serves the Dolly Skip Hire operation. The permission for that premises, ref. 06/2713, expired in April 2014. Subsequent attempts to extend and

continue the use failed to achieve planning permission, most recently reg. ref. 13/491. The continued illegal use of the entrance or an extended use to include the proposed development would be contrary to proper development procedures and open to legal challenge. The observer is at a loss as to why the PA has not issued an Enforcement Notice in relation to this unauthorised development. In addition, with regard to the aerial photographs, the extent of the present commercial activity is greater than that permitted under 06/2713. The appeal submission does not acknowledge the illegal nature of the current operation.

- There is an inherent difficulty in establishing the source of the proposed infill material. The assurances of the applicant that it would come from local development sites cannot practically be relied upon. It would be impossible to ensure that the quantity and quality of the materials could be adequately monitored. It would not be financially viable for the applicant to separate the imported soil and stones into acceptable and unacceptable materials.
- The watercourse at the site is physically and volumetrically restricted when it reaches the boundary of Digby Lock Cottage. This restriction results from the design and construction of the canal lock and the keepers cottage. It is directed into a stone culvert that runs beneath the stone shed to the rear of the house, then underground across the property and the cottage itself, crossing under the road and exiting over ground at the other side of the canal bridge to the south east. The enclosed culvert is c. 50m long (map provided).
- The raising of the site would result in alterations to the existing drainage patterns. The natural hydrological flow patterns of this property and the adjacent lands are all in the direction of the existing watercourses that feed into the Liffey catchment area. Concerns that the development would result in additional surface water drainage loading onto the observer's lands, with adverse impacts on the practical use of that land. Also potential impacts on water quality in the well serving Digby Lock Cottage.

- The development could result in considerable short term visual impacts on the observer's property and would be visible from the canal drive and the surrounding area.
- The woodland to the south of the site is part of the Iris Jacob estate and was planted as a natural refuge consisting of a carefully selected mix of indigenous tree and shrub planting that was selected in consultation with the renowned environmentalist Mr. Dick Warner. The purpose was to create an isolated portion of land to encourage a natural bio-diversity adjacent to the linear ecology of the canal hinterland. The area is now occupied by a disparate selection of flora and fauna including otters, foxes, badgers, rabbits, hares, numerous bird species and insects. The development could affect the ecology of this area.
- Additional traffic movements generated by the development could not be satisfactorily accommodated by the existing local road network. There are also concerns relating to opening hours and the enforcement of same.

7.4. Department of Arts, Heritage and Gaeltacht Affairs

7.4.1. Submission by Development Applications Unit 26th October 2016 in response to the appeal. The following points are noted:

- The development is adjacent to a location likely to impact on the Grand Canal pNHA. There is a potential impact related to the spread of invasive species. This concern would be allayed if the mitigation measures outlined in the 'Invasive Species Management and Control Plan' are strictly adhered to.

8.0 Assessment

8.1. I consider the key issues in determining this appeal are as follows:

- Nature, Extent and Principle of Development
- Requirement for EIA

- Drainage Impacts
- Ecological Impacts
- Landscape and Visual Impacts
- Roads and Traffic Issues
- Impacts on Digby Lock Cottage Protected Structure
- Impacts on Residential Amenities

This section should be read in conjunction with the Appropriate Assessment, which is set out separately in section 9.0 below.

8.2. Nature, Extent and Principle of Development

- 8.2.1. The site is currently undeveloped agricultural land, used for sheep grazing. The development involves the importation of approx. 26,000 cubic metres or 52,000 tonnes of soil and stone to the site. The application states that the material “would generally be drawn from development sites within the central and north Co. Kildare area”. This material would be spread on the site, raising the ground level with the stated purpose of making it more suitable for agricultural use. It would be deposited at an even grade over an area of c. 3.85 ha from the high level at the eastern side of the site to the low lying western side, leaving a 6-12m wide strip of land at the stream along the western site boundary. The cross sections submitted, ref. drawing no. 5, indicate a depth of up to 1.56m. The material is to be spread on the land in 3 sequential phases, over a period of 3-5 years. The site is divided into 3 sections north to south (1, 2 and 3). Topsoil stripped from section 1 would be stored in section 2 while material is being deposited in section 1, then reinstated when filling is complete in section 1. Topsoil from section 2 would be stored in section 3 and topsoil stripped from section 3 would be stored in section 2. The existing entrance and laneway serving Dolly Skip Hire is to be used to serve the development. The development involves the creation of a temporary 4.5m wide haul / access road

linking the driveway with the works area, including a truck turning area and wheel wash. The site would be reinstated after completion with the topsoil replaced and reseeded and the temporary road and turning area removed.

- 8.2.2. The site is owned by the applicant Julie Doyle (land registry details are submitted). She intends to apply to Kildare County Council for a Waste Facility Permit for the development under the Waste Management Act 1996 (as amended) and the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended). The application states that the fill material would solely comprise soil and stone, coming within the scope of entry number 17 05 04 of the European Waste Catalogue.
- 8.2.3. The applicant cites several instances where various planning authorities and the Board have permitted similar soil importation and land reclamation activities at rural locations around the country, on the basis that they facilitate agricultural activity. The question arises as to whether the development is a waste management operation (commercial or otherwise), or merely agricultural works. I note the concerns of the Observer that the development would have commercial benefits beyond the improvement of agricultural lands. However, I accept that it is normal practice for landowners to seek to improve the quality of their agricultural lands, by way of raising the level of same, through the importation and re-grading of inert material such as subsoil and topsoil. On this basis, the development is considered to be acceptable in principle at this location.

8.3. Requirement for EIA

- 8.3.1. The submission on file of the DoAHG refers to the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011. The stated purpose of these Regulations is to facilitate compliance with the EIA Directive insofar as it applies to certain categories of on-farm activities, by providing for a statutory screening and consent system for these activities and also providing for EIA for such development if it is likely to have a significant effect on the environment. The

agricultural activities provided for include “land drainage works on lands used for agriculture” where the following applies:

- (a) the area of land exceeds the thresholds set out in Part A of Schedule 1,
- (b) the activity is likely to have a significant effect on the environment,
- (c) the activity is likely to have a significant effect on a European site,
- (d) the activity is likely to impact adversely on an NHA or a nature area, or
- (e) the activity is likely to damage a monument

The thresholds for lands drainage works on lands used for agriculture as set out in Schedule 1 of the Regulations are >15 ha for screening and >50 ha for consent. The proposed development is well below these thresholds.

- 8.3.2. Schedule 5 of the Planning and Development Regulations 2001 (as amended) specifies the following threshold, i.e.:

“Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part I of this Schedule.”

Given that the development involves the disposal of c. 52,000 tonnes of material over a period of 3-5 years, it would not come within the scope of this threshold.

- 8.3.3. It is open to the Board to determine whether a development which is below the specified threshold could be such as to have a significant impact on the environment and whether the submission of an EIS is warranted. Schedule 7 of the 2001 Regulations sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environment relating to the characteristics of the development, the location of the development and the characteristics of potential impacts. These may be considered separately as follows.

8.3.4. Characteristics of Development

The characteristics of the development in relation to the following:

- Size
- Cumulation with other proposed developments,
- Use of natural resources,
- Production of waste,
- Pollution and Nuisances,
- Risk of Accidents having regard to substances and technologies used.

The development involves the disposal of inert material (soil and stone) to the subject site. The applicant is to obtain a Waste Permit from the local authority to carry out the works. I note that the Observer has concerns regarding the source and nature of the material to be deposited at the site, however, these matters would be defined in the Waste Permit and would be regulated under that code. As noted above, the annual average amount of material to be deposited is well below the EIA threshold. While the presence of the Dolly Skip Hire and recycling premises to the north is noted, I also note that there is no permission for any other soil deposition or land reclamation works in the vicinity, therefore there is no significant potential for cumulative impacts. The operation does not appear to involve any substantial use of natural resources that would justify the requirement for EIA. The development does not involve the production of waste. With regard to pollution and nuisances, potential water, air, noise and traffic impacts are assessed in the submitted appeal, Flora and Fauna Assessment and NIS and are discussed below. There is no detail available regarding the risk of accidents, however the materials involved are inert soil and stone. On this basis, I consider that the characteristics of the development are not such as would warrant sub-threshold EIA.

8.3.5. Location of Development

The environmental sensitivity of geographical areas likely to be affected by the proposed development, having regard in particular to:

- The existing land use
- The relative abundance, quality and regenerative capacity of natural resources in the area
- The absorption capacity of the natural environment

The existing use of the site is for agricultural purposes. It is not considered that the proposed activity has an impact on the relative abundance, quality or regenerative capacity of natural resources in the area. With regard to the natural environment, there are potential impacts on two of the categories specified in Schedule 7, i.e. designated 'nature reserves and parks' (the adjacent pNHA) and landscapes of historical, cultural or archaeological significance (Digby Lock Bridge protected structure). Potential impacts on the protected structure are assessed below and are not considered to be significant. With regard to the pNHA, I note the following statement in Chapter 2 of the submitted NIS:

The nature of habitats, species and necessary ecological features present within the footprint of the development does have the potential to support numerous species of conservation concern, including Otter and several Annex IV species, such as bats. The proposed development site is immediately adjacent to one of the most important ecological corridors in the country (the Grand Canal) and is immediately adjacent to a woodland habitat representing a "stepping stone" of woodland.

On this basis, it is considered that the location of the development is of an environmental sensitivity that could warrant a sub-threshold EIS. However, the applicant has submitted a Flora and Fauna Assessment, which considers potential impacts on the pNHA.

8.3.6. Characteristics of potential impacts

The potential significant effects of the development in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to:

- The extent of the impact (geographical area and size of the affected population)
- The transfrontier nature of the impact
- The magnitude and complexity of the impact
- The probability of the impact
- The duration, frequency and reversibility of the impact

Aside from potential water quality impacts, environmental impacts associated with the site are limited to the immediate proximity, i.e. dust/air/noise pollution. Given the relatively limited size and duration of the operation and the type of impacts involved, it is considered that the magnitude and complexity of the impacts would be moderate in terms of pollution to air, surface and ground waters.

8.3.7. Conclusion

To conclude, the nature and extent of the development and associated environmental impacts are generally not such as would warrant a sub-threshold EIA. The development does have the potential to adversely impact important species within the adjacent pNHA, however the applicant has submitted a Flora and Fauna Assessment with the appeal, which considers such impacts. These matters are discussed further below in section 8.5 relating to ecological impacts.

8.4. **Drainage Impacts**

- 8.4.1. The existing drainage regime at the site is outlined in a Hydrological Assessment of the development by Water Wise Environmental, submitted with the appeal. The site

drains from east to west to the stream along the western site boundary, which is a tributary of the River Liffey, flowing northwards c. 2 km to the east. The Grand Canal has no hydrological connection to the site. The EPA River Water Quality records from 2004-2015 list a Q rating of 3-4 Moderate Status at Castlekealy 2.2m south of Fleshtown (upstream) and a Q-rating of 4 Good at Alexandra Bridge, Clane downstream of the site. There are no historical flood records for Fleshtown. The Hydrological Assessment is based on a site survey carried out on 12th May 2016, including 7 no. trial pits. The site specific data found that the higher ground at the eastern side of the site is largely underlain by a very shallow topsoil which overlies low permeability clay. The lower, western part of the field is waterlogged. The limestone bedrock underlying this area is classified by the GSI as a Locally Important Karstified Aquifer (Lk). The GSI National Interim Vulnerability map indicates aquifer vulnerability as High (H) along the higher eastern side of the site and Moderate (M) along the lower ground to the west. The site does not coincide with any drinking water or source protection areas, however there are likely to be private wells in the vicinity.

- 8.4.2. I note the submission of Inland Fisheries Ireland to the PA, which states that the River Liffey is one of the foremost salmonid fisheries in this region. The development would have a potential to cause the release of sediments and pollutants into the adjacent stream, which could have a significant negative impact on the fauna and flora of this sensitive and important freshwater system. The Hydrological Assessment identifies a risk of sediment laden run-off during topsoil excavation or infilling activity. The phased approach is proposed to minimise this risk, also mitigation measures comprising avoidance of topsoil stripping during heavy rainfall; only short term storage of temporary piles of excavated topsoil; stockpiling of topsoil to take place on the eastern side of the site only, away from the adjacent stream. I am satisfied that these measures would adequately reduce the risk of water pollution from sedimentation. I note the additional mitigation measures proposed to reduce

risks of groundwater contamination from hydrocarbons or spills from the chemical toilet, these are considered acceptable.

8.4.3. The Observer submission states concerns that the proposed change in ground levels would result in alterations to existing drainage patterns in the area, with additional surface water draining to the Observer's lands and potential impacts to the well on the Observer's property. I note that there is no history of flooding at this location and that the stated aim of the development is to improve drainage conditions at the development site. The Hydrological Assessment states that the importation of higher permeability material would improve the ability of the soil to allow rainfall to percolate with a positive impact on the natural drainage regime at the site. This point is accepted.

8.4.4. To conclude, it is considered that the development would not result in significant adverse impacts on water quality or result in flooding, subject to the satisfactory implementation of the proposed mitigation measures.

8.5. **Ecological Impacts**

8.5.1. The appeal submission includes a NIS regarding potential effects on the Natura 2000 network and an 'Assessment of Flora and Fauna' at the development site. Both are dated May 2016 and were prepared by a qualified ecologist (credentials provided), Forest and Environmental Research Services, based on site surveys carried out on May 9th and 17th 2016. The following assessment is based on those documents.

8.5.2. The site is to the immediate north of the Grand Canal pNHA, which is identified as an important ecological corridor in the NIS and Flora and Fauna Assessment. The predominant habitat at the development site is Wet Grassland, which is of high local ecological significance, supporting a wide range of native species, and is of particular importance to foraging bats. The main potential ecological impacts

identified relate to invasive plant species, ornithological impacts, aquatic species, bats impacts and other faunal impacts. There were no habitats listed in Annex I or species listed in Annex II of the EU Habitats Directive found at the development site. I note that section 4.3 of the Flora and Fauna Assessment states that additional surveys would be necessary to gain a comprehensive account of the flora and fauna present at the site throughout the year. The relevant impacts may be considered separately as follows.

8.5.3. Invasive Plant Species

No invasive plant species listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations of 2011 were found within the development site. However, the Flora and Fauna Assessment identifies a significant potential impact associated with the importation of invasive alien plant species to the site, related to the large quantity of material involved and to the movement of HGVs to and from the site, particularly given the unknown origin of the source material. This matter also arises in the NIS. The species Japanese Knotweed, Himalayan Balsam and Giant Hogweed are identified as being of particular significance in this case as they are capable of inflicting a high degree of ecological damage in a short timeframe. The risk is amplified in the context of the site's proximity to the Grand Canal pNHA and wildlife corridor, with the potential that alien species could be spread through the medium of water. In addition to impacts on flora and fauna, alien invasive plant species can impact on water quality through their effects on erosion and sedimentation.

The Flora and Fauna Assessment strongly recommends the implementation of a detailed invasive plant species management and control plan, which is submitted as Appendix B of the NIS. The stated aims of the plan are to prevent the importation of any propagules of invasive species; to comprehensively monitor the site to identify any invasive species if imported; to eradicate any populations of such species before

they become established if they are inadvertently imported to the site and to ensure that any risks to the ecological integrity of the Natura 2000 network are reduced to negligible levels. The proposed measures to achieve these objectives mainly comprise the surveying of all sites from which material is to be sourced for evidence of the relevant species during the April-September period; twice annual monitoring of the development site (late April / early May and September) and the implementation of strict on-site biosecurity measures including a wheel wash within a quarantine zone of the site. It is submitted that these measures would reduce the risks regarding the importation, spread or dispersal of alien invasive species to negligible levels.

I note the DoAHG submission on file, which states that concerns about potential impacts associated with invasive species would be allayed if the proposed mitigation measures are strictly adhered to. I concur with this assessment.

8.5.4. Ornithological Impacts

Bird surveys carried out included a Kingfisher survey at the Grand Canal and a breeding wader survey at the site. The assessment found several amber listed bird species at the site. Given the limited duration of the site surveys, it is likely that there are numerous other species of conservation concern present at other times of the year, including over-wintering birds and migratory species. No Kingfisher or water species were observed. The hedgerows and adjacent woodland are almost certainly of high importance to breeding birds and provide a 'stepping stone' for bird species. The Flora and Fauna Assessment does not identify any specific potential ornithological impacts. Given the nature of the development, it is assumed that these would principally relate to disturbance during operational works, particularly during the nesting period. The flora and fauna assessment also states that the habits present provide an important resource for over-wintering birds. In particular, the unusual nature of the hedgerow associated with the adjacent watercourse (Alder and Willow) provides a food source for seed-eating bird species in winter. Subject to the

retention of the existing hedgerows and with regard to (i) the setback from the adjacent stream and pNHA and (ii) the temporary and phased nature of the development, it is considered that there are unlikely to be significant ornithological impacts such as would warrant a refusal of permission. However, the limited nature of the available bird survey information is noted.

8.5.5. Aquatic Species

The Grand Canal and associated feeder streams are known to support significant populations of the White-clawed crayfish, an Annex II / IV species. However, the development site is not hydrologically linked to the Grand Canal and the habitat occurring within and immediately adjacent to the site is not suitable for this species due to the heavily silt-laden nature of the adjacent watercourse. There were no indications of Otter during site surveys. It is unlikely that Otter ever forage at the adjacent watercourse given the presence of better quality habitat nearby at the Grand Canal, therefore potential impacts do not occur. The watercourse is suitable for breeding frogs. As discussed above with regard to drainage issues, it is considered that the development would not have any adverse impacts on the water quality in the adjacent stream, or consequent impacts on the salmonid River Liffey, subject to the satisfactory implementation of the proposed mitigation measures.

8.5.6. Bats Impacts

The Grand Canal is an important foraging and commuting corridor for numerous bat species. Species more sensitive to disturbance such as Daubenton's Bat, Natterer's Bat and brown Long-eared bat are likely to flourish along this relatively undeveloped section of canal. The hedgerows at the site and the area of transitional woodland to the south of the site include several larger ivy-covered trees that provide potential bat foraging and roosting habitat. They also provide a strong stepping stone of habitat adjacent to the Grand Canal and, according to the Flora and Fauna Assessment, are almost certainly of high local importance with regard to bats. A

fixed bat detector recorded nocturnal bat activity at the site in the period May 9th – 17th 2016. While bat activity is likely to have been limited during the survey period due to low temperatures, the available evidence indicates that there are probably several roosts of a number of species in the immediate vicinity. The species recorded comprise Leisler's Bat, Soprano Pipistrelle, Common Pipistrelle and Natterer's Bat. The increased disturbance associated with the proposed development could have a negative impact on the use of the adjacent hedgerow and woodland habitats by bats.

The Flora and Fauna Assessment states that the period of time available to carry out bat surveys at the site was not sufficient to gain a comprehensive account of the usage of the habitats present within and adjacent to the site. A season long assessment of bat usage is necessary to determine the importance of the site to the local bat population. Given the lack of available information, no conclusion can be reached regarding potential bat impacts or associated mitigation measures.

8.5.7. Other Faunal Impacts

The site surveys found a badger sett in the hedgerow on the eastern site boundary. No current signs of use were observed, it is possible that the sett is being used on an 'outlier' basis. Any development at the site would impact on this sett and a derogation from the NPWS will be required whether the sett is occupied or not.

Willow scrub is present in the wetter parts of the site. This habitat is particularly important to invertebrates, especially moths and butterflies.

8.5.8. Ecological Impacts Conclusion

According to the Flora and Fauna Assessment, the development would replace a relatively biodiverse but agriculturally unproductive habitat with a less diverse but more productive system. I note that the Assessment recommends further surveys

and monitoring comprising further vegetation surveys; an extended survey of the badger sett (at least 2 months); a bat monitoring programme and winter bird surveys. It is considered that there is insufficient information available to conclude that the development would not have adverse ecological impacts, particularly given the location of the site adjacent to the Grand Canal pNHA, which has been identified as an important ecological corridor. In particular, there is significant potential impact on bats that has not been fully assessed.

I note the conclusion of the AA below that the development would not be likely to have a significant direct effect individually or in combination with other plans or projects on the integrity of the European sites within 15 km.

8.6. Visual and Landscape Impacts

- 8.6.1. The site is within the Northern Lowlands landscape character area as per development plan map 14.1 The landscape is classified as being of low sensitivity, robust, tolerant to change, and with the ability to accommodate development pressure. The site is within a designated Area of High Amenity associated with the Grand Canal. Areas of High Amenity are classified because of their outstanding natural beauty and/or unique interest value and are generally sensitive to the impacts of development. Development Plan section 14.5.4 states:

The canal corridors and their adjacent lands have been landscaped and enhanced along the sections where the canals flow through urban areas. Canal locks are distinctive features of these water corridors. The smooth terrain, generally gentle landform and low canal bank grassland that characterise the canal corridors, allow vistas over long distances without disruption, where the canal flows in a straight-line direction. Consequently, development can have a disproportionate visual impact along the water corridor and can prove difficult for the existing topography, to visually absorb development. The occurrence of natural vegetation, coniferous and mixed plantations adjacent to the water corridors can have shielding and absorbing

qualities in landscape terms, by providing natural visual barriers. Canal corridors are potentially vulnerable linear landscape features, as they are often highly distinctive in the context of the general landscape. In some cases landscape sensitivities may be localised or site-specific.

The view from Digby Bridge on the Grand Canal is listed in development plan table 14.6, ref. GC5. There are no scenic routes in the vicinity. Development plan policy WC 3 is to control development that will adversely affect the visual integrity of distinctive linear sections of water corridors and river valleys and open floodplains.

- 8.6.2. Having inspected the site and viewed it from several vantage points in the vicinity, I consider that the development would not have any adverse impacts on views from the Grand Canal. It is set back at an angle from the canal bank and is screened from the canal by two hedgerows. The site was inspected in early November and was only partially / intermittently visible, even in the absence of summer vegetation. The site is also screened from other surrounding areas by hedgerows and is not visible from the local road L-2004 to the east. The visual impacts of the development would be limited to local views, particularly from within the Dolly premises. I am satisfied that the development would not have any undue adverse visual or landscape impacts on any protected views / vistas or on the surrounding area.

8.7. Roads and Traffic Issues

- 8.7.1. The development is to be accessed via the existing laneway from the L-2004 to the Dolly Skip Hire premises, with the creation of a new temporary access road and turning area at the development site. The application states that the activity would involve c. 2,750 HGV movements in total, based on the 3-5 year timeframe and amount of material involved, or c. 10-18 HGVs accessing the site per week. There is potential for cumulative traffic impacts associated with the Dolly Skip Hire and commercial recycling facility, however no information is provided regarding current vehicular movements associated with the existing premises. The access to Dolly

Skip Hire was permitted under reg. ref. 06/2713. The application states that the facility is in the process of moving elsewhere and I note that reg. ref. 06/2713 has expired. No firm evidence is submitted in support of the statement and potential traffic impacts must be considered on the basis of existing circumstances. No traffic impact analysis or traffic management study have been submitted. The L2004 is narrow at this point, there is a junction with another local road immediately across from the existing entrance and there are several vehicular entrances to residential properties in the immediate vicinity. Drawing no. 4 submitted with the application indicates sightlines of 90m in both directions, i.e. limited sight distances in a rural area where the general speed limit applies. There little scope to improve sight distances given the presence of residential properties to the north and south of the access. I note that adjacent application reg. ref. 08/2169 was refused on the basis of inadequate sight distances. Overall, with regard to (i) potential cumulative impacts; (ii) limited sight distances at the existing entrance; (ii) the presence of a junction immediately across the road from the existing entrance and (iv) the lack of traffic impact analysis or traffic management proposals, I am not satisfied that the traffic generated by the development would not result in a traffic hazard.

- 8.7.2. Refusal reason no. 2 refers to the potential for further deterioration of an already structurally distressed local road network as a result of HGV traffic generated by the development. Drawing no. 7 submitted with the application indicates routes that may be used to access the site from surrounding areas. I note that Digby Bridge to the immediate south is a narrow, hump back stone bridge with only a single carriage way width. The local road network, including the proposed routes to and from the site, generally comprises narrow local roads that are unsuitable for HGV traffic. I accept that the proposed wheel wash facility at the development site would reduce potential structural impacts on local roads, however I concur with the judgement of the planning authority that the local road network is generally unsuitable for HGV traffic movements, particularly in the context of potential cumulative impacts as discussed above.

8.7.3. To conclude, it is considered on this basis that the development would result in a traffic hazard due to the generation of HGV traffic on an unsuitable local road network.

8.8. Impacts on Digby Lock Bridge Protected Structure

8.8.1. Digby Bridge and associated Lock 16 at the Grand Canal to the south of the site is listed as a Protected Structure in the current County Development Plan, ref. B14-46. It is also included in the National Inventory of Architectural Heritage (NIAH), ref. 11901403, where it is listed as being of architectural, historical, social and technical categories of special interest and rated as being of regional importance. The bridge is a narrow, stone hump back bridge over the canal. It dates to c. 1795 according to the NIAH description, which notes that it is one of a group of bridges on the Co. Kildare section of the Grand Canal. The NIAH appraisal concludes that the bridge and lock group is of considerable historical and social significance as a reminder of the canal network development in Ireland, which brought about many technical advances and encouraged the development of commercial activity in the late eighteenth century.

8.8.2. With regard to the above assessment of visual and landscape impacts, I do not consider that the development would have any significant adverse impacts on the setting of this protected structure. I note the concerns of the PA regarding potential structural impacts on the local road network related to HGV traffic generated by the development, including the canal bridge.

8.9. Impacts on Residential Amenities

8.9.1. Potential impacts on residential amenities relate to noise, dust and general disturbance associated with vehicular movements. There are a total of 6 no. residential properties in the immediate vicinity, including properties within the Dolly family landholding and Digby Lock Cottage. The site is located in a rural area generally characterised by scattered residential development. The application does

not provide any information regarding potential noise volumes, etc. However, given the limited duration and scope of the development, the intervening distance to individual residential properties and the inert nature of the material involved, it is not considered that the development would result in significant adverse impacts on residential amenities such as would warrant a refusal of permission.

8.10. Conclusion

- 8.10.1. The proposed works to improve agricultural lands are acceptable in principle at this location. The development is well below the relevant EIA threshold. It is generally considered that characteristics of the development, the location of the development and the characteristics of potential impacts are not such as would warrant sub-threshold EIA. Based on the information submitted, it is not considered that the development is likely to have significant adverse ecological impacts by way of impacts on water quality or impacts on flora and fauna in the vicinity of the site, subject to the strict implementation of the proposed mitigation measures including the invasive alien plant species management plan. However, I note that the submitted NIS and Flora and Fauna Assessment are based on limited survey information and therefore do not reach firm conclusions regarding potential ecological impacts, including bird and bat species. This matter is of particular concern given the location of the site adjacent to the Grand Canal pNHA, an important ecological corridor, and the proximity of an area of transitional woodland, which is an important 'stepping stone' to the pNHA.
- 8.10.2. Having inspected the site and the surrounding area, I am satisfied that the development would not have any significant adverse impact on residential, landscape or visual amenities, or on the setting of the adjacent protected structure Digby Bridge and Lock 16, with regard to the relevant County Development Plan policies and objectives.

- 8.10.3. The application provides limited information regarding potential HGV movements associated with the development, particularly potential cumulative impacts associated with the adjacent skip hire and commercial recycling facility. The site is located in a rural area with narrow local roads that are unsuitable for HGV traffic, including a junction at the site entrance and a single lane width carriageway at Digby Bridge nearby to the south, which is a Protected Structure. I therefore consider that the development would result in a traffic hazard and result in adverse impacts on the local road network, including the Protected Structure Digby Bridge.
- 8.10.4. It is of course open to the Board to request the applicant to submit additional assessment of potential ecological impacts under section 132 of the Planning and Development Act 2000 (as amended). However, given the concerns about traffic impacts, refusal is recommended.

9.0 Appropriate Assessment

- 9.1. The obligation to undertake AA derives from Article 6(3) and 6(4) of the E.U. Habitats Directive. AA involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid, reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives. This section of the report considers the likely significant effects of the proposal on the European sites with each of the potential significant impacts assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same.
- 9.2. The applicant submitted a NIS with the grounds of appeal, dated May 2016, which is based on flora and fauna surveys carried out at the site on the 9th and 17th May

2016. The following assessment is based on that document and on the ‘Flora and Fauna Assessment’ of the development site, which was also submitted with the appeal. Although the available information has some limitations, it is considered to be sufficient to allow the Board to carry out AA.

10.0 The Project and Its Characteristics

10.1.1. NIS Chapter 2 describes the site and its surroundings and the proposed development, as set out in section 2.0 above.

10.2. The European Sites Likely to be Effected (Stage 1 Screening)

10.2.1. The Stage 1 AA (screening) is set out in NIS Chapter 2. The DoEHLG document ‘Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities’ (2010) recommends that a distance of 15 km is used to identify European sites that could potentially be affected by a development. The Source-Pathway-Receptor model can also be used to identify sites which could potentially be affected by a development, taking into account the precautionary principle.

10.2.2. The submitted NIS lists 5 no. designated sites within 15 km, as set out in the table below.

Site Name and Code	Distance from development site	Conservation Objectives
Ballynafagh Bog SAC 000391	5.2 km northwest	The conservation objectives for the SAC generally relate to the maintenance of a favourable conservation condition of the following habitats listed on Annex I of the E.U. Habitats Directive (* indicates priority habitat): Active raised bogs* [7110] Degraded raised bogs still capable of

		<p>natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p>
Pollardstown Fen SAC 000396	12.1 km south west	<p>The conservation objectives for the SAC generally relate to the maintenance of a favourable conservation condition of the following habitats and species listed on Annex I / II of the E.U. Habitats Directive:</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p><i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p>
Red Bog, Kildare SAC 000397	13.8 km south east	<p>The conservation objectives for the SAC generally relate to the maintenance of a favourable conservation condition of the following habitat listed on Annex I of the E.U. Habitats Directive:</p> <p>Transition mires and quaking bogs [7140]</p>
Ballynafagh Lake SAC 001387	6.8 km northwest	<p>The conservation objectives for the SAC generally relate to the maintenance of a favourable conservation condition of the following habitat and species listed on Annex I / II of the E.U. Habitats Directive:</p> <p>Alkaline fens [7230]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p> <p><i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]</p>

Mouds Bog SAC 002331	7.7 km south west	<p>The conservation objectives for the SAC generally relate to the maintenance of a favourable conservation condition of the following habitats listed on Annex I of the E.U. Habitats Directive (* = priority):</p> <p>Active raised bogs* [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p>
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10.2.10. The development does not entail any land take, habitat alteration, etc. within any Natura 2000 site and therefore there are no direct effects on any such site. NIS section 2.4 considers source-pathway-receptor linkages. The site is immediately adjacent to a watercourse and to the Grand Canal. However, the SACs within 15 km are not hydrologically linked to the site being either upgradient or in a different catchment. There are potential impacts on local water quality associated with sedimentation and contamination from soil pollutants such as hydrocarbons. There is also a significant risk that soil imported to the site could contain propagules of Alien Invasive Plant Species, which could spread from the site through the adjacent watercourse and the Grand Canal. These species can have direct impacts on native flora and fauna and indirect impacts on water quality through their effects on erosion and sedimentation. NIS section 2.4.2.4 states the following in relation to potential secondary effects:

“ The location (or quantity of material to be extracted) from which the imported soil / stones will be excavated / sourced does not appear to have been definitively decided. It is necessary to know the exact location, quantity and nature of the material to be imported to the site to ensure that there will be no impact of the removal of material on the Natura 2000 network.”

The NIS concludes that there is potential for secondary effects on all of the 5 no. SACs within 15 km. All of the sites are therefore included in the Stage 2 AA, taking into account the precautionary principle. This conclusion is accepted.

10.3. Likely Significant Effects on Designated Sites (Stage 2 Appropriate Assessment)

10.3.1. NIS section 3.3 identifies the following potential effects on designated sites:

- Potential changes to hydrology / drainage and contamination of surface / ground water.
- Potential spread of propagules of invasive species associated with the development.
- Potential impacts on woodland and hedgerow habitats which act as 'stepping stones' and 'ecological corridors'.
- Potential for secondary and cumulative impacts associated with the removal of material to be imported to the site.

10.3.2. The following points are noted from the NIS document:

- The water course along the western site boundary is not suitable for white clawed crayfish in its current condition. The diversity of the water course is limited owing to heavy sedimentation.
- There is a badger sett in the hedgerow at the eastern site boundary.
- The hedgerow and treeline habitats at the site are of high local ecological importance as they represent significant commuting / foraging corridors for numerous groups of fauna (bats birds, etc.), in addition to providing habitat for roosting / nesting / setts / dens, etc. Given the connectivity of the hedgerow network with the Grand Canal, a major ecological corridor, and the presence of

rich foraging habitat, the hedgerows associated with the site are almost certainly of high local importance to the bat population.

- There is some willow scrub along the wetter fringes of the site. This is particularly important for invertebrates, especially moths and butterflies.
- There was no evidence of Annex I habitat, Annex II/IV species (Habitats Directive) or Annex I bird species (Birds Directive).
- There is a significant risk of the importation to the site of propagules of alien Invasive plant species and of the spread of same due to the location of the development site immediately adjacent to a watercourse and to the Grand Canal

10.3.3. NIS section 2.4.3 deals with cumulative impacts / in combination effects. It lists relevant plans and projects and concludes that there is potential for cumulative effects on water quality / hydrology where there are requirements to provide for new infrastructure, also that there are potential secondary effects associated with the importation of soil and stone to the development site.

10.4. **Mitigation Measures and Residual Effects**

10.4.1. The proposed mitigation measures as outlined in the NIS comprise:

- Comprehensive hydrological assessment of the site.
- Invasive alien plant species control and management plan.
- Comprehensive flora and fauna surveys to ascertain the ecological importance of habitats at the development site.

These mitigation measures are considered to be reasonable, practical and enforceable.

10.5. AA Conclusion

- 10.5.1. The NIS does not definitively conclude that the development would not have any effects on designated sites within regard to their conservation objectives. It states that the development involves the removal of habitat with potential to provide ecological services through 'stepping stones and ecological corridors'. The data available is currently insufficient to fully assess the ecological importance of habitats and species present. In addition, there is potential for secondary and cumulative impacts associated with the sourcing of material for the development. The NIS recommends that the exact location, quantity and nature of source material must be defined such that the source sites can be taken into account in the AA process.
- 10.5.2. Having regard to the submitted Hydrological Assessment and invasive alien plant species control and management plan, as discussed in above sections 8.4 and 8.5, I am satisfied that the development would not have any significant adverse ecological impacts by way of impacts on water quality or of introduction of invasive plant species, subject to the satisfactory implementation of the proposed mitigation measures. Consequent related effects on the conservation objectives of designated sites can therefore be ruled out. I accept that there is limited available information on potential birds and bats impacts, however the conservation objectives of designated sites within 15km of the development do not include any bird or bat species. In addition, given the nature and scale of the proposed development and the intervening distances, I am satisfied that the development would not be likely to have a significant direct effect individually or in combination with other plans or projects on the integrity of the European sites within 15 km. The comments on file of the DoAHG are also noted in this regard. Potential effects on the Natura 2000 network, as considered in the NIS, are therefore limited to secondary / indirect impacts associated with the sourcing of the material to be deposited in the development, with regard to the source-pathway-receptor model. However, given that the material to be imported is inert soil and stone only and with regard to the limited duration and scale

of the development, it is considered that this aspect of the development is not likely to have any significant effect either individually or in combination with other plans or projects on any European site.

11.0 Recommendation

11.1. I recommend that planning permission should be refused, for the reasons and considerations set out below.

12.0 Reasons and Considerations

1)

The development would generate a significant volume of traffic, including a high number of movements by heavy goods vehicles, which the road network in the vicinity of the site is not capable of accommodating safely due to the restricted width and capacity of the L-2004 and in the vicinity of the site and the restricted capacity of Digby Bridge. In addition, proposed would result in additional traffic turning movements the development would generate on a substandard road at a point where sightlines are restricted in both directions. The proposed development would, therefore, give rise to traffic congestion and would endanger public safety by reason of traffic hazard.

Sarah Moran
Senior Planning Inspector
15th November 2016