



An  
Bord  
Pleanála

## Inspector's Report PL02.248033

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<b>Development</b>	Proposed waste processing and transfer facility and associated works (EIS and NIS submitted with application).
<b>Location</b>	Lismagratty and Corranure, Cootehill Road, Cavan, Co. Cavan.
<b>Planning Authority</b>	Cavan County Council.
<b>Planning Authority Reg. Ref.</b>	16/136
<b>Applicant(s)</b>	Wilton Waste Recycling Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Cavan Better Waste Management
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> May 2017
<b>Inspector</b>	Patricia Calleary

## Contents

1.0	Introduction .....	4
2.0	Site Location and Description.....	4
3.0	Proposed Development.....	4
4.0	Planning Authority Decision .....	5
4.1.	Planning Decision .....	5
4.2.	Planning Authority Reports .....	5
4.3.	Prescribed Bodies.....	6
4.4.	Third Party Observations .....	7
5.0	Planning History .....	7
6.0	Policy Context .....	8
6.1.	National Waste Policy and Legislative Context .....	8
6.2.	National Planning Policy .....	9
6.3.	Regional Waste and Planning Policy .....	9
6.4.	Local Planning Policy .....	10
6.5.	Natural Heritage Designations .....	11
7.0	The Appeal.....	12
7.1.	Grounds of Appeal .....	12
7.2.	Applicant's Response.....	12
7.3.	Planning Authority Response .....	14
7.4.	Observations .....	14
8.0	The Oral Hearing.....	14
9.0	Planning Assessment.....	14
9.1.	Introduction .....	14
9.2.	Procedural and Legal Issues.....	15

9.3.	Development Need and Benefit .....	19
9.4.	Design, layout and scale .....	23
9.5.	Traffic and Transportation .....	23
9.6.	Environmental Issues.....	24
9.7.	Other (Development Contributions).....	30
9.8.	Conclusion on proper planning and sustainable development .....	30
10.0	Environmental Impact Assessment.....	31
10.1.	Introduction .....	31
10.2.	Environmental Impact Statement.....	31
10.3.	Environmental Impact Assessment.....	32
10.4.	Conclusion on Environmental Impact Assessment.....	40
11.0	Appropriate Assessment.....	40
11.1.	Introduction .....	40
11.2.	Appropriate Assessment.....	40
	Appropriate Assessment – Stage 1 .....	40
11.3.	Stage 1 – Screening Conclusion.....	43
	Appropriate Assessment Stage II – NIS .....	43
11.4.	Appropriate Assessment Conclusion .....	45
12.0	Recommendation .....	45
13.0	Reasons and Considerations .....	45
14.0	Conditions .....	49

## **1.0 Introduction**

- 1.1. Cavan County Council issued a decision to grant permission to Wilton Waste Recycling Ltd. in respect of a waste processing and transfer facility for mixed waste streams, up to a maximum capacity of 50,000 tonnes. A third-party appeal was received by the Board from Cavan Better Waste Management and on consideration of a request by the third party, an oral hearing was held in relation to the appeal case.

## **2.0 Site Location and Description**

- 2.1. The site, with a stated area of 2.1 hectares, is located at Lismagratty and Corranure, adjacent to the Cavan-Cootehill road (R188), c.3km from Cavan town centre in Co. Cavan. It is part of a wider landholding owned by Cavan County Council. The site itself comprises an uninhabited house with a domestic garage and a surrounding field currently in grassland.
- 2.2. Corranure landfill (currently closed) lies to the west of the site. A civic amenity and recycling centre, managed by McElvaney Waste and Recycling operates at the landfill site. An existing waste facility, McBreen Environmental services headquarters and industrial unit lie to the north. Access to the site is from the south off the (Cavan to Cootehill) R188 regional road.

## **3.0 Proposed Development**

- 3.1. The development proposal is for the construction of a waste processing and transfer facility. The main features of the development would entail the demolition of both the existing uninhabited dwelling house and domestic garage, the construction of a steel framed waste processing and transfer building, external yards, 2 no. weighbridges and weighbridge kiosk, an administration building incorporating staff welfare facilities, parking and ancillary site development works.
- 3.2. It is stated that the facility would accept various forms of waste up to 50,000 tonnes per annum and the primary focus would be the processing of mixed wastes to produce solid recovered fuel (SRF) from commercial, industrial and bulky waste sources. The SRF would be used as a fuel source within Ireland's cement industry

as a replacement for fossil fuels. At the oral hearing, it was stated by representatives of the applicant that waste which would not be processed into SRF would be transferred elsewhere for recycling, including some which would be exported, with some residual waste going to landfill estimated to be no greater than 15%.

- 3.3. The planning application was submitted by Boylan Engineering. It was accompanied by an Environmental Impact Statement (EIS) prepared by Boylan Engineering and a Natural Impact Statement (NIS) prepared by FERS Ltd. A planning report prepared by ESB International was also included. Further information was received on the application which was deemed significant and was re-advertised.

## 4.0 Planning Authority Decision

### 4.1. Planning Decision

- 4.1.1. The planning authority decided to **grant permission** on the 24<sup>th</sup> January 2017 for the above described development subject to 18 conditions, the following of note:

C6 – No external storage of materials;

C7 – Requirement for waste facility permit;

C12 – Proposal shall not become operational until the access (road junction with the R188 regional road) has been improved;

C13 – Archaeology pre-development testing;

C16 – Landscaping;

C17 – Annual intake shall not exceed 50,000 tonnes per annum;

C18 – Proposal for an environmental management system.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Report

Following initial assessment and noting concerns raised in the third-party submissions, the planning officer recommended seeking further information around matters relating to mapping, geophysical survey, photomontage, sensitive receptors, water supply, noise, bat survey, wastewater and surface water disposal, IFI

requirements, quarantine area, asbestos, odour and hydrology & hydrogeology. Following consideration of the further information received, the planning officer concluded that subject to conditions, the proposed development would be in accordance with the proper planning and sustainable development of the area. The Planning Authority carried out an Environmental Impact Assessment and were satisfied that subject to compliance with the mitigation measures set out in the EIS and other conditions, the development would not have significant adverse effects on the environment. The Planning Authority also concurred with the outcome of the Stage II Appropriate Assessment received with the application. A recommendation to **grant permission** was put forward.

#### 4.2.2. Other Technical Reports

- **Environment Section** – Concerns were initially raised about monitoring and difficulties which would arise in differentiating between sources of pollution in the area which would be potentially served by multiple waste management facilities and recommended seeking further information. Following consideration of further information received, the Environment section recommended inclusion of planning conditions in the event of a grant of permission;
- **Waste Management Section** – Further information was initially sought; no objection raised to the development and conditions were recommended;
- **Road Design** – No objection, required carrying out of measures.

#### 4.3. Prescribed Bodies

- **An Taisce** – An evaluation is required on site selection and justification provided in the EIS and the mitigation of traffic and residential amenity impact;
- **Inland Fisheries Éireann** – No objection raised, conditions recommended;
- **DAHG (now DAHRRG)** – Requests further information on archaeology (including pre-development testing and a geophysical survey).

#### 4.4. Third Party Observations

40 third-party submissions were initially received by the Planning Authority and 2 further submissions were received on the further information lodged.

### 5.0 Planning History

#### 5.1. Appeal site

5.1.1. There is no planning history associated with the appeal site.

#### 5.2. In the vicinity

5.2.1. Permission has been granted on the site to the north (McBreen Environmental site) summarised as follows:

- **11/326** – permission **granted** for vehicle maintenance and storage unit;
- **13/188** – permission **granted** for change of use of vehicle maintenance and storage unit to vehicle maintenance and waste handling facility;
- **14/212** – permission **granted** to erect storage unit attached to existing office unit (previous planning ref: 11/326);
- **15/142** – permission **granted** to erect extension to side of existing waste handling facility (previous planning ref: 11/326 and 13/188);
- **16/226** – permission **granted** to retain alterations to storage unit and for change of use of existing first floor storage to offices.

5.2.2. In addition to the above, an application for an anaerobic digestion facility on the site immediately north of the appeal site is currently on appeal with the Board under file reference no. **PL02.248164**.

#### 5.3. Other applications under the Planning and Development Act, 2000 as amended

5.3.1. During the oral hearing, Mr. Gabriel Toolan, representing the appellant referenced an application made direct to An Bord Pleanála under File reference number PL02.PA0020. This application related to a recycling facility at Corranure landfill but I note this was subsequently **withdrawn** in June 2011. Reference was also made to an application by Cavan County Council for approval for an extension to Corranure Landfill dated 18<sup>th</sup> June 2004 under Section 175 of the Planning and Development

Act, 2000 as amended wherein An Bord Pleanála **granted approval** for a 5-year extension under file reference number PL02.EL2028.

## 6.0 Policy Context

### 6.1. National Waste Policy and Legislative Context

6.1.1. The Waste Framework Directive (2008/98/EC) imposes a number of obligations on member states, including the application of the waste hierarchy to apply as a priority order in waste prevention and waste management legislation and policy. The applicable legislation in Ireland is set out in the Waste Management Act 1996 and the EC (Waste Directive) Regulations 2011. Recovery is defined in the Waste Framework Directive as any operation, the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.

6.1.2. Waste Management: Changing our ways (DELG, 1998)

This document was produced by Government as a policy statement around integrated waste management with emphasis on prevention, minimisation, re-use, recycling, other recovery (including energy recovery) and disposal. It identifies scope for use of fuel in combustion processes including energy generation and cement manufacture and encourages the adoption of a regional approach to waste management planning.

6.1.3. A Resource Opportunity – Waste Management Policy in Ireland (DECLG, 2012)

This policy document sets out how Ireland will move away from an over dependence on landfill, by putting in place technologies and approaches to reduce waste, while at the same time maximising the resources that we can recover from waste. The policy includes a range of measures across all 5 tiers in the waste hierarchy namely, **prevention and minimisation, reuse, recycling, recovery and disposal**. Section 9 deals with recovery and notes that waste can be used in a number of ways including use as solid recovered fuel in cement kilns.



#### 6.1.4. Other Waste Policy

Other national waste policy is set out in 'Delivering Change – Preventing and Recycling Waste', EPA 2002 and 'Waste Management – Taking Stock and Moving Forward', EPA 2004 and National Strategy on Biodegradable Waste – EPA 2006.

### 6.2. National Planning Policy

#### 6.2.1. National Spatial Strategy for Ireland, 2002-2020 (NSS)

- The NSS promotes balanced regional development and sustainable practices. The development falls within the central and eastern parts of the Border region (which includes counties Cavan, Monaghan and Louth).
- Section 3.7 states that 'efficient, effective and cost competitive waste management facilities are essential if industrial and enterprise activity is to thrive and develop in a balanced way across Ireland'.

#### 6.2.2. National Planning Framework (NPF)

- A new National Planning Framework is currently being developed to succeed the National Spatial Strategy. The framework is currently at pre-draft stage.

### 6.3. Regional Waste and Planning Policy

#### 6.3.1. Connaught Ulster Region Waste Management Plan 2015 – 2021

- **Policy A4** - Aim to improve regional and national self-sufficiency of waste management infrastructure for the re-processing and recovery of particular waste streams, such as mixed municipal waste, in accordance with the proximity principle.
- **Policy E19** - The waste plan supports the development of indigenous reprocessing and recycling capacity for the treatment of non-hazardous and hazardous wastes where technically and economically and environmentally practicable. The relevant environmental protection criteria for the planning and development of such activities need to be applied.

- **Section 5.3.3** - Irelands resource efficiency and productivity need to be improved – more value needs to be extracted from the resources we use and currently discard. Over the duration of the waste plan, the local authorities will be focussed on adding value to waste managed in the regions and propose to implement a series of actions that contribute to the sector becoming more resource efficient and less wasteful.
- **Section 5.3.5** – The region will promote sustainable waste management treatment in keeping with the waste hierarchy and the move towards a circular economy and greater self-sufficiency.

#### 6.3.2. Border Regional Authority Planning Guidelines 2010-2022

- Section 5.7 deals with waste management for the border region. It includes objectives INFP28 (facilitate provision of waste management facilities); INFP29 (explore and develop waste management practices on an inter-regional and on a cross border basis) and INFP30 (Energy recovery and thermal treatment).

#### 6.3.3. Regional Economic Spatial Strategies

- The new Regional Economic and Spatial Strategies by the three recently established Regional Assemblies and the associated enhancement of the economic development focus of local authorities as provided for under the Local Government Reform Act 2014 and will be prepared in the context of the National Planning Framework. When prepared, they will replace the Border Regional Authority Guidelines. Cavan will be in the Northern and Western region.

### 6.4. Local Planning Policy

#### 6.4.1. **Cavan County Development Plan 2014-2020** sets out forward planning policies for County Cavan. Section 4.6 deals with Waste Management. The following objectives are considered relevant.

- **EPO5** - Minimise the amount of waste to landfill;
- **PIO96** - Have regard to the following in the assessment of planning applications for waste management facilities: North East Waste Management

Plan 2005 -2010 (or any subsequent Regional Waste Plan that relates to County Cavan)<sup>1</sup>... etc.;

- **PIO99** - To encourage waste prevention, minimisation, reuse, recycling and recovery as methods of managing waste.

6.4.2. The **Cavan Town & Environs Plan 2014-2020** is the specific operable plan for the area. Section 4.18 – Waste Management includes the following objectives:

- **WO-01** -Have regard to an array of policy documents; these include DoEHLG policy statements including ‘Changing Our Ways’ and ‘Preventing and Recycling Waste-Delivering Change’;
- **WO-02** -Facilitate the implementation of the North East Region Waste Management Plan 2005-2010;
- **WO-04** Encourage waste prevention, minimisation, reuse, recycling and recovery.

Section 9.8.11 – Integrated Waste Management Facility/Industry

- The site is zoned as **Integrated Waste Management Facility/Industry** with an objective ‘to promote the development of the integrated waste management facility with complementary activities and uses’. A ‘refuse transfer station’ is permitted in principle under this zoning category.

## 6.5. Natural Heritage Designations

6.5.1. Lough Oughter and associated Loughs SAC (Site Code 000007) lie c.3.5km to the west and north west of the site and Lough Oughter Complex SPA (Site Code 004049) is located c.4.6km west of the site. The locations of these Natura 2000 sites relative to the appeal site are indicated on Figures 18 and 19 of the Natura Impact Statement presented with the planning application.

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<sup>1</sup> The North East Waste Management Plan 2005 -2010 has since been replaced by the current Connaught Ulster Region Waste Management Plan 2015 – 2021.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. A third-party appeal was received from Cavan Better Waste Management. The appellant is stated as being a voluntary organisation which represents the interest of people living in and around the area of the appeal site. An oral hearing request was also received with the appeal.

7.1.2. The following provides a summary of the principal issues raised in the grounds of the appeal:

- Complex planning and enforcement history of the adjacent Corranure landfill site, which is under the ownership of Cavan County Council and are the licence holder, yet they would be responsible for enforcement of planning conditions of this proposal, hence enforcement would be difficult;
- Unsuitable site and inadequate consideration of alternatives;
- Would conflict with multiple planning policies and objectives set out in the Cavan Town & Environs Development Plan 2014-2020, particularly around waste management;
- Would not support the achievement of a circular economy and is unnecessary;
- Inadequate public consultation / public participation took place;
- EIS does not examine interactions between impacts and no assessment of cumulative impacts included, hence EIS fails to comply with Article 3 of the EIA directive and with Irish legislation;
- Inadequate proposals to protect surface water and ground water from contamination;
- Concerns re: air quality including odour were raised.

### 7.2. Applicant's Response

7.2.1. Boylan Engineering, acting on behalf the applicant responded to the grounds of appeal. The following provides a summary of the response.

- History of Corranure landfill site is not relevant to the applicant's planning application and the proposed development is not directly adjacent or an extension to the Corranure landfill or would not share the same infrastructure;
- Planning conditions attached are clear, unambiguous and can be enforced;
- Alternatives sites were considered as part of the EIA;
- The site is zoned for integrated waste management facilities/industry and the proposal is compatible with the zoning objective and policies WM-02 and WM-04;
- Non-recyclable material can be incorporated into the cement manufacturing process through use of solid recovered fuel (SRF) and to contribute to the energy in the manufacturing of another product (cement). This is preferable than sending non-recyclable material to landfill and accordingly the production of SRF does form part of the circular economy;
- Applicant complied with the requirements outlined by the EPA guidance document 'Information to be contained within an EIS'. Applicant made attempts to hold a consultation meeting with Cavan Better Waste Management Group, though no meeting took place;
- Cumulative impacts were considered throughout the EIA (Chapters 6,7,8,9,10 and 12 referenced). Interactions were considered in Chapter 14 and all impacts identified were assessed with associated proposals for mitigation measures;
- Mitigation measures outlined in the EIS addresses all potential impacts to the hydrological and hydrogeological environment;
- Odour control including negative air system and fast acting doors with air curtains will be included and will serve to control odour.

7.2.2. The response was supported by various attachments as follows:

- ESB International (**Planning response**): The development is supported by planning policy and is appropriate to the zoning objective 'Integrated waste management facility';
- Envirologic Consulting (**Surface water response**): Mitigation measures outlined in the EIS address all potential impacts to the hydrological and hydrogeological environment;

- Odour Monitoring Ireland (**Odour response**): Provides details of building design aspects (including that it would be placed under negative pressure), which would be such as to ensure that the risk of odour would not occur.

### 7.3. **Planning Authority Response**

There is no response from the Planning Authority on file.

### 7.4. **Observations**

There were no observations received on this appeal.

## 8.0 **The Oral Hearing**

8.1. An oral hearing was held in relation to the proposed development on the 23<sup>rd</sup> May 2017 at The Cavan Crystal Hotel in Cavan town. The oral hearing schedule and the documents presented during the course of the hearing are included in Appendix 1. Issues discussed during the oral hearing are considered in the planning assessment below. The Board retained the services of Mr Pierce Regan, Artane Recording Studio, to record the proceedings. This constitutes the official record of the proceedings.

## 9.0 **Planning Assessment**

### 9.1. **Introduction**

9.1.1. I have attended the site and read and considered the contents of the planning application, grounds of appeal, responses and relevant planning policy. I have also considered the submissions made at the oral hearing. I consider the key issues in determining the application and appeal before the Board are as follows:

- Procedural and Legal Issues;
- Need and Benefit of the Development;
- Design, layout and scale;
- Traffic and Transportation;

- Environmental Issues;
- Other – Development Contributions.

I outline my considerations on each of these issues below.

## 9.2. Procedural and Legal Issues

### Validity of the planning application

- 9.2.1. At the outset of the oral hearing, Mr. Gabriel Toolan, solicitor for the appellant, stated that the public notice did not adequately describe the nature and extent of the development and accordingly the application should have been considered invalid. It was submitted that the ESB substation was not referenced on the public notice.
- 9.2.2. It was further submitted that the EIS did not include information required under Schedule 6 of the Planning & Development Regulations 2001-2016. Questions were raised as to how Cavan County Council, as the owner of the site and the adjoining landfill could fairly adjudicate on the planning application. It was also stated that the agents for the application are also agents for the County Council in respect of the Corranure landfill and that this gives rise to potential conflicts.
- 9.2.3. In my consideration of this aspect of the appeal now before the Board, I am satisfied that the applicant published the required newspaper notice and erected a site notice in accordance with the requirements of Article 17 (1)(a) and (b). In relation to the reference to the absence of reference to the substation from the public notice, the applicant stated at the oral hearing that it would form part of the ancillary works and is equipment contained in the main building. In relation to the site ownership, I note that as is required under Article 22(2)(g), a letter of consent from Cavan County Council as the landowner was enclosed with the application. In relation to the information required under Article 94 and Schedule 6 of the Planning & Development Regulations, 2001-2016, I am satisfied that the information was included and I have dealt with the content of the EIS in more detail under Section 10 of my assessment. The Planning Authority deemed the application met the statutory requirements and considered it was a valid application and I am equally satisfied that this is so.

### Adequacy of the Environmental Impact Statement

- 9.2.4. In the appeal and at the oral hearing, the appellant's submission was that the EIS was not adequate, particularly having regard to the lack of consideration of alternatives, cumulative impacts and interactions. I have outlined my considerations of these aspects under Section 10 of my assessment below.

### Site was not subject to Strategic Environmental Assessment or Appropriate Assessment

- 9.2.5. During the oral hearing, Mr. Toolan stated that the appeal site was not the subject of a Strategic Environmental Assessment (SEA) or an Appropriate Assessment (AA). Mr. Nicholas O'Kane (Cavan County Council) confirmed that the policy around waste management as set out in the development plan was subject to SEA and AA screening. Mr. Toolan disputed that this was sufficient as it was not specific to the appeal site.
- 9.2.6. In considering this issue, I note that the requirement for SEA derives from the SEA Directive (2001/42/EC) which came into force in 2001. Under its requirements, competent authorities must subject specific plans and programmes to an environmental assessment where they are likely to have a significant effect on the environment. SEA is confined to plans and programmes as set out in Article 2 of the Directive. Article 2 defines plans and programmes as follows: *'Plans and programmes which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and which are required by legislative, regulatory or administrative provisions'*. The current proposal is a project as distinct from a plan or programme. It is subject to the provisions of the EIA Directive and not the SEA Directive. The absence of SEA for plans/programmes at national or European level falls outside the remit of An Bord Pleanála. Nonetheless, I am satisfied that the development plan was subject to SEA and a copy of the SEA report is available on the Planning Authority's website.
- 9.2.7. In relation to Appropriate Assessment, I am satisfied that Cavan County Council carried out an Appropriate Assessment screening of the development plan prior to its adoption of the development plan for Cavan Town and there is a copy available on the Planning Authority's website. Similar to the above considerations around SEA,



the appropriate assessment of the development plan falls outside of the Board's remit in its determination of this appeal.

- 9.2.8. In relation to the proposed development, both an Environmental Impact Statement (EIS) and a Natura Impact Statement (NIS) were submitted with the planning application and I have considered the contents and adequacy of these Statements under Sections 10 and 11 of my assessment below.

Adequacy of Public Consultation/ Public Participation

- 9.2.9. The appellant submits that the public consultation was incomplete or for the large part, it was absent. It is their case that permission should be refused on the basis of a lack of effective and meaningful local pre-planning consultation.
- 9.2.10. The applicant provides details of consultations undertaken which included scoping with the Planning Authority and other stakeholders. It is stated that consultation with Cavan Better Waste Management (CBWM) group was attempted, but this did not occur. At the oral hearing, Mr. Cathal Boylan of Boylan Engineering referred to contact made with CBWM in which he suggested setting up focus meetings between CBWM and the applicant. In response, the appellant stated that attempts involving some phone calls were insufficient and considered that the applicant should have advertised and held a public meeting. The appellant also put forward that the requirements of the Aarhus convention which sets out rules to promote public involvement in environmental matters were not met.
- 9.2.11. The Aarhus Convention has 3 pillars around access to environmental information, public participation in environmental decision making and access to justice in environmental matters. There is no specific requirement either under the Aarhus convention or the planning legislation to hold a public meeting in advance of a planning application. While I have some reservations that direct communication with the community did not appear to take place, I am satisfied that the public consultation followed the statutory requirements and that third parties were aware of the proposed development, had access to the planning application, the EIS and the NIS. Furthermore, the appellants engaged in the process by making their views known through written submissions to the Planning Authority and through written and oral submissions to the Board during the appeal stage. At the oral hearing, the

Planning Authority confirmed that the applicant met the statutory requirements around public consultation.

- 9.2.12. Having regard to the information on file and that outlined by parties at the oral hearing, I am satisfied that the applicant has complied with the statutory requirements. While no public meeting took place, there is no statutory requirement to do so.

#### Planning and Enforcement History

- 9.2.13. In the written appeal and at the oral hearing, the appellant outlined the planning, procurement and licencing history and enforcement matters relating to the adjoining Corranure landfill, which is currently closed and is not accepting waste for landfill. Details of EPA consideration of licence applications by Oxigen Environmental (refused in 2011) and by Cavan County Council (granted in 2011) are presented. It is submitted that concerns raised by the EPA in deciding on Oxigen Environmental's licence application (including complex physical relationship between Oxigen Environmental and Cavan County Council) are concerns which also apply to this planning application and appeal because of the site's proximity to other waste facilities. It is submitted that the attribution of responsibility for environmental pollution, contamination of ground or surface water and nuisances including odour would be problematic as Cavan County Council now own the site on which the development is proposed, would be responsible for enforcement of planning conditions and is the licensee of the adjacent Corranure landfill. It is also submitted that Cavan County Council would not be seen to have the necessary independence and they were prosecuted by the EPA (and Oxigen Environmental) for breaches of waste licence conditions in 2005 and 2007.
- 9.2.14. Reference was made to a memo on the current planning file from Ms. Alison Taylor (Cavan County Council) in which she raised concerns about monitoring and of difficulties which would arise in being able to differentiate between sources of pollution in the area which would be categorised by multiple waste management facilities. At the oral hearing, Mr. Colm O'Callaghan from the Environment Section of Cavan County Council put this memo in context. He stated that in commenting on the planning application, she was stating a point in relation to monitoring. I note from the file that the further information initially sought included such environmental

concerns and following consideration of information received, Ms. Taylor's subsequent report following consideration of the applicant's further information, recommended inclusion of planning conditions in the event of a grant of permission.

- 9.2.15. I do not consider that the history of the operation of the landfill or the issue of the licence being previously split over 2 entities (which appears to be the reason for a refusal of an application for a licence from one entity – Oxigen Environmental) is relevant in the consideration of the planning merits of this current proposal for a waste transfer and processing facility. The proposed development is an entirely separate entity to the Corranure landfill, is located on a separate site and would have separate infrastructure. Outside of the planning process the waste transfer and processing facility would be required to hold a waste facility permit and the facility would not be able to operate without such a permit. Matters around monitoring of such facilities would follow as a function of the Local Authority under the Waste Management (Facility Permit and Registration) Regulations 2007 as amended.

### 9.3. **Development Need and Benefit**

#### Background

- 9.3.1. The development would centre around the production of solid recovered fuel (SRF) from the processing of construction and demolition, commercial and industrial and bulky waste sources. At the oral hearing, Ms. Bróna Keating of Boylan Engineering outlined that SRF produced would be used as an alternative to fossil fuels in a cement kiln (Quinn cement) in Co. Cavan. She stated that the cement plant has an Industrials Emissions Directive (IED) licence from the EPA to currently use SRF and the plan is to increase the use of SRF intake to the plant as a further replacement of fossil fuels in the cement manufacturing process.
- 9.3.2. It is also submitted on the appeal file that given the proposal to employ Best Available Technology, the proposal would result in residual waste to landfill being almost non-existent. In response to questions from the inspector at the oral hearing, Ms. Keating stated that of the 50,000 tonnes input, c.22,500 would be used to produce SRF from waste that would otherwise end up in landfill. She explained that the remaining mixed municipal waste would return to the recyclable chain at other facilities equipped for such purposes. She provided examples that lead batteries

would be recycled in the UK as there is no such facility in Ireland and food waste and biodegradable waste would be composted elsewhere. She outlined that the applicant's proposal is to remove commodities from the waste which can be recycled and to also process the bulk of the remainder as SRF as an alternative to disposal through landfill or incineration.

- 9.3.3. It was also stated that the applicant operates a similar waste processing and transfer facility in Kiffa, Co. Cavan and is limited in disposal of residual waste to landfill up to a maximum of 15% under its waste permit and a similar limit is anticipated in a permit (if granted) for the current proposal.

#### Waste Management National and Regional Policy

- 9.3.4. Waste management policy at a national and regional level supports the management of waste in accordance with the waste hierarchy. The recovery of waste to form SRF for use as an alternative to fossil fuel is supported through numerous policies around waste management and climate change in that it would reduce greenhouse gases and would contribute to a reduction in the amount of waste going to landfill.
- 9.3.5. As outlined under Section 9.1 of the Resource Opportunity – Waste Management Policy in Ireland document, a balance must be struck between the development of essential infrastructure and the importance of ensuring that material which could be reused or recycled is not drawn down the waste hierarchy, and that waste generation is not encouraged in order to provide feedstock for recovery processes. The provision of infrastructure to provide for recovery cannot be to the detriment of the reuse or recycling of waste. The Department of the Environment, Community and Local Government published a Consultation Paper in November 2015 in which it is stated that at least 34% of domestic waste is now exported which it considers a loss of waste resources.
- 9.3.6. It is stated that the development would contribute towards addressing identified capacity shortfalls for managing waste arising within the Connaught-Ulster region. It would also promote the movement of waste up the waste hierarchy and offer an alternative for fossil fuels in the cement industry, contributing towards reducing the carbon footprint while benefiting economic activity of the region noting this material is currently being exported as an alternative to disposal due to infrastructural capacity at present. It is also stated that during the energy recovery in the cement plant, the

non-combustible residue (bottom ash) would be incorporated back as a raw material. It is submitted that the overall development would lead to a reduction of the carbon footprint by replacing fossil fuels and transport movements (SRF would be collected on route back after drop-off of waste to facilities), diversion of landfill, consistent with the waste management hierarchy which encourages movement upwards and away from residual waste, in accordance with the Waste Framework Directive and national and waste regional policy around waste.

Policy and Objectives of the Cavan Towns and Environs Development Plan 2014-2020

- 9.3.7. The site is zoned for '**integrated waste management facility/industry**' under the Cavan Town & Environs Development Plan 2014-2020, with an objective 'to promote the development of integrated waste management facility with complimentary activities and uses'. Under this zoning category, waste transfer facilities are permitted in principle. In their written submission and during the oral hearing, Mr. Jack O'Sullivan and Mr. Gabriel Toolan solicitor, representing the appellant stated that the facility would be a standalone rather than an integrated facility where there is no planned exchange of materials or services with the adjoining (closed) landfill, civic amenity centre, McBreen Environmental or the proposed anaerobic digestion plant and combined heat and power unit on the adjoining site. Accordingly, it is submitted that the development would be in conflict with the zoning objective.
- 9.3.8. At the oral hearing, the Planning Authority submitted their view that 'integrated waste management facility' referenced under the zoning objective refers to the integration of complimentary uses and clustering of these uses and that it is not necessary that they would have a direct link or relationship with each other to achieve the objective.
- 9.3.9. I am satisfied that the development is supported by the zoning objective and is a use which is permitted in principle, as set out in the Section 9.8.11 of the current Cavan Development Plan. The plan is very clear in providing for development of future waste management and industry development in the area including the appeal site. The development is also supported by associated waste management objectives, particularly VM-02 and VM-04.

### The Circular Economy

- 9.3.10. In the written appeal and at the oral hearing, Mr. O’Sullivan submitted that the development would not contribute to objectives around the achievement of a circular economy. It was further submitted that materials should be recycled rather than sent forward for waste recovery as proposed, would result in a loss to the economy, employment and revenue to the State and would not support the circular economy. Mr. O’Sullivan referenced research carried out for NESC in this area, wherein there is an increasing recognition of the potential benefits for economies and societies from adopting a circular economy and he put forward that materials proposed to be processed in this case, include materials which should be recycled in the first instance.
- 9.3.11. In response, Ms. Keating stated that Ireland’s aim is to achieve a circular economy, but the current reality is that the human population continues to produce waste and this requires management of which recovery forms part, resulting in a reduction of waste sent to landfill. She further stated that the proposal is not an all-inclusive proposal but would assist in the shift to the circular economy by providing a replacement for fossil fuels in cement kilns.
- 9.3.12. I am satisfied that the proposal would serve to move waste upwards in the hierarchy thus reducing residual waste. It would also contribute to supporting mitigation and adaption to climate change by providing an increase in the use of SRF as a replacement for fossil fuels, which would contribute to the move from a linear economy to a circular economy.

### Concluding Comments on development need and benefit

- 9.3.13. I am satisfied that the need for and benefit of the development has been established, in that if permitted the development would assist Ireland to become more self-sufficient in relation to the recovery of waste and mitigation against climate change by replacement of fossil fuels with SRF. However, other planning and environmental considerations arise and these are now considered under the respective headings in the remainder of my assessment.

#### 9.4. **Design, layout and scale**

- 9.4.1. The proposed development is of an acceptable scale and design, appropriate to its immediate environs. The overall appearance and nature of the proposed development within the context of the wider area would not be out of character with the locality and together with landscaping and screening would improve the site's current appearance wherein an uninhabited dwelling with boarded windows and a shed in poor aesthetic appearance exist.

#### 9.5. **Traffic and Transportation**

- 9.5.1. Traffic and transportation are collectively addressed in Chapter 4 of the EIS. The construction stage is expected to last 12 months and would generate modest levels of traffic (maximum of 10 arrivals and 10 departures per day during peak activity for 2-3 months). At peak, operational traffic would generate an average of 49 arrivals and 49 departures per week day (including staff travel) of which 52% would be HGV traffic. It is submitted that there would be very little increase in daily traffic flow (c.1.41%) predicted. At the oral hearing, Mr. Stephen Reid (of Stephen Reid & Associates) stated that the average number of HGV movements would be 3 movements in and 3 out per day. Responding to questioning around the road capacity and pavement condition, he stated that the road pavement and alignment were not an issue in the vicinity of the site and the road network could accommodate the proposal. It is anticipated that there would be enhancements to the junction on the R188 following a separate review by Cavan County Council. I note condition no. 12 of the Planning decision requires that the proposed development would not become operational until the access junction has been improved. I recommend this condition should be repeated should the Board be minded to grant permission for the development.
- 9.5.2. Apart from monitoring of traffic volumes, no further mitigation is proposed. The Planning Officer's report makes reference to the views of Cavan County Council's roads department that the proposal would operate safely in terms of traffic safety subject to measures which include reduction in speed limit, lighting and improved sight distances at the junction of the regional road.

9.5.3. Given the low traffic flows predicted and the regional status of the road, I concur with the conclusion that there would be no adverse impacts on the public road network as a result of the development and that the impact of the traffic generated would not have an unacceptable impact on the environment or local residents. I also note that subject to condition, the access junction would be improved. I am satisfied that cumulative impacts regarding traffic and transportation as a result of the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.

## 9.6. Environmental Issues

### Groundwater and Surface water quality

- 9.6.1. Groundwater and surface water are dealt with under Chapter 7 of the EIS. It is stated that surface water generated falls naturally to a drainage ditch positioned to the south of the site and it would then travel in a north-easterly direction to join the Lismagratty stream c.200m to the north of the site. At the oral hearing, Dr. Colin O'Reilly (Envirologic Consulting) representing the applicant confirmed that there are no piped outfalls leading to the drain which is located at the south of the site.
- 9.6.2. The Lismagratty stream outfall leads to the Annalee river 4.5 km to the northeast and passing Ballyhaise and Buttersbridge, before entering Lough Oughter SAC complex. It was stated at the oral hearing that the adjoining Corranure landfill and recycling centre drain separately to the Corranure stream which flows westwards following the route of the R188 before entering the Cavan river at Kinnypottle, 1 km downgradient of the appeal site, and the Cavan river enters Lough Oughter SAC 2.5 km downstream of this confluence.
- 9.6.3. The preliminary flood risk assessment (PFRA) maps indicate that the site is not at risk of fluvial flooding.
- 9.6.4. There is potential for impacts to water quality during the construction phase of the development including risk of surface water becoming laden with silt and hydrocarbons and an increase in vulnerability of the underlying aquifer during excavations caused by a reduction in subsoil depth. The aquifer is classified by the GSI as a Red Island greywackes, which is a poor aquifer type being generally unproductive except for local zones.



- 9.6.5. At the oral hearing, Dr. Colin O'Reilly stated that the model used was that of the source (project proposal), pathway (flow) and receptor (aquifer) and when one of these are severed the potential for impacts is removed.
- 9.6.6. Mitigation measures have been included in the EIS to prevent loss of hydrocarbons. Internal perimeter drains would be installed within the building to capture any liquids or spills which may occur. These would be directed to an 8m<sup>3</sup> covered holding tank external to the building. Fuel tanks would be double-skin bunded. Roof run-off would pass a rainwater harvesting tank with excess passing through an attenuation area. Surface water from yards would be attenuated in line with SuDS recommendations, after initially passing through a silt interceptor and a hydrocarbon interceptor. Following attenuation, stormwater would be diverted to a pumping station and discharged to the Lismagratty stream. All wastes accepted would be required to be in accordance with the terms of the waste facility permit and subject to condition, similar to Condition No.6 attached by the Planning Authority to its decision, there would be no waste stored outdoors.
- 9.6.7. It is submitted in the EIS that potential risk to groundwater would be low because of the presence of a deep layer of low permeability overburden. It is acknowledged by the applicant that its removal for site development, the underlying aquifer is temporarily reduced, however hardstanding areas would be installed in these areas, thereby protecting the underlying aquifer.
- 9.6.8. In relation to questions about being able to attribute responsibility for water pollution back to the source, it was stated at the oral hearing that the site would have its own surface water sampling point on site prior to discharge off site and this would be monitored.
- 9.6.9. Mr. Toolan raised concerns about pollutants which might have migrated as a result of previous activities at the Corranure landfill and considered that in the absence of soil testing, contaminated soil cannot be ruled out. Mr. Toolan also pointed out that based on historical mapping records Corranure landfill is sited on the historic location of Lismagratty Lough. In response to these concerns, Dr. O'Reilly stated that the appeal site was previously in agricultural use and there is no evidence of any infilling of material on the site. Responding to questions around contamination from the Corranure landfill, Dr. O'Reilly stated that groundwater flow is from South East to

North West and on that basis, there is no reason to believe that the site is downgradient of the landfill in terms of water flow and that while there could potentially be some radial migration of ground water from the landfill as a legacy issue, there would be no source-pathway-receptor linkages for the waste material to reach the aquifer. It was also submitted that since the planning decision issued, recent site investigation including shell and auger coring was carried out. Sampling of soils confirmed that there is a 10m layer of subsoil with low permeability. In addition, it was submitted that current activities on site have no interactions with groundwater and that Corranure landfill would not interact with groundwater or give rise to cumulative impacts. This was stated on the basis that the run-off from the Corranure landfill and recycling centre drains to the Corranure stream and westwards thereafter but the current proposal intends to drain to the Lismagratty stream.

- 9.6.10. Pointing to Page 176 of Chapter 9 (Flora and Fauna), Mr. Toolan referenced a statement that the drainage ditch along the southern boundary could result in impacts in the Corranure stream. The author of this chapter (EirEco Environmental Consultants) was not present at the oral hearing. Dr. O'Reilly restated that impacts on the Corranure stream would not occur as a result of the development, because the site would not drain into the Corranure stream. I would advise the Board that the statement in Chapter 9 appears to be inconsistent with that of the hydrology and hydrogeology chapter (Chapter 7). However, I have considered the proposed management of site drainage as presented on Dwg No. BE-WW-006 and this clearly shows that all storm water would be collected and attenuated on site. Excess water would pass to the public stormwater network. Surface water leaving the site could be monitored as there is a shut off valve proposed to allow for control. The surface water would enter the public stormwater network, which is stated to have been upgraded recently, and it would be pumped to a topographical high following which it would pass through a series of settlement ponds and continue to join the Lismagratty stream.
- 9.6.11. In terms of groundwater, it was stated that a tier 1 hydrogeological risk screening was performed in 2013 and a revision of the current groundwater monitoring scheme is ongoing.

9.6.12. I am satisfied that appropriate measures can be put in place to address any potential adverse impacts on water quality arising from the proposed construction and operational phases of the development. No waste would be stored externally and the handling and processing of waste internally in the building would be capable of being managed to ensure any hydrocarbons or inadvertent spills would be captured and directed into a contained system in the form of a sealed holding tank for removal off site at intervals by a licenced contractor. All external yards would be concrete hardstanding areas and surface water would pass through silt interceptor and hydrocarbon interceptors in line with best practice. Foul water would be discharged to the mains sewer infrastructure, and any storm water in excess of greenfield runoff would be retained on site. Following mitigation by best practice at the construction and operational phases including appropriate control measures, I anticipate residual impacts would be imperceptible.

#### Odour and Air quality

9.6.13. Odour is dealt with under Chapter 8 of the EIS. It is stated that there are 17 sensitive receptor properties for the purposes of odour considerations, each located within 0.5 km of the site. Potential impacts during the construction phase would include dust and emissions arising from construction activities and increase in traffic. All sensitive receptors are located greater than 50m from the appeal site. A baseline odour assessment (sniff survey) was carried out in November and December 2015 and the results revealed no detectable odour in the vicinity of the application site and accordingly baseline odours were considered to be ambient and not distinct.

9.6.14. Concerns around the control of odour were raised in the grounds of appeal and at the oral hearing. Three local residents recalled issues around odour which they previously experienced during the period when the Corranure landfill was in operation and they were fearful that the proposed facility might cause similar issues to residents and to other sensitive receptors including the local primary school. It is further stated that problems would arise in attributing responsibility for odour given the proposed cluster of waste-related commercial activities in the vicinity.

9.6.15. At the oral hearing, Dr. Brian Sheridan of Odour Monitoring Ireland, representing the applicant, gave a detailed description of the odour abatement measures proposed. These would include processing of odourous waste within a sealed building which it

is stated would be negatively extracted to a dust and odour treatment system with a total volume flow rate of 24,3000 m<sup>3</sup>/hr extracted from the odourous waste section of the building by means of a centrifugal fan. Odour treatment would be provided by means of carbon filtration. In addition, the building would be fitted with two fast-acting roller-shutter doors (which he stated could open, wait for a lorry to enter and then close in a collective time of 1 to 2 mins) with integrated air curtains on each door. One door would be used as an inlet and one as an outlet and both doors would be interlocked with each other, meaning only one door could open at once, and at this point, the air curtain would activate to prevent any odour leakage. Doors would normally be closed except for accommodating deliveries and dispatches of waste and sorted/treated wastes for a total period of c.10 to 15 minutes in any normal day. In the odour treatment system, the odourous air would be de-odourised to a threshold concentration of less than 700 OuE/m<sup>3</sup> with a typical value in the exhaust stream of 300 OuE/m<sup>3</sup>.

- 9.6.16. It is contended that there would be no perceived odour impact from the facility with all predicted odour values at nearest neighbours at less than 55% of the odour impact criterion. (i.e. 55% of the level that could result in an odour complaint). It was also stated by Brendan Allen (ESBI) that the applicant's current position is that no waste would be stored externally and this could be regulated by condition, similar to Condition No.6 attached by the Planning Authority in their planning decision.
- 9.6.17. Having regard to the details provided and the negative air system which would be installed, I am satisfied that best practice would be employed and odour issues could be managed. Given that all waste transfer operations would take place internally within the building, any potential odour producing activities can be contained.
- 9.6.18. The proposal for a waste processing and transfer facility is not comparable to the former Corranure landfill operation. At the hearing, the appellants confirmed that there were no recent issues with odour arising from the civic amenity / recycling centre currently operating at the Corranure landfill site.
- 9.6.19. In conclusion, I am satisfied that odour emissions can be adequately controlled to prevent any loss of amenity to neighbouring sensitive land users and residents. Noting that the operation of the facility would also be governed by conditions of a waste facility permit, odour can be regulated on an ongoing basis.

## Noise

- 9.6.20. Chapter 5 of the EIS considers noise. For the purpose of noise, it is stated that the closest noise sensitive receptor is a private dwelling house located c.100m east of the site. In order to assess the impact of the proposed facility, two noise surveys were carried out, one at the applicant's existing facility at Kiffa, Ballyjamesduff and one (a background noise survey) at the appeal site. The findings of the noise impact assessment conclude that the noise impact of the operational phase of the proposed development would be compliant with the adopted noise criteria and would not give rise to an adverse impact on the local receiving environment. The predicted noise level from the construction plant would not be excessively intrusive. Operation hours would be limited and noise control measures would be employed. It is stated that predicted noise level at operational stage would fall within the criteria of 45dB L<sub>Aeq, 1 hr</sub> (daytime) and 40dB L<sub>Aeq, 5min</sub> night time at the nearest residential dwellings. Increase in noise as a result of the development would not have an adverse impact on the local receiving environment. Significant cumulative impacts regarding noise and vibration as a result of the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise. The author of the EIS chapter on Noise and Vibration (Chapter 5), Niall Vaughan (Acoustic consultant of NVM Ltd.) was not present at the oral hearing. Mr. Brendan Allen, representing the applicant, stated that the facility would operate within standard noise limits which were set down in Condition No.5 of the planning decision. Reference was made that the noise limits set in the planning decision would align with guidance by the World Health Organisation (WHO)<sup>2</sup> which state that 'general daytime outdoor noise levels of less than 55 dB (A) Leq are desirable to prevent any significant community annoyance'.
- 9.6.21. Subject to an appropriate condition limiting noise emissions, I am satisfied the potential for noise pollution emanating from this proposal could be satisfactorily managed and would not give rise to unacceptable impacts.

## Human Health

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<sup>2</sup> Environmental Health Criteria 12 - Noise. World Health Organisation, 1980.

9.6.22. Impacts on human health are dealt with as part of Chapter 11 (Human Beings) of the EIS. At the oral hearing, the appellants raised concerns around potential adverse impacts to human health and while stating their acceptance that there is no evidence that waste facilities contribute to serious health impacts, they submit that neither is there any evidence that it does not contribute to such impacts. Noting that best practice would be employed in the design and that all operations would be carried out indoors and the nature of the development, there is no proof of a causal link or compelling epidemiological evidence that the development would impact on human health.

#### 9.7. **Other (Development Contributions)**

9.7.1. Cavan County Council Development Contribution Scheme 2017-2020 is applicable. Under the Scheme, the contribution to be paid (except where an exemption or reduction applies) in respect of commercial/industrial is €25 per square meter of gross floor area. A Section 48 contribution condition should accordingly be attached in the event of a grant of planning permission.

#### 9.8. **Conclusion on proper planning and sustainable development**

9.8.1. In conclusion, I consider that, subject to compliance with the conditions as appropriate, the proposed development of a waste processing and transfer facility would constitute a sustainable development location on appropriately zoned lands and would subject to mitigation measures proposed in the EIS and NIS and with the planning conditions outlined, align with national and regional waste management policy, enabling increased rates of resource recovery. I further consider that the development would not seriously injure the amenities of the area or the amenity of the local environment, would not be prejudicial to public health, would not result in adverse significant environmental impacts and would be acceptable in respect of transport and road safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.8.2. I am therefore satisfied that the proposed development would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Environmental Impact Assessment

### 10.1. Introduction

10.1.1. Category 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2016, provides that an EIS shall be prepared in respect of a planning application for the following development: *“Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule.”*

10.1.2. I note that the development relates to a waste transfer facility for the recovery of mixed wastes up to an annual capacity of 50,000 tonnes. The European courts have determined that ‘disposal’ includes ‘recovery’ for the purposes of the EIA Directive. The proposed development would fall above the threshold intake of 25,000 tonnes per annum set out under Schedule 5 of the Planning & Development Regulations 2001-2016. It therefore requires a mandatory EIS and an EIS was submitted with the planning application.

10.1.3. I consider that information provided in the EIS is sufficient to enable an assessment of the likely significant effects on the environment arising from the proposed development and that the requirements of the EIA Directive and Planning & Development Regulations 2001-2016, are met. The EIS submitted to the Planning Authority is in grouped format structure and contains 3 volumes as follows:

Volume I: Non-technical summary

Volume II: Environmental Impact Statement

Volume III: Appendices

### 10.2. Environmental Impact Statement

10.2.1. The EIS contains the information specified in Paragraph 1 of Schedule 6 of the Planning & Development Regulations 2001-2016. It provides a description of the proposal, including the site, design and size of the proposed development. It describes the measures envisaged to avoid and reduce significant adverse effects. It provides the required data to identify and assess the main effects the project is likely to have on the environment. It gives an outline of the main alternatives considered

and the main reasons for the choice of the layout and design, taking into account the effects on the environment.

10.2.2. The EIS also contains the relevant information specified in Paragraph 2 of Schedule 6 of the Regulations and contains a summary in non-technical language. I am satisfied that the EIS complies with Article 94 of the Planning & Development Regulations 2001-2016 and of the requirements set out in the EIA Directive and is sufficient to enable an assessment of the likely significant effects on the environment arising from the development. No significant technical difficulties were encountered by the applicant in compiling the required information.

### 10.3. **Environmental Impact Assessment**

10.3.1. The Environmental Impact Assessment (EIA) has regard to the application documentation, including the submitted EIS, the NIS, the written submissions and appeal and the submissions made at the oral hearing, the applicant's responses, submissions made by the Planning Authority and prescribed bodies and information gathered during my site visit. It has regard to considerations set out in my Planning Assessment above. It also has regard to the receiving environment, the characteristics of the proposed development, likely significant effects of the proposal on the environment both direct and indirect, and mitigation measures proposed in order to eliminate, reduce or control effects on the environment. Cumulative impacts with existing and planned development are also considered in the assessment.

10.3.2. Chapter 1 provides an **introduction, background and overview** of the EIS and the policy context. It also provides a section on the use of solid recovered fuel (SRF) as an alternative to fossil fuel in the cement industry, indicating where it fits within the waste hierarchy.

10.3.3. Chapter 2 provides a **project description**, the location and description of the site and access arrangements and why it is considered the site is suitable. It also describes the site layout and infrastructure proposed including the waste processing building, associated site infrastructure and plant and equipment. It references the proposed environmental monitoring at the site, facility management and staffing and intended hours of operation. A list of waste types and quantities are provided as is



an outline on site security and fire and operational safety and hazard control. Waste management, nuisance control and remediation and aftercare are presented.

10.3.4. Chapter 3 addresses **alternatives** including two other alternative sites in Cavan and information around alternative processing building designs, process designs and alternative layouts. The appellant considers that alternatives were not adequately explored, noting only two sites were considered (applicant's existing site and operation at Kiffa, Ballyjamesduff and an existing dormant composting facility at Kilcogy, Co. Cavan also in the applicant's ownership). It was submitted at the oral hearing that both of these sites were not suitable alternatives given their planning history and obvious site constraints. It was also submitted that the appeal site may not have been considered suitable if the adjoining landfill was not in existence.

10.3.5. It is not a requirement in carrying out EIA, that every possible option is explored. The applicant in the course of preparing the EIS provided an outline of the main alternatives studied by the developer and the main reason for their choice, taking into account the effects on the environment. Their assessment considered two alternative sites which are in the ownership of the applicant. These alternatives examined included expanding their existing similar business in Kiffa, Co. Cavan, which is currently authorised to accept and recover 50,000 tonnes of waste. The other is a dormant composting facility at Kilcogy, Co. Cavan. Both sites were considered unsuitable. The applicants state that their business is located in Cavan and therefore did not seek to look outside of Cavan because of their business model. I also note that it was stated by the applicant at the oral hearing that when considering different designs and processes, the building layout and design followed best practice. The 'do nothing' scenario was also referenced in the EIS wherein it is submitted that the diversion from landfill would be compromised. I do have some reservations regarding the alternatives chosen, both which are in the ownership of the applicant and which seemed to have constraints to limit their selection as alternatives. However, I accept that in accordance with Schedule 6 (a)(d) of the Planning & Development Regulations 2001-2016, an outline of the main alternatives studied by the developer and an indication of the main reasons the alternatives were selected, taking into account the effects on the environment has been provided. The conclusion that the appeal site, on a site zoned 'Integrated Waste Management

facilities/industry', with a specific acknowledgement for waste transfer facilities, was the preferred option is reasonable.

- 10.3.6. Chapter 4 addresses **traffic and transportation** which I have considered under Section 9.5 of my planning assessment above. Given the low traffic flows predicted, I concur with the conclusion that there would be no adverse impacts on the public road network as a result of the development. Cumulative impacts regarding traffic and transportation as a result of the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.
- 10.3.7. Chapter 5 addresses **noise and vibration** which I have considered under Section 9.6 of my planning assessment above. The predicted noise level from the construction plant would not be excessively intrusive. Operation hours would be limited and noise control measures would be employed. With the implementation of noise mitigation measures, including appropriate noise limits, the development would not have an adverse impact on the local receiving environment. Cumulative impacts regarding noise and vibration as a result of the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.
- 10.3.8. Chapter 6 addresses **soils and geology**. The soils are poorly drained acidic mineral soils with heavy texture including boulder clays with intermittent thin layers rich in silt, sand or gravel with depth to bedrock ranging between 17m (southern end) to 8m (northern end). Soils in depressed grounds to the southwest of the site are degraded to peats. The site is underlain by weathered shale, sandstone or grey featured greywacke. The site does not lie within a geological heritage area and the nearest such designation is 1.5 km to the east (Mid-Cavan Drumlinised Ribbed Moraines).
- 10.3.9. Potential impacts could arise during the construction stage of the development, which would include soil erosion, dust generation, movement of subsoils and migration of contaminants from the adjacent landfill to the subsoils underlying the site or contamination of exposed subsoils and/or bedrock as a result of spillages/leakages and bank stability. There would also be potential for contamination of subsoils and/or bedrock as a result of spillages/ leakages during operation.
- 10.3.10. Mitigation measures proposed during construction would include minimising soil handling, best practice construction management and isolating potentially

contaminating substances in designated areas and management of hazardous waste and the use of silt interceptors and hydrocarbon interceptors and waste containment (e.g. bunding) to protect surface water. It is considered that no significant impacts on soils or geology would arise as no previous infilling of site is evident and the site is not downgradient of the Corranure landfill in terms of groundwater flow. In the event that contaminated soil is encountered, it would be required to be removed by a licensed contractor. As there are no sites of geological heritage on or close to the appeal site, it is considered that significant impacts are unlikely to arise from the interaction of the development with geological heritage. During the operation phase, any runoff would pass through a silt interceptor and hydrocarbon interceptor prior to discharge to unlined attenuation system.

10.3.11. With the implementation of appropriate mitigation measures, construction impacts would be temporary and slight which I consider acceptable. Operation impacts would be long term and negligible. Cumulative impacts on soils and geology arising from the proposed development taken in conjunction with existing, planned or proposed development, are not likely to arise.

10.3.12. Chapter 7 addresses **water (hydrology and hydrogeology)** which I have considered under Section 9.6 of my planning assessment. It is not considered that there would be significant impacts on hydrology or hydrogeology having regard to the low permeability of the sub-soils and to mitigation measures proposed including storm water passing through hydrocarbon and silt interceptors and restricting the surface water leaving the site to greenfield runoff rates. It is submitted that current activities on site have no interactions with groundwater and that the Corranure landfill would not interact with groundwater or give rise to cumulative impacts. Following mitigation by best practice at the construction and operation phases including appropriate control measures, I anticipate residual impacts and cumulative impacts would be imperceptible which I consider is satisfactory.

10.3.13. Chapter 8 addresses **odour, air quality and climate** and I have considered odour in detail under Section 9.6 of my planning assessment. I conclude that subject to conditions around odour management, the proposal would not have an unacceptable odour impact on nearby land uses and users. Noting that Corranure landfill is not currently accepting waste, cumulative impacts in conjunction with it are not likely to arise. It is expected that no notable adverse impacts on receptors would arise from

dust generation as all loading and unloading of waste would occur indoors. Following the implementation of mitigation measures, no residual impacts are anticipated during either construction or operational phases. Accordingly, no cumulative impacts would arise.

- 10.3.14. Chapter 9 addresses **Flora and Fauna**. The site consists of an open field of grassland and disused house and shed. The surrounding landscape is characterised by low drumlin hills with intervening hollows. There are no direct pathways from the site to Lough Oughter and associated Loughs SAC (Site Code 000007).
- 10.3.15. The proposed development would result in the loss of grassland of low ecological value. The removal of the treeline around the house in the bird-breeding season (March to August inclusive) may lead to a risk of disturbing nests. Hedgerows to the east would not be impacted by the proposed development.
- 10.3.16. The site development works would result in modifications to existing ground level, which has potential to result in silt laden run-off and pollutants from fuels, oils and lubricants from machinery in the surface water run-off heading to the south which would pose a risk of siltation in the grassland to the south. It is stated in the EIS that this could result in potential downstream impacts in the Corranure stream. At the oral hearing, the potential for interaction with the Corranure stream was discussed at length. The author of the Flora and Fauna Chapter of the EIS (EirEco Environmental consultants) was not present. Dr. O'Reilly re-affirmed that the run-off would not in fact be to Corranure stream but instead would be to the Lismagratty stream.
- 10.3.17. In the response to a request for further information during the assessment by the Planning Authority, a bat survey report was included in which it is concluded that bats were not resting in the dwellinghouse. It was noted that there is potential for roosting individual bats and recommendations around the demolition works are included.
- 10.3.18. No mitigation was deemed necessary for the loss of habitats as these are of low ecological value. At the oral hearing, it was confirmed by Mr. Gareth O'Brien that the drainage ditch to the south does not provide a suitable habitat for Otter as the water level is too low. Other mitigation measures included are the protection of hedgerows to the south, no removal of trees or hedgerows during the nesting season, provision of artificial roost sites for bats if required to compensate for natural roost sites,

sediment traps and washdown of concrete trucks in contained pits. Oils and hydraulic fuels would be stored in a bunded facility in accordance with best practice.

10.3.19. Subject to mitigation measures, there would be no significant adverse impacts to the flora and fauna of the site. Significant cumulative adverse impacts in conjunction with the existing, planned or proposed development are not likely to arise.

10.3.20. Chapter 10 addresses **landscape and visual impacts**. The site comprises an uninhabited dwelling with boarded windows, a shed in poor aesthetic appearance and surrounding agricultural land. The area has been zoned for integrated waste management facility / industrial and the landscape in the immediate vicinity comprises existing industrial development associated with the landfill site. There are no designated scenic views which would be impacted by the development. The development would be seen from an unmarked walking trail to the west (Finn McCool's fingers, a standing stone monument). Given the separation distance from this viewpoint (VP4)<sup>3</sup>, the impact on this landscape feature would be imperceptible. It is submitted that the proposed development in an industrial landscape would result in neutral impacts of low significance on views within its immediate environs. Mitigation measures in the form of native screening are proposed which would reduce the impact in the near and wider landscapes.

10.3.21. Chapter 11 addresses **human beings**. Impacts which could arise would include odour, attraction of vermin, pollution of groundwater and noise from traffic during construction. A construction and environmental management plan would be prepared to guide the management of the construction stage. Access to the area would be restricted and traffic during construction would not be significant and would be for a temporary period. Potential impacts on local residents, particularly during the operational phase of the development are addressed throughout other sections of my report. Nuisance control measures would be specified in the facility permit, under which the development would be required to operate. Positive economic impacts in the form of direct and indirect employment would arise as a result of the development.

10.3.22. I am satisfied that the proposed development would not have a significant adverse impact on the human environment. Subject to appropriate operational management,

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<sup>3</sup> Viewpoint 4 of the Photomontages, P.211-212 of the EIS and Appendix 3 and 8 of the response to the Planning Authority's request for further information.

significant cumulative impacts in conjunction with the existing, planned or proposed development are not likely to arise.

10.3.23. Chapter 12 addresses **cultural heritage**. There are five neighbouring monuments on the Record of Monuments and Places (RMP) dataset, the closest being Lismagratty Ringfort - rath RMP CV021-063, c. 117m north of the site. There are no protected structures within 2km of the site and no Architectural Conservation areas (ACAs) in the wider area. The proposed development would not impact on any recorded monument or features of cultural heritage and as such no direct impacts would occur. Indirect impacts would be negligible, except for Lismagratty ringfort, where a moderate impact could arise. Mitigation initially proposed include a geophysical survey to identify any as yet unknown subsurface archaeology and depending on the results of the survey, additional testing in advance of construction may be needed which would be carried out in consultation with the National Monuments service of the DAHRRG. During the application assessment, a geophysical survey report was submitted. It showed some ferrous-type responses. Consultation with a licenced archaeologist and with the DAHRRG is recommended. Post mitigation, no significant impacts on archaeological features would likely arise. I note the Planning Authority attached an archaeological condition to their planning decision setting out requirements to carry out pre-development testing and consulting with the DAHRRG. Should the Board be minded to grant permission, I consider a similar condition should be attached to ensure archaeological heritage is preserved. Overall, subject to the attachment of an archaeological condition, I consider that the development would not give rise to unacceptable impacts on cultural heritage of the area.

10.3.24. Chapter 13 addresses **material assets** and **natural resources**. It examines utilities and infrastructure, ownership and access, non-renewable resources, renewable resources, energy efficiency and resource consumption and property values. Under the heading of property values, it is submitted that the development would have no impacts on local amenity value and would have a negligible impact on the local road network. Concerns were raised about property values at the oral hearing. I note that it is stated in Chapter 11 of the EIS that the applicant proposes to employ 12 full-time employees once the facility is fully operational and would indirectly support employment of contractors expected to be equivalent to 50 employees, which will promote economic development in the area. Notwithstanding the positive economic

benefit to the area, there is no evidence on file or elsewhere that I am aware of that the presence of a waste processing and transfer facility would result in changes to property values in the area. Mitigation measures have been stated to include a bi-annual energy and resource usage audit. No further mitigation measures are required in my view as no significant adverse impacts or cumulative impacts on material assets or natural resources would arise.

- 10.3.25. Chapter 14 of the EIS deals with **interactions** within which Table 14.1 indicates environmental factors likely to interact with each other. In most cases, the interactions would result in neutral impacts because of planned mitigation measures which are proposed during construction and operational phases. In relation to the interaction with the adjoining Corranure landfill site, I am satisfied that it has been adequately considered and I have dealt with this throughout my planning assessment and EIA.
- 10.3.26. **Cumulative impacts** were considered throughout the EIA (Chapters 6 - Geology, 7- Hydrology, 8-Odour, 9-Ecology, 10-Landscape and 12-Cultural Heritage referenced) which I have considered in my assessment.
- 10.3.27. I am satisfied that **cumulative impacts** and **interactions** are adequately considered. In relation to consideration of Corranure landfill, concerns were raised at the hearing from Cavan Better Waste Management who recalled poor past experience, particularly around odour. It was also stated that there have been no such odour issues recently and it is of relevance to note that the landfill is currently not accepting waste. In relation to impacts on surface or ground water, it was stated at the oral hearing that there would be no hydrological link with the (now closed) Corranure landfill. It was also stated that the traffic and transportation impact assessment did include the existing recycling and civic amenity centre at Corranure. I can conclude that there is not likely to be any significant adverse impacts arising out of interaction with Corranure landfill which previously operated as a landfill (now closed) and where a recycling centre and civic amenity centre now operate.
- 10.3.28. Chapter 15 of the EIS provides a summary in tabular form under Table 15.1 of the **potential impacts** and **mitigation measures** proposed, as well as a ranking of impact, estimate of the duration and a ranking post mitigation.

#### 10.4. **Conclusion on Environmental Impact Assessment**

10.4.1. I am satisfied that the environmental impact statement, supported by the documentation submitted by the applicant including the additional information furnished to the Planning Authority and to An Bord Pleanála, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. I consider that by itself and in combination with other existing and proposed development in the vicinity, and, subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment would be acceptable.

#### 11.0 **Appropriate Assessment.**

##### 11.1. **Introduction**

11.1.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be carried out by the competent authority for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of the site(s) conservation objectives.

##### 11.2. **Appropriate Assessment**

###### Appropriate Assessment – Stage 1

11.2.1. This section of my report considers the likely significant effects of the proposal on the relevant European sites in view of the conservation objectives, with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk. The application was accompanied by a Natura Impact Statement which included an Appropriate Assessment screening statement. Full details about the project and the site location are set out in Sections 2 and 3 above.

11.2.2. Baseline conditions were surveyed in February 2016 and while it was noted that the site lies in an area with a habitat of limited ecological value, the proposed development is located adjacent to a drain/stream network and associated habitats.

11.2.3. The proposed development is not directly connected with or necessary to the management of any European site. Lough Oughter and associated Loughs SAC



(Site Code 000007) lie c.3.5km to the west of the appeal site and Lough Oughter Complex SPA (Site Code 004049) is located c.4.6km west of the appeal site. The proposed development is immediately adjacent to a stream which though isolated, was considered that watercourses might have been piped underground and which highlights the requirement for a comprehensive hydrogeological assessment of the proposed development to identify potential Source-Pathway-Receptor linkages which are not immediately evident.

11.2.4. The applicant undertook an Appropriate Assessment Stage 1 screening exercise to assess, in view of best scientific knowledge and the conservation objectives of the site, if the activity, individually or in with other plans or projects are likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Sites at Lough Oughter and Associated Loughs SAC (000007) and Lough Oughter Complex SPA (004049). There are no other designated European sites located within a 15km radius of the appeal site and I am satisfied therefore that no other European sites could potentially adversely impacted upon by the development due to the large separation distances involved.

11.2.5. Lough Oughter and associated Loughs SAC (000007) consists of a network of waterways, islands, small lakes and peninsulas including some 90 inter-drumlin lakes and 14 basins in the course of the Erne River. The site is an important example of a flooded drumlin landscape in Ireland and has many rich and varied biological communities. Lough Oughter Complex SPA (004049) is of ornithological importance for its wintering water bird populations. Of particular note is the internationally-important population of Whooper Swan that is based in the area. The site also supports nationally-important populations of a further two wintering species and, notably, holds the highest breeding concentrations of Great Crested Grebe in the country. Two of the species which occur regularly are listed on Annex I of the E.U. Birds Directive, i.e. Whooper Swan and Greenland White-fronted Goose.

11.2.6. The qualifying interests and conservation objectives associated with the two sites are listed in Table 1 under.

Table 1: qualifying interests and conservation objectives of the Natura 2000 sites

Site	European site (site code)	Distance and direction from site	Qualifying interests	Conservation objectives
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1	Lough Oughter and Associated Loughs SAC (000007)	3.5km west of the site.	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Bog woodland [91D0]  Lutra (Otter) [1355]	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
2	Lough Oughter Complex SPA (004049)	4.6km west of the site	Great Crested Grebe (Podiceps cristatus) [A005] Whooper Swan (Cygnus cygnus) [A038] Wigeon (Anas penelope) [A050] Wetland and Waterbirds [A999]	To maintain or restore the favourable conservation condition of the wetland habitat at Lough Oughter Complex SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

11.2.7. No **direct effects** would arise as there is no proposed landtake or habitat alteration.

There is potential for **indirect effects** on ground water and surface water (from contamination with pollutants) during construction and operation phases which in turn could give rise to effects on the biological integrity of the conservation interests of habitats / species associated with Lough Oughter and Associated Loughs SAC with which there is a physical and/or ecological connection. **Secondary effects** on Lough Oughter and Associated Loughs SAC and Lough Oughter Complex SPA could arise as a result of importation of alien invasive plant species resulting impact on water quality and on prey. **In-combination effects** could also arise on water quality taking into account the location of the area in which I note is zoned for 'Integrated Waste Management Facility/Industry' and having regard to plans/projects which could potentially adversely affect the Natura 2000 sites.

11.2.8. On the basis of the screening assessment, it is concluded that the proposed development:

(i) is not directly connected with or necessary to the management of a Natura 2000 site; and

(ii) may have significant effects on a Natura 2000 site, the Lough Oughter and Associated Lakes SAC and Lough Oughter Complex SPA.

### 11.3. Stage 1 – Screening Conclusion

11.3.1. It is reasonable to conclude that on the basis of information on the file, which I considered to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site in view of the sites' conservation objectives with the exception of Lough Oughter and Associated Loughs Special Area of Conservation (Site Code 000007) and Lough Oughter Complex Special Protection Area (Site Code 004049). Accordingly, a Stage 2 Appropriate Assessment is required to determine the potential of the proposed development to adversely affect the integrity of these two European sites.

#### Appropriate Assessment Stage II – NIS

11.3.2. It was concluded from Stage 1 Appropriate Assessment screening that it was not possible to rule out significant effects on the conservation objectives in respect of Lough Oughter and associated Loughs SAC (Site Code 000007) and Lough Oughter Complex SPA (Site Code 004049), either alone or in combination with other developments, without employing mitigation measures. Therefore, applying the precautionary principle and in accordance with Article 6(3) of the Habitats Directive, these sites were therefore brought forward for Appropriate Assessment and the potential effects (indirect, secondary and in-combination) of the development on each of the sites concerned was examined in light of the sites' conservation objectives.

11.3.3. I am satisfied that the information presented is adequate to undertake an Appropriate Assessment of the proposed development. The elements of the project that are likely to give rise to significant effects on the site include:

- Construction works (temporary)

- Operation of the development

- 11.3.4. **Indirect effects** on ground water and/or surface water could arise during both the construction and operation phases of the proposed development, These would potentially include suspended solids due to runoff of soil from construction and/or pollution from other substances such as fuels, waste and wash waters which in turn could potentially impact on the water quality of Lough Oughter and the ecological integrity of the conservation interests of habitats/species associated with Lough Oughter and water bodies because of the physical and / or ecological connection.
- 11.3.5. **Secondary effects** could arise as a result of potential for importation of alien invasive plant species into the site which could have significant impacts on the ecological functioning of watercourses and noting the drainage/stream network adjacent to the site may result in a Source - Pathway - Receptor linkage between the site and a Natura 2000 site(s).
- 11.3.6. **Mitigation measures** proposed are set out in Section 4 of the NIS which also references Chapter 7 of the EIS. Temporary measures to be employed during construction include use of best practice in construction management. Permanent measures during the operation phase include the installation of silt and hydrocarbon interceptors. Attenuation and control of stormwaters to greenfield runoff rates is also proposed. Potential risk to groundwater is less due to a thick layer of low permeability overburden which would serve to protect the aquifer. Hardstanding would be installed on any areas where subsoils have been disturbed, thereby protecting the underlying aquifer. Foulwater would be collected and discharged to the public mains. To avoid the importation of alien invasive plant species, all material imported to the site (stone, fill etc.) during construction and operational lifetime will be required to be accompanied by a written guarantee that the material is free from propagules of alien invasive plant species.
- 11.3.7. In relation to **in-combination** effects, the county development plan has specific objectives in place to ensure the protection of the Natura 2000 network and each plan or project will be required to undergo appropriate assessment in accordance with **Article 6(3)** of the Habitats Directive, through a number of steps and tests in sequential order. The author of the NIS, Dr. Pat Moran of FERS Ltd. was not present

at the oral hearing. During questioning by Mr. Toolan, Dr. Colin O Reilly confirmed that there are no piped outfalls to the drain at the south of the site and no potential impacts to surface water would arise as a result. Taking into consideration the recommended mitigation measures outlined above, I accept that no significant in-combination effects would arise to the relevant qualifying interests from the proposed development in combination with other developments plans and projects completed, approved but uncompleted, or proposed (but not yet approved).

#### 11.4. **Appropriate Assessment Conclusion**

11.4.1. On the basis of the information provided with the application, including the Natura Impact Statement which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above I am satisfied that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of Lough Oughter and Associated Loughs SAC (Site Code 000007) or the Lough Oughter Complex SPA (Site Code 004049), or any other European site, in view of the sites' conservation objectives.

#### 12.0 **Recommendation**

12.1. I recommend that permission be **granted** for the proposed development based on the reasons and considerations hereunder and subject to the conditions set out below.

#### 13.0 **Reasons and Considerations**

In coming to its decision the Board had regard to the following:

- (a) national policy with regard to the sustainable management of resources and the development of waste infrastructure,
- (b) the policies and objectives of the Connaught Ulster Region Waste Management Plan 2015 – 2021,
- (c) the policies set out in the Border Regional Authority Planning Guidelines 2010-2022,

- (d) the policies of the planning authority as set out in the Cavan Town & Environs Development Plan 2014-2020,
- (e) the location of the proposed development, in an area which is zoned in the development plan 'to promote the development of the integrated waste management facility with complementary activities and uses' within which a refuse transfer station is permitted in principle and Objectives WO-02 and WO-04,
- (f) the waste facility permit under which the facility would be regulated by Cavan County Council,
- (g) the characteristics of the site and of the general vicinity,
- (h) the distance to dwellings and sensitive receptors from the proposed development,
- (i) the Environmental Impact Statement submitted,
- (j) the Natura Impact Statement submitted,
- (k) the submissions made in conjunction with the planning application, appeal and at the oral hearing and
- (l) the inspector's report and recommendation.

The Board was satisfied that the information before it was adequate to undertake an appropriate assessment and an environmental impact assessment in respect of the proposed development.

### **Environmental Impact Assessment**

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

- (a) the nature, scale and location of the proposed development,
- (b) the environmental impact statement and associated documentation submitted in support of the application,
- (c) the submissions from the applicant, the planning authority, the observers and the prescribed bodies in the course of the application, and

(d) the Inspector's report.

It is considered that the environmental impact statement, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board completed an environmental impact assessment in relation to the proposed development and concluded that, by itself and in combination with other existing and proposed development in the vicinity, and, subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report and conclusions of the inspector.

### **Appropriate Assessment Screening (Stage I)**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Natura Impact Statement (including an Appropriate Assessment screening statement) submitted with the application, submissions made in connection with the application and appeal including those made at the oral hearing and the Inspector's report. In completing the screening exercise, the Board accepted and adopted the report of the inspector in respect of the identification of the European sites which could potentially be affected and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the sites' conservation objectives with the exception of Lough Oughter and Associated Lakes Special Area of Conservation (Site Code 000007) and Lough Oughter Complex Special Protection Area (Site Code 004049) and that these were the only two sites requiring a Stage II Appropriate Assessment.

### **Appropriate Assessment (Stage II)**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Lough Oughter and Associated Lakes Special Area of Conservation (Site Code 000007) and Lough Oughter Complex Special Protection Area (Site Code 004049) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby European Sites in view of the sites' conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the assessment, the Board considered, in particular, the:

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the current proposal and
- iii) conservation objectives for these European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites. In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' conservation objectives.

### **Conclusion on Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development of a waste processing and transfer facility would constitute a sustainable development location on appropriately zoned lands and would subject to mitigation measures proposed in the EIS and NIS and with the planning conditions outlined, align with national and regional waste management policy, enabling increased rates of resource recovery. It is further considered that the development would not seriously injure the amenities of the area or the amenity of the local environment, would not be prejudicial to public health and would not result in adverse significant environmental impacts and would be acceptable in respect of transport and road safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 14<sup>th</sup> day of November 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, the applicant shall obtain as necessary a waste facility permit and shall comply with any conditions attached therein.

**Reason:** To comply with all statutory requirements.

3. Details of the materials, colours and textures of all the external finishes, signage, and external hard surfaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. (a) The signage scheme for the facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall arrive at an attractive, consistent and coherent signage scheme with appropriately dimensioned signs.  
(b) With the exception of the signage scheme agreed under (a) above, no advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001-2016, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the

curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) A plan to scale of not less than 1:500 showing –
    - (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include *prunus* species
    - (ii) Details of screen planting which shall not include *cupressocyparis x leylandii* or *prunus* species
  - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment and
  - (c) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of the protection of visual, residential and environmental amenities.

6. The construction of the development shall be managed in accordance with a Construction and Environment Management Plan (CEMP), which shall outline the project specific environmental measures that are to be put in place and procedures to be followed for the scope of construction (including demolition) works, both permanent and temporary, for the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan must demonstrate the adoption and use of the best practicable means to protect the environment and to safeguard amenities of the area.

**Reason:** In the interest of amenities, public health and safety.

7. There shall be no unloading, deposit, handling, storage or sorting of waste materials outside of the proposed building. Any organic material shall be transported to and from the site in sealed containers.

**Reason:** In the interest of amenities, public health and safety.

8. Prior to the commencement of development on site, a detailed invasive species management plan shall be submitted to, and agreed in writing with, the planning authority.

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

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

10. (a) Hours of site development works shall be between 0700 and 1900 hours Monday to Friday, 0800 and 1400 on a Saturday and not at all on Sundays or bank or public holidays.

(b) Operation of the proposed facility shall be between 0800 and 1900 hours Monday to Friday, 0800 and 1400 on a Saturday and not at all on Sundays or bank or public holidays.

Deviation from these times (Site development works and operation) shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

11. During the operational phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed 55 dB (A) Leq (daytime) at the boundaries of the site when in operation and 45 dB (A) Leq at all other times.

**Reason:** To secure reduction in the level of noise emanating from the development and to safeguard amenities of property in the vicinity.

12. The proposed development shall not become operational until such time as the access road junction with the R188 regional road has been improved by Cavan County Council.

**Reason:** In the interests of traffic safety.

13. The development shall be operated and managed in accordance with an environmental management system (EMS) which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This shall include measures to minimise emissions from the facility and shall include a monitoring programme (intervals to be agreed with the planning authority) for the following:

- Proposals for the suppression of on-site noise.
- Proposals for the suppression of dust on site.
- The management of all landscaping.
- Odour abatement.

- Proposals for litter prevention.
- Monitoring of surface water quality in any discharges.
- Details of site manager contact numbers (including out of hours) and public information signs at the entrance to the facility.

**Reason:** In order to protect the environment and safeguard local amenities

14. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority and the Department of Heritage, Regional, Rural and Gaeltacht Affairs in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) submit a copy of the geophysical survey report to the Department of Heritage, Regional, Rural and Gaeltacht Affairs,

(c) agree in writing details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

15. 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 the Board 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.

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Patricia Calleary

Senior Planning Inspector

16 June 2017

**Appendix:**

Maps and photos

Oral hearing schedule and copies of documents presented at the oral hearing.