



An
Bord
Pleanála

Inspector's Report PL.17.249302

Development	Restoration of quarry lands.
Location	Clonasillagh and Pottlereagh, Carnaross, Kells, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	KA/60923.
Applicant(s)	Bernard Harton, Carnaross Sand & Gravel.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Pauric and Irene White.
Observer(s)	Inland Fisheries Ireland.
Date of Site Inspection	7 th December 2017.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1. The site is located in the townlands of Clonasillagh and Pottlereagh, approximately 4.5 kilometres north west of Carnaross Village and 1.5 kilometres south of the N3 (Dublin to Cavan Road).
- 1.2. The site forms part of a larger worked out sand and gravel quarry on a holding of c. 17 hectares that is bounded by local roads to the south and east and the River Blackwater to the north. The quarry is relatively flat and includes internal quarry roads, spoil, settling ponds, with mounding, grass and soil cover at the edges. Ground levels to the south of the site are c. 12 metres above the level of the quarry floor, resulting in an abrupt transition between the quarry and the road and residential property to the south. There is a berm along the site boundary and levels drop off on the inside of the berm. Previously quarried lands immediately to the east have been reinstated to grassland and playing pitches. Lands to the north are at a similar level to the quarry and comprise semi-natural wet grasslands.
 - 1.2.1. The River Blackwater is located c. 110 metres to the north of the site. The designated area of the River Boyne and River Blackwater SAC adjoins the northern site boundary, while the designated area of the River Boyne and River Blackwater SPA is to the north. The River Blackwater demarcates the County boundary between County Meath and County Cavan.
 - 1.2.2. The site bounds a residential plot of c. 25 hectares to the south on three sides and there are a number of other one off dwellings scattered along the local road network in the vicinity of the site. The Forge Restaurant and Sheridan's Cheesemongers are located at a crossroads to the east of the site.

2.0 Proposed Development

- 2.1. The proposed development relates to the restoration of a worked out sand and gravel quarry. The development as detailed in the public notices consists of the importation of clay for land reclamation and reinstatement purposes.
- 2.2. Revised details submitted at further information stage show a site area of c. 4.77 hectares and state that it is proposed to raise the level of the land from c. 83 metres OD to 84 metres OD. The response prepared by Sean Boyle refers to the

importation of 24,960 tonnes of inert soil and stones per annum over a three-year period, which would equate to a total of 74,880 tonnes.

- 2.3. The proposed development will require authorisation under the Waste Management Act 1996.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant permission subject to 18 no. conditions. The following conditions are of note.

Condition no. 3: Maximum of 74,800 tonnes to be accepted over the lifespan of permission. Maximum of 25,000 tonnes per annum over a 5-year duration.

Condition no. 4: Only clean, uncontaminated soil and stones to be imported into the site. Construction and demolition waste shall not be imported into the site.

Condition no. 6. Hours of importation / operation 0800 hours to 1800 hours Monday to Friday and 0800 hours to 1400 hours on Saturday.

Condition no. 7: Noise levels at nearest noise sensitive receptors restricted to 55 dB(A) and annual noise survey required.

Condition no. 8: Dust emissions not to exceed 350mg/sqm/day.

Condition no. 10: All operations to be carried out so as not to have an adverse effect on the drainage of adjacent lands, watercourses, field drains or any other drainage system. Silt fences or similar required to prevent silt from entering watercourses, with particular reference to the drain from the site to the River Blackwater.

Condition no. 11: 5-meter buffer to be maintained along all drainage channels.

Condition no. 12: The applicant shall employ all the prevention / mitigation measures as detailed in the Natura Impact Statement.

Condition no. 16: Applicant to liaise with Environmental Section, Meath County Council to ensure that the requisite authorisation is in place.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. An initial assessment concluded that there was insufficient information to allow for a full assessment of the proposed development and potential impacts on the environment, traffic and roads and adjoining residential amenities. The following further information was requested:

- Details of the nature and extent of infilling, source of material and environmental mitigation measures;
- EIS or EIS Screening;
- Details of potential impact on water quality and the River Boyne and River Blackwater SAC.
- Natura Impact Statement.

3.3. Details received by the Planning Authority at further information stage include information in relation to the nature and extent of infilling and source of material to be imported into the site, proposals for the management of operations during restoration, an Environmental Impact Assessment (EIA) Screening Report, a Natura Impact Statement and a Report from Mr. Robert Meehan, Consultant Hydrogeologist.

3.3.1. **Other Technical Reports**

Environment Section: No objection.

Road Design Office: No objection.

3.4. **Prescribed Bodies**

DCHG: Development has the potential to impact water quality of the River Blackwater SAC. In order to mitigate potential impact recommended that development is subject to conditions that all reasonable precautions are undertaken

so as not to import soil which may contain seed base of invasive plant species and that the development conforms to all relevant guidelines to ensure no run off to the River Blackwater SAC.

Inland Fisheries Ireland: Recommends refusal on the grounds of insufficient information to demonstrate that the application will pose no threat to fisheries interests. Report states that Appropriate Assessment and Environmental Report would be required.

3.5. Third Party Observations

A total of 5 no. third party submissions were received and considered by the Planning Authority. The issues raised are similar to those set out in the grounds of appeal summarised in Section 6 below.

4.0 Planning History

4.1.1. The following planning history pertains to the site and immediately adjacent quarry lands:

Reg. Ref. KA/160541:

Application for a lorry trailer parking area. Permission Refused.

Reg. Ref. KA/150987:

Application for extension of existing sand and gravel quarry over 1.52 hectares on a section of the appeal site (Phase 3) (inc. EIS). Permission Granted. The following conditions are of note:

Condition no. 2: 7-year permission. Full restoration to be carried out in accordance with principles detailed in EIS.

Condition no. 3: Mitigation measures set out in EIS to be implemented.

Condition no. 4: No extraction within 120 m of River Blackwater. Project ecologist to be appointed to monitor all works and ensure that impacts on natural and semi-natural habitats and species minimised. Annual report on monitoring to be submitted to PA.

- Condition no. 5: Archaeological pre-testing.
- Condition no. 8: (a) No extraction below 83.5 m OD.
(f) No discharge of trade effluent to River Blackwater or other receiving waters unless in accordance with a discharge licence granted under Section 4 of the Water Pollution Act 1977, as amended.
- Condition no. 11: Annual environmental audits to be submitted.
- Condition no. 12: Restoration to be carried out in accordance with 'Site Restoration Proposal' submitted as part of the EIS.
Landscaping and earthen berms detailed in EIS to be implemented.

Reg. Ref. KA/101307:

Application for extension of existing sand and gravel quarry by 2.44 hectares (Phase 2 and 3) (inc. EIS). This application relates to the appeal site. Permission granted.

The following conditions are of note:

- Condition no. 2: 5-year permission. Full restoration to be carried out in accordance with principles detailed in EIS.
- Condition no. 3: Aggregates not to be imported onto the site.
- Condition no. 6: Heavy Goods Vehicles entering / exiting site restricted to two per hour during the working week.
- Condition no. 10: (a) Developer to carry out monitoring of River Blackwater, surface water and ground water in the vicinity of the site. Details to be agreed in advance with PA and reported on a quarterly basis.
- Condition no. 11: Extraction operations shall not take place below a level of 83m OD, to protect the existing groundwater regimen in the area.
- Condition no. 12: No extraction within four metres of any boundary of the site and no excavation carried out within 120 metres of the River Blackwater. Excavation shall be carried out so as to provide a slope no steeper than an angle of 30 degrees to the vertical, in order to protect the stability of adjoining lands.

Condition no. 13: Within 3 months of permission a proposal for an Environmental Management System to be submitted to address noise, sound, dust, fuel and lubrication storage, safety measures for land above the quarry (signs, fences etc), management of lagoons, topsoil and silt storage mounds, monitoring of ground and surface water quality, levels and discharges.

Condition no. 14: Annual environmental audit to be submitted.

ABP Ref. PL17.213185 / Reg. Ref. KA/40263:

Application for the extraction of sand and gravel (inc. EIS) on site of 12.44 hectares. Permission granted by the Planning Authority. This decision was subject to a third party appeal to An Bord Pleanála. An Bord Pleanála upheld the decision of Meath County Council (against the recommendation of the Planning Inspector) and granted planning permission for a period of 10 years. The following conditions are of note:

Condition no. 4: The western section of the site (lands referred to as Phase 2 lands on the drawings submitted with the subject application) are excluded from the development. The Board was not satisfied that the information submitted is adequate to allow for extraction over this part of the site while respecting the residential amenities of the adjoining dwelling and the integrity of the adjoining River Blackwater candidate Special Area of Conservation.

Condition no. 5: No extraction shall take place within 20 metres of the northern boundary of the site adjoining the River Blackwater candidate Special Area of Conservation.

Condition no. 6: No extraction of aggregates below the 82.5 contour level, or below the level of the water table, whichever is the higher.

4.1.2. Details of planning history for sand and gravel quarrying in the wider area:

Reg. Ref. KA171148: Application for extraction of sand and gravel, construction of enlarged entrance gate and wheel wash and haul road on a site with an area of 3.1 hectares at Pottlereagh, Carnaross, Kells. Decision pending.

Reg. Ref. 93/309: Application for extension of duration of development permitted under Reg. Ref. P82/2192 for sand and gravel extraction and erect new washing plant at Pottlereagh, Carnaross, Kells. Permission granted.

Reg. Ref. 93/470: Application to extract sand and gravel at Pottlereagh, Carnaross, Kells. Permission granted.

Reg. Ref. 93/347: Application to retain ready mix concrete plant, blockmaking plant, ancillary plant, offices and septic tank at Pottlereagh, Carnaross, Kells. Permission granted.

Reg. Ref. P82/2192: Application for extraction of sand and gravel and to erect a sand and gravel plant and entrance, at Pottlereagh, Carnaross, Kells. Permission granted.

5.0 Policy Context

5.1.1. Quarries and Ancillary Activities, Guidelines for Planning Authorities, DHLG, 2004

The Guidelines were issued under Section 28 of the Planning and Development Act 2000, as amended and provide guidance on Development Plan policy, the consideration of applications for quarrying and ancillary activities and the implementation of Section 261 of the Planning and Development Act, 2000. The environmental implications of quarries are discussed under the headings noise and vibration, dust deposition/air quality, water supplies and groundwater, natural heritage, landscape, traffic impact, cultural heritage and waste management. Under each heading, best practice and possible mitigation measures are suggested.

5.2. Development Plan

The Meath County Development Plan 2013-2019 is the relevant statutory plan for the area. The site is located in a rural area outside of a designated settlement and is not governed by any specific land use zoning objective. The following policies and objectives are considered to be relevant.

- Core Principle 7: To protect and support rural areas through careful management of physical and environmental resources and appropriate, sustainable development.
- Section 10.12 sets out policy in relation to the extractive industry and includes a stated goal to facilitate adequate supplies of aggregate resources to meet the future growth needs of the County and the wider region while addressing key environmental, traffic and social impacts and details of rehabilitation.
 - RD POL 21: To ensure that projects associated with the extractive industry carry out screening for Appropriate Assessment in accordance with Article 6(3) of the E.C. Habitats Directive, where required.
 - RD POL 22: To facilitate the exploitation of the county's natural resources and to exercise appropriate control over the types of development taking place in areas containing proven deposits, whilst also ensuring that such developments are carried out in a manner which would not unduly impinge on the visual amenity or environmental quality in the area.
 - RD POL 23: To support the extractive industry where it would not unduly compromise the environmental quality of the county and where detailed rehabilitation proposals are provided.
 - RD POL 24: To seek to ensure that the extraction of minerals and aggregates minimise the detracting from the visual quality of the landscape and do not adversely affect the environment or adjoining existing land uses.
 - RD POL 25: To ensure that the extractive industry and associated development minimises adverse impacts on the road network in the area and that the full cost of road improvements, including during operations and at time of closure, which are necessary to facilitate those industries are borne by the industry itself.
 - RD POL 26: To ensure that all existing workings shall be rehabilitated to suitable land uses and that all future extraction activities will allow for the rehabilitation of pits and proper land use management. The biodiversity value of the site should be considered in the first instance when preparing restoration plans. Where land filling is proposed, inert material is the

preferred method. Each planning application shall be considered on a case by case basis and where relevant will be dealt with under the relevant regional Waste Management Plan.

- RD POL 27: To ensure that development for aggregates / mineral extraction, processing and associated processes does not significantly impact in the following areas:
 - i. Existing & Proposed Special Areas of Conservation (SACs);
 - ii. Special Protection Areas (SPAs);
 - iii. Natural Heritage Areas and Proposed Natural Heritage Areas;
 - iv. Other areas of importance for the conservation of flora and fauna;
 - v. Areas of significant archaeological potential;
 - vi. In the vicinity of a recorded monument, and;
 - vii. Sensitive landscapes.
 - viii. World Heritage Sites.
- Meath County Development Plan 2013-2019, Appendix 7 sets out a Landscape Character Assessment for County Meath. The site is located in the Blackwater Valley which is detailed as having a 'very high value' and a 'high sensitivity'.

5.3. Natural Heritage Designations

- 5.3.1. The site adjoins the designated area of the River Boyne and Blackwater SAC, while the designated area of the River Boyne and Blackwater SPA is to the north. Appropriate Assessment is discussed in more detail in Section 8 below.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One third party appeal has been received from the owner of an adjacent commercial property. The grounds of appeal can be summarised as follows:

- Impact on River Blackwater SAC. The development is located close to and down gradient of the Blackwater River SAC. Any contaminated material (inc. invasive species) dumped on site has direct access to the river and could lead to pollution.
- Conditions attached to the permission are not adequate to address the potential for pollution.
- Road infrastructure insufficient to accommodate traffic generated by the development.
- Previous refusal of permission on site (Ref. KA160541) relating to traffic hazard. The application does not address potential hazards identified under the previous application.
- Flooding and the construction of drain through SAC without permission allows for increased run off from quarry area opening up potential for pollutants to enter the river.
- Dust and noise pollution.
- Source of fill material and haul routes not specified. Viability of 'back loads' from customers receiving sand and gravel questionable as the quarrying is almost completed.
- Failure to comply with Section 22 2b (ii) of the Planning and Development Regulations. Full holding map differs from land registry map for the property.
- Impact on protected structures in proximity to the site.

6.2. Applicant Response

- Applicant has been working in the locality for in excess of 20 years and has sought to ensure that the quarrying operations and restoration and remediation phases are carried out in an environmentally sound manner.
- Applicant needs to import quantities of materials for restoration due to lack of material for recovery and restoration on site.
- Processes will be in place for monitoring and screening of material, to include screening for invasive species.

- Restoration will be undertaken under a 'certificate of registration' from Meath County Council. This process will minimise any potential for contaminated material to be brought to the site.
- Previous application Ref. KA/160541 related to a HGV trailer park with 75 parking spaces for trailers and trucks. The reason for refusal related to the inadequate information provided in relation to intensity of traffic movements. Quarrying operation has now ceased and vehicular intensity at the entrance has significantly reduced. The proposed development will see a maximum of 1248 loads per annum which represents a maximum of 5 loads per day Monday to Saturday over a 3-year period.
- There is no recent memory of flooding on the appeal site and the area is not listed on the OPW flood risk areas.
- Surface water residing on site at time of appellants photographs was a function of increased groundwater flows from local topography and from simple flooding of settlement tanks excavated as part of the process to settle out sediment and prevent surface waters laden with sediment migrating to the Blackwater River. The local hydrology and topography lends itself to multiple springs and via the excavation works these have been exposed and lead to increased volumes of surface water.
- The applicant stresses that an existing drain on the holding was always in place and has provided evidence of same to Meath County Council. The widening of the drain was carried out to assist in the release of the extra volumes of ground water generated from the exposure of the springs and local ground waters during the excavation phase. The Appropriate Assessment Report concludes that there will be no ill effects suffered ecologically from the widening of the drain.
- Whilst it may be argued that the widening of the drain opens up the 'potential' for pollutants to move to the river, if it is reviewed in the context of the inert soil, screening procedures and the proposed environmental management of the material on site, and the fact that the applicant will do everything possible to ensure that the restoration activity is carried out in a very environmentally responsible manner, the potential for pollution must be viewed as minimal.

- It is proposed to bring soil to the site on return journeys, where aggregates from other quarry sites in the vicinity are delivered. Applicant is undertaking geological aggregate assessments for new sites and has a current application for a quarry on lands in the area (Ref. KA/171148).
- In relation to landownership, lands to the east of the proposed recovery site are not included as they do not adjoin, abut or are not adjacent to the proposed site and lands and have no connection to the recovery site.

6.3. Planning Authority Response

6.3.1. The Response of the Planning Authority can be summarised as follows:

- The Planning Authority is satisfied that all matters outlined in the appeal were considered in the course of its assessment, as detailed in the Planning Officer's Report.
- The Environment and Roads Departments have no objection to the development.
- Conditions of the grant of permission require that only clean, uncontaminated soil and stones shall be imported into the site, that a 5-meter buffer zone be maintained along all drainage channels and that the applicant employ all prevention / mitigation measures as detailed in the Natura Impact Statement.
- It is considered that planning conditions will prevent any potential pollution on the River Blackwater.
- Condition no. 16 required the applicant to liaise with the Environment Department prior to importation of any material and to ensure that the relevant authorisation is in place.
- The proposed development involves the restoration of the site to agricultural purposes which the PA would encourage. The development is considered to be consistent with the policies and objectives outlined in the Meath County Development Plan.

6.4. Observations

6.4.1. An observation has been received from Inland Fisheries Ireland. The observation can be summarised as follows:

- Concerns with regard to the 'drain' that connects the quarry site to the Kells Blackwater.
- It is not clear from 2005 and 2016 OSI aerial drawings that the drain existed in 2005.
- The use and volume of the drain has been greatly intensified. Concerns in relation to the drain conveying pollutants directly to the river waters.
- The Natura Impact Statement states that a drain linking the quarry to the river has been recently dug (2-3 m banks) and carries water partly derived from springs in its floor.
- There is limited reference to the drain in the EIA Screening Report prepared by Raphael McEvoy. No reference in Appendix 1 to potential impact of suspended solids potentially discharging to waters which may arise from the non-contaminated soil, especially if it escapes to the drain.

7.0 Assessment

7.1.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal and in the observation. I consider that the key issues in determining the current application and appeal before the Board are as follows:

- Nature and Extent of Operations
- Principle of Development
- Impact on Ground and Surface Water
- Traffic and Transportation
- Impact on Amenity and Character of the Area
- Other Issues

- Environmental Impact Assessment
- Appropriate Assessment

7.2. Nature and Extent of Operations

- 7.2.1. The appeal site forms part of a landholding of approximately 17 hectares that is located to the north of the Virginia Road and south of the River Blackwater. In 2004 (ABP Ref. PL17.231185 / Reg. Ref. KA/40263), permission was granted by Meath County Council for the extraction of sand and gravel on a site of c. 12.4 hectares. While the decision to grant permission was upheld by An Board Pleanála on appeal, condition no. 4 of the permission reduced the extraction area to c. 9 hectares. Quarrying in this area is completed and the lands have been restored. In 2011 (Reg. Ref. KA/101307), Meath County Council granted permission for a 2.44 ha extension of the quarry to the west. In 2015 (Reg. Ref. KA/150987), Meath County Council granted permission for continuation of the quarrying activity on a 1.52-hectare area of the development approved in 2011. Conditions of Reg. Ref. KA/101307 and Reg. Ref. KA/150987 require restoration of the site in line with details contained in the submitted Environmental Impact Statements. The extractions approved under Reg. Ref. KA/101307 and Ref. Ref. KA/150987 over an area of 2.44 hectares are now completed and the site is characterised by internal quarry roads, spoil, settling ponds, with mounding, grass and soil cover at the edges. Permission is sought to import inert clay and stones over the lands for the purpose of land reclamation for agricultural use. Submitted details state that the level of the site would be raised to 84 metres OD by importing 74,800 tonnes of inert soil and stone over a 3-year period.
- 7.2.2. There is a detailed planning history relating to the applicants quarrying activities in the wider Carnaross area since 1982, as set out in Section 4 above, including approval for a processing plant on lands c. 700 metres to the east of the appeal site.

7.3. Principle of Development

- 7.3.1. The restoration of quarries for suitable land uses is supported by the Meath County Development Plan 2013-2019 and by the Quarries and Ancillary Activities, Guidelines for Planning Authorities, DEHLG, 2004. Policy RD POL 26 of the

Development Plan states that where land filling is proposed, inert material is the preferred method. The proposed development is therefore acceptable in principle.

7.4. Impact on Ground and Surface Water

- 7.4.1. The potential for impacts on ground and surface waters is one of the key considerations under this appeal.

Ground Water

- 7.4.2. The previous consents for quarrying activity on the appeal site under Reg. Ref. KA/101307 and Ref. Ref. KA/150987 excluded extraction below a level of 83 m OD and 83.5 m OD respectively to protect ground water. The submitted details indicate ground levels of 83 m OD and above on site and state that quarrying activities have not breached the water table. I am satisfied on the basis of the submitted details and site inspection that the quarry is above the groundwater table. However, excepting a reference to a 'ground water line' at below 82 m OD on a section drawing there is no information on file in relation to the level of the groundwater table.
- 7.4.3. Environmental Impact Statements submitted with previous applications on the site note a lack of site specific groundwater data, in particular in relation to the depth to the groundwater table and note that there are a number of small depressions within the site with associated drainage channels linked to groundwater springs and seepages. The Statements also note that the underlying aquifers are highly vulnerable and non-confined and that ground water is likely to interact with surface waters and to discharge to the adjacent river channels. The Report on file from Robert Meehan hydrogeologist reinforces this view, stating that groundwater flow in the area would be likely to be down-gradient towards the River Blackwater.
- 7.4.4. The details submitted with the subject application do not address the potential risk of sediment or contaminants from the infill material or from operations on site entering the groundwater system. The site overlies a 'highly vulnerable' aquifer and vulnerability is increased due to the removal of subsoils and aggregates during extraction. The actual vulnerability would depend on the geological layers below the quarry floor, the level of the groundwater table, and in turn, the potential for infiltration / attenuation of sediments and pollutants. The potential receptors include

both groundwater and surface water, given the likelihood of interaction between both at this location.

- 7.4.5. I would note that the proposed development will impact areas already impacted by quarrying and that subject to appropriate safeguards, the reinstatement is likely to provide increased protection for ground water. However, I am not satisfied that the technical information submitted with the application and appeal demonstrates an adequate understanding of the water environment and that adequate measures have been proposed to prevent contamination. The receiving environment is particularly sensitive due to the proximity of the River Boyne and Blackwater SAC and SPA, as discussed in more detail in Section 8 below.

Surface Water

- 7.4.6. Environmental Impact Statements submitted with the previous applications on the site noted that during wet winter months the sand and gravel deposits in the area were understood to act as 'bank storage' for surface water, and gradually release waters back to the river once levels have dropped and the potential for loss of storage is identified. The Statements did not envisage the need for any designed surface water storage areas and expected that any surface runoff would drain freely through the quarry floor. However, on inspection of the site I noted that there was a significant quantity of water residing in constructed ponds (c. 4) on or adjoining the site. The ponds are not detailed on the submitted site layout plan. The applicant's response to the grounds of appeal state that this water is a function of increased groundwater flows from local topography and from the flooding of settlement tanks excavated as part of the process to settle out sediment and prevent surface waters laden with sediment migrating to the Blackwater River. The response states that the local hydrology and topography lends itself to multiple springs and via the excavation works these have been exposed, leading to increased volumes of surface water.
- 7.4.7. Stormwater at this location flows in the direction of the River Blackwater and to an existing land drain adjoining the eastern boundary (that crosses the north eastern corner of the site) before flowing through the designated area of the River Boyne and River Blackwater SAC and discharging directly into the Blackwater River to the north. The appellants raise concern about the impact of the proposed restoration on the River Blackwater SAC. The applicant states that the drain has been widened to

assist in the release of extra volumes of groundwater generated by the exposure of springs and local groundwater's during the excavation phase. The grounds of appeal and the observation from IFI question whether the widening of the drain would not give rise to increased potential for pollutants to be carried to the River Blackwater SAC. The applicant in response argues that while it may be argued that the widening of the drain opens up the 'potential' for pollutants to move to the river, if it is reviewed in the context of the inert soil, screening procedures and the proposed environmental management of the material on site, and the fact that the applicant will do everything possible to ensure that the restoration activity is carried out in a very environmentally responsible manner, the potential for pollution must be viewed as minimal.

- 7.4.8. The submitted details fail, in any meaningful way, to address the existing water environment on site and to provide details for the management of same during the restoration process. There is no detail on file in relation to the settlement tanks, whether they are linked, operating in a closed system or whether the water discharges to ground or to the constructed / widened land drain to the east and in turn to the Blackwater. I would draw to the Boards attention the fact that the discharge of trade effluent to a waterbody requires a Discharge Licence under the Local Government (Water Pollution) Acts, 1977 and 1990 and it is unclear on the basis of the submitted information whether the provisions of the Water Pollution Acts would apply in this instance.

Conclusion

- 7.4.9. I consider that there is inadequate information on the file in relation to the groundwater and surface water environment. Having regard to the sensitivity of the water environment and the potential for pollution of ground and surface water I recommend that permission be refused.
- 7.4.1. If the Board are minded to grant planning permission for the proposed development, I recommend that prior to determining the application further details are sought from the applicant, by way of an order under Section 132 of the Planning and Development Act, 2000, as amended, in relation to the following:
- The hydrological conditions on and adjoining the site and the inter-relationship between ground and surface water. Details of the geological layers below

ground and the level of the water table should be included, in addition to an evidenced based conceptual model of how groundwater and surface water interacts at this location.

- Details of settlement ponds, drains and springs on or adjoining the site and the flow of water through the site. Details for the management of surface water features during the restoration process should be included.
- Details of a robust and comprehensive site management plan for the protection of ground and surface waters.

7.5. Traffic and Transportation

- 7.5.1. The grounds of appeal express concern with regard to the capacity of the road network in the area to accommodate traffic generated by the development. The details submitted with the application state that there would be up to 5 no. truckloads of infill material delivered to the site per day over the three-year restoration period. This is compared to a stated total of 20 no. truckloads per day when the quarry was operating at full capacity. I am satisfied that the local road network is adequate to cater for the traffic volumes that would be generated by the proposed development and that impacts arising principally from the 3-year restoration phase, are temporary in nature and can be adequately mitigated through the implementation of a best practice management plan. I would recommend that a condition is attached, in the event of a grant of permission, in relation to the agreement of a management plan prior to the commencement of development.

7.6. Impact on Amenity and Character of the Area

- 7.6.1. I note the arguments made by the appellants in respect of the impacts arising from dust and noise emissions. These would arise from a restoration phase, which is a temporary phase. I consider that any potential impacts can be adequately mitigated by the application of appropriate conditions and the implementation of a best practice management plan.

7.7. Other Issues

Procedural Issues

7.7.1. The grounds of the third party appeal and observation question the planning status of a land drain on lands adjoining the appeal site to the east and north. The drain is outside of the site (save a small section in the north eastern corner) and I would consider the issues raised to fall outside of the Boards considerations in determining the subject appeal.

Built Heritage

7.7.2. The grounds of appeal refer to the potential impact on protected structures close to the development site. There are a number of protected structures in the vicinity of the cross roads to the east of the site, to include a former railway warehouse (MH010-100), railway station (MH010-101), bridge (MH010-103) and post-box (MH010-102). There are no protected structures on or in the immediate vicinity of the site and I do not consider that the proposed reinstatement works would impact negatively on the architectural heritage of the wider area.

Slope

7.7.3. The level difference between the worked out quarry and adjoining lands to the south is in the region of 12 metres. I would note that condition no. 12 of Reg. Ref. KA/101307 stated that excavation shall be carried out so as to provide a slope of no steeper than an angle of 30 degrees to the vertical in order to protect the stability of adjoining lands. On inspection I noted a significant drop in levels at the northern and western edges of the quarry with steep gradient. It is considered appropriate that any restoration would seek to regrade this area in the interest of health and safety. If the Board are minded to grant planning permission for the proposed development, I would recommend that prior to determining the application further details are submitted regarding the level difference, including proposals to reduce the gradient to ensure the stability of adjoining lands.

7.8. Environmental Impact Assessment (EIS)

7.8.1. The revised details received by the Planning Authority at further information stage included an Environmental Impact Assessment Screening Report dated July 2017. Schedule 5 of the Planning and Development Regulations 2001, as amended, sets the thresholds for projects which would require an EIS. The following provisions of

Schedule 5 of the Planning and Development Regulations 2001 (as amended) are considered to be relevant:

- Class 11(b) of Part 2 in respect of 'Other Projects' refers to 'installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'.

7.8.2. The submitted Screening Report argues that the proposed development is sub-threshold by reference to the terms of Class 11 (b), as the stated intake of 24,960 tonnes per annum is below the threshold of 25,000 tonnes per annum. On this basis, I consider the proposal to be sub-threshold for the purposes of EIS and propose to screen the proposal for the purpose of EIA as follows:

7.8.3. Characteristics of the proposed development

The proposed development consists of the restoration of a worked out quarry for agricultural purposes. The restoration will involve the importation of inert soil and stones at a rate of c. 24,960 tonnes per annum. There is potential for the generation of sediment, pollutants, noise and odour arising out of on-site activities.

7.8.4. Location of the proposed development

The appeal site is part of a worked out sand and gravel quarry located in a rural area and relates to lands that have previously been impacted by quarrying activities. Lands in the vicinity are in agricultural use and, save a residential property to the south, the site is separated from residential properties or other such sensitive receptors. The area is identified as a high amenity area in the Development Plan but is not subject to any specific amenity designations under the applicable Development Plan. The site adjoins the designated area of the River Boyne and Blackwater SAC and is over 100 metres from the River Blackwater and from the designated area of the River Boyne and Blackwater SPA.

Characterisation of Potential Impacts

Potential impacts include the pollution of ground and surface water and soil, the introduction of invasive species or other contaminants, noise and odour impacts. Positive impacts might include economic benefits, the deposit of inert waste to support agricultural activities, protection of ground water and restoration of the

landscape. I consider that the potential for significant environmental impacts can be managed and mitigated through the implementation of a best practice management plan.

Overall Conclusion

- 7.8.5. I consider having regard to the nature, size and location of the development that, subject to appropriate mitigation, that the proposed development would not be likely to have significant effects on the environment by virtue of the nature, size and location of the development and that EIA can be screened out in this instance. I would also note that the potential environmental impacts of the restoration of the subject lands has been previously considered in the EIA undertaken in support of the previous consents for quarrying at this location, which concluded that the restoration phase would not be likely to have significant environmental effects. In considering the requirement for a sub-threshold EIS, I have had regard to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Schedule 7 of the Planning and development Regulations 2001 (as amended).

8.0 Appropriate Assessment

Stage 1: Appropriate Assessment Screening

- 8.1.1. This section of the report considers the likely significant effects of the proposal on European sites. The grounds of appeal contend that the proposed development could have significant effects on European Sites in the area.
- 8.1.2. There are six European sites within a 15 km radius of the site as follows:
- River Boyne and River Blackwater SAC (Site Code: 002299). The northern boundary of the appeal site adjoins the designated area of this SAC.
 - River Boyne and River Blackwater SPA (Site Code: 004232). The northern boundary of the appeal site is c. 95 metres from the designated area of the SPA.
 - Kilconny Bog (Cloghbally) SAC (Site Code: 0006). This site is c. 3 kilometres to the east of the appeal site.

- White Lough, Ben Loughs And Lough Doo SAC (Site Code: 001810). This site is c. 14 kilometres to the west of the appeal site.
- Lough Bane and Lough Glass SAC (Site Code: 002120). This site is located c. 13 kilometres to the west of the appeal site.
- Girley (Drewstown) Bog SAC (Site Code: 002203). This site is located c. 11 kilometres to the south of the appeal site.

8.1.3. A Natura Impact Statement, prepared by Roger Goodwillie & Associates, was submitted to the planning authority at further information stage. The NIS states that the main site in this case is the River Boyne and River Blackwater SAC. Kilcony Bog is noted, and impacts are discounted on the basis that there are no pathways between the appeal site and this site. I would draw the Boards attention to the fact that the NIS fails to identify or consider a number of other sites within a 15 km radius, including the adjacent River Boyne and River Blackwater SPA.

8.1.4. Permission is sought to restore a worked-out quarry for agricultural use by importing inert material. The site comprises a worked-out quarry that includes internal quarry roads, spoil, bare ground, artificial lakes / settling ponds and drainage ditches, with some grass and soil cover at the edges. The site has limited vegetation and there would be no loss of significant habitat within the site. There is potential, however, for hydrological links to the SAC and SPA. Surface water in the area drains to the adjacent River Blackwater and a land drain has been created to drain water to the river. In addition, the aquifer underlying the site is classified as a 'highly vulnerable' and 'non-confined' aquifer and would appear to have the potential to interact with surface water and river channels.

8.1.5. In light of the sites proximity to the designated areas of the River Boyne and River Blackwater SAC and SPA and having regard to the nature of development proposed and the potential for hydrological connectivity, it is likely that there are direct source – pathway – receptor linkages between the proposed development and these European Sites. I would note that the other European sites within the 15 km zone of influence are at a distance from the appeal site and there are no apparent pathways between the appeal site and these sites.

Screening Conclusion

8.1.6. It is reasonable to conclude on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that all but two of the sites (River Boyne and River Blackwater SAC and SPA) within the 15 km zone of influence can be screened out of any further assessment because of the nature and scale of the development, its proximity to these sites and the absence of links and pathways between the sites. Stage 2 Appropriate Assessment is required, in my view, in respect of the River Boyne and River Blackwater SAC (Site Code: 002299) and the River Boyne and River Blackwater SPA (Site Code: 004232) given the proximity of these sites to the proposed development and the likelihood of hydrological connectivity.

8.1.7. Stage 2: Appropriate Assessment

8.1.8. I outline the qualifying interests and the conservation objectives for each site below:

- **River Boyne and River Blackwater SAC (Site Code: 002299)**

The qualifying interests for this SAC are Alkaline fens, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*), River Lamprey (*Lampetra fluviatilis*), Salmon (*Salmo salar*), and Otter (*Lutra lutra*). The Conservation objective is 'to maintain or restore the favorable conservation condition of the Annex 1 habitat(s) and/or the Annex II species for which the SAC has been selected'.

- **River Boyne and River Blackwater SPA (Site Code: 004232)**

The qualifying interest is Kingfisher (*Alcedo atthis*). The conservation objective is 'to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA'.

8.1.9. I am not satisfied that there is sufficient information on the file to identify all aspects of the development project which can, by itself or in combination with other plans and projects, adversely affect the River Boyne and River Blackwater SAC and the River Boyne and River Blackwater SPA in light of the Conservation Objectives for these sites. I am of the view that the conclusions of the NIS in respect of the water environment are inadequate. As outlined in Section 7.3 above, the technical

information submitted with the application and the appeal demonstrates an adequate understanding of the water environment and the hydrological links that exist between the appeal site and the River Blackwater. In addition, I am not satisfied that the project incorporates adequate measures to prevent a risk of sediment or contaminants from infill material and from operations on the site, entering into the grounds water and surface water systems and in turn from entering the river system, that forms part of the SAC and SPA. I would draw the Boards attention to the fact that qualifying interests of both the SAC and the SPA (e.g. River Lamprey, Salmon and Kingfisher) have the potential to be affected by changes in water quality. On this basis, significant adverse impacts cannot be excluded.

Appropriate Assessment Conclusion:

- 8.1.10. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans and projects would not adversely affect the integrity of European Site No. 002299 (River Boyne and River Blackwater SAC) and European Site No. 004232 (River Boyne and River Blackwater SPA), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

9.0 Conclusion

- 9.1.1. Arising from my assessment above, I consider that the technical information submitted is insufficient to demonstrate that the development would not result in contamination of ground and surface water and as such, I cannot be satisfied that the proposed development individually, or in combination with other plans and projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC and SPA. On this basis I consider the proposed development to be contrary to the proper planning and sustainable development of the area and I recommend that planning permission be refused for the reasons set out below.
- 9.1.2. If the Board however, do not concur with the above conclusion and are minded to grant planning permission for the proposed development, I recommend that prior to determining the application further details are sought from the applicant, by way of

an order under Section 132 of the Planning and Development Act, 2000, as amended, in relation to the following:

- The hydrological conditions on and adjoining the site and the inter-relationship between ground and surface water. Details of the geological layers below ground and the level of the water table should be included, in addition to an evidenced based conceptual model of how groundwater and surface water interacts at this location.
- Details of settlement ponds, drains and springs on or adjoining the site and the flow of water through the site. Details for the management of surface water features during the restoration process should be included.
- Details of a robust and comprehensive site management plan for the protection of ground and surface waters.
- Details to address the level differences between the quarry floor and lands to the south and west, including proposals to reduce the gradient to ensure the stability of adjoining lands.
- The applicant should be requested to submit a revised Natura Impact Statement that takes account of new information in respect of the water environment.

10.0 Recommendation

1. It is considered that insufficient information has been submitted with the planning application and appeal in relation to the water environment and the measures for the protection of ground and surface water during the restoration process. The Board is not satisfied on the basis of the information submitted that the proposed development would not give rise to a serious risk of water pollution and, therefore, be prejudicial to public health.
2. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out, the Board cannot be satisfied that the proposed development individually, or in combination with other plans and projects would not adversely affect the integrity of European Sites No. 002299 (River Boyne and River Blackwater SAC)

and European Site No. 004232 (River Boyne and River Blackwater SPA), in view of the site's conservation objectives. In such circumstances the Board is precluded from granting permission.

Karen Kenny,
Senior Planning Inspector

26th January 2018