



An
Bord
Pleanála

Inspector's Report ABP-302054-18

Development	The extraction of sand and gravel for a period of 5 years and all associated site works.
Location	Balgree and Pottlereath, Carnaross, Kells, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	KA171148
Applicant(s)	Bernard Horton and Julian McDonnell.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	Evelyn Carroll and family.
Observer(s)	Inland Fisheries Ireland.
Date of Site Inspection	23 rd January 2018.
Inspector	Deirdre MacGabhann

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	9
5.0 Policy Context.....	10
5.1. Meath County Development Plan 2013 to 2019.....	10
5.2. Natural Heritage Designations	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Applicant Response	13
6.3. Planning Authority Response.....	13
6.4. Observations	14
6.5. Further Responses.....	14
7.0 Assessment.....	14
7.3. Principle	15
7.4. Environmental Impact Assessment (Procedures)	16
7.5. Environmental Effects.	17
7.6. Impact on fisheries	27
7.7. Impact on Natura 2000 sites.	28
7.8. Other matters	30

8.0 Recommendation..... 30

9.0 Reasons and Considerations..... 30

1.0 Site Location and Description

- 1.1. The 3.1ha appeal site lies c.8km to the north west of Kells and c.2km to the north west of Carnaross village in the rural townland of Balgree and Pottlereath, County Meath. It is situated c. 500m to the west of the N3 and to the east of a county road, Virginia Road, that runs to the west of the national road.
- 1.2. The appeal site comprises an undulating agricultural field and access to it from the public road. The field is bound by mature hedgerows along its southern and western boundaries. Along its northern boundary is a bank with scrub along most of its length. To the east is a post and wire fence. The site is separated from the River Blackwater (a candidate Special Area of Conservation and Special Protection Area) by an undulating agricultural field. To the north west of the site, encroaching onto the site is an area of wet ground.
- 1.3. Access to the site is proposed from the public road to the south east of the site via an existing access to Balgree House. From the existing entrance to Balgree House, the access road will travel west along a disused railway line, before turning north and then west to cross two agricultural fields, to join the larger part of the site at its south eastern corner.
- 1.4. To the west of the appeal site, separated from it by an agricultural field, is an existing quarry/processing area. Access to it is from the county road to the south of the appeal site (c.800m to the west of the proposed entrance to the appeal site). Three residential properties lies to the south of the appeal site, alongside the public road.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information submitted on the 11th May 2017, comprises the extraction of sand and gravel from the 3.1ha site. Access site will be provided via the widening of an existing access to the Balgree House, an existing residential dwelling and farm. A new domestic entrance and driveway will be constructed to the east of the proposed quarry entrance. A c.830m haul road will extend from the proposed entrance to the extraction area (along the public road). A wheel wash will be provided to the north west of the site access. It is estimated that c.500,000 tonnes of sand and gravel will

be quarried from the appeal site at a rate of c.100,000 tonnes per annum giving it a lifetime of 5 years. No processing will be carried out on site. Instead all processing will be carried out at the applicant's existing adjacent site 'The Plantations' with material to be hauled along the public road for a distance of c.830m. The quarry will operate above the water table (no excavation below 82.5m AOD) and will be worked and restored, progressively, to agricultural use.

2.2. The application for the development includes the following:

- A report entitled 'EIS Carnaross Sand and Gravel'. However, it is stated within the report that as the development is sub-threshold an EIA is not warranted. The report is therefore referred to as an Environmental Report.
- Environmental Impact Assessment Screening Report.
- Transportation Assessment.
- Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 20th June 2018 the planning authority decided to grant permission for the development subject to 26 conditions which include:

- No. 2 – Limits permission to a period of 5 years.
- No. 3 – Limits the volume to be extracted per annum to 100,000 tonnes.
- No. 4 – Requires implementation of all measures set out in the NIS and Environment Report.
- No. 5 – Requires a bat survey to be carried out in advance of commencement and measures to avoid any impacts.
- No. 6 – Provision and maintenance of sightlines.
- No. 7 – Requires survey of haul roads and repair of damage.
- No. 8 – Controls hours of work.
- No. 9 – Requires implementation of Environmental Management System.
- No. 10 – Extraction to take place above 83m AOD.

- No. 11 – Controls dust emissions.
- No. 12 – Controls refuelling and use/storage of hydrocarbons.
- No. 16 – Controls noise.
- No. 19 – Requires pre-development testing (archaeology).
- No. 21 – Controls restoration and specifically excludes the importation of fill material to the site without a prior grant of permission.
- Nos. 23 to 25 – General development contributions.
- No. 26 – Special development contribution (roads).

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 21 November 2017 – The report summarises the proposed development, the history of quarrying in the area, relevant planning policy, submissions and technical reports made. It considers the merits of the application under a number of headings including principle, appropriate assessment, environment, landscape and visual, heritage and access and traffic. In conclusion it considers that insufficient detail has been submitted for certain aspects of the development and recommends further information in respect of these i.e. cumulative environmental effects with the adjacent quarry and the need for EIA, traffic related impacts, Natura Impact Statement and further details on the impact of the development on Whooper Swan, bats and badgers and matters raised in submissions.
- 21st June 2018 – This report considers that the matters raised in the request for further information have been adequately addressed, including that the proposed development will not give rise to significant environmental effects or result in a significant effect on a European site and has addressed the matters raised by third parties. The report recommends granting permission for the development subject to conditions.

3.2.2. Other Technical Reports

- Road Design (10th November 2017) – Recommends further information including a Traffic Transportation Assessment, before and after survey of road

network, sightlines to DMRB standards at entrances, consent from landowner for works on land outside of red line boundary, consideration of off road haulage to processing plant and, given the narrow road, how two way traffic will be managed.

- Transportation (19th June 2018) – No objections subject to conditions.
- Environment (13th November 2017) – Recommends conditions if permission is granted.
- Inland Fisheries Ireland (27th November 2017) – Concerned that there is insufficient information to demonstrate that the application would not pose a threat to fisheries (Kells Blackwater River is an important salmonid spawning and nursery river for Atlantic Salmon and Brown Trout).
- Conservation Officer (7th November 2017) – Archaeological testing and monitoring, as per Department’s recommendation (below).

3.3. Prescribed Bodies

- Department of Culture, Heritage and the Gaeltacht – Recommends a condition requiring pre-development testing (archaeology) given the proximity of the site close to Blackwater River and to the south of a motte and Bailey of archaeological interest (ME010-021).
- An Taisce – Application for a new quarry should demonstrate need within surrounding catchment area and any permission should have regard to future extension of quarry (should demonstrate suitability at this stage).

3.4. Third Party Observations

3.4.1. There are three third party observations on file, made by residents and past residents in the local area. Concerns are:

- Permanent change to highly sensitive landscape and conflict with policies of CDP (RD POL 27).
- Loss of agricultural land and conflict with policies of CDP (RUR DEV SO 7, 8 and 10).

- Use of potential greenway for haul route to site (TRAN OJB 8).
- Proximity to River Blackwater and conflict with policies to protect, maintain and improve the character of the River (WS POL 25).
- Part of the haul road falls outside of the applicant's landholding.
- Impact on quarry traffic on amenity of residential property (including permanent change to landscape, proximity of quarry traffic, noise and diesel fumes) and loss of property value (and of others in vicinity of site).
- Planning application does not refer to material change of use of site (agriculture to quarry) and access (from residential use to quarry).
- Northwest corner of the site floods annually. This is reflected in marshland conditions.
- Impact of quarry on surface water and flows to River Blackwater, a Special Area of Conservation (WS OBJ 15).
- Source of water for quarry is not indicated (2500 to 3500/day).
- Noise survey carried out when calibration certificates had expired. No noise sensor at NRS2 (observer's property) and no permission for same. Question how noise was therefore measured.
- Field 1 (geophysical survey) is in the ownership of the applicant and is an alternative site to the proposed.
- The quarry is removed from any other quarries and cannot therefore be described as an extension (Phase 4).
- The applicant has undertaken unauthorised development (UD12273).
- Narrow road and risk of accidents with quarry traffic (conflict with TRAN SP 14). Proposed access is located close to the proposed new residential access and on a bend (contrary to RD POL 14 and TRAN POL 24). Inadequate sightlines are shown (90m shown against NRA requirement for 160m for roads with a speed limit of 80kph) and would give rise a to traffic hazard. No sightlines shown for relocated residential entrance. Question how proposed speed controls will be enforced by private operator.
- Predicted traffic movements would be in addition to those proposed under KA160923. Impacts should be assessed in tandem.

- Health risks from silica in quarried material.
- Development will contravene CSA SP1 i.e. it is short term exploitation of resources and is not sustainable by nature and will add no jobs to the area.
- Development is near listed monument ME010-021. The impact of the quarry on the monument has not been assessed.
- Errors in the EIS (e.g. reference to the development being an extension of existing quarrying operations, no proposals for remediation of phase 4)
- No assessment of impact of development on frogs found on site (NH POL 8).
- Newspaper notice does not refer to EIS.

4.0 Planning History

4.1. There is no planning history for the appeal site. However, the following applications have been determined in respect of the existing sand and gravel quarry/processing plant at Pottlereath:

- PA ref. 82/2192 – Permission **granted** for the extraction of sand and gravel and to erect sand and gravel plant and entrance, at Pottlereath (The Plantation).
- PA ref. 93/309 – Extension of duration of permission for sand and gravel extraction and erection of new washing plant **granted** (The Plantation).
- PA ref. 93/347 – Permission **granted** to retain ready mix concrete plant, blockmaking plant and ancillary plant, offices and septic tank, Pottlereath, (The Plantation).
- PA ref. 93/470 – Permission **granted** to extract sand and gravel, Pottlereath (The Plantation).
- PA ref. KA40263 (PL17.213185) – Permission was **granted** in 2006 by the Board for the extraction of sand and gravel, construction of entrance gate and wheel wash and haul by road c.700m to existing processing plant at Pottlereath (The Plantation), on a site of 12.416ha located c.1km to the north west of the appeal site (referred to as Phase 1). The application was accompanied by an EIS.

- PA ref. KA101307 – Permission **granted** in 2011 to extend the existing permitted quarry at Pottlereath (under PA ref. KA40263) by 2.44ha. The development again consisted of the extraction of sand and gravel, hauling it through the existing permitted development and then, by road, c.700m to the existing plant for processing (referred to as Phase 2). The application was accompanied by an EIS.
- PA ref KA150987 – Permission was **granted** in 2015 for the extension of the existing development, granted permission under PA ref. KA101307 and KA40263 (referred to as Phase 3) by 1.52ha, which again involved the extraction of sand and gravel, hauling it through the existing permitted development and then hauling by road approximately 700 metres to the existing Plant at Pottlereath for processing. This application was accompanied by an EIS.
- PA ref. KA160923 (PL17.249302) – Permission for the importation of clay for land reclamation and reinstatement purposes on 3.38 ha, comprising land quarried under KA101307, was **refused** permission by the Board on the grounds of insufficient information in relation to the water environment, risk of water pollution and adverse effect of the conservation interests of the River Boyne and River Blackwater SAC/SPA.

5.0 Policy Context

5.1. Meath County Development Plan 2013 to 2019

- 5.1.1. **Rural Development.** Section 10.1 of the Plan deals with Rural Development. The overall goal of the Plan is to encourage the continued sustainable development of rural communities without compromising the physical, environmental, natural and heritage resources of the County. Strategic objectives include to identify and protect rural resources such as water bodies (RUR DEV SO 2), known or potential aggregate resources (RUR DEV SO 3), agriculture (RUR DEV SO 7 and 8) and rural economic development (RUR DEV SO 10).
- 5.1.2. **Extractive industry.** Section 10.12 of the Plan deals with extractive industry. It acknowledges the need for extractive industries providing employment and

underpinning economic growth, locally and regional. However, it also acknowledges the potential for conflicts and environmental concerns. The goal and supporting policies of the Plan (Policy RD POL 22 to 27) are therefore to facilitate an adequate supply of aggregate resources to meet the future growth needs of the County and the wider region whilst addressing key environmental, landscape, traffic and social impacts and details of rehabilitation. Policy RD POL 21 requires screening of projects for Appropriate Assessment.

- 5.1.3. **Nature conservation.** National and European sites of nature conservation interest are afforded protection in Policy NH POL 5 and related policies (e.g. WS OBJ 15, which seeks to ensure that construction works are designed so as not to result in surface water runoff into Natura 2000 sites, directly or indirectly). Policy NH POL 8 seeks to ensure that development does not have a significant impact on plant, animal and bird species protected by law.
- 5.1.4. **Water quality.** Water quality, both surface and ground, is afforded protection in Policies WS POL 2 and related policies and objectives.
- 5.1.5. **Site specific policies.** The appeal site lies just south of the River Blackwater and within the Blackwater Valley Landscape Character Area, of 'very high value' and 'high' sensitivity. A number of policies of the Plan seek to protect landscape character within the County, including strategic policy LC SP 1 and objective LC OBJ 1 (see attachments). The appeal site incorporates part of a disused railway. Policy TRAN OBJ 8 seeks the development of linkages along disused transportation corridors in the county and alongside the River Blackwater. Approximately 300m to the north of the appeal site is a recorded monument (SMR reference: ME010-021), a Motte and Bailey. It is separated from the appeal site by the River Blackwater. Archaeological heritage is afforded protection by policies CH POL 6 to 9 of the Plan and related objectives.

5.2. Natural Heritage Designations

- 5.2.1. The River Blackwater lies c.100m to the north of the appeal site. It is designated as both an SAC and an SPA, the River Boyne and River Blackwater SAC (site code 002299) and SPA (site code 004232). The SAC/SPA is a substantial site extending

from Lough Ramor, c.4km to the north west of the appeal site, eventually discharging to the sea, east of Drogheda.

- 5.2.2. Kilconny Bog (Cloghbally) SAC (site code 0006) lies to the north of the River Blackwater, more than 2km from the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of the third party appeal are:

- Inland Fisheries Ireland correspondence (8th June 2018) recommended refusing permission due to insufficient information. The planner's report did not take this into consideration.
- The appropriate assessment screening report wrongly takes account of mitigation measures.
- Habitats referred to in the NIS are removed from the appeal site. The planning authority found no issue with this inconsistency.
- The phased approach to the development of quarries by the applicant, each time remaining sub-threshold for an EIS, is not a valid development strategy and was not considered by the planning authority.
- The traffic survey was stated to be carried out in March 2017 but the data attached was from March 2018. This is significant as a survey carried out in March 2017 would have included operational traffic from KA160923 but not in March 2018 (KA 160923 scheduled to cease extraction in October 2017).
- The EIA screening report wrongly states that the development will not involve the use of natural resources.
- The Trafficwise report does not consider the cumulative effect of the two proposed entrances operating together.
- The revised sightline map shows a 'y' distance of 120m compared to a required distance of 295m. The visibility assessment only assesses the existing entrance. The sightline that would be available at the new residential entrance is obstructed with a 1.525m pier.

- The Full Land Holding map and the property registered to the applicant by Land Registry differ and the application would be invalid as it does not comply with section 22, 2(b)(ii) of the Planning Regulations.
- The evidence provided by the appellant that the land in the northwest corner of the site seasonally floods has been refuted. The photographic evidence should be investigated (by site visit).
- The application was not referred to the Department of Communications, Marine and Natural Resources or the EPA (section 28(1)(n) Planning and Development Regulations).
- The planning authority's assessment has not been balanced or objective i.e. it has not acknowledged that the development would be inconsistent with a number of objectives of the County Development Plan.
- The proposed development is in an area of highly scenic landscape and has not been afforded protection in the decision to grant permission (as per objectives of the County Development Plan).
- The applicant has failed to highlight the source of water to be used per day (2000 to 3500 litres/day).

6.2. Applicant Response

- 6.2.1. The applicant responds to the matters raised in the appeal and includes additional technical responses on ecology and traffic matters. These are referred to in my assessment below.

6.3. Planning Authority Response

- 3rd August 2018 – All the matters raised were considered during the application. The Report by IFI had not been received at the time of writing the Planner's Report, however, matters raised could be dealt with by condition. The application is a joint application and no contradictions regarding land ownership were noted. Reports were received from Roads Department, Environment Department and Conservation. All reports were satisfied with regard to the proposed development. Mitigation measures and conditions of

the permission will prevent any significant impacts on the local environment and habitats. No part of the site is located within the identified flood zone (OPW PFRA Mapping for Co. Meath). The application was referred to a number of Prescribed bodies and internal departments, which were deemed to be relevant. NIS was completed by a qualified ecologist and mitigation measures have been conditioned. Impacts on the landscape, local environment, habitats, traffic impacts and impact on adjoining property were all considered.

6.4. Observations

6.4.1. IFI make the following observations on the appeal:

- Concerned that there are minimal references to information on the discharge of wastewater from the quarry, that can only lead to the River Blackwater. They list full information which should have been provided and request the Board to refuse permission until this has been provided.

6.5. Further Responses

- None.

7.0 Assessment

7.1. Having regard to the nature of the proposed development, the information on file and my inspection of the site, key matters for this appeal relate to, and can be confined to the following:

- Principle.
- Environmental impact assessment (procedures).
- Environmental effects.
- Impact on fisheries.
- Impact on Natura 2000 sites.

7.2. In the addition to the above, the appellant raises concerns regarding the following two matters which I deal with briefly below:

- Land ownership – Drawing no. 7140(A3) provides information on the joint applicants' landholdings (Julian McConnell and Bernard Harton). This is supported by folio maps submitted in the response to further information. In addition, the applicant provides evidence that the land comprising the disused railway line is owned by one of the applicants, Julian McConnell (see Appendix 3, RFI). The applicant has therefore provided evidence of sufficient legal interest in the land to make an application for planning permission.
- Prescribed bodies – The appellant states that neither the Department of Communications, Marine and Natural Resources or EPA have been consulted on the application. I note that these prescribed bodies were not notified of the application by the planning authority. However, the observations of the Department were sought by the Board on the 21st August 2018 and no submission has been made. With regard to the EPA, it is only necessary to consult this prescribed body where the development comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence. Neither licence is required in this instance, therefore there is no statutory obligation to notify the EPA.

7.3. Principle

- 7.3.1. The Meath County Development Plan 2013-2019 recognises that minerals make a valuable contribution to economic development, support the rural economy and can only be worked where they occur. However, the Plan also recognises that due to the nature of quarrying conflicts can arise with wider environmental considerations. It therefore supports the development of the industry, subject to environmental safeguards (see Section 5.0 Policy Context, above). The proposed development comprises the extraction of sand and gravel in response to market demand in the Greater Dublin area. It is proposed in an area where there are proven deposits and where extraction and processing has occurred in the past and which continues today on land to the west of the site (processing plant).
- 7.3.2. Having regard to the existing policy and operational context for the development, I consider that the proposed development is, therefore, in principle acceptable. However, this presumption in favour of the development must be balanced with the

likely effects on environmental parameters. This report examines these effects in greater detail below.

7.3.3. **Objectivity.** I have reviewed the technical reports and submissions on file and Development Plan context, as discussed above. Having regard to the matters raised in these reports and the assessment carried out by the planning authority, I consider that the planning authority has sought to balance competing objectives of the Development Plan in the assessment of the application and has been objective in this regard.

7.4. **Environmental Impact Assessment (Procedures)**

7.4.1. **Procedures.** The proposed development comprises an application to extract sand and gravel from a site 3.10ha. The Planning and Development Act, 2000 (as revised) requires environmental impact assessment of applications for development listed in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended), or in respect of sub-threshold development (in respect of Part 2), if it is determined that the development is likely to have significant effects on the environment.

7.4.2. Part 1 of the Schedule requires EIA for quarries where the surface exceeds 25ha. Part 2 requires EIA for quarries where the extraction area is greater than 5ha. In addition, Class 13, of Part 2 '*Changes, extensions, development and testing*', requires EIA for any change or extension of development, already authorised, executed or in the process of being executed, which would result in an increase in size greater than 25 percent or an amount equal to 50% of the appropriate threshold, whichever is greater.

7.4.3. The applicant argues that the proposed development is a new quarry and I would accept that as a greenfield site, it is a new quarry. However, it is also stated by the applicant that material will be removed from the proposed site and processed in the existing quarry, to the west of the proposed site. This approach follows that taken in three previous applications for quarrying on land to the north west of the site i.e. under PA ref. KA40263 (PL17.213185), KA101307 and KA150987, where material from the extracted area hauled to 'The Plantation' site for processing. (Each of these applications was accompanied by an EIS).

- 7.4.4. The proposed development is less than the threshold for mandatory EIA (i.e. it is <25ha in surface area and has an extraction area <5ha). However, it is inherently tied to a larger quarrying operation i.e. material will be taken directly to The Plantation site for processing, and it is specifically referred to as 'Phase 4' by the applicant. Whilst the nature of processing is not stated, for sand and gravel quarries this typically includes washing and grading.
- 7.4.5. There is no information on file regarding the extant permission in respect of the existing site but from the limited information available on the history of the site, permission has been granted for the extraction of sand and gravel from the Plantations site (and for washing, blockmaking and ready-mix concrete). Further, from aerial photography it is evident that the Plantations site has been worked extensively, with extraction extending across c.12ha (see attachments). In the absence of information to the contrary, it is evident that the proposed development may therefore comprise the extension to a quarry, already authorised, which would result in an increase in size of 40% (i.e. $5/12 \times 100$) i.e. >25% of the original quarry site >50% of 5ha threshold for extraction area. This would trigger a mandatory requirement for EIA, falling within Class 13 of Part 2, Schedule 5.
- 7.4.6. In summary, therefore, on the basis of the information presented with the application, I do not consider that the proposed development can be considered in isolation from the existing plant. Further, in conjunction with the adjoining quarry it would appear to trigger a requirement for environmental impact assessment. To consider the project as a standalone one for the purpose of environmental impact assessment, would be erroneous and amount to '*project splitting*'.

7.5. Environmental Effects.

- 7.5.1. The appellant raises concerns regarding the environmental effects of the proposed development. I deal with these below under standard topic headings.

Population and human health

- 7.5.2. The proposed development is situated in a rural area with a low density of development. The site is removed from the public road and will be separated from it by agricultural fields and intervening vegetation. The development includes proposals for a perimeter berm around the external boundary of the site (with

planting if considered necessary), industry standard mitigation measures to control noise¹ and dust¹ and routing of the proposed haul road away from the appellant's property (NSR 2). Having regard to these arrangements, I do not consider that the proposed development would generally give rise to significant impacts on population (or human health consequentially), in the vicinity of the site.

- 7.5.3. With regard to traffic effects¹, I would accept that properties NSR 2 (the appellant) and NSR 3 will see an increase in HGV traffic travelling both in front and behind them (more so for NSR 3), on the public road and on the disused railway line/site access, with the potential for noise and dust and consequential impacts on residential amenity over the duration of extraction. I would consider that there would therefore be a short term negative effect on these residential properties. These effects could be addressed in part by the construction of localised bunds (as proposed by the applicant – see RFI, submission no. 3) and additional landscaping, and could be required by condition. Other properties are more removed from the working area and public road and are unlikely to be significantly affected by the development.
- 7.5.4. The appeal site has little visibility from the public road (and properties alongside it) and I do not consider that the extraction of materials from it, or lowering of profile will give rise to any significant effects on visual or residential amenity.

Biodiversity.

- 7.5.5. Information on the ecology of the site is provided in the applicant's Environmental Report and Natura Impact Statement.
- 7.5.6. The Environmental Report identifies the main habitats on the site as improved semi-natural dry calcareous grassland and hedgerow/scrub along field boundaries. The wet/marsh area observed on site at the time of site inspection is not identified as a habitat on site (page 42/43 or Report). It is also visible on the 25 " OS historic maps.
- 7.5.7. Neither the grassland habitat or perimeter hedging/scrub was considered to be of ecological value due to agricultural improvements and the sparse nature of cover respectively. The River Blackwater, a 'depositing lowland river', to the north of the site, was considered to be of significant ecological value.

¹ Discussed further below.

- 7.5.8. Several species of bat were found to be using the site and riverside environment as a feeding ground (see section 5 Environmental Report). No roosts were identified during the survey (but it was stated that the bat survey was carried out at a less than ideal time of year). Otter (using riverside banks), Irish hare, frog, fox and rabbit were also observed.
- 7.5.9. The Environmental Report's survey of avifauna observed one red listed species of conservation concern on the site (Blackheaded Gull) but flying above it. It states that the bird generally breeds in coastal marshes and was not considered to be utilising the site for feeding or roosting. Other birds observed on the site were amber or green (no information is given on the number of each species observed).
- 7.5.10. One Annex I bird species was recorded on the site, Whooper Swan. The Environmental Report states that the marsh and River Blackwater are potential on-site habitats which would be used by these birds, Whooper Swans, and Mute Swans (an amber list species observed on the site). The River Blackwater was also considered to be a prime habitat for Kingfisher, but the species was not observed during site surveys. The NIS subsequently states that Whooper Swan were not observed on the appeal site in surveys in February 2018, but that Mute Swan had been observed on land to the north of the Plantations site and at its settlement lagoons. The report also refers to Badger setts alongside the former railway line (see section 4.3.3 of NIS).
- 7.5.11. The Environmental Report and NIS considers that the loss of habitats on site will not be significant and that the development would not have a significant or adverse effect on observed species, principally due to the limited ecological value of the site, absence of species of conservation concern and proposed mitigation measures, which include:
- Bat survey in advance of construction.
 - Perimeter berms to minimise impacts on adjoining habitats (notably the River Blackwater and Marsh habitat), Kingfisher, Whooper Swan, Mute Swan and Otter.
 - Maintenance of contiguous habitats during and post site work.
 - Monitoring of use of riverside site by Otter and use of the marsh by Whooper Swan prior to and post site works.

- Use of access to the proposed quarry during daylight hours and careful removal of overhanging trees from track (minimising effects on badgers).

7.5.12. Indirect effects on water quality are also considered to be insignificant as the site will be worked above the water table (with continued percolation through soils to groundwater) and there will be no other discharges from it to water.

7.5.13. Having regard to the above, and my inspection of the site, I make the following comments:

- The improved semi-natural dry calcareous grassland and pattern of hedgerow/scrub boundaries on the site is evident in the in agricultural fields adjoining the site. I would accept that the loss of this habitat, given the abundance of similar habitat, over the period of quarrying would be unlikely to give rise to significant effects on biodiversity. (A notable exception to this is the wet/marsh area to the north west of the site, which I comment on below).
- Species using the site would be displaced from it, but give again the general abundance of similar habitat in the area, I do not consider this impact to be substantial.
- The protection and retention of hedgerows during site works would ensure that linear ecological corridors, which connect to the River corridor, could continue to function during the lifetime of the quarry.
- The River corridor is removed from the appeal site by c.100m and is separated from it by an agricultural field (see photographs). This separation in conjunction with the proposed perimeter bunds would prevent significant impacts on the riverine environment e.g. from noise, dust and disturbance on species of conservation concern (see also section below 'Impact on Natura 2000 sites').

7.5.14. With regard to the wet/marsh area to the north west of the site, the applicant's assessment and treatment of this area is unclear. For instance, the area is not identified in the Environmental Report (habitats on site), there is no assessment of its ecological value (although it is stated that it is a habitat which could be used by Whooper Swan and Mute Swan) or clear understanding of its connectivity to the River Blackwater. For example, the Environmental Report refers to the marsh/wet area and states '*During a site visit in February the area was flooded. It is likely that*

during wetter winter months this area could also be inundated by rising flood waters from the River Blackwater'. Perimeter berms are also shown in its location and there is no explanation of the consequences of this for example, for the ecology of the marsh/related habitats/dependent species.

- 7.5.15. If the Board were minded to grant permission for the development, this matter would require further clarification, e.g. omission of the marsh/wet area from extraction, within the context of a better understanding of the hydrology and hydrogeology of the site (see my comments under Water below).

Land and soil

- 7.5.16. The proposed development would result in the extraction minerals from the appeal site. Impact on the underlying geological resource would be permanent and negative in effect. However, given the relatively small size of the quarry and the extent of the resource in the wider area, impacts would not be significant. Impacts on soils would be modest, over the lifetime of the project, and of low impact in the longer term (e.g. reduced productivity as a consequence of disturbance). Loss of agricultural land would be very modest in scale and temporary (given the proposal to restore the site to agriculture use).

Water

- 7.5.17. Sections 6 and 7 of the Environmental Report deals with Hydrogeology, Hydrology and Surface Water.
- 7.5.18. The site overlies the Bailieborough Groundwater Body. It is described as having generally low permeability, with flow located in the upper 3m of weathered rock, with short flow paths towards rivers and streams. Consequently, the GWB is a poor aquifer and is described as being generally unproductive (PI rating). The southern part of the extraction area overlies a sand and gravel aquifer (continuous with land to the northwest which includes the existing processing plant). (The site also appears to lie just north of the Castlekeeran Sand and Gravel GWB). Groundwater vulnerability is rated as 'high'. As stated, the River Blackwater runs to the north of the site and is a designated Special Area of Conservation and Special Protection Area and a marsh area occurs to the north west of the site. Section 6 of the Environmental Report describes this as *'a seasonal lake/wetland feature bordering the western side of the site'*.

7.5.19. Sand and gravel will be removed from the appeal site to a final floor level of 82.5m OD, above water table. The Environmental Report states that the main limitation associated with the assessment is the lack of site specific groundwater data, especially depth to groundwater underlying the site. However, with reference to the marsh/wet are to the west of the site, it states '*a small number of depressions with associated drainage channels are present indicative of groundwater springs*' and states that '*It is likely that the level of water present represents the groundwater table in the surrounding gravel deposits*'.

7.5.20. Quarrying, as a consequence of loss of surface layers has the potential to impact on the underlying groundwater body, any associated wells that this feeds and the River Blackwater (from changes to groundwater/surface water flows or contamination). These potential effects are acknowledged in the Environmental Report (see page 76). However, principally because the proposed quarry (a) will be worked above water table, is removed from the River Blackwater and affects a short distance of it and (b) proposed mitigation measures, residual impacts are considered to be negligible. Most of the proposed mitigation measures are standard (e.g. control of hydrocarbons). Exceptions are:

- Monitoring of surface water and ground water interactions between the River Blackwater and the gravel aquifer underlying the site by shallow piezometers/staff gauge, and ceasing excavations should an impact be suspected.
- No working below the estimated water table (83m OD) or higher depth if encountered above.
- Monitoring of depth to groundwater at key locations (e.g. if a substantial perched water table is identified with possible impacts on wells).
- Monitoring of private boreholes in the area.

7.5.21. Section 7 of the Environmental Report refers to EPA data for water quality in the river upstream and downstream and sampling of the river in 2015 (no location specified), which indicate that the existing quarries are having no negative effect on it. With regard to potential impacts, the report considers that as the development will not have a discharge to the River Blackwater (i.e. all rainwater falling on the site will

discharge to ground) and subject to mitigation measures (as above), no significant residual impacts will arise.

7.5.22. The applicant's Natura Impact Statement, submitted in response to the RFI, refers to the arrangements in place at the existing processing plant (The Plantation) for wash water arising from quarried material i.e. that wash water is discharged through a series of settlement ponds, with final discharge released to a field drain. No details are given in terms of area or capacity of ponds or water quality of discharge. However, the report states that there is no evidence that the previous quarrying has had a detrimental effect on the river. (It also refers to species of conservation interest using the ponds).

7.5.23. Having regard to the above, I would comment as follows:

- i. I am concerned that there is limited understanding of the relationship between the water regime on the appeal site and the surrounding environment. This is acknowledged in the Environmental Report and reflected in the proposed mitigation measures (above).
- ii. As stated earlier in this assessment, plans for the proposed quarry indicate a bund in the north-western corner of the site, constructed on this wet area, and seemingly having no regard for it or the consequences of displacement as a result of the proposed works.
- iii. The material to be extracted from the quarry will be processed in the existing quarry to the west of the site. There is an absence of information on the nature of the permission which exists for this site, the environmental controls in place and the capacity of the site to handle material from the proposed quarry i.e. the extent to which material will be processed, waste water arising and the capacity of the lagoons.

7.5.24. In the Environmental Report, the applicant refers to a requirement of 2,500-3,500 litres of water/day (for dust suppression and wheel wash – page 20 Environmental Report). However, no explanation is given regarding the source of this water (response to RFI states that water will be from 'existing supplies'). Again, this demonstrates the absence of complete information with regard to the operation of the proposed development.

7.5.25. In summary, I am concerned that the applicant has not adequately demonstrated that the proposed development, by itself and in conjunction with the existing processing plant, will not give rise to adverse effects on the underlying water table or surface water bodies. Whilst the absence of significant effect is claimed, it is not demonstrated. To grant permission for the development in this context and having regard to the nearby River Blackwater SAC/SPA would be premature.

Noise

7.5.26. Appendix 4 of the Environmental Report provides a survey background noise levels in the area of the site, including at the nearest receptors (NSR 2 and NSR 4 – Figure 2). These indicate a typically quiet rural environment (e.g. daytime 41 dB(A) L₉₀ at NS2). Noise is predicted to arise from the working of the quarry itself and vehicle trips to and from the site to the Plantation site for processing (20 truckloads/day or 40 vehicle trips, equating to 2.5 trips per hour). The analysis predicts, on the basis of all equipment operating on site simultaneously, that noise at the nearest noise sensitive receptor (NSR 2) would be 56 dBA without mitigation. Mitigation measures include the construction of perimeter berms and standard measures to reduce noise at source. With mitigation, noise impacts from operation of the site are anticipated to be below 55dBA, the standard daytime noise limit. Noise from HGVs is considered to be insignificant, given the very small relative increase in vehicle trips (i.e. 2.5 trips are proposed per hour against a standard impact where double the traffic flow produces a 3 dBA change in noise level).

7.5.27. Having regard to the distance of the site from nearest receptors, the applicant's assessment of likely effects and proposed mitigation measures, I consider that noise impacts from the working area are unlikely to be significant.

7.5.28. With regard to noise arising from HGVs, quarried material will be removed from the site via the internal access road and a short length of the public road to the nearby processing plant. Given the relatively small number of vehicle trips proposed impacts on the public road network would not be significant. However, with regard to NSR 2 and NSR 3, the assessment does not take account of the HGV trips which occur behind these properties on the access route to the site, in conjunction with those in front of the properties on the public road. Having regard to this arrangement, I consider that there would be a short-term impact on the amenity of the properties over the duration of the quarry. As stated, effects could potentially be

reduced by additional bunding/planting along the side of the internal access route nearest to these properties.

Dust

7.5.29. The applicant proposes managing dust emissions via standard industry practices e.g. damping down haul roads and stockpiles, dust monitoring at site boundaries (see section 9.5 of Environmental Report). Given the general remove of the appeal site from nearby sensitive receptors (residential properties and the River Blackwater), bunding to be provided around the perimeter of the site and the proposed mitigation measures, I do not consider that dust emissions are likely to be significant.

Material Assets

7.5.30. The appeal site will not affect any built services. Waste management matters can be controlled by condition. Traffic issues are dealt with in Appendix 2 of the RFI. It sets out the results of a survey of traffic on the local road network, including use and speed of traffic on the public road between the entrance to the proposed quarry and the existing processing plant, width and condition of the road. The survey was carried out in March 2018 (clarified in response to the appeal). It is stated by the applicant that this excludes quarry traffic associated with PA ref. KA160923 (see Planning History). However, this application was refused by the Board and would not have been operational at the time. As stated there is no information on file regarding the operation of the Plantations site, and it is not clear if there would be additional vehicle movements on the public road as a consequence of the development i.e. post processing.

7.5.31. Notwithstanding the above, the survey identifies:

- The public road has a relatively small volume of traffic on it i.e. a weekday average daily traffic flow of 128 eastbound (8 HGVs) and 109 westbound vehicles (5 HGVs),
- Traffic speeds are typically 56-70km/hr (average and 85th percentile),
- The road is insufficiently wide to allow two lorries to pass, but otherwise is in reasonable condition.

7.5.32. The report concludes that the proposed development, which would generate 40 trips per day (i.e. 36 HGV movements - 18 in and 18 out and 4 staff, 2 in and 2 out), could

be accommodated on the local road without giving rise to significant impacts and this conclusion seems reasonable.

- 7.5.33. The applicant states that material will only be transferred by a single vehicle. It would not, therefore, of itself give rise to two HGVs passing each other. However, I also note that informal passing places do exist along this stretch of road facilitating larger vehicles to pass each other.
- 7.5.34. Appendix 2 of the RFI demonstrates that 120m sightlines are required for the access to the public road from the quarry and the re-located entrance to the residential property, having regard to DMBR guidelines (based on the surveyed 85th percentile speed of 70km/hr). However, in the associated drawings TWL/03060/01/PL01, only sightlines of 80m are shown. If the Board are minded to grant permission for the development, this matter would have to be addressed.
- 7.5.35. Having regard to the small number of HGV trips per day for the quarry, and the small number of trips associated with a residential property, the c.30m distance between quarry and residential entrance does not seem inappropriate. However, this would be subject to the provision of adequate sightlines.
- 7.5.36. Finally, as stated there is also a lack of clarity regarding cumulative effects with traffic arising from the Plantation site, as a consequence of the development.

Cultural Heritage

- 7.5.37. Whilst the appeal site is generally removed from known features of cultural heritage, the Department of Culture, Heritage and the Gaeltach has recommended a condition requiring pre-development testing given the proximity of the site close to Blackwater River and to the south of a motte and Bailey of archaeological interest (ME010-021). This approach seems reasonable.

Landscape

- 7.5.38. The appeal site lies just south of the River Blackwater and within the Blackwater Valley Landscape Character Area, of 'very high value' and 'high' sensitivity'. The site is removed from the public roads in the area and is not highly visible. The applicant proposes perimeter berms and, in section 11, of the Environmental Report native planting of these, if necessary. The Report also states that the visual impact of the development, and access route, from the appellant's property (NS2) has been considered and the access road has, consequently, been set back from the sightline

from the appellant's property, so that it is separated from the property by two tree lines.

7.5.39. Having regard to the above measures (which can be controlled by condition), I would accept that the proposed development, during operation, will not be highly visible, to detract from the landscape character of the area. In the longer term, it will be restored to an agricultural use and whilst the topography of the site will be permanently changed, effects will be very local and not significant.

Interactions.

7.5.40. Key interactions arising as a consequence of the development are between the following:

- Removal of deposits (soils/land), impact on water environment and biodiversity.
- Noise, dust and traffic effects on local residents.

7.5.41. These effects are discussed above.

Cumulative effects.

7.5.42. As stated above, I am concerned that the cumulative effect of the development in conjunction with the operation of the adjoining Plantations site have not been fully identified or assessed, in particular with regard to impacts on the water environment, ecology and to a lesser extent traffic.

7.6. Impact on fisheries

7.6.1. IFI make two submissions in respect of the proposed development. In their first submission, on the planning application, they consider that insufficient information has been submitted to demonstrate that the application poses no threat to fisheries interests.

7.6.2. In response to the appeal, they refer to the Appropriate Assessment Report and its references to settlement ponds for treating wastewater in the adjoining Plantations site. IFI consider that there is minimal information in respect of these ponds or their capacity to accommodate the proposed development and the risk of pollution from discharges. They recommend refusing permission until such information is provided.

- 7.6.3. The applicant states that the proposed development will be worked above water table and that no adverse effects on water quality will arise as there will be no discharges from the site, except to ground. The report also refers to measures for sediment control in the adjoining site where washing and sorting occurs and to the absence of pollution in discharge waters (to a land drain to the north of the processing site (see section 4.1 of NIS report).
- 7.6.4. As stated previously, the proposed development comes forward in the absence of details regarding the operation of the adjoining processing plant. On the basis of the information contained in the application form, it is not clear how material from the site will be processed, if there will be a requirement for washing, how wash water will be dealt with and the capacity of the existing system on the Plantations site to accommodate these waters. Given the proximity of the appeal site and processing site to the River Blackwater, I would consider that there is inadequate information to demonstrate that the proposed development would not adversely affect the River Blackwater fishery.

7.7. **Impact on Natura 2000 sites.**

- 7.7.1. As stated River Blackwater is designated as an SAC and SPA, the River Boyne and River Blackwater SAC and SPA. Conservation interests of the two sites are:
- SAC - *Lampetra fluviatilis* (River Lamprey); *Salmo salar* (Atlantic salmon), *Lutra* (Otter), Alkaline fens, Alluvial forests with *Alnus glutinosa* (Alder) and *Fraxinus excelsior* (Ash) (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).
 - SPA – Kingfisher.
- 7.7.2. The appellant refers to the inappropriate reference to mitigation measures in the Screening Report and I would accept in principle that it is not appropriate to include such measures at screening, unless they form an intrinsic part of the works to be carried out. In this instance, the effect of the development on European sites has been nonetheless further examined by the applicant in a Natura Impact Statement.
- 7.7.3. The appeal site is separated from both the SAC/SPA by a substantial agricultural field, providing a separation distance of c.100m. The proposed development has no direct effect on the protected sites by way of land take. Indirect effects may arise as

a consequence of quarrying activities e.g. noise/disturbance to species and, changes to surface water/ground water flow and impacts on the water quality.

- 7.7.4. The applicant's NIS refers to the poor water quality in this section of the River Blackwater downstream of Lough Ramor and the absence of alkaline fens and alluvial forest in the vicinity of the site. It states that the poor water quality would prevent any successful spawning of Lamprey or Salmon, but that the river would act as a fish passage, provide channel and bank habitat for otter and that the banks could be used by Kingfisher. This analysis and assessment seems reasonable and is based on the distribution of habitats in the large SAC and the EPAs water quality data for the river.
- 7.7.5. The NIS examines the likelihood of significant effects arising from the proposed quarry and the operation of the adjoining processing plant. It considers that the proposed development will not interfere directly with water quality, as discharges from the site will be via percolation to underlying soils. It also states that the Plantation site operates without impact on water quality in the River Boyne (and that the settlement lagoons are used by a number of bird species).
- 7.7.6. Notwithstanding the conclusions of the NIS, as stated above, I am concerned that there is inadequate information on the hydrology and hydrogeology of the appeal site (i.e. the depth to water table, presence/absence of perched water table), its connectivity to the River Blackwater (e.g. via the wet/marsh area, and/or underground flow paths) and the capacity of the Plantation site to accommodate the development (e.g. treatment and discharge of wash water) to establish without reasonable scientific doubt that the proposed development will not adversely affect the integrity of the SAC/SPA.
- 7.7.7. The NIS states that Otter are unlikely to be affected by the development, given that the river channel and bankside paths will not be affected by the development. This conclusion seems reasonable having regard to these factors, together with the distance of the quarry from the river bank (c.100m), the agricultural field separating the site from the river and the presence of working quarries in the area already.
- 7.7.8. With regard to Kingfisher, the NIS refers to the relatively high numbers of this species on the Blackwater River and states that the bankside vegetation in the vicinity of the site is unsuitable for Kingfishers, being too bushy, but that in the event

that they did nest there, they would not be disturbed by the development. Again, I would accept this as a reasonable conclusion give the distance of the site from the river, the perimeter bunding proposed along the northern side of the site, the agricultural field separating the land uses and the presence of quarrying in the area already.

7.7.9. **Conclusion in respect of Appropriate Assessment.** 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 or projects would not adversely affect the integrity of European site(s) Nos. 002299 and 004232 the River Boyne and River Blackwater SAC and SPA, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

7.8. Other matters

7.8.1. I note that the use of the disused railway line is temporary and would not prevent longer term plans for the use of this as a cyclist/pedestrian route.

8.0 Recommendation

8.1. Having regard to the matters raised in my assessment above, I consider that the proposed development be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development is dependent on the operation of an existing quarry (the Plantations) to the west of the site for materials processing. Having regard to the limited information in relation to the existing quarry, it is considered that the proposed development would represent a piecemeal and disorderly approach to development and may trigger a mandatory requirement for environmental impact assessment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site in close proximity to the River Boyne and River Blackwater candidate Special Area of Conservation and Special Protection Area, the observed site conditions and the absence of information on the capacity of the processing plant to the west of the site, to accommodate the materials generated on site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that adequate information has been provided on the impact of the proposed development on the hydrological and hydrogeological environment of appeal site and on water quality in the River Boyne. It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Senior Planning Inspector

11th February 2019