



An  
Bord  
Pleanála

## Inspector's Report ABP-302152-18.

### Development

Permission is sought for the extraction of sand and gravel within a proposed extraction area (ca 20ha) above the water table, processing (crushing, washing and screening) of aggregate and ancillary activities on an overall application site of ca. 30.7 hectares for a 20 year period. The proposed development will involve the extraction and progressive phased restoration of the site over its lifetime.

The development also includes the demolition of an existing farmhouse and farm buildings in the northern area of the site.

An EIAR & NIS has been submitted.

### Location

Glenaree and Feighcullen Rathangan,  
Co. Kildare.

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

18/530

### Applicant(s)

Kilsaran Concrete

### Type of Application

Permission

**Planning Authority Decision**

Refuse permission

**Type of Appeal**

First Party

**Appellant(s)**

Kilsaran Concrete

**Observer(s)**

G. Reeves

Fergus & Gina O'Connor

M. O'Connor

John & Patricia McSweeney

**Date of Site Inspection**

8<sup>th</sup> & 22<sup>nd</sup> October, 2017

**Inspector**

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## 1.0 Introduction

- 1.1. Planning permission is sought to develop a sand and gravel quarry at the subject site, including all associated services and facilities.

## 2.0 Site Location and Description

- 2.1. The subject site is located approximately 3km to the east of Rathangan in the western area of Co. Kildare. Access to the site is via the local road network in the area with frontage along the L7004 to the south. This local road runs from the R414 (Rathangan – Allenwood Road) to the north of the site towards the R415/R416 regional roads located to the south east of the site. The L7004 is wide enough for two cars to pass and there are no road markings, no footpath or public lighting. The eastern boundary of the site comprises a small county road with a number of residential properties to the north eastern corner of the proposed development site. The northern boundary of the site comprises the Barrow Way, a 114km long walking / hiking trail which starts in Robertstown, Co. Kildare and ends on the river bank or near the Abby in St. Mullins, Co. Carlow, and the Grand Canal. Further north of the Grand Canal is the Slate River. There is an existing quarry operating adjacent to the south western boundary of the site. There are further clusters of houses located to the south of the proposed development site.
- 2.2. The site is currently under grass and the wider area, other than the existing adjacent quarry operation, can be described as rural in nature rural with farm holdings and a number of individual one-off houses located on the local roads. There are a number of other quarry facilities located within approximately 8km of the site. The topography of the site is generally level with the site levels rising from approximately +80mOD towards the centre of the site to approximately +100mOD.
- 2.3. Access to the site is via the local road network and the full site area is indicated as covering 30.7ha.

### 3.0 Proposed Development

3.1. Permission is sought for the extraction of sand and gravel within a proposed extraction area (ca 20ha) above the water table, processing (crushing, washing and screening) of aggregate and ancillary activities on an overall application site of ca. 30.7 hectares for a 20 year period. The proposed development will involve the extraction and progressive phased restoration of the site over its lifetime.

Permission is also sought for the construction of:

- (1) an entrance from the L7004
- (2) internal access routes
- (3) passing bays on the local road bordering the Application Site to the east
- (4) overburden storage and landscape screening areas/mounds along the perimeter of the site
- (5) workshop
- (6) car parking
- (7) bunded fuel tank
- (8) refuelling hardstand and oil interceptor
- (9) wheelwash
- (10) weighbridge
- (11) aggregate processing (crushing, washing and screening) plant and associated closed circuit silt disposal lagoons
- (12) aggregate stockpile storage area
- (13) security fencing
- (14) shipping office
- (15) site offices, canteen and welfare facilities and
- (16) an associated proprietary sewage effluent treatment system and percolation area.

Permission is also sought for the demolition of a farmhouse and associated farm buildings situated in the northern section of the application site.

An Environmental Impact Statement (now referred to an Environmental Impact Assessment Report (EIAR)) and a Natural Impact Statement (NIS) has been submitted.

3.2. The planning application was accompanied by the following documents:

- Application form and relevant plans and particulars
- Site Characterisation Report
- Environmental Impact Assessment Report
- Natural Impact Statement

The proposed development, if permitted, will result in a quarry of 20ha.

## 4.0 Planning Authority Decision

### 4.1. Decision

The Planning Authority decided refuse permission for the proposed quarry for 6 stated reasons, summarised as follows:

1. visual impact due to the high amenity area designation given the sites proximity to the Grand Canal.
2. the landscape character area is Class 4 'Special' and is an area with low capacity to accommodate development. the location of the quarry within 300m of the canal requires compelling exceptional circumstance to justify permission.
3. impact on the hedgerows and biodiversity of the area, including their loss, would impact visual amenity of the area.
4. Inadequate EIAR in terms of assessment of alternatives, impact on landscape, noise issues, dust, climate change, water supplies, loss of vernacular architectural heritage and impacts on material assets in particular, the Grand Canal, road network, scenic routes and property values.

5. Road safety issues.
6. demolition of the farm house and complex without adequate assessment of its vernacular architectural heritage.

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

The planning report provides a full description of the development and details of the site location as well as the policy context and planning history of the site. The report summarises all of the third party submissions as well as technical reports submitted in relation to the proposed development and includes a planning assessment of the proposed development. The report concludes that 'the impact of the proposed quarry in a rural area designated as an area of special amenity and landscape value, notwithstanding mitigation measures proposed in the EIAR, would seriously injure the residential amenity and properties in the vicinity, the landscape character of the area and the high amenity value of the Grand Canal and would therefore be contrary to the proper planning and sustainable development of the area.' The report recommends that permission be refused.

The Planning report includes an Appropriate Assessment Screening Report and a separate Environmental Impact Assessment (EIA). The A/Senior Planner countersigned the Planning Officers reports, supporting the recommendation for refusal. This report informed the decision of the Planning Authority to refuse planning permission for the proposed quarry extension.

### 4.2.2. Other Technical Reports

**Area Engineer:** The report requires further information be submitted in relation to roads issues.

**Environment Section:** The report requires further information be submitted with regard to trial holes, clarification on the proposed waste water services, cross sections and details of the proposed percolation area / polishing filter, noise and dust.

**Heritage Officer:** The report considers that subject to compliance with conditions, there is no objection.

**Water Services:** Recommends that the application be referred to Environment Section and the inclusion of a condition in the event of permission being granted.

**Conservation Officer:** The report identifies a number of protected structures and vernacular buildings which will be impacted by the development. It is submitted that the survey information for the built heritage evaluation is insufficient and concluded that the development, if permitted, will have a negative visual impact on the setting of a vernacular thatched cottage and Drumsru cottage as well as the setting of the Grand Canal. Refusal is recommended due to cumulative impacts.

**Transportation Department:** The present volume of HGVs serving the existing quarries in the area is putting significant pressure on the condition of the roads as well as creating road safety issues for all road users, most of whom are residents in the area. It is recommended that permission be refused for three stated reasons.

#### 4.3. Prescribed Bodies

**Waterways Ireland:** Notes that the northern boundary shares a boundary with WI lands along the Barrow Line of the Grand Canal. The report requires that the boundary hedgerow be maintained, no quarrying takes place within 50m of the boundary hedge for fear of leakage and no construction traffic of any kind is to travel on the canal towpath.

**DoCH&G:** The Department of Culture, Heritage and the Gaeltacht requests that archaeological monitoring be carried out under licence before development commences. A condition is recommended to be attached to any grant of planning permission.

**Health Service Executive:** The report comments only on Environmental Health Impacts and specifically in relation to human beings, surface water/groundwater, air quality and noise.

In terms of human beings, it is considered that the proposed development has the potential to cause inconvenience and irritation to residents due to noise, dust and traffic as well as potential rodent issues,

In terms of water, it is noted that the underlying aquifer has been designated RKD, a regionally important karstified bedrock aquifer. In the interests of public health, and to determine the effects of the development, private wells within 250m of the development should be included in the water sampling plan.

In terms of air quality, all necessary steps to contain dust during demolition works should be undertaken. Dust monitoring shall be continued at the 5 dust monitoring locations on a quarterly basis with the results to be submitted to the LA. An assessment of the truck / wheel washing facilities to be carried out to ensure BAT is in place.

In terms of noise, monitoring should be carried out quarterly and a noise complaints procedure should be documented.

#### **4.4. Third Party Observations**

There are 31 third party observers noted on the planning authority file as detailed in the Planning Officers report. The issues raised are summarised as follows:

- Impacts on family homes due to noise and dust.
- Roads and traffic issues raised, based on daily traffic and lorries which prohibited residents from using the public road network for walking, cycling, jogging etc.
- Potential impacts on residential amenity in terms of visual impacts.
- Impact on wells and water supplies as well as groundwater and soils.
- Sight distances at the proposed entrance to the site are a concern due to the road alignment.
- Narrow nature of the road cannot accommodate additional lorries.
- Devaluation of property.
- Impact on local biodiversity and protected species including bats.



- Impacts on scenic routes and the landscape character.
- Questions raised in relation to the restoration of quarry?
- Health implications for local people.
- High concentration of quarries in the vicinity and the inappropriate industrialisation of the area.
- The site selection is questioned given that the CDP references the negative impact of current activity.
- Impact on the Canal Blue Way and tourism offer for the county.
- Planning history of adjacent site, Flanagans PA ref 07/1560 refers, including a sunset condition such that the planning permission will expire by the end of 2021. No further permission for quarrying should be granted.
- Proximity of quarry to existing residential properties.
- Inadequacies in the EIAR.
- Unsatisfactory consultations with the company.
- Issues with proposed passing bays on the 'lane' including potential for transient parking and illegal dumping
- Boundary issues in terms of access and safety for children and animals, as well as the type and nature proposed.
- Impact on local tourism related businesses.
- Impact on road surfaces and maintenance responsibility?
- Operating hours are concerning and will disrupt family life.
- Concerns raised with regard to vibrations from the quarry operation within 50m of existing homes and old cottages whose structures will be compromised.
- Lack of monitoring of existing quarry facilities in the area.
- It is requested that a study on the extraction capabilities of the County and surrounding counties is undertaken to assess if there is a need to intensify extraction at this rural location.

- Plans for access routes not submitted.

The Board will note that part of Mr. Ferghal McSweeneys submission is missing from the Planning Authority file submitted to the Board. I consulted with the Kildare County Council website to view same and I am satisfied that I have considered all of Mr. McSweeneys comments in the above list of issues.

## 5.0 Planning History

### 5.1. Subject site:

**PA ref 18/362:** Invalid application for the currently proposed development.

A pre-planning consultation is noted to have been held in 2016 in relation to the proposed development. No minutes or details have been submitted.

### 5.2. Adjacent site:

**PA ref. 07/1560:** Permission granted to Flanagan Concrete Ltd, for the retention and continued use of existing sand and gravel workings, on C 18.8ha, including washing, crushing and screening plant, silt lagoons, overburden storage and site infrastructure comprising 2 no. offices, including welfare facilities etc....

This permission including a condition which limited the lifetime of the quarry to 14 years and is due to expire in 2024.

## 6.0 Policy Context

### 6.1. National Guidelines

**Quarry and Ancillary Activities, Guidelines for Planning Authorities, DoEHLG, 2004:**

- 6.1.1. These guidelines note the economic importance of quarries and the demand for aggregates arising from the needs of the construction industry with particular reference to house building and infrastructure provision. It is further noted that aggregates can only be worked where they occur and that many

pits and quarries tend to be located within 25km of urban areas where most construction takes place.

6.1.2. Chapter 2 identifies appropriate development plan policies and objectives with regard to the development of quarries.

6.1.3. Chapter 3 identifies the potential environmental issues associated with the development of the extractive industry / quarries and recommends best practice / possible mitigation measures in respect of:

- Noise and vibration
- Dust deposition / air quality
- Water supplies and groundwater
- Natural heritage
- Landscape
- Traffic impact
- Cultural heritage
- Waste management

The Guidelines also recommend Environmental Management Systems (EMS) as a quality assurance system to measure a company's operations against environmental performance indicators.

6.1.4. Chapter 4 refers to the assessment of planning applications and Environmental Impact Statements. It provides guidance on the information to accompany an application and the inclusion of possible planning conditions.

6.1.5. Chapter 5 refers to the implementation of the registration procedures set out in Section 261 of the Act.

**Environmental Management Guidelines, Environmental Management in the Extractive Industry (Non-Scheduled Minerals), EPA, 2006:**

6.1.6. These guidelines are intended to complement existing national guidance and to be of assistance to operators, regulatory authorities, and the general public (They are also complemented by the 'Environmental Management in the Extractive Industry – Guidelines for Regulators'). The guidelines provide general advice and guidance in relation to environmental issues to practitioners involved in the regulation, planning, design, development, operation and restoration of quarry developments and ancillary facilities.

6.1.7. These environmental management guidelines also represent a summary of current environmental management practices for quarries and ancillary facilities (including manufacturing of concrete and bituminous mixes/asphalt products, and processing of dimension stone). They are based on a review of current environmental management practice in Ireland, the UK and Europe. Under each of the key environmental issues, good environmental practice is summarised together with recommendations for the use of environmental management systems (EMSs), and emission limit values (ELVs), where appropriate.

**Guidelines on the Information to be contained in Environmental Impact Statements' EPA, 2002:**

6.1.8. These guidelines provide developers, competent authorities and the public at large with a basis for determining the adequacy of Environmental Impact Statements within the context of established development consent procedures and also serve to address a wide range of project types and potential environmental issues. The accompanying 'Advice Notes on Current Practice (in the preparation of Environmental Impact Statements, 2003)' subsequently provide further detail on many of the topics covered by the Guidelines and offer guidance on current practice for the structure and content of Environmental Impact Statements. The Board will note that the subject site is a sub-threshold development.

**Guidelines for Planning Authorities and An Bord Pleanala on carrying out Environmental Impact Assessment, August 2018**

6.1.9. These guidelines coincide with the making of the European Union (Planning & Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018) and the coming into operation of the Regulations on 1<sup>st</sup> September, 2018 in order to transpose the Directive into Irish law. The Guidelines replace *Guidelines for Planning Authorities and An Bord Pleanala on carrying out environmental impact assessment* issued by the DoECLG in 2013. The purpose of the guidelines is to give practical guidance on

procedural issues and the EIA process arising from the requirements of Directive 2014/52/EU.

### **Regional Planning Guidelines for the Greater Dublin Area, 2010-2022:**

6.1.10. The area of the subject site is identified as being the hinterland area in the RPGs and these guidelines are designed to steer the future growth of the region over the medium to long term and to implement the strategic planning frameworks set out in the National Spatial Strategy (NSS), 2002 and National Development Plan, 2007-2013. The Guidelines recognise that the mineral resources of the region, especially aggregates, contribute largely to the economy and the construction industry and there is a need to protect the sustainability of these assets.

## **6.2. Development Plan**

6.2.1. The Kildare County Development Plan 2017 is the relevant policy document. Chapter 14 of the CDP deals with Landscape, Recreation and Amenity. The subject site is located within an area of the County which has been described as having higher levels of environmental sensitivity and significant development pressure. The site is located within the Landscape Area known as The Chair of Kildare, which is a Class 4 Sensitive landscape with low capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to special sensitivity factors, which includes canals.

6.2.2. Table 14.3 identifies the likely compatibility between a range of land-uses and Principle Landscape Areas. The table advises that sand & gravel extraction has low compatibility in the landscape of the Chair of Kildare. In addition, table 14.4 identifies the likely compatibility between a range of land-uses and proximity to Principle Landscape Sensitivity Factors, noting that sand and gravel extraction is considered compatible only in exceptional circumstances within 300m of canals.

6.2.3. Chapter 10 of the plan deals with Rural Development and section 10.4.9 deals with mineral resources. This section acknowledges that mineral resources are

generally located within the rural area. It is also acknowledged that the industry can have damaging environmental effects and that permission will only be granted where the Council is satisfied that residential and natural amenities will be protected, pollution will be prevented and aquifers and groundwater safeguarded.

- 6.2.4. Section 10.7 deals with Extractive Industry and it is noted that the aim of the plan is 'to ensure that adequate supplies of aggregates are available to meet the future needs of the county and region in line with the principles of sustainable development and environmental management. This chapter includes the relevant policies and objectives
- 6.2.5. Chapter 17 of the Plan deals with Development Management Standards with Section 17.9.6 dealing with Extractive Industry.

### **6.3. Natural Heritage Designations**

There is no designated site within the proposed development site. The site is located approximately 5.5km to the north of the Mouds Bog SAC (Site Code 002331).

The northern boundary of the site lies adjacent to the track which runs along the banks of the Grand Canal pNHA (Site Code: 002104).

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The grounds of appeal are presented in response to each reason for refusal and are summarised as follows:

- 7.1.1. Reason 1: Visual Impact and Location within 300m of the canal

- There is no rationale provided in the CDP as to how the 300m buffer was determined. Section 14.4.2 of the CDP suggests that the 300m zone is not a setback distance, rather a zone of closer consideration.
- The LVIA submitted with the application, including the photomontages, concluded that the development would have an imperceptible impact.
- The mitigation strategy includes the forming and planting of a subtly graded screening berm between the northern extraction area and the canal.
- There is almost no opportunity for views into the site from the Grand Canal and the proposed berm will further reinforce the level of screening even during the winter months.
- It is considered that the proposed development is not contrary to Policy WC3 as it will not materially affect the integrity of a distinctive linear section of the Grand Canal.
- Neither Bord Failte or Inland Waterways have objected to the proposed development.
- It is further submitted that as the GSI have identified the site as having potential to produce high quality aggregate, the proposed development does not contravene the CDP in terms of exceptional circumstances.

#### 7.1.2. Reason 2: Impact on the landscape character area

- The site is located at the northern edge of the 'Chair of Kildare' landscape area with the Grand Canal demarking the boundary between this and the lesser sensitivity landscape of the 'Western Boglands'. It is submitted that there is always a broad zone of transition and the subject site is more akin to the 'Western Boglands'.
- It is therefore submitted that the compatibility of the proposed development within the site should fall between 'Medium' and 'Low'.
- Quarries are a characteristic feature within the landscape area of the 'Chair of Kildare'.

7.1.3. Reason 3: Impact on hedgerows and biodiversity

- The Chair of Kildare is not included as one of the designated 'Areas of High Amenity' and therefore this classification should not be used to reinforce the reason for refusal.
- The reason for refusal also misrepresents the proposed development as it is not intended to remove any bounding hedgerows. It is proposed to bolster these with additional planting.
- It is now proposed to reinstate hedgerows across the site following the same alignment of removed sections following phased extraction.
- The restoration phase of the development will see the reinstatement of the former internal field boundary hedgerows will further increase the biodiversity and visual amenity on site.

7.1.4. Reason 4: Inadequate EIAR

- Alternatives are provided within the grounds of appeal in terms of the current proposal, develop a site elsewhere or do nothing.
- In terms of the proposed development, it is submitted that there will be an imperceptible positive impact on social considerations due to the creation of 10 jobs within an area which already has existing sand and gravel extraction, with slight adverse impacts on the environment and significant and positive impacts on the economy.
- In terms of the developing of a new site elsewhere, the grounds of appeal submit that such a proposal would have a significant adverse impact on social considerations due to the establishing of a quarry on a greenfield site in an area which may have no other industrial activity, would increase traffic movements on local roads further away from market and would have a visual impact depending on the topography of the site. Alternative B would also have significant adverse impacts on the environment and slight adverse impacts on the economy due to higher costs associated with the establishment of a new site including exploration, acquisition and the generation of planning document costs



- The 'do nothing' alternative would have a negligible impact on social and environmental considerations with significant adverse impacts on the economic due to the costs associated with not utilising the available resource.
- With regard to alternative designs, layout and processes, the submission identifies a number of considered alternatives including extraction in relation to groundwater table, design or perimeter screening including setback from the Grand Canal and design due to revision and iterations of the Landscape and Visual Impact Assessment. In addition, alternative site entrances and locations and design of the aggregate processing plant were also considered.
- In terms of the cumulative effects with the existing quarry adjacent, it is submitted that the potential impacts have been appropriately assessed as part of the EIAR. While there is not a specific 'Cumulative Impact Assessment' section in the LVIA chapter of the EIAR, it is submitted that in-combination effects are dealt with throughout the assessment.
- Even though the proposed development will cumulatively increase the intensity of extractive activity in the landscape, it will not appear incongruous or out of place and is not considered to tip a threshold of cumulative significance.
- A noise assessment has been undertaken in support of the proposed quarry.
- A dust impact assessment has been submitted to address the concerns of the PA and address the potential impacts of activities at the site.
- In terms of impact on Climate Change, it is submitted that the combination of the sites 'sensitivity' and 'exposures' have shown that the site is at a low risk from climate hazards.
- Mitigation measures are proposed in terms of direct emissions, indirect emissions and other indirect emissions not under the control of the project.

- In terms of the potential impacts on private water supplies, the submission advises that it is intended to develop the site above the water table on a phased basis. There will be no dewatering of the underlying aquifer and therefore no drop in the water table level.
- A total of 4no groundwater monitoring boreholes were drilled as part of the hydrogeological assessment. Mitigation measures are proposed to ensure that no adverse environmental impacts will occur on existing private water supplies.
- In terms of water seepage into underlying aquifer, it is submitted that mitigation measures are proposed to offset any possible negative impacts.
- With regard to the impact of the development on vernacular architectural heritage, a report describing the results of a building survey carried out has been submitted. The report concludes that no fabric relating to the earlier vernacular structures, marked on the first edition OS map was found to be present on the site.
- It is submitted that no central road markings, a high demand horizontal alignment and a narrow carriageway of 4.1m to the west of the proposed site entrance, contribute to low vehicle speeds from this direction and therefore the 145m visibility is acceptable. It is further submitted that there are low traffic volumes and likely low prevailing vehicle speeds on the L7004.
- It is considered that the local road network will continue to operate within capacity for each assessment year, 2018, 2023 and 2033.
- It is considered that sufficient information has been included in the traffic assessment in chapter 3 of the EIAR. It is proposed that upto 5 haul routes will be used to transport the sand and gravel to seven regional Kilsaran Plants for further processing, located in Dublin, Laois, Meath and Kildare.
- Proposed haulage routes are identified in the grounds of appeal submission.

- Mitigation measures are proposed, including future restoration activities, which will result in the proposed development not contributing to any residual impacts on material assets.

#### 7.1.5. Reason 5: Road Safety issues

- In terms of traffic impacts associated with the extraction industry, it is requested that consideration be given to the prevalence and history of the industry in the area.
- The Allen Quarry (operated by Roadstone Wood Ltd, 3.1km southeast of the site) is permitted until 2058.
- The TTA shows that traffic movement from the proposed development represents between 2% and 18% increase on total traffic levels across the local road network.
- It is submitted that the accelerated road deterioration identified by the Planning Authority is occurring regardless of the proposed development being in operation and the local road network will require resurfacing with or without the proposed development.
- The appellant is open to discussions regarding suitable maintenance for the road network and acknowledges that a financial contribution will be levied.
- It is noted that other extractive industries in the area have clarified haul routes with the Council through RFI or conditions of permission. It is submitted that a Road Safety Audit should not have been required at the application stage as the proposal will not result in a physical and permanent change to the existing road or roadside layout.
- Additional road safety measures to be undertaken during the operation of the proposed development to mitigate against possible danger to public safety are also listed.

#### 7.1.6. Reason 6: Impact on vernacular architectural heritage

- In response to reason for refusal no. 6, a Built Heritage Survey has been submitted.

## 7.2. **Planning Authority Response**

The Planning Authority submitted a response to the first party appeal advising no further observations.

## 7.3. **Observations**

There are four observations noted in relation to this appeal as follows:

Mr. Michael O'Connor:

- The area already has a large quarry producing noise, dust and a huge amount of lorry traffic endangering public safety on small country roads.
- The development would devalue property.
- The development could impact on private water supplies.
- If a grant of permission is considered, it is requested that the applicant be conditioned to support the local residents living within 500m of the quarry through an annual payment for the upkeep of their properties from dust and other nuisances arising from the quarry.

Fergus & Gina O'Connor:

- Overconcentration of quarry/industrial facilities in the vicinity of their home in what is largely a residential community.
- The current situation is that locals endure noise from existing quarry facilities in the area even after dark.
- Existing dust issues at homes and traffic issues on the local roads.
- The Council does not have the resources to adequately monitor adherence to planning or environmental regulations for the existing facilities, relying on residents to make complaints, with little action.

- Time limit conditions are not adhered to and the Council have been customers of the quarries operating at night.
- The proposed berms will serve no purpose as the acres of trees planted between houses and other existing facilities provide little to no relief from noise or dust.
- Impacts on the aquifer and private water supplies.
- It is requested that the decision of the Council be up upheld.

George Reeves:

- The access road is not suitable for this kind of activity.
- The noise and dust levels will be detrimental to the local population and environment.
- It is requested that permission be refused for the proposed development.

John & Patricia McSweeney:

This substantial submission provides an introduction to the proposed development and responds to the grounds of appeal as follows:

- The development was refused on the proximity to the Grand Canal. The grounds of appeal fail to fully consider the policy requirements of the CDP.
- With regard to the location of the site in the Chair of Kildare landscape, the inference by the appellant that the sensitivity of the site is lowered by being in a transitional area is not borne out by the classification in the CDP.
- No compelling grounds of exceptional circumstances have been advanced by the appellant to justify granting permission for the proposed development.
- With regard to the removal of hedgerows, the appellant has attempted to suggest that the Chair of Kildare Hills is not one of the designated Areas of High Amenity which is untrue.

- The extensive removal of hedgerows, both within and bounding the site will seriously injure the visual amenities of the area.
- With regard to the issue of inadequate EIAR, and the appellants submissions in this regard, the following is submitted;
  - The applicant fails to identify any alternative site on the basis that there are existing quarries in the area. No meaningful assessment of alternatives was undertaken.
  - In terms of cumulative impacts, the appellant seeks to suggest that the effects are dealt with throughout the assessment as they arise rather than providing a specific cumulative impact assessment. This is contrary to the requirements of the EIAR Directive.
  - With regard to noise, given the existing noise levels arising from existing facilities in the area, and the fact that the proposed development is significantly closer to the observers home, it is not considered possible for the proposed development to comply with the 55dB(A) LAeq 1 hour limit.
  - The consequences of under prediction for noise may render homes uninhabitable and the assessment submitted is unsupported by evidence.
  - In terms of dust, it is considered that the baseline study is incomplete with gaps in the results of monitoring.
  - The prevailing winds will mean that the dust arising in the site will be blown directly to the observers home and their neighbours, whose houses are within 50-100m of the quarry site.
  - With regard to water supplies, it is considered that the boreholes are located at a remove from the residential properties and therefore, there is no baseline monitoring on the boundary closest to the houses, and their wells.

- The proposed margin of 1m between the water table and the floor of the proposed quarry is very small given that the water table level was recorded over a relatively dry period.
- The proposal to excavate to a depth of 1m above the water table is more focused on preventing draw-down rather than preventing contamination of the groundwater.
- With regard to scenic routes and property prices, the evidence is clear that property values drop when a quarry is constructed in an area.

The submission concludes that the grounds of appeal fail to demonstrate that the defects in the original application have been adequately remedied and it is requested that permission be refused.

The submission also includes a number of appendices.

#### **7.4. Further Responses**

None.

## 8.0 Assessment

### 8.1. Introduction

Having regard to the nature of the proposed development, the details submitted with the planning application and appeal documents, together with my site inspection, I conclude that issues arising for consideration should be addressed under the following headings:

- The principle of the proposed development & compliance with policy
- Residential & general amenity issues
  - Residential amenity
  - Noise
  - Air Quality
  - Impacts on Groundwater and Water Supply
  - Visual Impacts and landscape
- Roads & traffic
- Other issues
  - Biodiversity
  - Impacts on Archaeology & Heritage
  - Hours of operation
  - Development Contributions

The Board will note that Environmental Impact Assessment and Appropriate Assessment are presented in separated sections.

### 8.2. The principle of the proposed development & compliance with policy:

- 8.2.1. National and Regional Guidance, including the Regional Planning Guidelines for the Greater Dublin Area, 2010-2022, and the Quarries and Ancillary Activities, Guidelines for Planning Authorities, DoEHLG, 2004, recommend



that local authorities identify and protect important strategic mineral reserves in development plans while also acknowledging the economic importance of the quarry industry in supplying the construction sector with aggregates and stone. It is accepted that major infrastructure projects will create a demand for aggregates that will support the continuing economic and social development of the country and maintain Ireland's international competitiveness. In addition, the Regional Planning Guidelines for the Greater Dublin Area, 2010-2022, also acknowledge that the mineral resources of the region, especially aggregates, contribute largely to the economy and operational aspects of the construction industry (buildings and infrastructure).

- 8.2.2. In terms of compliance with the current Kildare County Development Plan, 2017, the Board will note that the Plan recognises the importance of the extractive industry in economic and employment terms to the county through the provision of raw materials to the constructive industry. The aim of the plan, Objective 10.7, is to ensure that adequate supplies of aggregates are available to meet the future needs of the county and region in line with the principles of sustainable development and environmental management.
- 8.2.3. The objectives relating to the extractive industry seek to ensure that the extractive industry minimises and / or mitigates any adverse visual and / or environmental impacts on the built or natural environment through adherence to the EPA publication Environment Management in the Extractive Industry (Non-scheduled minerals) (2006) and any subsequent revisions and the requirements of the Programme of Measures from the River Basin Management Plans Objective EO 3 refers. The Plan further considers the proposed locations of quarries in relation to landscape and identifies protected views, scenic routes and amenity areas. Policies relating to the extraction industry also require the protection of landscape, environment, road network, heritage, visual quality and amenity of the area. Policy EI 5 also seeks to ensure that development for aggregate extraction does not significantly impact on designated sites, sensitive landscapes, areas of importance for conservation of flora and fauna, established rights of way and walking routes.

- 8.2.4. The subject site is located within an area of Co. Kildare which has been designated as a Rural Area Under Strong Urban Influence and there is a history of quarrying in the vicinity of the site. The adjacent site has planning permission to operate as a quarry, covering 18.8ha, up until 2024. The subject site is located in a rural area with a number of residential properties on the local road network in the vicinity. The public road network in the vicinity comprises a network of local roads which are narrow and can accommodate two cars passing slowly. The speed limit of the road is 80km/p/h, and there are no road markings or verges.
- 8.2.5. The site is located within a class 4 special landscape known as ‘the Chair of Kildare’, which has a low capacity to accommodate uses without significant adverse effects on the appearance of character of the landscape having regard to special sensitive factors. The Grand Canal is located to the north of the subject site and is identified as a landscape sensitivity factor.
- 8.2.6. Table 14.3 of the CDP identifies the likely compatibility of land uses within landscape areas, and it is noted that the extraction of sand and gravel is considered to have a low compatibility in the subject landscape. In addition, Table 14.4 considers the likely compatibility between a range of land uses and proximity to principle landscape sensitivity factors, which includes canals. The plan submits that the proposed development is considered compatible only in exceptional circumstances. This is not to say that developments cannot be accommodate and the Plan notes that each site should be assessed on its individual merits.
- 8.2.7. In terms of the above, I am not satisfied that in principle, the proposed development can be considered as being acceptable and in general compliance with national, regional and local policies. In particular, the Board will note the policies in terms of the landscape which raise a concern in terms of compliance. These, and other site specific issues will be dealt with further below.

### 8.3. Residential & general amenity issues

#### Residential Amenity:

- 8.3.1. There are a number of residential properties located in proximity to the subject appeal site. The third party observations submitted against the proposed development, cite the impact on residential amenity as a significant concern, and particular reference is made to the operation of the existing quarries in the area. Impacts on residential amenity including noise, dust, visual impacts, devaluation of property as well as impacts on the local road network.
- 8.3.2. I refer the Board to policy EI 2 of the CDP which states that it is the policy of the Council to 'recognise the role and facilitate the exploitation of County Kildare's natural aggregate resources in a manner which does not unduly impinge on the environmental quality and the visual and residential amenity of an area, while continuing to regulate the extraction of aggregates and to seek the delivery of environmental benefits in the form of sustainable habitat creation in conjunction with the restoration phases of development.'
- 8.3.3. The operation of a quarry presents a difficulty in that it is a necessary and vital resource for the future development of the area but where that operation gives rise to concerns, residential, environmental, and visual considerations have to be weighed against economic, employment and development considerations. It is required that the Board consider whether or not the operation of the quarry results in significant adverse effects on the local community.
- 8.3.4. There are a number of elements of the proposed development which have the potential to negatively impact the existing residential and general amenities of the area. I will discuss the potential impacts to the road network and visual impacts associated with the proposed quarry further in this report. In addition, operational impacts in terms of noise, vibration and dust, as well as impacts on archaeology, groundwater, property values, visual amenity and landscape are issues which require to be considered.

## Noise

- 8.3.5. The subject site is located in a rural area, which includes existing extraction industry. The process of quarrying generates a variety of noises which have the potential to impact on the residential amenity of local residents. While blasting is not proposed as part of the current proposed development, other activities associated with quarry operations include mobile crushing, screening and processing of aggregate and the use of other machinery, have the potential to generate noise.
- 8.3.6. Chapter 8 of the EIAR deals with noise and the grounds of appeal submission Appendix D provides a qualitative Noise Impact Assessment. The reports seek to describe the receiving environment and notes the houses located within 500m of the site. Noise surveys were carried out over two days in June 2017 at three locations. The results of the survey suggest that the average measured noise levels range from 43.5dB<sub>L<sub>Aeq</sub></sub> at location N1, 45.8dB<sub>L<sub>Aeq</sub></sub> at location 3 and 54.9dB<sub>L<sub>Aeq</sub></sub> at location 2. Location N2 correlates with the residential properties located to the north east of the existing quarry and which will be located within 50m of the proposed quarry. Location N1 is adjacent to Bushfield house to the west of the site and N3 to the south in proximity to a cluster of houses. The EIAR notes 'slight influences of an extractive industry within the rural noise environment' and states that 'any impacts resulting from extraction activities proposed are considered slight'. It is concluded that there will be no discernible effect in cumulative noise anticipated as a result of the proposed development.
- 8.3.7. In terms of the noise modelling, the first party refers to British Standard 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites, Part 1: Noise'. And notes that the CadnaA software was used to predict noise levels associated with the proposed facility. It is noted that noise from road haulage trucks was not included within the model as these sources are more than 10dB below the next highest sound power level, and therefore will not contribute to total noise levels from the site. The first party concludes that the proposed development will accord with the

EPA Guidance on Quarries and Ancillary Activities suggested noise limit values of 55dB(A) and 45dB(A) for daytime and night-time respectively. The guidelines advise that in areas of higher background noise levels, the EPA recommends that ideally, if the total noise level from all sources is taken into account, the noise level at sensitive locations should not exceed a Laeq (1 hour) of 55 dB(A) by daytime and a Laeq (15 minutes) of 45 dB(A) by night time.

- 8.3.8. The above mentioned guidelines acknowledge that most quarries are situated in areas of low background noise and that it is appropriate to consider this when setting noise limits. It is further stated that complaints can be expected where the noise levels from quarrying operations are between 5 to 10dB above background noise levels. In this regard, I am concerned that the noise from road haulage trucks has been omitted from the noise modelling.
- 8.3.9. By its nature, the operation of a quarry generates noise. In terms of the predicted change in noise levels, I refer the Board to Table 7, page 11 of Appendix D of the appeal documents. From this table, it would appear that the predicted change in noise levels will be +5dB above the existing background noise levels, when complaints can be expected. I also note that the figures provided for the average baseline dB LAeq at N3 appears to be incorrect from the figures in Table 3. I find the presentation of the results of modelling confusing in that Table 7 provides for an evaluation of cumulative effects with a different scenario for each noise monitoring location. In this regard, the Noise Assessment submitted with the appeal states that predicted cumulative noise levels at all three locations meet the 55dB noise limit.
- 8.3.10. The report concludes, however, that the proposed quarry can meet the noise limit at the closest receptors represented by N1 and N3 both independently and cumulatively but acknowledges that at N2, the worst-case predicted levels exceed the noise limit in independent operation. While I accept that the modelling excludes the proposed screening, I have serious concerns that the development, if permitted would represent a significant impact on the existing

residential amenities of the properties in the vicinity of the site, particularly those located within 50m of the proposed quarry area.

Air Quality:

- 8.3.11. The issue of air quality and dust was raised by third parties in terms of human health. Surveys were carried out during 2017 and the results show that levels were below the 350mg/m<sup>2</sup>/day limit as recommended in the EPAs Environmental Management in the Extractive Industry at three locations, with significant exceedances recorded at monitoring locations D3, located immediately adjacent to the residential properties to the east of the site, and D4 which was located on the boundary of the existing quarry to the west of the site. The EIAR and Qualitative Dust Impact Assessment, submitted in support of the appeal, excludes the data from the elevated dust readings concluding that the samples were contaminated. Given the nature of the proposed development, there is potential for dust emissions being generated at the site.
- 8.3.12. The Board will also note the existing quarry immediately adjacent to the proposed development site, yet the Dust Impact Assessment concludes that there is no correlation between the location of the existing quarrying activities and the location with the highest recorded concentration. In terms of the information presented and the nature of the development proposed, it is not considered that the Environmental Impact Assessment Report has adequately addressed the impacts in terms of air quality and in particular, the impacts associated with dust arising from the proposed development as well as cumulatively.

Impact on groundwater and water supply:

- 8.3.13. The Board will note that it is not intended to extract sand or gravel below the water table level. The aquifer at the subject site is identified as a Regionally Important diffuse karstified bedrock aquifer and all residential properties in the vicinity appear to have private wells as their sources of potable water supplies.

- 8.3.14. The proposed floor level of the quarry will be above 74m OD as the water table was averaged at <73m OD. Four boreholes were drilled across the site and the water table depth results in each is provided in Table 6.3 in the EIAR. Borehole BH4, which is located to the southern area of the site and away from the primary proposed quarry area, recorded an average groundwater level of 76.1m OD. The quality of the groundwater was tested and found to have some elevated parameters, with hardness levels above the recommended Drinking Water Regulations. The vulnerability of the aquifer is considered moderate to high and concerns were raised by Kildare County Council with regard to the protection of the aquifer from contamination and the proposed waste water treatment system to be installed on the site.
- 8.3.15. The assessment included in the EIAR in terms of hydrogeology and hydrology concluded that subject to mitigation, in the long term, there will be no deleterious effects on the groundwater or surrounding waterbodies, with no cumulative impacts arising. I have a number of concerns in terms of the assessment of the impact of the development on water environments. In addition to the necessity to protect the underlying aquifer, being a water supply source for residences in the vicinity of the site, no details of the water needs of the proposed development have been indicated, either in relation to welfare needs or operational needs. I would consider that if the Board is minded to grant planning permission in this instance, these issues should be clarified. In addition, I would consider it reasonable to include the existing private wells in any future sampling plan as requested by the HSE in their report dated 5<sup>th</sup> June, 2018.

Visual Impact & Landscape:

- 8.3.16. Given the nature of the proposed development, the visual impacts can be significant, and the Board will note the location of the subject sites location with a Class 4, Special Landscape with adjacent to the Grand Canal which is located within an Area of High Amenity, in the open landscape. The site is currently visible from a number of vantage points and the applicant submitted a visual impact assessment, including a number of photomontages as part of

the EIAR. Further montages were submitted as part of the Grounds of Appeal. The proposed development includes landscaping plans in the form of berms along boundaries, including planting, while retaining existing hedgerows and trees along these boundaries. The proposals will see the removal of approximately 1.2km of hedgerows and treelines within the subject site. As previously noted, the site is located within the Class 4 Special sensitivity landscape character area known as the Chair of Kildare.

8.3.17. The EIAR submits that the proposed development will result in a distinct and permanent alteration to the topography, drainage and vegetation of the site and that the sensitivity of the site should be considered to be medium with the study area having a low sensitivity. In terms of the proximity of the site to the Grand Canal, Section 14.5.4 of the CDP notes that

‘the smooth terrain, generally gentle landform and low canal bank grassland that characterises the canal corridors allow vistas over long distances without disruption, there the canal flows in a straight line direction. Consequently, development can have a disproportionate visual impact along the water corridor and it can prove difficult for the existing topography to visually absorb development. The occurrence of natural vegetation, coniferous and mixed plantations adjacent to the water corridor can have shielding and absorbing qualities in the landscape.’

8.3.18. Policy WC 3 seeks to control development that will adversely affect the visual integrity of distinctive linear sections of water corridors and river valleys and open floodplains.

8.3.19. In terms of the above, I would consider that the principle of the proposed quarry would not accord with the stated policy requirements relating to the protection of the landscape in this area of Co. Kildare. Indeed, I would also consider that the proposed mitigation measures to construct a berm along parts of the boundary of the site, including the northern boundary along the Grand Canal, would not comply with the CDP in that it would alter the characteristics of the canal corridor and the topography of the site. In addition,



I consider that the stockpiling of materials as proposed, would also represent a visual impact in this landscape.

8.3.20. That said, I also note the presence of a number of other extraction facilities in the wider area and would accept the comments of the applicant that the proposed development would not be an uncharacteristic form of development within this landscape. I would not however, agree that the potential visual impacts associated with the proposed development could be considered imperceptible as suggested in the EIAR.

8.3.21. If permitted, the cumulative impact of the proposed development and the adjacent quarry would be significant, in my opinion. Given the class of the landscape in which the proposed development is to be located, together with the scale and location adjacent to an existing quarry, I consider that it would have a significant, and adverse impact on the character of the landscape contrary to the policy requirements of the County Development Plan. Overall, I am not satisfied that the proposed development is acceptable in terms of visual impact.

Conclusion:

8.3.22. Overall, I consider that the proposed quarrying at this site will have a significant and adverse impact on the existing residential amenities of properties in the vicinity, as well as the visual and general amenities of the wider area.

**8.4. Roads & Traffic:**

8.4.1. The subject site is located in a rural area of Co. Kildare, to the east of Rathangan and along the banks of the Grand Canal. The site is accessed over a network of local roads which currently supports the existing quarry to the west of the site, as well as others in the wider area. The Roads & Transportation section of Kildare County Council determined that the proposed quarry gives rise to significant concerns, particularly with regard to the challenging terrain and the need for frequent maintenance due to poor subgrade material on which the roads are built. The existing level of traffic on

the road network, including the present volume of HGVs, puts significant pressure on the road conditions as well as creating road safety hazards for all road users. The report recommends that permission be refused for 3 stated reasons.

- 8.4.2. The development proposes to extract 20ha with an average extraction depth of 15.8m which amounts to a volume of approximately 3,150,000m<sup>3</sup> – or 6,000,000 tonnes of aggregate, over a period of 20 years. This amounts to 300,000 tonnes per annum and 6,000 per week which equates to 44 loads per day – averaged at 25 tonne loads. The TTA submitted in support of the proposed development has concluded that a maximum number of trips generated by the proposed development is expected to be 128 per day, 88 of which will be HGVs, which includes staff trips and other miscellaneous trips. I am satisfied that the TTA presents a robust assessment in this regard.
- 8.4.3. Having undertaken a site inspection on two occasions, I would advise that HGV traffic on the local road network in the vicinity of the subject site is significant. I also note that the available sight distances to the west of the proposed access to the site does not accord with the minimum requirements. The EIAR has submitted that the available sight distances should be acceptable as no HGVs will exit or enter the site towards the west. The Board will note that the road widths to the west of the proposed site entrance reduces to approximately 4m in places. As such, I would have serious concerns in relation to the impact the development would have on the local road network, as well as on the amenity of the wider rural area.
- 8.4.4. The proposed haul routes from the site to the major road network in the area have been identified in the grounds of appeal, many of which have a carriageway width of approximately 6m without hard shoulders or verges. Vehicles leaving the quarry will turn left (eastwards) on to the L7004 road towards the M4 to the north and the M7 to the south. An assessment of the junctions affected is also presented in the TTA within the EIAR and concludes that all are operating within capacity. The TTA submits that if permitted, the development will result in an increase of 18% of the current combined traffic

along the local road immediately adjoining the site. Impacts on the other identified roads and junctions range from an increase of between 2% and 10%. The PICADY results found that all junctions assessed, operate within capacity for all legs. The TTA concludes that there will be no impact on traffic arising from the proposed development.

- 8.4.5. The Board will note the submissions from local residents and the concerns raised in relation to the traffic issues arising from the operation of the existing quarry in the area without an additional quarry of the scale proposed at this location. The narrow nature of the road is a concern given the intended use of additional HGVs to transport the quarried materials from the site. There is just about enough room for a car and HGV to pass slowly and I would be concerned that two HGVs could not pass each other comfortably on the local road. In addition, I would note that the road currently supports a significant level of HGV traffic. The condition of the existing road network in the vicinity of the site has been raised as a concern by the Roads & Transportation section of the Planning Authority.
- 8.4.6. In response, I note the submission of the first party who submits that while the issue of accelerated road deterioration is unfavourable to local road users, the deterioration is occurring regardless of the proposed development being in operation. I also note the mitigation measures proposed in the EIAR with regards to road safety. Overall, I consider that the estimated volume of traffic that would be generated by the proposed development would represent a significant increase in the existing traffic movements on the immediate local road network. Given the condition, nature and carrying capacity of the existing local road, together with its narrow width, lack of road markings and the existing level of HGV traffic, I do not consider that the traffic movements generated by the proposed quarry, can be accommodated without endangering public safety by reason of traffic hazard and resulting in an obstruction to road users.

8.4.7. The Board will also note the proposal to include laybys on the small county road to the east of the subject site. There is no proposal for quarry traffic to use this road and therefore, I am unclear as to the purpose of these laybys.

## 8.5. Other Issues

### Biodiversity:

- 8.5.1. The Board will note the submission of an NIS in support of the proposed development. In addition, Chapter 4 of the EIAR deals with biodiversity. The northern boundary of the site lies adjacent to the track which runs along the banks of the Grand Canal pNHA (Site Code: 002104). Habitats present on the site include hedgerows, treelines and arable crops. The EIAR also notes the proximity of the site to the canal, drainage ditch and the adjacent quarry. In terms of flora, the EIAR notes that no protected species were recorded during the site survey.
- 8.5.2. In terms of fauna, I consider that the species most likely to be impacted by the proposed development are bats. The bat survey submitted in support of the proposed development, identified a high level of activity from 5 different bat species, including the identification of roosts in trees, hedgerows and buildings on the site. While I acknowledge the assessment in terms of the bats, I have concerns in terms of the conclusions and the extent of impacts arising due to the proposed extensive removal of treelines and hedgerows, as well as the buildings which have been identified as including roosts.
- 8.5.3. In terms of impacts on birds, the EIAR refers to 'breeding birds' without any elaboration on which species may be impacted upon. In the absence of clear information, I do note that the proposed development has sought to design mitigation to be incorporated into the development to address the impacts of the proposed development in the ecological environment of the site. The EIAR concludes that when considering the mitigation, compensation and enhancement measures outlined, it is considered that a net gain for biodiversity will be afforded over the medium to long term, with many new

species potentially appearing during the evolution and eventual closure of the site.

- 8.5.4. I have a real concern in terms of the robustness of the EIAR in terms of assessing the potential impacts of the proposed development on the biodiversity of the site. In particular I am concerned that the EIAR has not adequately dealt with the potential impacts of the removal of the hedgerow and treeline habitats on bats or breeding birds on the site. In addition, and while I acknowledge the proposals in terms of mitigation, compensation and enhancement, there is no doubt that the development works are likely to have a significant impact on birds and bats in the short term and at a local level.

Impacts on Archaeology & Heritage:

- 8.5.5. It is noted that the closest recorded monument to the subject site, KD017-042, is a redundant record, located in the townland of Drumsru. There are a number of recorded monuments within 1km of the subject site, none of which will be impacted by the proposed development.
- 8.5.6. In terms of architectural heritage, no protected structures are located within the boundaries of the site. There are two structures of vernacular heritage interest identified, including the house to be demolished as part of the proposed quarry works. It is the stated policy of the County Development Plan to encourage the protection, retention, appreciation and appropriate revitalisation of the vernacular heritage of the county (policy VA1 refers). Policy VA 2 seeks to resist the demolition of vernacular architecture while VA 4 seeks to preserve the character and setting of vernacular buildings.
- 8.5.7. With regards to the thatched cottage which is located within 50m of the proposed quarry, and outside the development site boundary, the Board will note the submitted objections from the proprietors of this property. Given the proximity of the quarrying works to this cottage, and notwithstanding any mitigation measures proposed in terms of screening, I would have serious concerns that the development would adversely impact the setting and visual amenity of this property.

- 8.5.8. The second property lies within the subject site and forms part of a farm complex. In support of the appeal against the refusal of planning permission, a Built Heritage Survey was carried out. The report advises that while the presence of early 20<sup>th</sup> Century cast concrete structures is of some technical interest, the overall state of preservation of the buildings, along with the modern interventions, means that the site is of low heritage significance. No fabric relating to the earlier vernacular structures, marked on the first editions OS map was found to be present.
- 8.5.9. I am generally satisfied that subject to archaeological monitoring of all topsoil removal, the development will not unduly impact on potential archaeology of the area. While the loss of the farm complex within the site is unfortunate, and the Board will note my comments in relation to the presence of bat roosts in buildings within this complex, I am satisfied that the loss of this house is acceptable. With regard to the potential impacts of the development of the thatched cottage, in terms of vernacular heritage, I would have serious concerns that the development would adversely impact the setting and visual amenity of this property, contrary to the requirements of the County Development Plan and the proper planning and sustainable development of the area.

Hours of operation:

- 8.5.10. In terms of hours of operation, the Board is referred to Section 4.7 of the 'Quarries and Ancillary Activities, Guidelines for Planning Authorities, 2004' which states the following:

'It is recommended that normal operations should be confined to the hours between 07:00 and 18:00, Monday to Friday inclusive (excluding Bank Holidays) or as may be agreed with the planning authority, and between 07:00 and 14:00 on Saturdays, with no quarrying, processing or associated activities being permitted on Sundays or public holidays. Where market conditions to the nature of particular ancillary processes (such as concrete batch manufacture) would require greater flexibility of working hours, it is imperative that such flexibility be discussed with

the planning authority at the pre-application stage, and addressed in the planning application’.

8.5.11. Should the Board be minded to grant permission in this instance, I am satisfied that the hours of operation can be dealt with by way of condition.

Development Contributions:

8.5.12. The development is a class of development which is identified in the Development Contribution Scheme, 2015-2022 of Kildare County Council. The Development Contribution Scheme with regard to quarrying / extractive industry, provides that:

‘Contributions will be charged at a rate of €0.25 per m<sup>3</sup>, based on proposed extraction volumes’

8.5.13. In this regard, should the Board be minded to grant planning permission, a condition requiring the payment of a development contribution under the development contribution scheme, should be included.

## 8.6. **Conclusion**

Overall, I consider that the proposed development is not acceptable at this location due to the impacts on:

- Visual amenity & Landscape
- Residential amenity, including air quality, dust, noise and impacts on waters
- Road network
- Biodiversity of the area.

## 9.0 **Appropriate Assessment**

### 9.1. **Introduction:**

9.1.1. The subject site is located outside any Natura 2000 site, with six sites being identified within 15km of the site. The NIS notes that the adjacent Grand Canal pNHA, located to the north of the site, is identified as being an important habitat for fish and crayfish and that otters have been previously observed along its length. In addition, other fauna identified within site boundary include a number of bat species using the site. Two outbuildings located on the site have also been identified as satellite roosts for Common Pipistrelle and Natterer's bats. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

9.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. A Natura Impact Statement (NIS) was submitted in support of the proposed development to address the likely or possible significant effects, if any, arising from the proposed development on any European site.

### 9.2. **Screening for Appropriate Assessment:**

9.2.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its



conservation objectives and considering whether these effects will be significant.

The NIS considered Natura 2000 sites within 15km of the subject site, and Stage 1 Screening identified six European sites, on which there is the possibility of a significant effect arising from the proposed development. The NIS particularly notes the potential impacts arising from the proposed works from groundwater pathways upon which groundwater dependent terrestrial ecosystems depend. These sites include SACs as follows:

- Mouds Bog SAC (Site Code: 002331)
- Pollardstown Fen SAC (Site Code: 000396)
- The Long Derrie, Edenderry SAC (Site Code: 000925)
- Ballynafagh Lake SAC (Site Code: 001387)
- Ballynafagh Bog SAC (Site Code: 000391)
- River Barrow and River Nore SAC (Site Code: 002162)

9.2.2. Table 2 of the Natura Impact Statement presents the full list of the sites and assessment to determine if they are located within the Zone of Influence of the works proposed. Each site was examined in the context of location in terms of distance from the proposed activity, within surface water Zone of Influence, within groundwater Zone of Influence and within land and air Zone of Influence. In considering the above, and on the basis that Mouds Bog SAC, Pollardstown Fen SAC and The Long Derries, Edenderry SAC have no hydrological pathways that could transmit or facilitate potential impacts as they are not located up or down river of the works and are within separate groundwater bodies, the Appropriate Screening has screened out these sites.

### 9.3. **Conclusion on Stage 1 Screening:**

9.3.1. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the following

European sites, in view of the sites' conservation Objectives and that a Stage 2 Appropriate Assessment is not required in respect of these sites:

- Mouds Bog SAC (Site Code: 002331)
- Pollardstown Fen SAC (Site Code: 000396)
- The Long Derrie, Edenderry SAC (Site Code: 000925)

9.3.2. Notwithstanding the separation distance from the subject site to the remaining Natura 2000 sites, given that they are located within the zone of influence for surface and ground waters. In addition, many of the qualifying interests for these sites are water dependent and as such, the potential for impacts to occur relating to changes to surface and ground water quality and quantity and disturbance during construction and operation, in the absence of mitigation, it is considered that a stage 2 AA should be carried out. The potential impacts (direct /indirect and in-combination effects) of the development on the site are examined in light of each of the site's conservation objectives.

#### 9.4. **Stage 2 Appropriate Assessment**

##### **Potential Impacts on Ballynafagh Lake Special Area of Conservation (Site Code 001387) and Mitigation proposed**

9.4.1. The Ballynafagh Lake SAC is located approximately 9km to the north east of the subject site. It is described as a shallow alkaline lake which supports a high diversity of molluscan species and is of ornithological importance. The site is selected for the following habitats and species listed in Annex 1 and Annex 11 of the EU Habitats Directive:

- Desmoulin's Whorl Snail (*Vertigo moulinsiana*)
- Marsh Fritillary (*Euphydryas aurinia*)
- Alkaline Fens.

The Conservation Objectives for the Ballynafagh Lake SAC (Site Code 001398) states as follows:

Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

- 9.4.2. No part of the proposed development encroaches into the SAC site and as such, the development will not result in the loss, fragmentation or interference with any habitats for which the SAC is designated. The development will not result in the disturbance of any species for which the SAC is designated and as no instream works are proposed, there will be no impacts through disturbance of sensitive aquatic species.

#### **Potential Impacts on Ballynafagh Bog Special Area of Conservation (Site Code 000391) and Mitigation proposed**

- 9.4.3. The Ballynafagh Bog SAC is located approximately 10km to the north east of the subject site. The Bog comprises an area of approximately 70ha of uncut high bog, surrounded by approximately 90ha of cutover bog. Within the high bog, it is indicated that there is approximately 23ha of wet active bog and 44ha is degraded raised bog. The site is selected for the following habitats and species listed in Annex 1 and Annex 11 of the EU Habitats Directive:

- Active raised bog.
- Degraded raised bog still capable of natural regeneration.
- Depressions on peat substrates of the Rhynchosporion.

The Conservation Objectives for the Ballynafagh Lake SAC (Site Code 001398) states as follows:

- Active raised bog: To restore the favourable conservation condition of Active Raised Bogs in Ballynafagh Bog SAC.  
This is defined by a list of attributes and targets.
- Degraded raised bog still capable of natural regeneration: The long-term aim for Degraded Raised Bogs still capable of natural regeneration is that its peat forming capability is re-established; therefore the conservation objective for this habitat is inherently

linked to that of Active Raised Bogs and a separate conservation objective has not been set in the Ballynafagh Bog.

- Depressions on peat substrates of the Rhynchosporion: Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active Raised Bogs and a separate conservation objective has not been set in the Ballynafagh Bog.

9.4.4. No part of the proposed development encroaches into the SAC site and as such, the development will not result in the loss, fragmentation or interference with any habitats for which the SAC is designated. The development will not result in the disturbance of any species for which the SAC is designated.

#### **Potential Impacts on River Barrow and River Nore Special Area of Conservation (Site Code 002162) and Mitigation proposed**

9.4.5. The River Barrow and River Nore SAC is located approximately 13km to the south of the subject site and extends through a number of counties including Carlow, Kildare, Kilkenny, Laois, Offaly, Tipperary, Waterford and Wexford. The SAC supports a large number of species and habitats, including priority habitats. The submitted NIS notes that not all qualifying interests occur within the Zone of Influence of the proposed development and therefore have been excluded from the assessment. The following habitats and species are identified as potentially being present within the zone of influence and therefore could potentially be significantly impacted through water quality:

- Freshwater pearl mussel
- White-clawed crayfish
- Brook lamprey
- River lamprey
- Atlantic salmon
- Otter
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

- \*Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
- Alkaline Fens.

Specific Conservation Objectives for the River Barrow and River Nore SAC (Site Code 002162) have been prepared and seek to maintain or restore the favourable conservation condition for each of the Annex I habitat(s) and the Annex II species for which the SAC has been selected.

9.4.6. No part of the proposed development encroaches into the SAC site and as such, the development will not result in the loss, fragmentation or interference with any habitats for which the SAC is designated. The development will not result in the disturbance of any species for which the SAC is designated and as no instream works are proposed, there will be no impacts through disturbance of sensitive aquatic species.

9.4.7. In light of the above assessment, and in accordance with the precautionary principle, it is concluded that there is potential that the proposed development, either on its own or in combination with other developments, may have a significant effect on the SAC, and in particular, on water quality. The works would have the potential, in the absence of mitigation, to increase pollution events of surface and ground waters, which could result in temporary effects on the species/habitats for which the Natura 2000 sites are designated.

## 9.5. Mitigation Measures

9.5.1. Mitigation measures are proposed to address the potential adverse effects of the development and to ensure that soils, silt and other pollutants will not adversely affect the identified SACs or the conservation status of protected habitats and species they support. Measures include as follows:

- The site compound will be located as far from the River Slate as possible
- Only plant and machinery necessary for the works will be permitted to be stored at the compound location

- Processes programme will be established
- Oil booms and oil soakage pads will be maintained on-site and shall be disposed of correctly, with records maintained
- Regular inspections and maintenance of plant and machinery checking for leaks, damage or vandalism will be made on all plant and equipment.
- Spill control materials will be installed at strategic locations within the site and spill kits will be stored with easy access in the case of emergencies.
- Emergency response training will also be provided.
- No works will occur at night time and the boundary treeline and hedgerows along the Grand Canal boundary will be not be disturbed in order to mitigate impacts on otters.

9.5.2. Subject to the implementation of these measures, it is accepted that there is little potential for significant impacts on the qualifying interests for which the sites are selected, and hence, on the integrity of the sites, and residual impacts are unlikely.

## 9.6. **In Combination Effects**

9.6.1. Cumulative impacts from plans and projects in the area which may result in potential in-combination effects are considered in section 5.3 of the NIS. This section acknowledges the existing quarry adjacent to the subject site and notes that this quarry operates above the water table. It is concluded that assuming similar mitigation measures will be imposed on the proposed development and with both sites operating above the water table, no cumulative impacts on the local surface water or ground water environments will occur.

9.6.2. In terms of the operational stage of the development, it is noted that the quarry may result in the physical disturbance of otter and mitigation is proposed to ensure no significant impact on otters arise.

## 9.7. Conclusion

9.7.1. I have read the submitted Natura Impact Statement in its entirety, together with all other environmental reports submitted with the planning application in support of the proposed development, and I am satisfied that it assesses the likely significant impacts arising from the proposed development on the integrity of the following European sites:

- Ballynafagh Lake SAC (Site Code: 001387)
- Ballynafagh Bog SAC (Site Code: 000391)
- River Barrow and River Nore SAC (Site Code: 002162)

9.7.2. I have had full regard to the Stage 2 Appropriate Assessment as set out in Section 5 of the NIS. I am satisfied that it has adequately identified and assessed the key characteristics of the potential impacts arising as a result of the proposed development, both alone and in combination with other projects, which could undermine the stated conservation objectives of the Natura 2000 site.

9.7.3. In the interests of protecting the conservation objectives of the European Sites, mitigation measures are proposed in section 6 of the submitted NIS as part of the proposed development. Mitigation measures are proposed for both the construction and operational phases of the quarry and includes a program of process controls which will identify key indicator parameters for process control performance. In addition, the NIS proposes disturbance prevention measures for the benefit of the otters who potentially occupy the Grand Canal to the north of the site. These measures include no night time work and treeline / hedgerow maintenance. On implementation, it is submitted that there are no likely residual negative impacts on the designated sites on the basis that no extraction of materials is proposed below the water table and no discharge is proposed to surface or groundwater from the development, similar to the adjacent permitted site. It is concluded that the proposed development will not have a significant adverse effect on the integrity of the Natura 2000 Network.

9.7.4. Having regard to the nature of the subject development site, the nature of the proposed development and its location at a remove from existing Natura 2000 sites, together with the details presented in the Environmental Impact Statement and Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, I consider it reasonable to conclude on the basis of the information on the file, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the following European sites, or any other European site, in view of the site's Conservation Objectives.

- Ballynafagh Lake SAC (Site Code: 001387)
- Ballynafagh Bog SAC (Site Code: 000391)
- River Barrow and River Nore SAC (Site Code: 002162)

## 10.0 Environmental Impact Assessment

### 10.1. Environmental Impact Assessment Report:

10.1.1. The EIAR submitted with the planning application is presented in a grouped format structure with appendices and a non-technical summary. A Natura Impact Statement is also included in the EIAR folder. The EIAR provides 12 chapters and seeks to address all environmental matters associated with the proposed development. I have read this EIAR, including the above mentioned NIS, in its entirety. The EIAR provides a non-technical summary as well as a reasoning for the EIAR, including its scope and the structure and methodology of same. The EIAR submitted provides information in relation to a number environmental aspects and describes the potential effects the development will have on the receiving environment. It is also to be noted that the EIAR is advertised in the public notices.

10.1.2. This planning application, which was accompanied by an EIAR, was submitted to the Planning Authority after to the 16 May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under



the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the appeal. I am satisfied that the information contained in the EIAR complies with article 94 of the Planning and Development Regulations 2000. The document also seeks to comply with the new requirements introduced by Directive 2014/52/EU.

10.1.3. The EIAR seeks to:

- Describe the proposal, including the site, and its surroundings, as well as the development's design and size;
- Describe the likely significant effects of the project on the environment;
- Describe the features of the project and measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Describe the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.
- A non-technical summary is also provided.

The EIAR also includes, at Section 1.6, details of the expert companies who contributed to the preparation of the document. The EIAR includes a description of the study teams' backgrounds and expertise.

10.1.4. The EIAR includes a Non-Technical Summary in a separate chapter contained in the file. The NTS provides a preamble and seeks to describe the proposed development, as well as provide a summary of the findings about each of the environmental topics that are examined in the EIAR. The information presented is in clear and non-technical language. I am satisfied that the NTS is acceptable.

10.1.5. The EIAR is presented under the following chapter headings:

- |                              |                    |
|------------------------------|--------------------|
| 1. Introduction              | 5. Soils & Geology |
| 2. Project Description       | 6. Water           |
| 3. Population & Human Health | 7. Air Quality     |
| 4. Biodiversity              | 8. Noise           |
|                              | 9. Landscape       |

10.1.6. In terms of Alternatives Considered, the EIAR identifies 2 options in addition to the proposed site, including a 'do nothing' scenario. The EIAR submits that the proposed development, Alternative A, is the most favourable proposal given the presence of an existing quarry adjacent to the subject site, evidence of the local resource and good existing access. The Board will note that concern was raised by the Planning Authority in terms of the extent of the alternatives considered, given the greenfield nature of the site within an area designated as having Special Landscape Character, together with the proximity to the Grand Canal located to the north of the site.

## 10.2. Environmental Impact Assessment

10.2.1. In accordance with the requirements of Article 3 of the EIA Directive and Section 171A of the Planning and Development Act, 2000 (as amended), the environmental assessment is carried out under the following headings:

- (a) Human health and population,
- (b) biodiversity, with particular attention to protected species and habitats,
- (c) land, soil, water, air and climate,
- (d) material assets, cultural heritage and the landscape, and
- (e) the interaction between the above factors.

10.2.2. This assessment has had regard to the application documentation, including the Environmental Impact Assessment Report, and all other supporting reports submitted, as well as all written submissions.

**Identification & Description of the likely significant effects of the proposed development:**

10.2.3. The EIAR chapters seek to address the main likely significant direct and indirect effects arising from the proposed development, and the interaction of the environmental aspects in accordance with the requirements of Schedule 6 of the Planning & Development Regulations, 2001 as amended. Chapter 12 considers the interactions by means of cross referencing each environmental aspect against all other aspects considered.

**Assessment of the Likely Significant Effects Identified, having regard to the mitigation measures proposed:**

**10.2.4. Population and Human Health**

The EIAR, Chapter 3, seeks to address impacts associated with the development on population & human health. It is advised that impacts on population and human health as a result of the proposed development have also been considered in other chapters of the EIAR including in relation to biodiversity, water, air quality and climate, noise and vibration and landscape. The EIAR presents information with regard to impacts on population and human health under a number of headings as follows:

- **Land Use & Social Considerations:**

The EIAR notes the location of the site within a rural area with land uses including agricultural, aggregate extraction and single house residential. It is also noted that there is a waste recovery activity taking place to the south of the site, within 1km. The EIAR submits that there has been little or no change with respect to social considerations, as a result of quarrying activities in the vicinity of the site.

- **Population:**

The EIAR submits that it is not anticipated that the development will result in any change in population as a result of the proposed development.

- **Tourism & Recreation:**

In terms of potential impacts on tourism and recreation, the EIAR submits that given the presence of an existing quarry in the area, together with a

considered distribution and design of perimeter embankments and an increased program of planting, will consolidate the screening, it is not anticipated that there will be any significant impacts on tourism and recreation in the area once the restoration plan has been affected.

- Traffic

A Traffic & Transport Assessment was prepared in support of the proposed development. The assessment concludes that the development is noted as requiring 160m of unobstructed visibility at a point 3m back from the edge of the carriageway. Adequate sightlines are available to the east of the proposed entrance but is restricted to 145m to the west due to the horizontal alignment of the road. The EIAR considers that this is acceptable due to the low traffic volumes and the likely low prevailing vehicle speeds on the L7004. In addition, a number of measures are proposed to be taken at the proposed entrance to the quarry.

In terms of the link and junction capacity analyses carried out, the EIAR determines that the local road network will continue to operate within capacity for each of the assessment years.

- Health and Safety

The EIAR notes that the applicants operate a Health & Safety Policy for all of their sites, and that this policy will apply at the subject site.

- Air Quality

The subject of Air Quality is discussed in depth in Chapter 7 of the EIAR. It is concluded that the expected impacts from dust as a result of the proposed development will not be significant subject to the implementation of the mitigation measures.

- Noise & Vibration

Chapter 8 of the EIAR deals with noise and vibration and it is submitted that given that no blasting will take place at the site, there will be no impacts of this nature on the local human environment. Mitigation measures are proposed.

- Landscape & Visual

Chapter 9 of the EIAR deals with landscape and visual impact assessment and the EIAR concludes that the impact on the landscape will be high – medium/low. Subject to the implementation of mitigation measures at the early stages of the site development works, it is considered that the visual impact will be imperceptible.

- Water

The EIAR, Chapter 6 deals with impacts on hydrology and hydrogeology. In terms of impacts on human beings, it is submitted that as the extraction will take place above the watertable, and as the site is not located within a Source Protection Area for public water supply, no changes to the hydrology or hydrogeology are expected and therefore, there will be no impact on human beings.

Chapter 3 of the EIAR concludes that subject to mitigation measures, there is no discernible cumulative impacts arising.

I propose to assess further, the impacts of the proposed development on population and human health as part of my assessment of other environmental aspects below. However, I would note at this point, that I have concerns in terms of the conclusions of the EIAR and the potential impacts on population and human health, in line with those concerns raised by the Planning Authority. I would also note that the grounds of appeal, while seeking to overcome the concerns raised by Kildare County Council, fall short in places, in my opinion.

#### 10.2.5. Biodiversity

Chapter 4 of the EIAR deals with biodiversity. There is no designated site within the proposed development site. The site is located approximately 5.5km to the north of the Mouds Bog SAC (Site Code 002331). The Board will note that a Natura Impact Statement was submitted in support of the proposed development. The northern boundary of the site lies adjacent to the track which runs along the banks of the Grand Canal pNHA (Site Code: 002104). Habitats present on the site include hedgerows, treelines and arable crops. The EIAR

also notes the proximity of the site to the canal, drainage ditch and the adjacent quarry.

The EIAR concludes that, given that there will be no development below the water table level, there will be no impacts on the aquatic habitat of the canal or drainage ditch.

In terms of flora, the EIAR notes that no protected species were recorded during the site survey. Otter and Peregrin Falcon were recorded within the 2km grid area including the subject site in 2011. The applicant also submitted a Bat survey which identified a high level of activity from 5 different bat species, including the identification of roosts in trees, hedgerows and buildings on the site. While I acknowledge the assessment in terms of the bats, I have concerns in terms of the conclusions and the extent of impacts arising due to the proposed extensive removal of treelines and hedgerows, as well as the buildings which have been identified as including roosts within the site.

In terms of impacts on birds, the EIAR refers to 'breeding birds' without any elaboration on which species may be impacted upon. It would appear that a habitats walkover survey was undertaken on the 14<sup>th</sup> of April 2017, with a bat survey carried out on foot that that on the 8<sup>th</sup> June, 2018. I note the proposed mitigation measures to be incorporated into the development to address the impacts of the proposed development on the ecology of the site. The EIAR concludes that when considering the mitigation, compensation and enhancement measures outlined, it is considered that a net gain for biodiversity will be afforded over the medium to long term, with many new species potentially appearing during the evolution and eventual closure of the site.

I have a real concern in terms of the robustness of the EIAR in terms of assessing the potential impacts of the proposed development on the biodiversity of the site. In particular I am concerned that the EIAR has not adequately dealt with the potential impacts of the removal of the hedgerow and treeline habitats on bats or breeding birds on the site. In addition, and while I acknowledge the proposals in terms of mitigation, compensation and enhancement, there is no doubt that the development works are likely to have a significant impact on birds and bats in the short term and at a local level. I

further consider that there are gaps in the information provided pertaining to birds using the site.

#### 10.2.6. **Land, Soil & Geology**

In terms of likely significant impacts arising with regard to soils and geology, I refer the Board to Chapter 5 of the submitted the EIAR. Direct impacts are likely to arise during construction of the proposed development, notably as the proposed development will involve site excavations as part of the quarry operation, with excavations requiring overburden stripping of 1-5.5m, gravel excavation up to 20m and sand excavation up to 30m in the vicinity of bore hole 1.

An evaluation of the impacts on soils and geology is presented in the EIAR with the magnitude of impacts ranging from negligible – small adverse to major beneficial. Mitigation measures are proposed and include good construction management and compliance with best practice guidelines.

#### 10.2.7. **Water**

##### Ground Waters:

With regard to ground waters, it is noted that the underlying aquifer and groundwater levels have been assessed as part of the preparation of the EIAR. The site is located within the South-Eastern River Basin District, Hydrometric Area 14. The GSI Vulnerability Map identifies the aquifer underlying the area of the subject site as 'Rkd', a regionally important diffuse karstified bedrock aquifer and over a locally important aquifer which is moderately active in local zones. The underlying aquifers have a moderate to high vulnerability rating. The assessment of groundwater included an assessment of samples taken from the 4 boreholes and the results suggest that the groundwater in the vicinity of the site is being impacted by activities external to the site. No details of what activities these may be is provided, but the Board will note that agricultural practices, including the use of fertiliser, as well as manure and wastewater treatment systems can contribute to nitrogen levels in surface and groundwaters.

The direct impacts of the development in terms of groundwater relate to the potential polluting impacts associated with the introduction of hydrocarbons to

the underlying aquifer. No direct impact on the ground water is envisaged as no excavation below the natural ground water table is proposed.

Mitigation measures are proposed, and no significant residual impacts are predicted. While the Environmental Impact Assessment Report, and subject to the implementation of mitigation measures, concludes that no long term significant impacts or cumulative impacts, on the natural groundwater regime arise, I note the outstanding concerns of the Environment Section of Kildare County Council in terms of the proposed waste water treatment system. In addition, I note that the EIAR makes very little reference to the existing private wells which are located in close proximity to the subject site. In this regard, the HSE has recommended that these wells should be included in any water sampling plan should permission be granted. I would consider this wholly appropriate and reasonable.

#### Surface Waters:

Quarrying activities can pose a significant risk to surface waters as runoff from quarries are likely to be contaminated with sediments and possibly hydrocarbons. The EIAR that there are no significant drainage features within the immediate vicinity of the site other than the Grand Canal, 20m from the site and a drainage channel along the northern boundary of the site. The EIAR submits that there will be no effects on these water features as there will be:

- No extraction below the water table
- No dewatering of the site
- No discharges from the site
- A large area of screening berm – approximately 60m in width – will prevent any surface water discharging to the drainage ditch to the north of the site
- The site is not located within a source protection area of a public water supply scheme.

Mitigation measures are proposed and good practice guidelines for the quarry industry will be followed. Residual impacts are considered unlikely.



### 10.2.8. Air & Climate

Air:

The EIAR notes that dust levels in the vicinity of the proposed quarry site were measured in preparation of the Air Quality & Climate chapter of the EIAR. Five dust monitoring points were established, and the report notes the wind speeds and air temperatures between January 2012 and March 2018. A dust survey was carried out during March and August 2017. The results show that levels were below the 350mg/m<sup>2</sup>/day limit as recommended in the EPAs Environmental Management in the Extractive Industry at three locations, with significant exceedances recorded at monitoring locations D3, located immediately adjacent to the residential properties to the east of the site, and D4 which was located on the boundary of the existing quarry to the west of the site. The figures for D3 and D4 are reproduced below:

<b>2017</b>	<b>Mar- Apr</b>	<b>Apr- May</b>	<b>May- June</b>	<b>June- Jul</b>	<b>Jul- Aug</b>
<b>D3</b>	64.2	679.1*	479.7*	480.6**	1214.8*
<b>D4</b>	99.7	215.6	596.1*	524.1**	104.9

*\*Contamination with algal growth    \*\*Organic matter noted in sample*

There is no explanation offered as to the reason for the elevated results indicated above. The EIAR identifies a number of activities which are most likely to generate dust and mitigations measures are identified. The report concludes that cumulative impacts area not envisaged<sup>1</sup> and that residual impacts, subject to the implementation of mitigation measures, are likely to be not significant to imperceptible.

The Board should note that while the EIAR identifies potential dust generating activities, no consideration of potential impacts was provided. The Planning Authority, in its decision to refuse permission, noted this as an inadequacy in the EIAR. In support of the grounds of appeal, at Appendix E, a Qualitative Dust Impact Assessment has been provided. The report uses the data collected

<sup>1</sup> The Board will note that the final paragraph of Section 7.9 of the EIAR, page 7-9, appears to have been cut short.

during the dust survey during 2017 and concludes that there is no correlation between the location of the existing quarrying activities and the location with the highest recorded concentration. The conclusion also excludes the data considered to be contaminated in the 2017 survey. As the existing quarry's contribution from the deposited dust baseline cannot be clearly distinguished within the natural variability of the baseline monitoring data in a rural area, it is suggested that the same would likely be the case for the proposed quarry. The EIAR concludes that the cumulative effects of the proposed quarry would thus likely not be distinguishable in the deposited dust measurements of the area. Ongoing monitoring is proposed.

In terms of the information presented and the nature of the development proposed, it is not considered that the Environmental Impact Assessment Report has adequately addressed the impacts in terms of air quality and in particular, the impacts associated with dust arising from the proposed development.

Climate:

In terms of the impact of the development on climate, it is submitted that the applicant is committed to developing pragmatic and sustainable solutions. It is considered unlikely that the quarry operation will influence local climatic or microclimate conditions. The report concludes that residual impacts on climate change would be imperceptible. The Board will note that the Planning Authority was not satisfied with the assessment of the impacts of the development on Climate Change.

In support of the appeal, the Board will note that Section 4.5.3 of the Grounds of Appeal report, seeks to assess the impact of the proposed development on Climate Change. Future impacts have been assessed as low given the limited duration of the proposed development and the mitigations which have been built into the project. Fluvial flooding is not anticipated to have medium effects on the project due to the nature of the adjacent ephemeral stream. It is submitted that the combination of the sites 'sensitivity' and 'exposures' have shown that the site is at a low risk from climate hazards. I am generally satisfied that the grounds of appeal have sought to deal with the matter of climate change.

### 10.2.9. Noise

The nature of the proposed quarry development gives rise to a variety of noise sources and Chapter 8 of the EIAR deals with noise issues, noting the noise limits set out under appropriate guidance. The chapter describes the existing environment and identifies all houses within 250m and 500m of the site. It is noted that potential noise sources on the site include a variety of mobile and fixed plant and in order to assess the impacts of the proposed development three noise monitoring locations were selected. Noise surveys were carried out on the 7<sup>th</sup> and 9<sup>th</sup> of June 2017 during daytime hours only as operations will not take place between the hours 19:00-07:00. The Board will note that in accordance with the guidance provided in EPAs NG4 (Guidance Note for Noise) document, the EIAR determined that the subject site is not located in a 'Quiet Area', due to the proximity of the site to Kildare and Newbridge as well as the location of existing similar industries in the vicinity of the site.

The results of the noise monitoring indicate that there is no dominant or continuous noise source with the main noise sources including intermittent road traffic noise, activities in adjacent properties and birdsong. The results for the 7<sup>th</sup> of June 2017 noted the constant background activities in the adjoining quarry to the south of the site, while on the 9<sup>th</sup> of June 2017, activities in the quarry was limited to intermittent machinery movements. The EIAR submits that mitigation measures for noise control will be included in a site specific Environmental Management System. Slight influences of an extractive industry are noted within the rural noise environment and any impacts resulting from extraction activities proposed are considered slight and it is concluded that there will be no discernible effect in cumulative noise anticipated as a result of the proposed development.

The EIAR did not deal with predicted or anticipated noise from the proposed development and the Board will note that the noise survey carried out was for a period of approximately 2 hours on the two days, and then, only location N3 was monitored on the two days. From the submitted information, two readings appear to have been taken at each location within 16 minutes of each other, for example, location N1, on the 9<sup>th</sup> of June the measurements were taken at 12:58 and 13:14, and again at 14:14 and 14:30. This pattern is similar to the other two

monitoring locations and with location N3 having measurements taken on both days. In this regard, I have concerns regarding the robustness of the chapter of the EIAR dealing with noise.

In the grounds of appeal, Appendix D includes a Qualitative Noise Impact Assessment, which seeks to address the concerns of the Planning Authority that no prediction of noise levels from the proposed development have been undertaken, amongst other matters. This document includes plant and machinery which will be operational in the proposed quarry and seeks to predict the worst case noise levels in three scenarios. The assessment concludes that the predicted noise levels meet the limits at all receptors when considering the most realistic scenario 2. It is submitted that as the void in the quarry becomes deeper, the noise level at N2 will also reduce due to increased screening with the predicted cumulative level at this location being 54.4dB<sub>L<sub>AeqT</sub></sub>.

Overall, I am not satisfied that the issue of noise impact has been adequately addressed in the EIAR or the additional information submitted in support of this first party appeal. My concern is compounded by the noise levels from the existing quarry recorded at location N2, approximately 290m from the existing quarry, and the proximity of the proposed development to the houses in this area – being within 50m.

#### Vibration:

The EIAR is silent in relation to vibration, other than to advise that no blasting is proposed as part of the proposed quarry operation and the extraction of sand and gravel will be by extractor and loading shovel. Subsequent processing will be undertaken by a fixed crushing, screening and washing plant.

#### 10.2.10. **Landscape**

Chapter 9 of the EIAR deals with landscape. Direct, indirect and cumulative impacts will arise as a consequence of the proposed development. The visual assessment submitted in support of the proposed development, includes a series of photomontages which seek to represent the proposed development from a number of vantage points in and around the site and includes an assessment from the nearby roads. The EIAR submits that the proposed development will result in a distinct and permanent alteration to the topography,

drainage and vegetation of the site. It is further submitted that the restoration of the site will permanently infer that this was once an extractive site. It is concluded that the sensitivity of the site is considered to be medium with the sensitivity of the receiving landscape of the study area is low.

In terms of the visual impacts, a number of mitigation measures to avoid or reduce effects on the appearance and character of the landscape, both locally and in the wider context, are proposed. These measures include landscaping in the form of the creation of berms on the northern, southern and part of the eastern perimeter of the quarry site. It is further proposed to rehabilitate spent sections of the quarry in a progressive manner as each quarry phase is complete.

The Board will note the concerns of the PA in relation to the cumulative visual impacts associated with the proposed development. In particular, the Board will note the policy objectives pertaining to the area as well as the landscape character and sensitivity of the area. I note that the EIAR submits that the existing quarries in the vicinity of the site contribute to the landscape character of the area and concludes that the proposed development should not be considered as a new or uncharacteristic form of development within the landscape setting. I have considered this matter very carefully and note the presence of the Roadstone Allen, approximately 5km to the east, Arkil Kildare, 1km to the south and Callan Recycling Centre, approximately 600m to the south of the site, as well as the Flanagan Concrete site immediately adjacent to the subject site. However, I would agree that the cumulative visual impacts associated with the proposed development have not been considered fully. A grant of planning permission would result in a further significant extraction site within a very small area of the landscape and I consider that the visual impacts in this regard could not be considered as imperceptible as concluded in the EIAR.

#### 10.2.11. **Material assets**

The description of Material Assets in the EPA Guidelines, 2002, include architectural, archaeological and cultural heritage, designed landscapes, natural resources of economic value, buildings and structures and

infrastructure. Having regard to the format of the EIS submitted, these aspects of the environment are covered under a number chapters as follows:

Chapter 5: Soils & Geology

Chapter 6: Water

Chapter 9: Landscape

Chapter 11: Cultural Heritage & Archaeology

The Board will also note Chapter 10 specifically deals with Material Assets which includes road and utilities.

#### 10.2.12. **Utility & Services**

The development will have a direct impact on utilities as an existing overhead electrical line, operated by ESB Networks which provides a local supply of electricity to the area runs in a north-south direction through the site. This line will have to be rerouted along the site boundary in order to ensure no impacts on the electricity supply line.

In terms of water services, the proposed development will connect to a new well which will be drilled to service the quarry site. There is no information provided in terms of the volume of water required to support the scale of the quarry proposed, in terms of servicing for the employees and the operational requirements, or the potential impacts on the underlying aquifer which supports all of the residential development in the vicinity of the proposed site. I note that the Environment Section of Kildare County Council did not raise any objections on this issue, but I would have concerns in this regard.

In terms of waste water facilities, it is proposed to install a septic tank / proprietary wastewater treatment system and percolation area on the site.

While issues have been raised in terms of the type of system to be installed, I am generally satisfied that the proposed installation is acceptable in principle.

#### 10.2.13. **Traffic**

A Traffic & Transport Assessment was prepared in support of the proposed development. The assessment concludes that the development is noted as requiring 160m of unobstructed visibility at a point 3m back from the edge of the

carriageway. Adequate sightlines are available to the east of the proposed entrance but is restricted to 145m to the west due to the horizontal alignment of the road. The EIAR considers that this is acceptable due to the low traffic volumes and the likely low prevailing vehicle speeds on the L7004. In addition, a number of measures are proposed to be taken at the proposed entrance to the quarry.

In terms of the link and junction capacity analyses carried out, the EIAR determines that the local road network will continue to operate within capacity for each of the assessment years. The Board will note the report from the Roads & Transportation Section of Kildare County Council with regard to the TTA. In support of the appeal, the first party appellant submitted a response to the roads and traffic reason for refusal, seeking to address the concerns raised and details of proposed haul routes have been provided.

The TTA submitted in support of the proposed development identifies that the approximate annual extraction rate from the proposed site will be 300,000 tonnes, over a 50 week operation period which equates to approximately 44 loads per day. In addition, it is estimated that the quarry will employ 5 full time staff members who will be based at the quarry and 5 truck drivers. It is expected that the development, if permitted, will result in 128 trips per day, including miscellaneous trips described as operations meetings, site inspections, maintenance operations etc. The TTA trip assignment provides that 66.6% of the total vehicle movements to and from the proposed site will be HGVs, with light vehicles comprising the remaining 33.3%. Parking facilities will be provided on site.

An assessment of the exiting road network, including the local roads L7004 and L3002 as well as the regional road, the R145, was undertaken by the applicants. A traffic survey was carried out on the 27<sup>th</sup> April 2017, over a twelve hour period, and included the existing quarry to the west of the subject site. In terms of impacts on the road network, the submitted TTA concludes that the development is acceptable in terms of sight distances at the proposed entrance and that the junctions will operate within capacity for each of the assessment years.

Cumulative impacts on material assets (traffic) from the proposed development in conjunction with existing, planned or proposed developments, are likely to arise given the scale of the proposed development in my opinion. I also note the concerns of the Planning Authority in terms of the existing condition of the local roads. The access roads to the site are narrow and without road markings, and currently support a significant HGV fleet serving other developments in the vicinity.

#### 10.2.14. **Other**

Chapter 10 of the EIAR also refers to Scenic Routes, Geological Heritage and Property Values.

In this regard, it is concluded that the development will have a slight and slight imperceptible impact in terms of views from surrounding scenic routes and the area of Special Sensitivity, with views from Boston Hill, to the south attracting a Moderate-slight impact.

It is submitted that there is extensive extraction in the area of the Hill of Allen and due to the proximity of the site, there will be no impacts on this geological heritage area.

With regard to property values, the EIAR concludes that there will be no significant adverse impact on property values due to the proposed development. This conclusion is arrived at on the basis that the general character of the immediate surrounding lands consists of both agricultural and sand and gravel extraction and therefore, the character of the area will not be altered.

Mitigation measures are proposed to minimise any impacts and it is concluded that the development will not contribute to any residual impacts on material assets in the surrounding environs. No potential for cumulative impacts arise.

In terms of the above, I have raised concerns with regard to a number of material asset issues, including roads, visual impacts on the landscape and I would have concerns that no evidence has been put forward to determine that the development would not have a significant impact on property values in the area.



#### 10.2.15. **Cultural Heritage & Archaeology**

Chapter 11 of the EIAR deals with cultural heritage and archaeology. No direct impacts arise in relation to any protected structures or archaeological monuments. A field survey, carried out on the 25<sup>th</sup> of April 2017, where no additional items of heritage, structures or monuments were identified. The report notes that there will be a limited impact on the setting of Building No. 2 in Drumsru townland. This is the thatched cottage which is located to the east of the proposed development site, separated from the site by a narrow road. Mitigation measures are proposed in the form of retaining the existing hedgerow on the eastern boundary where it faces Building 2, and a screening berm will be added to mitigate any potential impacts on the visual amenity and setting of the building. In terms of archaeology, mitigation is proposed in the form of archaeological monitoring during soil-stripping. No residual and cumulative impacts are anticipated.

The Board will note that Building no 1 is the farm house which is to be demolished as part of the quarrying operation. Part of this farm complex includes buildings which currently house bat roosts, although the actual house was found not to have any roosts. The PA raised concerns in terms of the lack of information and assessment in relation to the demolition of the house, and the lack of reference to policies within the development plan in relation to the protection of vernacular architecture. The Councils Conservation Officer also raised concerns in this regard.

In response to this, and as part of the grounds of appeal, the first party submitted a Built Heritage Survey. The report concludes that the original house within the farmyard consists of a single storey cottage that dates to the 1930s which has been extensively remodelled and extended. The outbuildings consist of cast concrete agricultural buildings while the two storey barn structure is similar in character to the structure associated with Bushfield House, a protected structure located to the south west<sup>2</sup>. The report advises that the presence of early 20<sup>th</sup> Century cast concrete structures is of some technical interest, the overall state of preservation of the buildings, along with the modern

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<sup>2</sup> Bushfield House is located off the same access road which runs along the southern bounds of the Grand Canal (northern boundary of the subject site)

interventions, means that the site is of low heritage significance. No fabric relating to the earlier vernacular structures, marked on the first editions OS map was found to be present.

I am generally satisfied that the archaeology and heritage of the area has been identified and assessed. I have raised concerns in terms of the potential impacts of the quarry operation on human health and population earlier in this EIA, and I continue to have concerns in terms of the impacts on the adjacent residential properties, including Building 2 as referred to above.

#### 10.2.16. **Interaction of the Foregoing**

Chapter 12 of the EIAR seeks to deal with the interactions of the environmental aspects considered and the means of reducing the impacts of the development during the operation of the quarry at this location.

#### **Conclusions Regarding the Acceptability or Otherwise of the Likely Residual Effects Identified**

10.2.17. The conclusions regarding the acceptability of the likely main residual effects of this proposal are identified and assessed under the various headings of the main assessment above. I am generally satisfied that the significant environmental effects arising as a consequence of the development, including the residual and cumulative impacts have been identified. I have outstanding concerns however, with regard to the robustness of assessment in the EIAR, particularly in relation to impacts on human health and population with regard to noise and dust/air quality, roads and traffic, landscape, biodiversity and water.

### 11.0 **Recommendation**

I recommend that planning permission be **refused** for the proposed development for the reasons and considerations below.

## 12.0 Reasons and Considerations

1. The site is located within 20m of the Grand Canal and in a High Amenity Area, where the extraction of sand and gravel within 300m of the canal is identified as being compatible only in exceptional circumstances. The site is also located within the Landscape Character Area known as 'Chair of Kildare, which is a Class 4 Special Landscape which has been defined as having 'a low capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape having regard to special sensitivity factors.'

Having regard to the nature of the proposed development, together with the proposed removal of 1.2km of existing hedgerows within the site, it is considered that the proposed development would detract to an undue degree from the rural character and scenic amenities of the area and would seriously injure the visual amenities of the area. It is considered, therefore, that the proposed development would contravene the policies and objectives of the Kildare County Development Plan, 2017 – 2023, would and be contrary to the proper planning and sustainable development of the area.

2. It is considered that the local road network serving the quarry is substandard in terms of condition, capacity, width and surface, and is inadequate to accommodate the additional traffic movements generated by the proposed quarry. Notwithstanding the submissions in support of the proposed development, the Board is not satisfied that the development can be accommodated without endangering public safety by reason of traffic hazard and would result in an obstruction to road users. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the proposed quarry in close proximity to residential dwellings, and to the lack of adequate baseline information presented in respect of these sensitive receptors in the application and appeal documentation, it is considered that the proposed development,

notwithstanding the mitigation measures proposed in the Environmental Impact Assessment Report submitted at application stage, together with the information submitted on appeal, would seriously injure the amenities of properties in the vicinity by reason of dust, noise and general disturbance, would depreciate the value of properties in the area, would have an adverse impact on the water environment and biodiversity of the area and would significantly impact on the vernacular heritage of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector

26<sup>th</sup> October, 2018