An Bord Pleanála

Inspector's Report ABP-302630-18

Development	New Malting Plant and all associated site works.
Location	The Maltings, Athy, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18/479
Applicant(s)	Minch Malt Ltd. t/a Boortmalt
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Peter Sweetman & Associates
Observer(s)	None
Date of Site Inspection	25th January 2019
Inspector	Michael Dillon

1.0 Site Location and Description

1.1. The site, with a stated area of 8.0795ha, is located on the southwest bank of the Barrow Line Canal, within the town of Athy, Co. Kildare. The site is occupied by a range of agri-industrial buildings on its northeastern side – whilst the southwestern side is amenity grassland around an old two-storey house (Plewman's House) and a small arable field adjacent. There are overhead 38kV power lines traversing the field; supported on twin timber poles – for which a wayleave is indicated on drawings submitted. Plewman's House is a two-store structure (last used as offices), surrounded by grass lawns and shrubbery; located between the developed and undeveloped portions of the site (within its own fenced area). Vehicular access to the site is from the Woodstock South Industrial Estate (four no. access points: not all of which are in use – and one of which is agricultural in nature). There is a vehicular entrance to the site from William Street Upper which is not in habitual use, and a separate pedestrian gate for staff to access the town centre. The site is within the 50kph speed restriction zone associated with the town. There are public footpaths and there is public lighting on all streets/roads on the site boundaries. There are good-quality belts of screen trees along parts of all of the site boundaries – in particular, along all of the southwestern and northeastern boundaries. The junction of William Street Upper and Woodstock South Industrial Estate is a simple, priority, T-junction, with a right-hand turning lane from William Street Upper into Woodstock South Industrial Estate. There is a signal-controlled junction immediately to the southwest – the junction of the N78 and Fortbarrington Road.

1.2. To the northeast, the site abuts the Barrow Line Canal and towpath – the boundary with which is a range of old mill buildings. These buildings comprise a mixture of limestone/granite/brick/concrete walls; with roofs of slate/pressed metal. There is a small amenity car-park adjacent to Lock 27 at Augustus Bridge – at the William Street Upper end. There is an overhanging skeleton, metal canopy, where product from the malting plant was loaded in the past, to and from barges on the canal. There is a roofless stone building on the edge of the canal, immediately to the north of this canopy structure. This building is in a parlous state, but lies outside of the site boundary as outlined in red. Immediately beyond, the canal bank widens with a belt of mature trees with some underlying scrub. The site boundary in this location is an open drain, containing some standing water, and a 2.8m high palisade fence –

behind which is a trimmed laurel hedge and row of semi-mature deciduous trees on the site side. There is an old dry-dock, set within amenity land; two- and three-storey-over-basement apartment blocks, of recent construction; and some older two- and three-storey buildings at Lock 27 – on the opposite side of the canal. To the southeast, the site abuts William Street Upper (N78 National Secondary Route) – the boundary with which is a mixture of 1.6m high stone wall, surmounted by 1.2m high metal mesh fencing with three strands of barbed wire on top; and also, some stone wall without the fencing (on the boundary of the aforementioned small field). This wall is generally in good condition when viewed from the street-side, but is crumbling and shored-up with concrete in places on the site side. There are industrial units, a public house, electricity sub-station and houses located on the opposite side of the street. To the southwest, the site abuts the access road to Woodstock South Industrial Estate – the boundary with which is concrete post & rail fencing; behind which is a belt of semi-mature beech and rowan trees. There are houses and agricultural land located on the opposite side of this road. The road is flanked by semi-mature trees. To the northwest, the site abuts the Woodstock South Industrial Estate – the boundary with which is a mixture of 2.4m high palisade fencing and metal mesh fencing; behind which is a row of semi-mature deciduous trees. One of the access points to this road has been temporarily blocked with large concrete blocks (to prevent unauthorised parking of vehicles). There are industrial units located on the opposite side of this road.

1.3. The cream-coloured and galvanised steel, grey buildings and structures of the plant are clearly visible from William Street Upper. Industrial buildings on either side of the street, dominate the streetscape at the canal bridge end. From the canal, the view of the newer elements of the plant are hidden by older canal-side buildings and a mature belt of screen trees. The plant is largely screened from view from the access road into Woodstock South Industrial Estate, by a belt of semi-mature deciduous trees.

1.4. The combined surface water and process water outfall to the Barrow River (just downstream of the disused railway bridge) was flowing on the date of site inspection – a light peat colour.

2.0 **Proposed Development**

2.1. A 10-year planning permission was sought on 27th April 2018, for demolition of existing structures (288m^2) and construction of a new malting plant and other alterations (3,820m^2) at an existing malting plant (18,515m^2) – to increase output from 98,000 tonnes per annum to 140,000 tonnes per annum, as follows-

- Demolition of existing barley intake building and a storage building.
- Construction of new malting plant to comprise-
  - 16.6m high energies building of 400m^2.
  - 10.8m high kiln vessel of 594m^2.
  - 20.4m high steeps building of 497m^2.
  - 2. No. 10.2m high germination vessels of 830m^2.
  - 5.7m high process water tank of 300m^3 capacity.
  - Ancillary overhead conveyors at 11.5m high.
- 5.7m high wastewater balance tank of 167m^2.
- 3 no. combined heat and power units; 7.4m high and 228m^2 in area.
- 18.0m high barley intake building of 146m^2.
- Heat recovery unit for the 'Boby' kiln, on top of the existing 'Boby' tower of 162m^2 – to an overall height of 21.6m.
- 14.0m high filter house enclosure of 61m^2.
- 18.0m high malt screen housing of 65m^2.
- 23.0m high malt out-loading structure with overhead storage bins of 174m^2 and associated overhead conveyors.
- 2 no. 20.7m high buffer bins of 50m^2.
- Renovation of Plewman's House and construction of a single-storey, 76m^2 boardroom extension, and a single-storey, 310m^2 administration building extension.
- Car-park for 29 no. spaces.

- Removal of an over-ground oil storage tank.
- Construction of a new access road, footpath and vehicular entrance from Woodstock South Industrial Estate road to the renovated Plewman's House.
- Upgrade of surface water management system to include-
    - Surface water attenuation pond next to Plewman's House.
    - Underground surface water screen unit.
    - Underground hydrodynamic grit separator unit.
    - Underground hydrocarbon interceptor unit.
- Site development works to include ancillary access roads, hardstands, conveyors and underground services.
- Water supply is from the public mains (for human consumption) and from two on-site wells (for processing).
- Foul waste from the canteen building and offices is discharged to the existing mains sewer network. There is an existing membrane bio-reactor treatment plant (MBRTP) on the site, which discharges to the Barrow River – under licence from KCC. There is an existing section 16 licence to discharge trade effluent to the Athy mains sewer network, in the event of an emergency.
- Surface water is discharged to the Barrow River, under licence from KCC – via a 300mm diameter pipe, which cuts through the factory unit site on the opposite side of William Street Upper. [This combined, 300mm diameter pipe is incorrectly indicated as being 375mm diameter, on drawings submitted].

2.1.1. The application is accompanied by the following documentation of note-

- Environmental Impact Assessment Report – dated 27th April 2018.
- Natura Impact Statement – dated 7th February 2018.
- Site Specific Flood Risk Assessment – dated 25th April 2018.
- Development & Process Description – dated 23rd March 2018.
- Engineer's Drainage Report – dated 25th April 2018.

- Architectural Report on Plewman's House (formerly Woodstock House) – undated.

2.2. Following a request for additional information, revised proposals were received on 1st August 2018, as follows-

- A preliminary layout for the N78 frontage of the site will be prepared. This could be done by way of condition attached to any grant of permission.
- A Stage 1 Road Safety Audit will be prepared following acceptance of the preliminary layout for the N78.
- There is no HGV parking requirement generated by the development.
- Details of peak HGV traffic during harvest time.
- 28 no. bicycle parking spaces are provided – adjacent to the new offices.
- The extensions to Plewman's house could be excluded from the permission (and made subject to a further planning application), if the PA is concerned about the architectural impact.
- Details of works to be carried out to Plewman's House – to conserve the structure (including the removal of the modern porch to the front and two-storey infill section to the rear).
- Schedule of floor areas.

2.2.1. The response is accompanied by the following documentation of note-

- Transport Insights Report in relation to roads issues (dated 18th July 2018).
- Condition Report for Plewman's House (undated).

3.0 **Planning Authority Decision**

By Order dated 29th August 2018, Kildare County Council issued a Notification of decision to grant planning permission subject to 27 no. conditions – the principal ones of which may be summarised as follows-

1. The development shall be carried out in accordance with plans and particulars received on 27th April and 1st August 2018.

2. Within 1 year of the grant of planning permission, developer shall submit details of plans to upgrade the N78 along the site frontage.

3-5 Require submission of Road Safety Audits, within one year of the date of grant of planning permission.

8. Relates to paving structure at entrances to the site.

10. During harvest, developer to utilise secondary operational access/egress shown on Traffic Insights Figure 3.1 – submitted on 1st August 2018.

11. Relates to management of traffic during harvest season.

17. Relates to works to be carried out at Plewman's House.

20. Relates to noise levels during construction phase.

27. Requires payment of a development contribution of €118,074.36.

4.0 Planning History

There is an extensive planning history attaching to this site – dating back to 1968 – listed within the KCC Planner's Report. The most recent are-

Ref. 16/41: Permission granted for construction of two grain storage silos. This development has been completed.

Ref. 13300018: Permission granted on 26th May 2014, for demolition of structures on site, and construction of retail store of 3,575m^2. The current appeal site includes the site of this development – in the southwest corner of the overal site (which includes Plewman's House). The decision was the subject of a 3rd Party appeal to An Bord Pleanála (**PL 35.234512**). The decision of the Board to grant planning permission issued on 28th November 2014. There has been no development to date on foot of this permission, which will expire on 27th November 2019. The proposed development (the subject of the current appeal) would render this permission unimplementable.

Ref. 17/81: Permission granted for creation of a multi-use, shared leisure route along the Barrow Line Canal (Barrow Blueway Project). This decision was appealed by 3rd Parties to An Bord Pleanála (**ABP-301220-18**), with no decision to date.

Ref. 09/HA0050: Approval granted by the Board on 21st April 2017, to KCC for construction of the Athy Distributor Road scheme. No development has taken place to date on foot of this approval.

5.0 Policy Context

5.1. Ireland 2040

The National Planning Framework (2018), supports the creation of employment in rural areas; and the importance of the agri-food sector in this regard is noted. National Strategic Outcome 3 specifically refers to ongoing investment in the agri-food sector. *Food Wise 2025* identifies growth projections for the sector, and the expansion of the malting plant will facilitate achievement of these target growth rates.

5.2. Greater Dublin Area Regional Planning Guidelines 2012-2022

Athy is identified as a 'Moderate Sustainable Growth Town' and a 'Secondary Economic Growth Town'. The consolidation of the town's employment and service sectors is specifically referenced. The Eastern & Midland Regional Assembly is preparing a new Regional Spatial and Economic Strategy; to replace the RPGs (sometime in 2019) – and will deal with the period up to 2030.

5.3. Development Plans

The relevant document is the Kildare County Development Plan 2017-2023. Within the hierarchy of plans, the Athy Town Development Plan 2012-2018 is of note.

- The principal portion of the site is zoned 'Q' – Enterprise & Employment: the zoning objective is- "To facilitate opportunities for employment and enterprise uses, manufacturing, research and development, light industry, employment and enterprise related uses within a high quality campus/park type development". The southwestern corner of the site was zoned 'R' – Retail/Commercial: the zoning objective was- "To provide for an improve retailing and commercial activities". This zoning was changed by way of variation No. 2 of the Plan (approved by KCC on 19th February 2018): to 'Q' – 'Enterprise & Employment'. The older buildings, in the eastern corner of the

site (adjacent to Lock 27), are zoned 'A' – Town Centre: the zoning objective is- "To protect and enhance the special physical, historical and social character of the existing town centre and to provide for the development and improvement of appropriate town centre facilities and uses including retail, residential, commercial, cultural and civic uses". Industrial use is 'Permitted in Principle' within the 'Q' zoning, and is 'Not Permitted' within the 'A' zoning.

- There are a number of policies within the plan, which support economic development.
- The northeastern portion of the overall site (adjacent to the Barrow Line Canal), immediately abuts the western extremity of the Athy Architectural Conservation Area (ACA), which extends to the east, to cover most of the built-up area of the town centre. The site itself is not within the ACA.
- There is a Protected Structure on the site: RPS AY 151 – Malthouse Store and Kiln (c.1901).
- There are policies to carry out improvements to the route of the N78 through the town.

5.3.1. The applicant states that the Athy Town Development Plan became ineffective on 25th March 2018. This is not referenced in the KCC Planner's Report; where both the County Development Plan and the Athy Town Development Plan are referenced.

5.3.2. The Athy Local Area Plan 2019-2025 is at pre-Draft Consultation stage.

5.4. Natural Heritage Designations

The Barrow Line of the Grand Canal (located on the northeastern boundary of the site), is a proposed Natural Heritage Area (pNHA).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Peter Sweetman and Associates, received by An Bord Pleanála on 25th September 2018, can be summarised as follows. The PA has failed in its duty to carry out a proper appropriate assessment. At section 5.6.1, the NIS submitted

states, under the heading of 'Mitigation of Potential Impacts at Construction Phase- "A Construction Environmental Management Plan (CEMP) is to be prepared for the proposed works and will incorporate the following measures:". AG Kokott in her opinion re *Brian Holohan & Others v. An Bord Pleanála* states, in response to a question from the High Court of Ireland – "In the context of a development consent granted under Article 6(3) of Directive 92/43, details of the construction phase may be left to unilateral decision of the developer only where every reasonable scientific doubt that the effects of such a decision will not be detrimental to the integrity of the site concerned has been dispelled" (Question 8). The NIS is not capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Case 258/11 – *Sweetman v. An Bord Pleanála & Others* is of relevance.

6.2. **Applicant Response**

The response of A & L Goodbody, Solicitors, agent on behalf of the applicant, received by An Bord Pleanála on 19th October 2019, can be summarised in bullet point format as follows-

- The Natura Impact Statement (NIS) submitted, lists the nine specific measures which the Construction Environmental Management Plan (CEMP) will incorporate.
- The appellant appears to be suggesting that if an NIS states that certain details are to be left to a CEMP, then the PA cannot carry out appropriate assessment to the requisite standard. The applicant contends that the NIS is sufficient to allow appropriate assessment to be carried out by the competent authority.
- The Board must now determine that the proposed development would not adversely affect the integrity of any European site, if permission is to be granted. The Board must identify, in the light of best scientific knowledge, all aspects of the development which by itself, or in-combination, could affect an European site, in the light of its conservation objectives. The NIS must contain complete, precise and definitive findings and conclusions, and may not have lacunae or gaps. The Board must conclude that the proposed

development will not adversely affect the integrity of any relevant European site, upon the basis of complete, precise and definitive findings and conclusions made, and that no reasonable scientific doubt remains as to the absence of the identified potential effects.

- The decision in *Kelly v An Bord Pleanála* was endorsed by the Supreme Court in the case of *Connelly v An Bord Pleanála*. There must be a record of the compete, precise and definitive findings that allow it [The Board] to determine beyond reasonable scientific doubt that there will be no adverse impact on any European site. That record can be in the Inspector's Report, if the Board adopts the findings of the Report.
- The opinion of the Advocate General in *Holohan & Others v An Bord Pleanála*, was that details of the construction phase may be left to unilateral decision of the developer, albeit "only where every reasonable scientific doubt that the effects of such a decision will not be detrimental to the integrity of the site concerned has been dispelled". "Such doubt may in particular be ruled out by sufficiently specific conditions of consent which lay down for those decisions a framework of such a kind as to ensure that they are not capable of adversely affecting the integrity of the site concerned".
- The nine specific measures to be included in the CEMP, if included in any decision of the Board, would amount to sufficiently specific conditions. The Board is entitled to include a condition that requires the PA to approve the CEMP, such as it would not then be a matter for unilateral decision (as understood in *Holohan & Others v An Bord Pleanála*.
- The application identifies only one European site where there is any connectivity with the development – the River Barrow and River Nore SAC. The appellant has not disputed these conclusions.
- The current status of the habitats and species within the SAC is set out in Section 3 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document. This is done by reference to best scientific knowledge in the field, from a qualified ecologist, employed by the applicant.

- The Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document concludes, at Section 4; unless mitigated, site clearance and construction may result in serious pollutants entering the River Barrow via surface run-off to the outfall, with implications for a variety of the habitats and species for which the SAC is designated.
- Section 5 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document is a full NIS, and not merely a screening report. Relevant construction stage pollutants are identified as petrochemicals, particulates, and concrete wash-water. The potential for the spread of Japanese Knotweed is also acknowledged.
- The appellant failed to identify any omission of any additional matters with the potential for adverse impacts on the SAC.
- The measures proposed in the CEMP are well-established and effective measures; proven to prevent the identified construction stage impacts on the SAC.
- Mitigation measures are not left to the unilateral discretion of the developer.
- The Board can determine that there are effective and reliable mitigation measures that either remove the source of identified pollutants and/or remove the pathway between that source and the SAC. They, therefore, remove any reasonable scientific doubt that the construction and site clearance works will have any impact on the SAC. The appellant does not identify any deficiencies in the specific mitigation measures.
- The applicant has not asked the PA to take mitigation measures into account at screening stage. Section 3 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document concludes that, unless mitigated, site clearance and construction may result in serious pollutants entering the Barrow River, via surface run-off to the outfall. The Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document, correctly concludes that the possibility of such impacts cannot be screened out. Section 5 of the Ecological Assessment is a full NIS, and not merely a screening report.

6.2.1. The response is accompanied by the following documentation of note-

- List of nine specific mitigation measures.
- Relevant environmental impact assessment findings from chapters 6, 8, 9, 10, 11 & 12 of the EIAR.

6.3. **Planning Authority Response**

The response of Kildare Co. Council, received by An Bord Pleanála on 23rd October 2018, can be summarised in bullet point format as follows-

- The PA carried out appropriate assessment of this development.
- Construction details are specified in conditions 19, 21, 23 & 24 of the Notification of decision to grant planning permission.

6.4. **Observations**

6.4.1. The appeal was circulated to the following Prescribed Bodies for comment, on or before 4th December 2018-

- The Heritage Council.
- An Taisce.
- Health & Safety Authority.
- Transport Infrastructure Ireland.
- Inland Fisheries Ireland.
- Fáilte Ireland.
- An Chomhairle Ealaíon.

6.4.2. There was one response, received from Transport Infrastructure Ireland; on 20th November 2018, which can be summarised as follows. TII has no record of receipt of notification of the original application from KCC. The Department of the Environment, Community and Local Government Spatial Planning and National Road Guidelines (2012), relate to development outside of the 50-60kph speed restriction zones. All works to the N78 shall be subject to appropriate design

standards; in the interests of road safety, and safeguarding the strategic function of the national road network.

6.5. Consultation with Environmental Protection Agency

6.5.1. As the proposed development would involve the requirement for a licence from the EPA, An Bord Pleanála circulated the appeal documentation for comment, on or before 10th December 2018.

6.5.2. There was no response received from the EPA. I note that KCC had referred the case to the EPA for comment. The response, received by KCC on 27th August 2018, indicated that the development may require a licence under Section 87(1F) of the EPA Act. The agency had not received a licence application to date.

7.0 General Assessment

7.1. Development Plan & Other Guidance

7.1.1. The relevant document would appear to remain the Athy Town Development Plan 2012-2018, although moves to replace this plan with a new Local Area Plan are under way. The major part of the site is zoned for industrial use, and the proposed development is in accordance with that zoning. A small number of the older canal-side buildings are zoned for town centre use. Industrial use is not permitted within this zoning. Existing industrial use of these buildings is a non-conforming use; and there is no proposal to alter the existing uses of these buildings. They are currently fully utilised for the MBRTP, laboratory, and workshop serving the existing maltings. The proposed development will utilise the existing MBRTP located within these structures.

7.1.2. The site is located outside of the Architectural Conservation Area of the town of Athy, even though the aforementioned canal-side buildings immediately abut it. Notwithstanding the concerns of the Conservation Officer of KCC, I would be satisfied that the proposed alterations to existing plant and structures will not have a significant impact on the visual amenities of William Street Upper, and by implication the adjacent ACA. William Street Upper is flanked by large industrial buildings and

plant (some of considerable height), and the street is located outside the ACA. Some of the buildings on the opposite side of the road are vacant.

7.2. Layout & Design

7.2.1. Layout

The layout of the proposed development is constrained by the layout of the existing malting plant and ancillary facilities on the site. The alterations to the existing plant are considered to be minor in the context of what already exists on the site, and in particular, the height of structures. The new barley intake building (18m height) and adjoining malt out-loading building/silos (23m height) will be visible from William Street Upper, but the cladding will serve to screen the 'Boby kiln, barley bins, malt bins to the rear, together with their associated gantries. The external pressed metal cladding will blend in with the metal cladding on the adjoining 'Nordon' building complex. Most of the bins and silos within the existing maltings are of galvanised steel (unpainted) – which is grey in colour. The principal extension (new malting plant) is to be located immediately to the southwest of the existing plant, and this is considered an appropriate location to maximise on the benefits of proximity to existing plant and facilities. The height of the new malting plant (20m) will not be significant in the context of the adjoining 'Seeger' malting plant (the tallest element of the existing plant at 34.4m). The new malting plant will effectively read as an extension of the existing plant. New offices are located around a renovated Plewman's House, which is currently located within amenity grassland (fenced off from the remainder of the site). The new surface water attenuation pond is located on this part of the site also, and will contribute to the sylvan setting of Plewman's House. The layout on the southwestern part of the site is constrained by 38kV overhead cables, although these could be moved, if required. The proposed development will leave the southwestern part of the site largely undeveloped (except for a new vehicular access to the offices). This is the part of the site on which planning permission exists for a single-storey supermarket development. The proposed development, if implemented, would render the supermarket permission unimplementable. There is a right-of-way for sewer pipes indicated along part of the northwestern boundary of the site. This right-of-way will not be impacted by the proposed development.

7.2.2. Plewman's House

It is proposed to renovate and extend Plewman's House, a two-storey stone & brick house; with hipped, slated roofs, dating from c.1830. The house, formerly Woodstock House, would originally have had an entrance drive from William Street Upper, but this has long since disappeared. The building is not in use at present, and has suffered at the hands of vandals; and the fabric is deteriorating. Some windows are smashed, and rainwater is penetrating from the roof. Walls are damp, and show evidence of cracking in one of the rooms. All original fireplaces have been removed. Old doors, door-frames and window frames are in place, as is an attractive staircase: original sash windows have been replaced. It is proposed to remove a later single-storey porch, and two-storey infill extension to the rear, and to effectively gut the building; including removal of chimney breasts. The re-use of Plewman's House is welcomed by the DAU of the Department of Culture, Heritage and the Gaeltacht. It is described as a country villa – matched by Hillview House on the opposite side of William Street Upper – this latter house being still occupied as a residence. The new extension partly obscures the main façade of the building, which is regarded as unfortunate. The hard landscaping proposed does not reflect the historic setting and original landscaping around this house. Additional information was recommended in relation to the setting of the house, conservation work on the fabric, relocation of office accommodation to the rear of the house, revised landscaping, and clarification of condition of old malthouse structure and potential re-use of Protected Structures within the maltings complex. This was submitted by the applicant on 1st August 2018, and included a condition report for Plewman's House. The KCC Conservation Officer considered Plewman's House to be late Georgian or early Victorian. Its reuse was considered to be positive, notwithstanding that it is not a Protected Structure; and neither was it included in the National Inventory of Architectural Heritage (NIAH). The setting of the house would be impacted by the proposed development. It was considered that lime rendering of the exterior would improve the appearance and long-term survival of the house. The Notification of decision to grant planning permission included a condition relating to the redevelopment of Plewman's House – no. 17. This required employment of a conservation architect – in accordance with the Council's policies on protection of vernacular architecture. I note that the house is not a Protected Structure, and is not

included within the NIAH. The amount of information required of the applicant in relation to this house, would appear to be out of proportion to the architectural importance of the building – currently lying idle and deteriorating. I would be satisfied that the proposals put forward for the building are acceptable, and will lead to the re-use of a disused building of some vernacular architectural heritage value.

7.2.3. Old Maltings

The DAU considered the site to be of considerable architectural importance, arising from its industrial heritage, contemporaneous with the development of the canal in the 18th Century. There are stated to be a number of protected stone warehouses within the complex – although only the Malthouse Store & Kiln comprise a Protected Structure – stated to date from the early 1900's. Many of the older stone buildings are stated to be disused, but are in fact used to house the extensive MBRTP, laboratory and maintenance workshop. It is considered that these buildings may have tourism potential or could be converted to office use. Whilst this may be true, a tourism use does not form part of the proposed development, and the buildings have an alternative use: as part of the MBRTP. The KCC Conservation Officer considered that the proposed development would intensify the impact on the Malthouse Protected Structure, Barrow Line Canal and adjoining streetscape; arising from height and form of the malt out-loading and 'Boby' intake buildings. It was further recommended that a reinstatement of character and reuse study of the eastern canal-side boundary of the site, with a schedule of works be carried out within the first phase of this development – noting the fire-damaged state of campshire buildings. In the event, the Notification of decision to grant planning permission did not include a requirement for such a schedule of works; and I would consider that this was reasonable.

7.3. **Traffic & Parking**

7.3.1. The proposed development utilises existing access points. One access point, on the Woodstock South Industrial Estate road, is to be upgraded from an agricultural access to an access to serve the new office building. William Street Upper (on the southeastern boundary of the site) is the N78 National Secondary Route through the town of Athy. It falls within the 50kph speed restriction zone, and TII has indicated that this comes within the control of the County Council. There is an objective within

the Athy Town Development Plan to carry out road improvements along the entire length of the N78 route through the town. There is an existing vehicular access to the site from William Street Upper, which was not in use of the date of site inspection by this Inspector. The EIAR states that it is only used in cases of emergency. An adjoining pedestrian gate is used by staff to access the town centre. By way of request for additional information, KCC asked the applicant to submit proposals for upgrading the N78 along the entire frontage, and to consider a signal-controlled junction with the Woodstock South Industrial Estate. This industrial estate road serves a number of industrial premises and some agricultural land. The applicant responded by indicating that a preliminary layout for N78 improvements would be undertaken. Condition 2 of the Notification of decision to grant planning permission required the applicant to prepare such plans within one year of the date of grant of permission: with the cost of all investigations and design work to be borne by the developer. The developer did not appeal this condition to An Bord Pleanála. I would be concerned that this condition places an undue burden on the applicant for works which will in no way benefit the development. The N78 is the principal road through the town of Athy – serving all properties along its length, and as a through-route for traffic. The applicant is not proposing any additional access points to this road. Neither is there any change proposed to the roadside boundary. There is an existing right-turning lane from the N78 into the Woodstock South Industrial Estate road. The cost of these improvement works should be part of the general development contribution applied to new development proposals within the county; or if not, the subject of a Special Development Contribution requirement. The PA did not require the applicant to pay a Special Development Contribution – something which would have had to be justified. If the Board is minded to grant planning permission for this development, I would consider that condition 2, in its entirety, be removed, as being *ultra vires* the PA.

7.3.2. Conditions 3-5 required submissions of Road Safety Audits over various timeframes. I do not see that such are required for this development. There is no increase in grain/malt storage on the site, therefore, the amount of grain which can be gathered into the site at harvest time remains the same. The additional tonnage of grain, to increase output to 140,000 tonnes of malt, will come from other sources, and will be

imported to the site over the year. These conditions should be removed from any grant of permission to issue from the Board.

7.3.3. A Traffic Survey was undertaken on the N78, on Tuesday 5th September 2017, between 07.00 and 19.00 hours. Peak hours were identified as 07.45 to 08.45 and 17.15 to 18.15. Traffic from the Woodstock South Industrial Estate (which includes the maltings) accounted for 17% of through traffic at the junction with the N78 during the morning peak, and 14% during the evening peak. The derived Annual Average Daily Traffic (AADT) on the N78, at the junction of Woodstock South Industrial Estate and the adjacent, signal-controlled junction with Fortbarrington Road, is set out at Table 12-4 of the EIAR, and includes an HGV component. The industrial estate access road has a capacity of 8,600 AADT, whilst the recorded (and extrapolated) AADT was 1,835. There is more than sufficient capacity at this junction to cope with any increase in HGV traffic to the development. The construction of the recently-permitted Athy Distributor Road scheme, would, when built, further reduce traffic on the N78.

7.3.4. There are two vehicular entrance points to the site on the northwestern boundary. One of these is temporarily blocked, with large concrete blocks (to prevent unauthorised parking of vehicles). Such blocks could be removed, if required. Condition 10 of the Notification of decision to grant planning permission required that the Secondary Operational Access/Egress on this boundary be utilised during harvest time. This would seem to be reasonable, and a similarly-worded condition should be attached to any grant of permission to issue from the Board. Harvest time (stated to be late August/early September) is the busiest time at the maltings, in terms of HGV movements. It is acknowledged that HGVs and tractors & trailers queue on the Woodstock South Industrial Estate Road to gain access to the maltings at that time. The proposed development does not provide for any increased storage for grain, so the development will not result in any increase in queuing. The applicant states that HGV haulage is replacing tractor & trailer haulage – which allows for larger payloads (30 tonnes), and a consequent reduction in vehicle numbers. I would be satisfied that the proposed development will not result in traffic hazard or obstruction of road users – over and above the existing temporary harvest-time obstruction on the Woodstock South Industrial Estate road.

7.3.5. Construction traffic will utilise the proposed new access off Woodstock South Industrial Estate road. The construction phase is to be spread over the ten-year period of the permission sought (although I have elsewhere recommended that a five-year permission would be appropriate). Approximately 10 HGV movements per day would be generated during the site clearance phase of twenty weeks, with a similar amount thereafter during the construction phase. In the context of the road network and traffic volumes in the area, this quantum would not be significant. The volume of smaller vehicles associated with the construction phase would not have any impact on capacity or traffic safety.

7.3.6. There is on-site parking for 31 employees at present, and extensive HGV parking throughout the maltings; on concrete aprons. It is proposed to create an additional car-park of 29 spaces for staff and visitors, at Plewman's House. This quantum is acceptable, and will ensure that there will be no overflow onto adjoining roads. The additional information submission of 1st August 2018, indicated that 28 no. bicycle parking spaces would be provided at Plewman's House for staff & visitors. This quantum is appropriate for a development of this scale.

7.4. **Other Issues**

7.4.1. <u>Development Contribution</u>

The PA has included a schedule of the computation of a development contribution, of €178,900.55. For some unexplained reason, the 10-year planing permission sought was regarded as a 10-year temporary permission (for which there is a 34% reduction in the amount of contribution charged). Condition 27 of the Notification of decision to grant planning permission included a requirement to pay a development contribution of €118,074.36 (a 34% reduction on the €178,900.55 calculated). This condition has not been appealed by the applicant. It would appear that the amount of contribution required to be paid is an accidental under-estimation, arising from a misunderstanding in the nature of the permission sought – 10-year period for the completion of the development; rather than a temporary 10-year permission). The Board generally requires the developer to pay a development contribution to the PA, in line with the development contribution in force at the time. This condition (amount unspecified) should be attached to any grant of permission to issue from the Board.

7.4.2. Impact on Aircraft Safety

KCC referred the application to the Irish Aviation Authority, arising from the height of some of the structures proposed. The IAA indicated that it had no objection to the proposal.

7.4.3. Referral to Environmental Protection Agency

The PA referred the application to the EPA for comment. The EPA indicated that the developer may require a licence under Class 7.3.3 of the EPA Act for- "Malting in installations where the production capacity exceeds 100,000 tonnes per year, not included in paragraph 7.8". Paragraph 7.8 refers to treatment and processing of raw materials intended for the production of food or feed; and refers to vegetable raw materials with a finished product capacity greater than 300 tonnes per day. The proposed development will result in an average capacity of 375 tonnes per day: with 600 tonnes per day peak capacity. The Agency has not received a licence application under the Industrial Emissions Directive (2010/75/EU). The Agency would carry out environmental impact assessment on any licence application. Any grant of a licence would include conditions that would ensure that appropriate national and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying out of activities on the site. The Agency cannot issue a licence until such time as a grant of planning permission has been issued. The appeal was referred by An Bord Pleanála to the EPA for comment: there was no response received. I would be satisfied that the response to KCC clearly sets out the position of the EPA in the development consent and timeline processes. Having regard to the need for a licence under the Industrial Emissions Directive, it is not open to the Board to attach conditions relating to the control of emissions, during the operational phase of the development: but, where appropriate, conditions could be attached relating to emissions during the construction phase.

7.4.4. Flooding

The application was accompanied by a 'Site Specific Flood Risk Assessment' – dated 25th April 2018. It is located immediately adjacent to the Barrow Line Canal. OPW maps indicate no record of flooding at this site; but that there is a central area which may be vulnerable to pluvial flooding. Industrial buildings are of a class; which is less vulnerable to flooding. Any such flooding around existing plant will be

contained within the site. It is proposed to construct a surface water attenuation pond, which will be capable to storing water from 1-in-100-year storm event (1,280m^3- capacity). There is no significant flood risk from the canal within the town, according to studies carried out by Waterways Ireland. Groundwater flooding is not a consideration in this area.

7.4.5. Permission Period

A 10-year planning permission was sought by the applicant; and granted by KCC. The construction of the new malting plant will be carried out in Year 1, as will the works to the drainage system. All other works are indicated as being carried out in Years 2-10. No real justification has been set out for a 10-year permission. The development is not particularly large in scale. The applicant has indicated an urgency to increase the capacity of the existing maltings – indicating that facilities might be in place for the harvest of 2018. In the context of a development for which environmental impact assessment, and IE licensing is required, I would consider that a 5-year permission would be appropriate, and a condition to reflect this should be included in any grant of planning permission to issue from the Board.

7.4.6. Construction Phase

The location of the contractor's compound has been indicated within the field at the southwestern part of the site; and this is acceptable. Site preparation and clearance will take approximately 20 weeks. Construction will follow over a number of years – up to ten indicated in the application documentation. Hours of operation will be from 0700-1900 Monday-Saturday. This is acceptable in the context of a malting plant which is operating 24 hours per day, on lands which are zoned for industrial use. Waste, including C&D, excavated soil and subsoil, will be managed and stored during construction, and exported off site for treatment at appropriate licensed facilities: topsoil will be re-used on the site. I would not see any necessity to attach a condition relating to noise emissions during the construction phase, in light of the location of the site within an operating maltings, and the distance of the construction areas from sensitive noise receptors.

7.4.7. Protected Structures in the Vicinity of the Site

The KCC Conservation Officer considered that there would be no impact on the setting of Hillview House (Protected Structure) on the opposite side of William Street

Upper; and I would agree with that assessment. There will be no impact on a roofless canal-side store, dating to c.1837 (a Protected Structure), to the northeast of the appeal site.

7.4.8. Signage

A condition should be attached to any grant of permission, requiring that no signage be affixed to elements of plant; so as to be visible from beyond the boundaries of the site. This is particularly important in view of the height of some of the proposed new elements, and their proximity to William Street Upper and the Barrow Line Canal.

7.4.9. Lighting

The maltings operates on a 24-hour basis, and floodlighting is provided within the site. Conditions 14 & 15 of the Notification of decision to grant planning permission related to lighting – particularly potential impact on users of the N78. A condition should be attached to any grant of permission from the Board, to address this issue.

7.4.10. 3rd Party Appeal

The issues raised in the 3rd Party appeal relate to appropriate assessment. The matters raised refer to the construction phase, and make no reference to the operational phase of the development. The appellant is concerned that the details of the Construction Environmental Management Plan (CEMP) have not been clearly outlined. Section 5.6.1 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document submitted, lists nine mitigation measures (in bullet point form), which will inform a CEMP to be prepared by the developer. Advocate General Kokott of the CJEU, gave an opinion on 7th August 2017, in the case of *Holohan & Others v An Bord Pleanála* (C-461/17); and held that a competent authority is permitted to grant consent which leaves a developer free to determine certain parameters relating to the construction phase of a development, post the consent, but only if the authority is certain that the consent establishes conditions that are strict enough to guarantee that the parameters will not adversely affect the integrity of an European site. Technical details can be left for agreement post consent. This is similar to the principal established in *People Over Wind & Another v An Bord Pleanála* (2015); wherein it was held that delegation of technical matters, by way of condition, is within the scope of delegation envisaged in *Boland v An Bord Pleanála* (1996).

In relation to the eighth question put to the CJEU, AG Kokott held, at *Para 60* of the Opinion- "The answer to the eighth question must therefore be that, in the context of a development consent under Article 6(3) of the Habitats Directive, details of the construction phase may be left to unilateral decision of the developer, only where every reasonable scientific doubt that the effects of such a decision will not be detrimental to the integrity of the site concerned has been dispelled".

The 3rd Party appeal did not indicate any specific areas of concern in relation to conclusions reached in the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document, or the EIAR submitted. There was no identification of any specific area of concern, where reasonable scientific doubt is raised in relation to any of information submitted by the applicant – particularly in relation to discharge of treated process water and surface water to the Barrow River. Surface water from the existing maltings, and process water from the existing maltings, are currently discharged to the Barrow River under Section 4 licence. The proposed development will bring the maltings under the remit of Industrial Emissions licensing from the EPA. I would consider that this appeal can be distinguished from *Holohan & Others v An Bord Pleanála*, in that the issue of whether the Inspector's findings gave rise to reasonable scientific doubt as to the findings on which the Board relied, is not at issue in this instance. The appropriate assessment section of this Inspector's Report concludes that no reasonable scientific doubt remains as to the impact of the development on the River Barrow and River Nore SAC. It is open to the Board to disagree with the findings of the Planning Inspector.

The appellant refers to CJEU case C-258/11 relating to the N6 Galway City Outer Bypass road scheme, which centred on the destruction/removal of Annex 1 habitat – Limestone pavement (code 8240). The appellant has not indicated the relevance of this case to the current appeal.

The Notification of decision to grant planning permission did not include a specific condition relating to a CEMP. However, a number of conditions specifically relate to the construction phase, viz. no. 20, relating to noise; no. 22, relating to noise & dust; and no. 24, relating to C&D waste. In addition, condition no. 1 requires that the development be in accordance with plans and particulars submitted (which includes the EIAR and the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document); condition no. 18, relating to foul & surface water

drainage; no. 19, relating to drainage of the new car-park; no. 21, relating to storage of oils/chemicals; no. 23, relating to handling and disposal of wastes; all of which require the development to comply with environmental standards. The 1st Party response to the grounds of appeal points out that the Board can include a condition requiring the approval of the PA, of any CEMP drawn up by the developer – so that it would not be a matter for unilateral decision of the developer on the matters to be included in the CEMP and how they were implemented. This would appear to be a sensible suggestion, and I recommend that a condition be attached to any grant of planning permission to issue from the Board, requiring that a CEMP be drawn up by the developer, and submitted for the written agreement of the PA, prior to commencement of any development on this site.

8.0 Environmental Impact Assessment

8.1. Introduction

8.1.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out development for the purposes of Part 10. Class 7(d) of Part 2 states- "Installations for commercial brewing and distilling; installations for malting, where the production capacity would exceed 100,000 tonnes per annum": the proposed development is for 140,000 tonnes per annum. The application was accompanied by an Environmental Impact Assessment Report (EIAR) – dated 27th April 2018. The EIAR identifies, describes and assesses the significant effects on the environment. The planning application form, submitted to KCC, indicated that the development was not of a type to which the Major Accident Regulations apply. The site is not vulnerable to risks of major accident and/or disasters.

8.1.2. The application falls to be dealt with under Directive 2014/52/EU. An examination has been carried out of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application/appeal; including environmental impact assessment carried out by Kildare County Council. The information contained in the EIAR, and supplementary information provided by the developer by way of additional information submission to KCC on 1st August 2018, and by way of 1st Party response to the grounds of appeal, submitted to An Bord Pleanála on 19th October 2018, adequately identify and describe the direct and

indirect effects of the proposed development on the environment. The issue of cumulative impact is addressed in Chapter 16 of the document. Section 1.4.3 of the EIAR comprises a list of the experts who contributed to the preparation of the Report, their relevant experience and qualifications, and any additional information to demonstrate the competence of those involved. I am satisfied that the EIAR has been prepared by competent experts, to ensure its completeness and quality; and that the information contained in the EIAR, and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations, 2001 (as amended).

8.1.3. Chapter 2 and Appendix 2-A of the EIAR give a full description of the proposed development. Having visited the maltings on 25th January 2019, I would be satisfied that the description is accurate. The malting process is described, and utilities (particularly water) usage is set out. The proposal to recover heat from kiln units and the replacement of electricity with combined heat & power gas units is noted. The construction phase is described, and a Construction Environmental Management Plan (dated 15th March 2018) is included at Appendix 2-A. This document deals only with waste streams generated. It is not a complete CEMP, in the sense that it does not address all of the measures which would have to be put in place to ensure that there would be no damage to the environment during the construction phase – particularly in relation to drainage. However, more detailed information of what would inform a CEMP is included within the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document, submitted by the applicant.

8.1.4. The EIAR includes a Non-Technical Summary at the beginning of the document. The document is presented in grouped format: dealing with the headings- Population & Human Health; Air Quality, Odour & Climate Change; Noise & Vibration; Water Quality & Aqueous Emissions; Soils, Geology & Hydrogeology; Biodiversity; Landscape & Visual Assessment; Traffic and Transportation; Material Assets; Archaeological & Cultural Heritage; Waste Management; Interactions & Cumulative Impacts. The proposed development will require a licence from the EPA, under the Industrial Emissions Directive – IE licence.

8.2. Consideration of Alternatives

8.2.1. Chapter 3 of the EIAR deals with this issue. The Do-Nothing scenario would result in the existing malting operation continuing at this site; although the applicant may not be able to meet its objective of supplying Irish brewers and distillers with Irish malt. It is proposed to expand the maltings on this site – to cater for an output of 140,000 tonnes per annum. There is stated to be a strong demand for malt and barley in Ireland. The company has a number of sites throughout Europe. The aim is to supply the Irish brewing and distilling industry with an Irish product. The site is proximal to barley growers; has a skilled labour force; is large enough to facilitate expansion; has utility connections; has biological process water treatment facilities; and an historical connection with the town, through long years of malting. The applicant owns the lands on which the expansion is to take place. Alternative designs, layouts and processes were considered. The layout is determined to a large extent by the existing maltings, and the need to integrate with it, to achieve economies in the layout, and the need to allow the existing plant to continue to operate whilst extensions/alterations are being made. A number of alternative layouts were considered – options A-D presented. There are variations to the malting process possible, but the one selected is stated to be the optimum one. The primary consideration is the availability of appropriate process water treatment capacity. An Industrial Emissions licence will be required from the EPA for the entire facility, if the proposed extension is constructed. The current on-site MBRTP is BAT-compliant. I would be satisfied that the proposed development is the best use of the site, and will limit the impact of the development on the environment, through use of an existing on-site MBRTP, and facilities associated with the existing maltings.

8.2.2. I would be satisfied that the EIAR includes a description of reasonable alternatives examined by the applicant, which are relevant to the project and its specific characteristics, and the main reason for the option chosen, taking into account the effects of the project on the environment: in line with the requirements of Directive 2014/52/EU.

8.3. **Population & Human Health**

Chapter 5 and Appendices 5-A & 5-B of the EIAR deal with these associated issues. The direct and indirect impacts on human beings are also addressed in other chapters of the EIAR – relating to air quality, noise, traffic etc.

8.3.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing maltings plant continuing at this site; and there would be no increase/decrease in employment.

8.3.2. Construction Phase & Operational Phase Impacts

There are approximately 40 employees on the site – working in shift pattern: there is no anticipated increase in employment levels. The proposed development will result in the creation of maximum 100 jobs at peak construction stage. There are no sensitive land uses in the immediate vicinity of the site – on which there is a functioning malting plant. The proposed development will not have any significant impact on population or employment. The existing operation is stated to adhere to all relevant health and safety legislation for workers. Emissions will be controlled by IE licence in the future – the object of which is to safeguard human health and to maintain environmental standards. The Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht has identified canal-side buildings within the site as having potential for tourist-related activities – being currently under-utilised. However, these buildings are fully occupied by the MBRTP for the maltings and a workshop: there is no proposal to alter this arrangement. The development will not have any impact on the tourist potential of the Barrow Line Canal. The predicted impact of the development on employment levels is considered to be positive: through the creation of temporary construction jobs, and the maintenance of existing employment levels at the plant, which in turn indirectly support businesses in the town; and which the population of the town is to some extent reliant.

8.3.3. Mitigation Measures

No mitigation measures are identified, and none are here recommended.

8.3.4. Conclusion

In the absence of any specific mitigation measures, there will be no significant impact on population or human health: acknowledging that other sections of the

EIAR address aspects of the environment which could impact on human health; and for which mitigation measures have been put forward.

8.3.5. Residual Impacts

No residual impacts are identified.

8.4. Air Quality, Odour & Climate Change

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 6 and Appendices 6-A, 6-B, 6-C & 6-D of the EIAR.

8.4.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting plant continuing at this site, with existing emissions to air from kilns, boiler plant, burners and drying plant.

8.4.2. Construction Phase & Operational Phase Impacts

Air dispersion modelling for emissions of NO_2, SO_2, PM_{10} & $PM_{2.5}$ was undertaken, based on meteorological data from Casement Aerodrome. The model predicted ambient ground-level concentrations beyond the site boundaries. Worst-case concentration was added to background concentration to give the worst-case Predicted Environmental Concentration (PEC). The PEC was then compared to ambient air-quality standards to assess the significance of the releases from the site. The wake effects of buildings on site was taken into consideration. A total of some 2,185 calculation points for the model were identified – within a 10km grid centred on the plant. Air quality modelling was also carried out for traffic. NO_2, PM_{10} and $PM_{2.5}$ are identified as potential pollutants at junctions within towns. The Air Quality Standards Regulations 2011, set standards for NO_2, SO_2, PM_{10}, $PM_{2.5}$, Benzene and CO – set out at Table 6-1 of the EIAR. Existing and proposed emission points are set out at Table 6-4. Emissions from dryers (only operational at harvest) were not taken into consideration in modelling – which was carried out in November. Operation of all aspects of the facility were assumed for 365 days of the year, which would result in an overstatement – as all facilities within the plant do not operate for 365 days of the year.

Air quality monitoring programmes have been undertaken by the local authority and the EPA in recent years. Athy is located within Zone D for the purposes of the Framework Directive on Air Quality (1996/62/EEC). Long-term average concentrations for Zone D were significantly lower than annual average limit values for all pollutants. Based on measured concentrations within towns in Zone D, estimated background concentrations were selected for Athy.

During the operational phase, there will be releases of NO_2, SO_2, PM_{10} and $PM_{2.5}$. Tables 6-9, 6-10, 6-11 & 6-12; together with Figures 6-2, 6-3, 6-4, 6-5, 6-6 & 6-7 indicate that for these pollutants, total modelled concentrations will be below the relevant air quality standard for NO_2, and will be significantly below for the other three pollutants. Air-dispersion modelling of both existing and proposed emissions concluded that emissions from the facility would be in compliance with ambient air quality standards for the four modelled pollutants.

Modelling of emissions of pollutants from traffic was undertaken for this development – NO_2, PM_{10}, $PM_{2.5}$, CO & Benzene. Receptor locations on and around the N78 were chosen. Modelled concentrations for all pollutants are below the relevant limit values, and the increases arising from the proposed development are imperceptible. The proposed development will not result in significant increase in traffic volumes – maximum increase of 10 HGV movements per day (in & out). Even at harvest time, HGV movements will not be increased; as there is no proposal to increase the barley storage capacity of the site; and during harvest the storage capacity of the site is exceeded, necessitating open-air storage of grain on concrete aprons.

Odour from the malting process is generally regarded as a pleasant odour, and so no odour assessment of the site was carried out. There was a pleasant odour of grain/malting at the site boundaries (particularly the canal boundary) on the date of site inspection by this Inspector. I note that there are no objections from nearby residents to the proposed development. All wastewater infrastructure is covered, or contained within buildings. There was no noticeable wastewater odour, either within or without the site, on the date of site inspection by this Inspector – an inspection which included a visit to all parts of the MBRTP. The proposed development will not result in any alteration to odour emissions at this plant – as the existing plant is to be used.

8.4.3. Mitigation Measures

Dust created during the construction phase is identified as the principal impact on air quality. Dust minimisation (mitigation) measures are set out at Appendix 6-D – the principal items being-

- Restriction of operations during periods of high wind.
- Speed restrictions for vehicles on site.
- Water bowsers for spraying haul routes during dry periods.
- Regular sweeping of roads.
- Stockpiling of dry materials where it can be sprayed with water, to limit fugitive dust.
- Hoardings around construction sites (where feasible).
- Use of covered/enclosed vehicles for deliveries/collections.
- Wheel-wash at the construction compound.
- Complaints register and procedure for dealing with such.

8.4.4. Conclusions

The proposed development is modest in scale, and will result in an increase of output less than 50% of the existing output of malt. The proposed development will not have any significant impact on climate change. The proposal to install 3 CHP units, and the installation of a new heat-recovery unit on top of the 'Boby' kiln, will help in adaptation to the impacts of climate change. In the context of a working maltings next to a busy National Secondary Route through Athy, the proposed development will not have any significant impact on air quality arising from traffic movements, either during the construction or operational phases of the development. The construction and operational phases of the proposed development will not have any significant impact on air quality, odour or climate change.

8.4.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the

mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.5. **Noise & Vibration**

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 7 and Appendices 7-A & 7-B of the EIAR.

8.5.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, with existing noise emissions continuing from the plant.

8.5.2. Construction Phase & Operational Phase Impacts

Noise will occur during the construction and operational phases. Baseline noise monitoring was undertaken at 3 points:-

- NSL1 at the junction of the N78 and the Woodstock South Industrial Estate road;
- NSL2 on the N78 beside Plewman's House; and
- NSL3 at the dry-dock basin on the opposite side of the Barrow Line Canal.

Noise surveys were undertaken in August 2017 and February 2018. The August dates coincide with the harvest period. The highest recorded levels were 67dB$_{LAeq}$ at NSL1; 77dB$_{LAeq}$ at NSL2; and 61dB$_{LAeq}$ at NSL3. Highest noise levels did not necessarily coincide with the harvest period. Night-time noise levels were noticeably lower – relating to reduction in traffic volumes at NSL1 & NSL2 particularly. Road traffic noise and industrial estate noise (including the maltings) are the dominant factors influencing ambient noise in this area.

Construction phase noise will be of limited duration and will be spread over a period of ten years (although I have elsewhere in this report recommended that a five-year planning permission would be more appropriate). Condition 20 of the Notification of decision to grant planning permission specifies noise limit values for different times of day during the construction phase.

The malting plant operates on a 24-hour basis, so night-time noise emissions will be the most sensitive. The principal sources of noise within the development are/will be from fans, burners and intake/exhaust points. Sound Power ratings for all existing plant items are indicated at Table 7-16 of Appendix 7-B. The harvest period is the worst-case scenario for noise generation. This is, however, of limited duration. A noise model was generated for the operational phase of the proposed development, and night-time exceedances were predicted to occur at NSL2 & NSL3. The night-time noise criterion used is $45dB_{LAeq\ T}$. Traffic noise will not be significant in the context of a site within an industrial estate and beside a busy National Secondary Route through the town.

8.5.3. Mitigation Measures

The principal mitigation measures/factors for the construction phase are-

- Selection of plant.
- Localised screening of plant.
- Limiting hours of work (most construction will take place during daylight hours).
- Exhaust silencers.
- Reduced drop heights.
- Acoustic lagging of plant items.

The principal sources of noise from new plant are identified at Table 7-12 of the EIAR. Typical mitigation measures for each are indicated, and include-

- Selection of new plant for its noise rating.
- Fitting of attenuators and/or construction of enclosures.
- Doors with acoustic seals on buildings.
- Maintaining roller shutters in closed position as much as possible.

Vibration may occur during the construction phase – particularly in relation to breaking of concrete. There will be no rock-breaking or pile-driving required during the construction phase. There will be no vibration during the operational phase of development.

8.5.4. Conclusions

The maltings will continue to operate during the construction phase: and, in the context of surrounding noise from the operation, and from traffic on adjoining roads, and where construction will be largely limited to daylight hours, I would consider that it will not have any significant impact on the environment; subject to compliance with standard good practice measures for the control of noise from construction sites. I would be satisfied that the proposed development would not have any significant impact on noise and vibration during the operational phase of development.

8.5.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the malting plant. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.6. Water Quality and Aqueous Emissions

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 8 and Appendix 8-A of the EIAR.

8.6.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site; with discharge of process water to the Barrow River. This could be regarded as negative, as there are significant proposals to improve the handling and treatment of surface water on the overall site.

8.6.2. Construction Phase & Operational Phase Impacts

Water supply from wells is addressed in Chapter 9 of the EIAR. The only water course on a site boundary is the Barrow Line Canal, and there is no discharge to or intake from, this water body. There is an open drain, in which there is some standing water – located between the site boundary and the canal – but with no connection to either the site or the canal. An application for an Industrial Emissions (IE) licence to

the EPA is under preparation (although not yet submitted), according to the EPA response submission to KCC. There is a Section 4 Licence to discharge trade effluent to the Barrow River (S4022-12), and a Section 16 Licence to discharge trade effluent to the public sewerage network (WP485/14): in case of an emergency – both issued by KCC under the Local Government (Water Pollution) Act, 1977 (as amended). Copies of the licences are included at Appendix 8-A of the EIAR. Discharge is to the Barrow River just below the railway bridge in the town, via a dedicated 300mm diameter pipe. The parameters of these controls are beyond the scope of the planning acts and regulations.

Assimilative capacity of the Barrow River was completed in 2012, as part of the most recent licence review. The site is within Hydrometric Area No. 14 – the South Eastern River Basin District. The European Communities Environmental Objectives (Surface Waters) Regulations, 2009, set down Environmental Quality Standards to assess the standards of waters. The status of the Barrow river downstream of the outfall is 'Moderate' by reference to the Water Framework Directive classification. Assimilative capacity is calculated from a sampling point at Athy Bridge in the centre of the town and from Levitstown – downstream of the town. A COD Emission Limit Value is not included in the discharge licence. The final effluent BOD:COD ratio is between 1:50 and 1:90 – with not less than 96% COD destruction within the membrane bio-reactor treatment plant (MBRTP). Aggressive on-site water conservation initiatives have significantly reduced the amount of wastewater discharged. In practice the existing plant only discharges 30% of the permitted (2,000m^3 per day) flow set down in the licence.

Discharge of foul waste from the canteen, offices and toilets is to the public foul sewer network of the town. There is no change proposed to the number of workers on site, and there will be no significant impact on the loading of this sewer. During the construction phase, the additional loading to the public foul sewer will not be significant in terms of a WWTP with a p.e. of 15,000.

There is a membrane bio-reactor treatment plant (MBRTP) on the site for the treatment of process water, since 2000. This is Best Available Technology (BAT) for the malting industry. The vast majority of waste comes from the steeping process. Occasional urea-dosing is required. The treated outflow has a light peat colour, and was odourless on the date of site inspection by this Inspector. The MBRTP has an

aeration tankage of 1,525m^3 – in three tanks. There is an 850m^3 balance tank for flow equalisation. The MBRTP can meet all BAT-Associated Emission Levels (specified both nationally and draft revised Food/Drink and Milk BAT Reference note Conclusions, with the exception of Chemical Oxygen Demand (COD), which it is stated presents a challenge for this type of treatment plant, and for which a higher limit has been sought for the malting industry (with no conclusion at the date of submission of the EIAR). Excess activated sludge is dewatered (1,686 tonnes in 2017) and sent off-site to a licensed composting facility. The MBRTP has the capacity to treat process effluent from 165,000 tonnes of malt per annum – once sufficient flow equalisation is available. This is to be achieved by construction of a new, over-ground balance tank of 850m^3 capacity. At present the MBRTP handles 655m^3 per day. This is expected to increase to 930-1,000m^3 per day – with a peak flow of 1,500m^3 per day. This has implications for the current residence time of 56 hours within the MBRTP – reducing to 40 hours (based on 1,500m^3 per day). This may result in a rise in COD values in emission levels. The sludge-handling and dewatering facilities could cope with the additional loading which would be generated by the proposed development.

The proposed development can be accommodated under the terms of the existing Section 4 discharge licence – notwithstanding that a new IE licence will be required for all discharges to air/water from the EPA. The Athy WWTP upstream monitoring point on the Barrow River, is located just downstream of the 300mm pipe outfall from the maltings. Boortmalt makes a very small contribution to the actual mass flux in terms of BOD, Total Ammonia and Ortho-Phosphate. Discharges would meet the relevant Environmental Quality Standards for “Good” status at 95%ile river flow (average of 21.87m^3/second), and it is concluded that there is a substantial amount of assimilative capacity within the river – beyond worst-case scenario.

The 300mm diameter outfall pipe has a capacity of 5,875m^3 per day. The licensed maximum outfall from the MBRTP is 2,000m^3 per day. This leaves a remaining capacity of 3,875m^3 per day for surface water. Discharge of surface water is currently throttled at 53 litres/second. There is an existing, above-ground, 750m^3 attenuation tank (filled by rising main). The site has poor permeability and so, is not suitable for infiltration-type devices. The discharge limit for the site is 68

litres/second – with 15 litres/second from the MBRTP – leaving 53 litres/second for surface water.

8.6.3. Mitigation Measures

The principal mitigation measures/factors for the construction phase are-

- Welfare facilities will be provided for construction workers – connected to the existing on-site foul drainage network.
- Daily visual inspections of the two discharge points to the 300mm diameter outfall pipe.
- Temporary settlement sumps for any ponding surface water.
- Covering of stockpiles of construction materials with plastic sheeting at times of heavy rain.
- Use of bunds and silt fences to control run-off.
- Accidental spillages of chemicals/hydrocarbons, will be stored in temporary bunded areas or containers.
- Refuelling of vehicles will take place in bunded areas or over a drip-tray. Spill kits will be available.
- Any hazardous waste will be stored in covered skips – for disposal off-site to licensed disposal facilities.

The principal mitigation measures/factors for the operational phase are-

- Maintenance of separate drainage networks throughout the site for foul, process and surface water drainage.
- Consolidation of discharge points to just one discharge point to the 300mm diameter outfall.
- Storm water attenuation; to include new overflow control chamber directing excess surface water to an open attenuation pond of 1,280m^3 capacity.
- Retention of the above-ground 750m^3 attenuation tank for cleaning/washing.
- Construction of new grain/screen chamber, grit separator chamber and hydrocarbon interceptor, and downstream sampling chamber.

- Capacity of the site to deal with exceptional short-term, surface water flooding between kerbs within the existing plant area.
- Storage tanks will be bunded to a volume of 150% of the capacity of the largest tank, and drum storage areas will be bunded to a volume of 110% of the capacity of the drums.
- All surface water discharges will be monitored according to terms of existing or future discharge/emissions licences.

8.6.4. Conclusions

I would be satisfied that the proposals for attenuation and treatment of surface water during the operational phase will represent an improvement on the system which exists at present and, therefore, a positive impact on the environment. The existing MBRTP on the site (with the modifications proposed) has the capacity to treat process water to the standards set down in the Section 4 waste licence, through which Emission Limit Values are imposed on the outfall from the maltings. The Emission Limit Values of any future IE licence will have to be met by the applicant in relation to discharges to the Barrow River. If appropriately managed, the mitigation measures outlined within this chapter of the EIAR will ensure that there will be no deterioration in the quality of surface waters in the area – and in particular the Barrow River. In relation to the construction phase, if the mitigation measures as set down in this chapter of the EIAR are adhered to, there is no reason why there should be any significant impacts on the existing foul sewer network of the town or on the outfall to the Barrow River.

8.6.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.7. **Soils, Geology & Hydrogeology**

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 9 and Appendix 9-A of the EIAR.

8.7.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, with water sourced from on-site wells for processing; and discharge of process water and surface water to the Barrow River.

8.7.2. Construction Phase & Operational Phase Impacts

Most of the impacts of the development relate to the construction phase; although increased abstraction of water from wells is an operational phase impact. The site is flat – on or about the 60m contour. The site is underlain by the Milford Formation of limestone. Eight trial holes were drilled on the site in 2017 – with three extending to obstructions – one of which was confirmed to be bedrock: at 9.3m below ground level: the locations are not indicated on any drawing. Groundwater was encountered in only one of the trial holes (TP07) at 3.6m below ground level. The soils underlying the malting plant are classified as 'made ground'. Samples were analysed for presence of contaminated land (particularly asbestos: in light of the existence of a former asbestos-manufacturing factory on the opposite side of William Street Upper). No contaminated waste was encountered; and no asbestos contamination was identified.

The site is underlain by a Regionally Important Sand & Gravel aquifer (5-15m thick), with a high recharge value. Actual recharge on the site is expected to be low (with the exception of the grassed area in the southeast), arising from the amount of buildings and sealed aprons surrounding them within the maltings. The limestone bedrock beneath, is a Regionally Important Karstified Bedrock Aquifer – Moderately Productive in Local Zones Only (Ll). Under the Water Framework Directive, it is indicated that the status of the Athy/Bagenalstown Gravels Groundwater Body is 'Good' and 'Not at risk' of failing to achieve good status; whilst the status of the Bagenalstown Groundwater Body is 'Good' and 'Not at risk' of failing to achieve good status. Groundwater is expected to flow eastwards towards the Barrow River. The groundwater vulnerability of the site is rated as 'High', arising from the presence of a sand & gravel aquifer, and the limited depth of overburden protecting it.

Water supply for human consumption is got from the public mains. There are two on-site wells – for extraction of process water of approximately 920m^3 per day. The EIAR reports that there have been no complaints in relation to these wells for the years in which they have been in operation. These wells were drilled in the 1960's and there are no borehole logs available. They are estimated at 50m deep. There is no detailed record of wells in the vicinity of the site; but there are expected to be a number, arising from the location within the town. However, the town is now served by public mains, and most are expected to be disused. Town borehole extractions at Barrow Lane and Townparks would appear to be disused. Extraction will be increased to approximately 1,200m^3 per day. This may impact on groundwater flow to the Barrow – but it is estimated that the extraction comprises approximately 0.45% of the 95%ile low flow in the river. Much of the abstracted water will be discharged again to the river via the 300mm diameter outfall – so the impact will be slight to imperceptible. It is anticipated that the wells will be able to meet the increased demand; however, drilling of a third well may be required. Water quality parameters in the two wells on site indicated elevated levels of nitrates and chloride. As these wells are not for human consumption, this is not a problem.

Average depth of foundations will be 2.0m – extending to 5.0m for certain elements. It is estimated that some 17,150m^3 of soil and subsoil will be excavated. Potential impacts of the development are identified as-

- Permanent removal of soils and subsoils and reduction in the area of amenity grassland and arable crops.
- Discovery of contaminated soils, arising from the extent of made-ground on the site.
- Increased groundwater vulnerability through removal of soils/subsoils – particularly if there are accidental spillages of hydrocarbons or chemicals.
- Extraction of an increased amount of water from the gravel/bedrock aquifer – the recharge value of which is stated to be high.

8.7.3. Mitigation Measures

The principal mitigation measures/factors are-

- If contaminated soil is encountered during excavations, it will be identified, segregated, classified, and appropriately handled. If not suitable for re-use on-site, it will be exported off-site to a licensed waste-handling facility.
- Topsoil will be retained on site for re-use in landscaping.
- Stockpiled materials will be covered or dampened during dry periods.
- Fuels will be appropriately stored and handled on site within bunded areas – away from surface water drainage.
- Refuelling of machinery will take place in designated areas, and drip trays will be used where necessary. Spill kits will be available in the event of accidents.
- Wheel-wash facilities will be available at the site compound. Road-washing machinery will be used, where possible.
- Tracked machinery will be used to limit soil compaction.
- A well survey, within 1km of the site, will be undertaken in the event of a third well having to be drilled.

8.7.4. Conclusions

The mitigation measures outlined stop short of indicating what will happen in the event that additional groundwater extraction can be proved to have an impact on wells in the vicinity. However, in light of the limited increase abstraction of 280m^3 per day, it is unlikely that there will be any impact. I would be satisfied that the proposed development would not have any significant impact on soils, geology or hydrogeology during either the construction or operational phases of development. Whilst the impact on land is not specifically referenced in the EIAR, I would be satisfied that the loss of a small area of amenity grassland around Plewman's House in the central portion of the site, together with a small area of arable land, would not be significant in terms of the amount of such land within the town and immediately surrounding it.

8.7.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the

mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.8. **Biodiversity**

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 10 and Appendices 10-A, 10-B, 10-C & 10-D of the EIAR. In this regard, the conclusions reached within the Appropriate Assessment section of this Inspector's Report, are of relevance.

8.8.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting plant continuing at this site, with current licensed discharge of process water and of surface water to the Barrow River. There would be no loss of amenity grassland around Plewman's House and no loss of a small area of arable land.

8.8.2. Construction Phase & Operational Phase Impacts

The site was surveyed on 2nd August 2017, and included an identification of habitats on the site. The principal habitat is 'Buildings and artificial surfaces' with an area of 'Amenity grassland' in the vicinity of Plewman's House, and then a small field in the southwestern portion – identified as 'Arable crops'. There are lines of mature and semi-mature trees along part of the site boundaries – particularly the northeastern and the southwestern. In addition, there are some individual and groups of mature/semi-mature landscaping trees within the amenity grassland on the site: one mature sycamore tree, adjacent to the site of the surface water attenuation pond, is to be retained. Appendix 10-C is a list of notable flora species recorded on-site and in the nearby river and canal. Appendix 10-D is a list of invertebrate species and water quality within the Barrow River adjacent to the outfall discharge. No evidence of badger activity was noted. No evidence of bats within Plewman's House was recorded, following survey.

The Grand Canal proposed Natural Heritage Area (Site code 002104) is located on the northeastern boundary of the site. There is no connectivity with this site – there being no access to the site from this area, and no surface water connection.

The potential impact of the development on the River Barrow and River Nore SAC is addressed in the Appropriate Assessment section of this Inspector's Report. The conclusions of that section of this Inspector's Report are of relevance in relation to this aspect of biodiversity, and are incorporated into this environmental impact assessment. The principal potential impacts on biodiversity can be identified as-

- Loss of semi-mature trees on the southwestern boundary and around Plewman's House.
- Discharge of pollutants (sediment, concrete, hydrocarbons and chemicals) during the construction phase to the Barrow River.
- Discharge of untreated or insufficiently treated process water during the operational phase.

8.8.3. Mitigation Measures

The principal mitigation measures/factors are-

- Replacement landscaping around the extended Plewman's House.
- Proposals to upgrade the membrane bio-reactor treatment plant.
- Upgraded surface water network within the site; to include an attenuation pond, screens unit, hydrodynamic grit separator unit, and hydrocarbon interceptor unit.
- Licence to discharge trade effluent to the public foul sewer network under Section 16 of the Local Government (Water Pollution) Act, 1977 (as amended) – in the event of an emergency.
- Control and treatment of concrete wash-water within the site – to reduce pH before discharging to ground.
- Storage of hazardous substances within bunded areas.
- Halting of site clearance where rainfall of more than 1mm per hour is forecast.
- Bunds, sediment traps and silt fences used during the construction phase.
- Power-washing of all machinery prior to being brought to the site – to reduce the possibility of introduction of invasive species.

- Monitoring of all treated effluent to comply with existing Discharge licence and any future IE licence Emission Limit Values.

8.8.4. Conclusions

I would be satisfied that the proposed development would not have any significant impact on biodiversity during either the construction or operational phases of development, and the conclusions of the Appropriate Assessment section of this report are incorporated into this section of the environmental impact assessment, in terms of impact on biodiversity within the Barrow River.

8.8.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.9. **Landscape & Visual**

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 11 and Appendix 11-A of the EIAR.

8.9.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, with the setting of Plewman's House remaining as it is, and no new access avenue to it being created.

8.9.2. Construction Phase & Operational Phase Impacts

The site is located within the town – with agricultural land located on the opposite side of the Woodstock South Industrial Estate road. The maltings are visible from the Barrow Line Canal – but are partially screened by a belt of mature trees to the north of older canal-side buildings. The maltings are particularly visible from William Street Upper and William Street. Tanks and silos on site are up to 20m in height; with individual elements of plant up to 35m in height. The overall appearance is of a

distinctly industrial character. The western portion of the site comprises amenity grassland around Plewman's House and a small arable field to the southwest – with a belt of semi-mature deciduous trees along the Woodstock South Industrial Estate road boundary. The site is one of a number of existing, long-established and developing industrial/commercial sites along the Barrow Line Canal. The Landscape Character Assessment for the county identifies Athy as being within Class 1: Southern Lowlands Character Area, and as being- "Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area". The area to the west of the canal has "low landscape sensitivity". There are no listed or scenic views in the vicinity of the site. Appendix 11-A consists of a series of eight photomontages of the development. The principal potential impacts on landscape and visual amenity can be identified as-

- Increase in height of the 'Boby' tower from 18m to 23m.
- New malt out-loading building with two silos, with an overall height of 23m.
- New malting plant to the west of the existing plant.
- Single-storey extensions to Plewman's House – altering its setting.
- Construction site visual impacts – hoarding, scaffolding, earth-moving etc.

8.9.3. Mitigation Measures

The principal mitigation measures/factors are-

- Location of new plant and structures amongst and against existing plant.
- Location of new malting plant away from the Barrow Line Canal corridor.
- Subsidiary nature of single-storey extensions around Plewman's House; and renovation of this building.
- Landscaping in the vicinity of Plewman's House – particularly along the William Street Upper site boundary.
- Short-term nature of the visual impacts associated with construction activities.
- External finishes to new plant and facilities to tie in with existing maltings structures. In particular, the appearance of the plant from Augustus Bridge and William Street Upper will be altered.

8.9.4. Conclusions

I would be satisfied that the proposed development would not have any significant impact on landscape or visual amenity. The setting of Plewman's house will not be significantly altered – the entrance and grounds around the house having already been considerably altered in the past, and the background of a large maltings being established. Proposed development on William Street Upper, although increased in height, will represent a slight improvement on the current visual appearance of the maltings. The construction compound will be largely screened from view by the belt of semi-mature trees along the Woodstock South Industrial Estate road boundary.

8.9.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.10. **Traffic & Transportation**

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 12 and Appendices 12-A, 12-B & 12-C of the EIAR.

8.10.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, without the creation of a new vehicular access to Plewman's House, and a continuation of existing traffic patterns.

8.10.2. Construction Phase and Operational Phase Impacts

A site inspection was undertaken on Friday 22nd September 2017. Approximately 40 people are employed on the site at present, and there is no proposal to increase this number. The site operates on a 24-hours basis of shift-work. Average weekday traffic is 50 HGV movements – grain delivery and malt collection. Over the entire

year, the average daily traffic is 35 HGV movements. The increased capacity of the maltings will result in an increase of an average 10 HGV movements per day (with the move to 30-tonne HGVs). The junction of the Woodstock South Industrial Estate road and William Street Upper (N78) is a simple, priority T-junction. There is a right-turning lane from the N78 into Woodstock South Industrial Estate road: there is no proposal to change this. The proposal involves upgrading an existing agricultural access on the Woodstock South Industrial Estate road – to provide a new access to office accommodation at Plewman's House. Other vehicular access points will remain as are. The increase in output to 140,000 tonnes will necessarily involve some increase in HGV traffic over the year. Harvest time (late-August to early-September), when as many as 180 HGV movements per day can occur, results in traffic queues out onto the industrial estate roads. The proposal will not involve any significant increase in intake at harvest time, as the proposal does not provide for any additional grain storage, and pressure on space already results in open-air storage of grain on concrete hardstands. Potential impacts were identified as-

- Site clearance and construction traffic.
- HGV queuing on industrial estate roads at harvest time.

8.10.3. Mitigation Measures

The principal mitigation measures/factors are-

- Site clearance spread over a 20-week period – involving approximately nine HGV movements per day.
- Construction traffic spread over a ten-year period (although I have elsewhere in this report recommended a five-year permission).
- Increase in usage of 30-tonne HGVs to replace tractor & trailer deliveries (with a lesser capacity).
- Management of HGV traffic during harvest – including use of additional vehicular access point on the northern boundary of the site to reduce queuing.

8.10.4. Conclusions

I would be satisfied that the proposed development will not have any significant impact on traffic in the area, and that the road network has the capacity to

accommodate additional traffic generated during the construction and operational phases. Additional HGV movements generated will not be significant in the context of an urban road network, within the 50kph speed restriction zone of the town. Light construction traffic will not be significant in the context of an urban site on the edge of the town. The construction of the Athy Distributor Road would lessen the traffic volumes on the N78 in the vicinity of the site.

8.10.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.11. Material Assets

The direct and indirect impacts of the development on material assets are addressed in Chapter 13 of the EIAR.

8.11.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site utilising the same energy – in particular, with the absence of combined heat & power units, which will ultimately serve the existing and the proposed maltings.

8.11.2. Construction Phase & Operational Phase Impacts

Many of items referred to in this chapter, such as water and sewerage, have been dealt with elsewhere within this environmental impact assessment. The usage of natural gas is expected to increase from 6.1m Nm^3 in 2017, to 13.5m Nm^3 when the proposed development is complete. The existing network is stated to be capable of dealing with increased demand. The proposed new combined heat & power units will replace a large portion of the demand for electricity on the site.

8.11.3. Mitigation Measures

The replacement of electricity usage with gas usage on site is considered to be neutral. The replacement of an existing heat exchange unit with a new heat recovery unit on the 'Boby' tower will reduce the energy requirement of the existing process. The utilisation of the existing MBRTP capacity will lessen the amount of energy required to construct and operate another such facility to serve a new maltings plant (as is proposed here). This impact will be positive.

8.11.4. Conclusions

I would be satisfied that the proposed development will not have any significant impact on material assets, and will involve some energy savings in relation to the operation of the existing plant.

8.11.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development.

8.12. Archaeology & Cultural Heritage

The direct and indirect impacts of the development on these aspects of the environment are addressed in Chapter 14 and Appendices 14-A, 14-B, 14-C, 14-D & 14-E of the EIAR.

8.12.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, with no disturbance to ground (and any potential archaeological deposits), and also the likely continued deterioration in the fabric of Plewman's House – as it is left unused and open to vandalism (despite efforts to secure it). The development will not have any impact on the Malthouse Store & Kiln Protected Structure – as this is to remain in use as the MBRTP and laboratory/workshop for the maltings.

8.12.2. Construction Phase & Operational Phase Impacts

The Record of Monuments and Places (RMP) indicates no site of interest within the site boundaries. A site inspection was undertaken on 7th February 2017. The site is not located within an area of archaeological potential. Nor is it located within the

Athy Architectural Conservation Area – although it immediately abuts this ACA to the northeast. Potential impacts were identified as-

- Setting of the Malthouse Store & Kiln Protected Structure.
- The renovation of Plewman's House.
- Unidentified archaeology in the undisturbed arable field in the southwestern part of the site.

8.12.3. Mitigation Measures

The principal mitigation measures/factors are-

- Location of new structures away from the Protected Structure: the wastewater balance tank is some 50m from the Malthouse.
- Removal of newer extensions to Plewman's House and re-use, repair and stabilisation of the building.
- Archaeological monitoring of topsoil stripping within the greenfield area of the site.

8.12.4. Conclusions

Having regard to the proximity to the site of Woodstock Castle (800m to the northeast), it would be prudent to attach an archaeological monitoring condition to any grant of permission to issue from the Board, notwithstanding that such a condition was not included by the PA in the Notification of decision to grant planing permission. I note that the KCC Heritage Officer recommended that a condition, requiring archaeological monitoring of all soil-stripping, be attached to any grant of permission, as did this section EIAR. Condition 17 of the Notification of decision to grant planning permission related to employment of a conservation architect during the renovations of Plewman's House, and salvaging of materials removed. This would appear to be prudent. I would be satisfied that the proposed development will not have any significant impact on the architectural or archaeological heritage of the area.

8.12.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual

impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented.

8.13. **Waste Management**

The direct and indirect impacts of the development on this aspect of the environment are addressed in Chapter 15 and Appendix 15-A of the EIAR.

8.13.1. Do-Nothing Scenario

The Do-Nothing scenario would result in the existing malting operation continuing at this site, with existing arrangements in place for waste management.

8.13.2. Construction Phase & Operational Phase Impacts

Table 15-1 details the solid waste generated on the site in 2017 – the principal amount of which was solid sludge for composting – 1,686 tonnes. There is little hazardous waste generated on site; waste oils, laboratory chemicals, fluorescent tubes etc. There are dedicated waste storage areas on site for handling these waste streams. Potential impacts were identified as-

- Generation of 15,150m^3 of sub-soil to be disposed of off-site.
- Demolition waste from facilities to be removed from the site – particularly a large oil tank. Table 15-2 and 15-3 list the C&D waste types, and labels them hazardous and non-hazardous (without quantifying amounts).
- Generation of an additional 760 tonnes per annum of solid sludge for composting.

8.13.3. Mitigation Measures

The principal mitigation measures/factors are-

- Preparation of a C&D Waste Management Plan, which will include plans for storage of waste on-site.
- Dispatch of wastes off-site to licensed facilities and to composting.
- Dedicated storage areas for waste – covered where appropriate.

8.13.4. Conclusions

I would be satisfied that the proposed development will not have any significant impact on waste, regard being had to the existence of waste-handling facilities on-site at present.

8.13.5. Residual Impacts

The construction phase will be of limited duration, and will be carried out concomitantly with the continued operation of the maltings. There will be no residual impact during the construction and operational phases of this development, if the mitigation measures and conclusions outlined are implemented; and the submission of a Construction Environmental Management Plan (CEMP) for the written agreement of the PA, prior to commencement of any development on the site, is required.

8.14. Interactions & Cumulative Impacts

8.14.1. Chapter 16 of the EIAR addresses these issues. Table 16-1 is a matrix; indicating where interactions may occur between the various elements of the environment identified in the EIAR. The table concludes that any interactions identified are not of significance – being either neutral, imperceptible or moderate (in the case of visual impact and human beings). Air quality, odour, climate change, noise, vibration, soils, geology, hydrogeology, landscape, visual, traffic, water quality, emissions to water; are all aspects which could interact with human health. Each of the chapters of the EIAR concludes that there would be no significant impacts, which could not be mitigated; and so, there will be no impact on human health. It is contended that there are significant long-term, socio-economic, benefits of the development which will outweigh the short-term disturbance associated with the demolition & construction phase.

8.14.2. The Planner's Report of KCC indicates that there have been no recent planning permissions of scale, which could have any significant impact, when considered cumulatively with the proposed development. The Athy Distributor Road scheme will not have any significant cumulative impact – and may in fact have a positive impact on road traffic on the N78. The potential cumulative impact of the treated effluent discharge to the Barrow River, in conjunction with other point and diffuse discharges (including the confluence of the Barrow Line Canal), has been deemed to be neutral.

8.14.3. Mitigation measures have been identified within each of the preceding chapters of the EIAR. The majority of impacts relate to the construction phase. A Construction Environmental Management Plan (CEMP) will be prepared to ensure that all mitigation measures outlined in the EIAR are implemented in a co-ordinated manner. The 1st Party response to the grounds of appeal, lists nine specific mitigation measures which will form the basis of the CEMP for the development. The CEMP will be updated with any specific planning requirements. It will include plans for dust, waste, water, traffic, and noise management, and will set out the necessary measures to ensure protection of the environment during the construction phase. The CEMP will be incorporated into the Construction Management Plan – dealing with traffic and logistics. The CEMP will be maintained as a live document which can respond to external influences outside the control of the site construction management team. IE licensing will ensure mandatory control of emissions through Emission Limit Values, and the development will have to comply with BAT for the industry.

8.14.4. I would be satisfied that there will be no interactions of significance which could impact on the environment.

8.15. Reasoned Conclusion

8.15.1. Having regard to the examination of environmental information contained above, and in particular to-

- the EIAR submitted,
- the supplementary information provided by the developer by way of additional information submission to Kildare County Council,
- the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment submitted,
- the 1st Party response to the 3rd Party grounds of appeal, submitted to An Bord Pleanála,
- the reports of the planning authority and prescribed bodies, and
- the submission of the 3rd Party appellant;

all made in course of consideration of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows-

- Discharge of surface water to the Barrow River during the construction phase of the development; which will be mitigated by measures outlined in the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment submitted with the application, and as set out in Chapter 8 of the EIAR; including the attachment of a condition to any grant of permission to issue from the Board, requiring submission (from the developer) of a Construction Environmental Management Report for the written agreement of the planning authority, prior to commencement of any development on the site.
- Discharge of treated process water and surface water to the Barrow River during the operational phase of the development, which will be mitigated by the conditions of an Industrial Emissions (IE) Directive Licence from the EPA; the upgrading of the existing membrane bio-reactor treatment plant serving the maltings; availability of a Section 16 licence under the Local Government (Water Pollution) Act, 1977 (as amended), to discharge trade effluent to the public foul sewer network, in the event of an emergency; proposals for upgrading surface water treatment within the site to include a surface water attenuation pond, screening unit, hydrodynamic grit separator, hydrocarbon interceptor and observation/sampling chamber.

8.15.2. There will be no cumulative impact with other developments in the area – in particular, the construction of the Athy Distributor Road scheme. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. A condition should be attached to any grant of planning permission to issue from the Board; requiring all mitigation measures outlined in the EIAR, to be complied with. A condition should be attached to any grant of planning permission requiring submission of a Construction Environmental Management Plan (CEMP), for the written agreement of the PA, prior to commencement of any development on the site.

9.0 **Appropriate Assessment**

9.1. **General Comment**

The site is neither within nor immediately abutting an European site. The maltings on this site was in existence before the River Barrow and River Nore SAC was designated in 1998. The application was accompanied by a Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment. Appropriate Assessment was carried out by KCC, prior to granting planning permission. Notwithstanding the submission of an Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment, I first propose to carry out a Stage 1 screening for appropriate assessment, using six steps as follows.

9.2. **Stage 1 Screening**

9.2.1. Step 1 – *Identify European Sites which could potentially be affected by the maltings (source-pathway-receptor model)*

The closest such is the River Barrow and River Nore SAC (Site code 002162) – located some 390m due east-southeast of the site at its closest point. The site is connected to the SAC by way of a 300mm diameter combined process water & surface water sewer, which outfalls to the river immediately to the south of the railway bridge within the town. This sewer is reserved for the sole use of Boortmalt – with a licensed discharge of 68 litres/second. There are no other European sites which could potentially be affected by this development.

9.2.2. Step 2 – *Identify the Conservation Objectives of the relevant site(s)*

The qualifying interests of the River Barrow and River Nore SAC are as follows-

- Estuaries.
- Mudflats and sandflats not covered by seawater at low tide.
- Reefs.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*).

- Mediterranean salt meadows (*Juncetalia maritimi*).
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation.
- European dry heaths.
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels.
- Petrifying springs with tufa formation (Cratoneurion). [Annex I]
- Old sessile oak woods with Ilex and Blechnum in the British Isles.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion, Alnion incanae, Salicion albae*). [Annex I]
- *Vertigo moulinsiana* (Desmoulin's whorl snail).
- *Margaritifera margaritifera* (Freshwater pearl mussel).
- *Austropotamobius pallipes* (White-clawed crayfish).
- *Petromyzon marinus* (Sea lamprey).
- *Lampetra planeri* (Brook lamprey).
- *Lampetra fluviatilis* (River lamprey).
- *Alosa fallax fallax* (Twaite shad).
- *Salmo salar* (Atlantic salmon) – but only in fresh water.
- *Lutra lutra* (Otter).
- *Trichomanes speciosum* (Killarney fern).
- *Margaritifera durrovensis* (Nore freshwater pearl mussel).

The Conservation objectives for the 12,373ha site, are to maintain the favourable conservation condition of Desmoulin's whorl snail, White-clawed crayfish, Estuaries, Mudflats and sandflats, Salicornia, Killarney fern, Water courses of plain to montane levels, European dry heaths, Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, Petrifying springs: and to restore the favourable conservation condition of Sea lamprey, Brook lamprey, River lamprey, Twaite shad, Atlantic salmon, Atlantic salt meadows, Otter, Mediterranean salt meadows, Nore

freshwater pearl mussel, Old sessile oak woods, Alluvial forests. The status of the Freshwater pearl mussel is currently under review, to establish whether a site-specific conservation objective is set for this species.

9.2.3. Step 3 – *Identify the potential- a) likely, and b) significant, effects of the project with reference to the site's Conservation Objectives, in light of best scientific knowledge*

The principal impacts which may occur (both negative and positive), largely relate to water quality during the construction phase, and the potential for discharge of contaminated surface water to the combined process and surface water sewer which discharges to the Barrow River immediately downstream of the railway bridge within the town.

9.2.4. Step 4 – *As above, but considering in-combination effects with other plans or projects*

There are no other plans or projects in the vicinity which could be considered to have in-combination effects.

9.2.5. Step 5 – *Identify any measures in place to reduce/lessen likely significant impacts on European sites*

A 300mm combined process and surface water sewer discharges to the Barrow River. There is an established membrane bio-reactor treatment plant (MBRTP) within the site, to treat process water from the existing maltings, prior to discharge to the combined sewer, under Section 4 licence from KCC. This MBRTP is to remain in operation to serve the proposed development – there being excess capacity within it (subject to construction of an additional 850m^3-capacity balance tank). Foul waste from toilets/canteen is discharged direct to the Irish Water mains sewerage network, either by gravity or rising main. Surface water is currently treated on the site and attenuated within an above-ground storage tank, where necessary.

9.2.6. Step 6 – *Determine whether likely significant effects, either individually or in combination with other plans or projects, on European sites, can reasonably be discounted, on the basis of objective scientific information*

The applicant deemed that it was not possible to discount likely significant effects (particularly on aquatic species of conservation interest within the Barrow River), arising from the hydrological connectivity between the site and the river (via a

300mm combined process & surface water sewer discharge), and so determined that submission of an NIS to KCC was required.

9.3. Natura Impact Statement

9.3.1. The Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment submitted, is dated 7th February 2018. The proposed development is not required for the management of the nearby SAC.

9.3.2. The biological quality of the Barrow River was assessed using two sampling sites – one upstream and one downstream of the outfall, on 2nd August 2017 (indicated at Appendix 7 of the document submitted). Site 1 upstream, had a biological water quality of Q3 – deteriorating to Q2-3 at Site 2, downstream of the outfall. Both are deemed to be "Poor Ecological Status", by reference to the European Communities Environmental Objectives (Surface Waters) Regulations, 2009 (as amended). I note that Site 1 is located immediately adjacent to the river bank, whilst Site 2 is located further out into the river channel. The most recent EPA biological water-quality monitoring data for the Barrow River was also examined: most recent results being for 2014; when Q-values upstream at Bert Bridge (approximately 4km) was Q4 and downstream at Tankardstown Bridge (approximately 6km) was Q3-4. It was determined that the water-dependent species and habitats of concern within the SAC were- Freshwater pearl mussel, Atlantic salmon, the three species of Lamprey, Otter, White-clawed crayfish, Hydrophilous tall herb communities, and Floating river vegetation. This latter habitat has been incorrectly identified as an Annex I habitat. The Barrow main channel is not designated for the protection of Freshwater pearl mussel. Atlantic salmon is found in the river, but the Q-values are too poor for spawning and nursery habitat. Adult salmon will migrate upstream, and smolts will migrate downstream, past the outfall. Juvenile crayfish were recorded in river sampling upstream of the outfall, and have been recorded in the past – some 600m downstream of the outfall. Otter is widespread along the river banks. The two habitats of Floating river vegetation and Hydrophilous tall herb communities occur within the river channel and on banks where there is a slow, deep flow.

9.3.3. The proposed development was determined to have a potentially detrimental impact on the SAC (both at construction and operational phases): through accidental release of silt, concrete or hydrocarbons/chemicals to the combined sewer – but

particularly during the construction phase. This could impact directly on species; indirectly on species by way of eutrophication, reduction in dissolved oxygen, or through the food chain (such as fish and insects); and directly on habitats. The introduction of invasive species (Japanese knotweed, in particular) on machinery brought to the site for the construction phase, which could get washed into drains and into the river, is also acknowledged.

Section 5.5 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document, identifies other facilities discharging from point (rather than diffuse) sources into the Barrow River. In particular, the Athy WWTP is located some 600m downstream of the outfall from the appeal site. This plant has tertiary treatment with phosphorous removal; with a design capacity of 15,000 p.e., and an agglomeration p.e. of 13,294 in 2016.

9.3.4. Section 5 of the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) document submitted, comprises the NIS proper. Potential impacts on the SAC are identified at section 5.2. Section 5.6.1 sets out the mitigation measures to be undertaken to deal with the identified potential impacts during the construction phase. The nine mitigation measures proposed (in bullet point format) are reproduced here for the sake of completeness-

- To minimise silt runoff, site clearance is not to be undertaken during wet conditions, when rainfall of more than 1mm/hour is forecast within the next 24 hours. The five day rain forecast on the Met Eireann website (www.met.ie/forecasts/5dat-irealnd.asp) is to be used.
- Eroded sediments will be retained on site with erosion and sediment control structures such as bunds, sediment traps or silt fences, as necessary.
- Fuels, lubricants and hydraulic fluids for equipment used on the construction site, as well as any solvents and oils, will be carefully handled to minimise risk of spillage and provided with spill containment.
- Any spillage of fuels, lubricants of [sic] hydraulic oils will be immediately contained and the contaminated soil removed from the site and properly disposed of.

- Waste oils and hydraulic fluids will be collected in leak-proof containers and removed from the site for disposal or re-cycling.
- Wash down water from exposed aggregate surfaces, cast-in-place concrete and from concrete trucks will be trapped on-site to allow sediment to settle out and reach neutral pH before clarified water is released to the drain system or allowed to percolate into the ground.
- A lined and watertight skip is to be used as the only area on site where concrete activities are permitted to wash out, including mixers, barrows and rakes. When ready mixed concrete is used, the drum of the delivery lorries will return for washout to the batching plant with only chutes being washed out on site. On completion of construction works, this washwater is to be brought to below pH 9, using an appropriate acid, and discharged to the ground, on site.
- To avoid invasive plant species being imported to this site via seeds or plant material adhering to construction machinery, all such machinery is to be cleaned of soil by power-washing, prior to arrival at the site.
- The engineer in charge of construction works should be familiar with the mitigation measures listed above and should ensure that they are fully implemented.

9.3.5. Section 5.6.2 sets out the mitigation measures to be undertaken to deal with the identified potential impacts during the operational phase. The five mitigation measures proposed (in bullet point format), are reproduced here for the sake of completeness-

- The effluent treatment system is to be of a specification that will result in a final effluent that will be fully in compliance with the emission limits specified in the Section 4 licence, so that there will be no negative effect on the water quality of the River Barrow. The effluent treatment system is also to be of a specification so that it is fully in compliance with any Best Available Technology requirements under a new IED licence. This MBRTP is currently operational and treating process water from the existing maltings. The construction of a second balance tank will allow for handling of process water

from the new malting plant to be constructed, whilst at the same time maintaining the quality of process water discharged.

- The oil tanks are to be bunded to prevent possible spillage runoff.
- A screening system for surface water will be installed to mitigate against the chance of any grain particles escaping from the site.
- Hydrocarbon and grit interceptors of suitable size are to be placed on any surface water emission points and will be maintained by a designated person or persons.
- All mitigation measures must be fully in compliance with any Best Available Technology requirements as specified in the new IED Licence.

9.3.6. Additional safeguards for the Conservation Interests of the SAC, not mentioned in the mitigation measures outlined within the NIS, are-

- Construction of a 1,280m^3-capacity surface water attenuation pond, which could allow for the retention on the site of any accidentally contaminated surface waters.
- Licence to discharge trade effluent to the public foul sewer network under Section 16 of the Local Government (Water Pollution) Act, 1977 (as amended), in the event of an emergency on the site – such as malfunction or breakdown of the MBRTP.
- Combining of all discharges to the existing 300mm diameter outfall to one discharge point, fitted with an inspection chamber and sampling facility.
- Waste management handling and disposal arrangements, as outlined in Chapter 15 and Appendix 15-A of the EIAR submitted; including the preparation of a C&D Waste Management Plan.
- Mitigation measures outlined in Chapter 9 and Appendix 9-A of the EIAR submitted; in relation to Soils, Geology & Hydrogeology.
- Mitigation measures outlined in Chapter 8 and Appendix 8-A of the EIAR submitted; in relation to Water quality & Aqueous emissions.
- Mitigation measures outlined in Chapter 6 and Appendices 6-A, 6-B, 6-C & 6-D of the EIAR submitted; in relation to Air quality, in particular.

9.4. **Conclusion**

9.4.1. Having regard to-

- the fact that discharge from the maltings to the Barrow River is currently licensed under Section 4 of the Local Government (Water Pollution) Act, 1977 (as amended),
- the nature of the proposal to extend an existing maltings operation,
- the requirement for licensing under the Industrial Emissions Directive, should the development proceed,
- the mitigation measures to be put in place during the construction phase,
- the controls and safeguards which will be in place during the operational phase,
- the requirement which will be placed on the developer to submit a Construction Environmental Management Plan for the written agreement of the Planning Authority, prior to commencement of development,

I would be satisfied that the applicant has established beyond reasonable scientific doubt, that the development will not have a detrimental impact on water quality within the Barrow River. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site no. 002162, or any other European site, in view of the site's Conservation Objectives.

10.0 Recommendation

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

11.0 Reasons and Considerations

Having regard to-

a) the zoning of the site for industrial use in the current development plan for the area,

b) the nature and extent of the proposed development – being an extension to an existing maltings,

c) the Environmental Impact Assessment Report, submitted with the application,

d) The relevant provisions of Directive 2014/52/EU; amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,

e) the Habitats Directive Screening Statement (Stage 1) & Natural Impact Statement (Stage 2) Ecological Assessment, submitted with the application,

f) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC, as amended by Directive 2009/147/EC (Birds Directives), which set out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union,

g) the pattern of development in the area,

h) the licensing of process water & surface water discharges to the Barrow River, under Section 4 of the Local Government (Water Pollution) Act, 1977 (as amended); and the requirement for a licence from the Environmental Protection Agency under the Industrial Emissions Directive, for the proposed development, and

i) the submissions from interested parties and prescribed bodies, made to Kildare County Council and to An Bord Pleanála, in association with the application/appeal,

it is considered that, subject to compliance with the Conditions set out below, the proposed development includes adequate measures for the attenuation and handling of stormwater run-off and the treatment of process water within the mechanical bio-reactor treatment plant, and would not give rise to pollution of the Barrow River; would respect the character of the area; and would be acceptable in terms of the safety and convenience of traffic and pedestrians. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 1st day of August 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

   Reason: In the interest of clarity

2. The appropriate period of this permission shall be 5 years from the date of this order.

   Reason: To ensure the orderly development of the site.

3. The mitigation and monitoring measures outlined in the Environmental Impact Assessment Report and the Habitats Directive: Screening Statement (Stage 1) & Natura Impact Statement (Stage 2) Ecological Assessment, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

   Reason: To protect the environment in the interest of nature conservation.

4. The developer shall submit, for the written agreement of the planning authority, a Construction Environmental Management Plan (CEMP), and obtain such written agreement, prior to commencement of development on site. This plan shall provide details of intended construction practice for the development; including-

   (a) Location of the site and materials compounds, including areas identified for the storage of construction & demolition waste; areas for construction site offices and staff facilities; site security-fencing and hoardings; and on-site car-parking facilities for site workers during the course of construction,

together with the prohibition of parking on neighbouring streets;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage; to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Containment of all construction-related fuel and oil within specially constructed bunds, to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction, and provide a record of any such complaints and any response to them, which may also be inspected by the planning authority

Reason: In the interest of amenities, public health, and the environment, and in particular, to protect water quality in the Barrow River.

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

Reason: In the interest of public health.

6. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site, and to ensure adequate protection of the retained and historic fabric of Plewman's House during the works. In this regard, all permitted works shall be designed to cause minimum interference to the portions of the building to be retained.

(b) All repair works to Plewman's House shall be carried out in accordance with best conservation practice, as detailed in the application and in the

"Architectural Heritage Protection Guidelines for Planning Authorities", issued by the Department of Environment, Heritage and Local Government in 2004. The repair works shall retain the maximum amount possible of surviving external walls and roofs; and shall be designed to cause minimum interference to the external structure and/or fabric of the building. Items that have to be removed shall be retained for salvage and re-use elsewhere.

Reason: To ensure that the integrity of the external design of Plewman's House is maintained, and that the structure is protected from unnecessary damage or loss of external fabric.

7. During the harvest season, the developer shall manage the queuing of HGVs and tractors & trailers at the site entrances. The secondary vehicular entrance, on the northwestern boundary of the site (as indicated on the Traffic Insights figure 3.1 – received by the planning authority on the 1st day of August 2018), shall be utilised for deliveries during the harvest season.

   Reason: In the interest of orderly development and traffic safety.

8. No signage shall be erected (so as to be visible from outside the site on any of the boundaries) on any of the proposed new elements of the maltings, without a prior specific grant of planning permission.

   Reason: In the interest of visual amenity.

9. All over-ground oil or chemical storage tanks shall be adequately bunded to protect against accidental spillage. Bunding shall be impenetrable and capable of retaining a volume of 110% of the capacity of the largest tank. Filling and take-off points shall be located within the bunded areas.

   Reason: In the interest of public health and protection of groundwater and surface water.

10. All service cables associated with the proposed redevelopment of Plewman's House (such as electrical and telecommunications), shall be located underground.

Reason: In the interest of visual amenity.

11. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government, in July 2006.

    Reason: In the interest of sustainable waste management.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

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

    (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

    (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

    In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

    Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. Any necessary floodlighting of the site shall be arranged, so as to not cause glare to users of public roads adjoining the site.

    Reason: In the interest of traffic and pedestrian safety.

14. The developer shall pay to the planning authority a financial contribution in

respect of public infrastructure and facilities benefiting development in the area of the planning authority, that is provided or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development, or in such phased payments as the planning authority may facilitate, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act, be applied to the permission.

Michael Dillon,
Planning Inspectorate

30th January 2019