Inspector's Report

ABP-304951-19

Development	Application for Substitute Consent in respect of a Sand and Gravel Pit located at Clonfinlough, County Offaly.
Location	Clonfinlough, County Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	
Applicants	Dermot Nally Stone Ltd.
Type of Application	Substitute Consent
Observers	An Taisce
Date of Site Inspection	15th December 2023
Inspector	Dolores McCague

Contents

1.0 Site Location and Description

1.1.1. The site is located in the townland of Clonfinlough, County Offaly. It is about 20 kilometres to the west of Tullamore, 3.8 kilometres east of Clonmacnoise and 6.4km south of Ballinahown.

1.1.2. The site is accessed via the R444 a non-restricted regional road. The access is located on the inside of a bend on the road and runs behind nearby houses, located to the north east.

1.1.3. The area is relatively flat. Quaternary deposits, including an esker system, forms the landscape. Mongan Bog is to the north, the River Shannon at Clonmacnoise, is to the west, Clonfinlough esker is immediately to the south and Fin Lough, a shallow lake, is to the south-west. The Church in Clonfinlough village is visible from within the site.

1.1.4. The site is within an Area of High Amenity and within the Source Protection Zone of Clonfanlough GWS – borehole.

1.1.5. The site has been extensively excavated for extraction of sand and gravel deposits. Although on the date of inspection the site was not in use, there was evidence of recent traffic within the site. A dwelling to the south of the entrance, and outside the site, is used as an office, with areas for car-parking to the front and rear. Only a few items of plant remains on the site. In addition to the lagoon, there is an extensive area of shallow water to the south east. A large stockpile of silt remains at the south western end of the site. Small stockpiles of product remain along the southern site boundary east of the centre. The pump and well are still in place. The settlement ponds have been infilled. The pit level in the vicinity of the settlement ponds and towards the western end of the site is c1.5m higher than the remainder of the site, having been infilled.

1.1.6. Being lower than the road and surrounding lands, there is limited visibility of the site, from outside.

1.1.7. The extraction area of 0.97ha, which is to be retained, is contained within the overall pit area of 15.34 hectares.

2.0 **Proposed Development**

2.1.1. This is an application for substitute consent for development of a sand and gravel pit consisting of 0.97 hectares of an existing sand and gravel pit which was subject to extraction of material after expiry of planning permission on 31st of December, 2009. The extraction area (0.97Ha) is contained within the overall pit area of 15.34 hectares, consisting of areas ancillary to extraction area that were used for processing and storage of extracted material and storage of overburden pending restoration.

3.0 **Planning History**

3.1.1. It is stated in associated files, and the subject file, that pre-1963 quarrying took place at this location.

3.1.2. Files mentioned as associated with the site and/or developer in this area (from oldest):

PA Reg. Ref. 91/49:

(Kieran Rohan) - permission granted, July 1991 (expired 15th July 1996) for an extension to the quarry of 2.735ha (north-eastern end of site). This application was not subject to EIA. No expiry date was conditioned.

PA Reg. Ref. 99/426:

(Dermot Nally) - permission was refused (26th September 2002) for an extension to existing sand and gravel quarry pit, on foot of the Planning Authority's (PA's) decision to refuse, for 2 reasons: 1) information not supplied, and 2) impact on NHA. (A copy of that file is attached to file 205910).

ABP Ref. PL19.201888, PA Reg. Ref. 02/1136:

(Dermot Nally - site at Carrowkeel, c.1.5km to the east). Application for permission for an extension of gravel extraction operations at existing gravel pit, PA decision to grant, refused by the Board, (the file is attached to the subject file).

ABP Ref. PL19.205910, PA Reg. Ref. 03/191:

Permission was granted by the Board in June 2004, on foot of the PA's decision to grant, for retention permission for a sand and gravel extension, for a site of 2.039ha. An EIS was submitted with the application. Conditions no.2 and no.3 required all operations to cease in December 2009 and for the restoration of the quarry, (the file is attached to the subject file). The applicant satisfied the Board that, vis a vis 99/416, through a revision of the site boundary and a revision of the NHA boundary, the site no longer included any part of the pNHA Clonfinlough Esker (000892).

Section 261 Registration, Ref. QY78:

The quarry at Clonfinlough Hill, was registered under Section 261, for a site of 15.349ha. A condition attached required all activities to cease in December 2009.

UD11/67:

A Warning Letter was issued in August 2011 regarding unauthorised development: non-compliance with condition no's. 2 and 3 of Planning Permission PL19.205910.

Section 261A

Section 261A assessment in 2012 'No Further Action' was required.

ABP Ref. PL19.248069, PA Reg. Ref. 16/102:

The Board refused permission (May 2017), on foot of the PA's decision to grant, in respect of a planning application for the winning and working of aggregates from an area of 0.54 hectares, retention and continuation of the winning and working of aggregates from an area of 0.43 hectares, and other quarrying activity over a total area of 13.54Ha. for the following reason:

> *It is considered that the subject application includes retention of development for the winning and working of aggregates, retention and planning permission for quarrying operations, and the continuation of an existing aggregate washing plant and all associated works, and that the development the subject of the application would have a requirement for an Environmental Impact Assessment and an Appropriate Assessment if it had been made in respect of development, before it was commenced.*
>
> *Accordingly, by reason of section 34 (12) of the Planning and Development Act 2000, as amended, the Board is precluded from granting planning permission.*

ABP Ref. LS19.LS0033, Dermot Nally Stone Ltd, was granted leave to apply for Substitute Consent.

4.0 Policy & Legal Context

4.1. National Planning Framework (Project Ireland 2040) (NPF)

4.1.1. The NPF sets out a vision for the future development of the country and, in particular, to support the sustainable development of rural areas by encouraging growth. National Policy Objective 23 seeks to facilitate the development of the rural economy.

4.2. Climate Action Plan (CAP) 2021 – Securing Our Future

A roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050.

4.3. Climate Action Plan (CAP) 2023 - Changing Ireland for the Better

This outlines actions required to 2035 and beyond, which will guide efforts over the coming years. High-impact sectors for which measures are proposed include farming. The Smart Specialisation Strategy identifies tourism as one of the most employment intensive sectors in the country, particularly in rural areas, such as the Midlands; identifying the potential for sustainable “slow” tourism and strategic trails development, to unlock the regenerative and commercial potential within the region, including the Shannon Master Plan.

4.4. Climate Action and Low Carbon Development (Amendment) Act, 2021

This establishes a framework to develop the transition towards a low carbon economy.

4.5. Climate Action and Low Carbon Development Act 2015

Section 15 requires a relevant body to have regard to the approved national mitigation plan, adaptation framework and sectoral adaptation plans, national

transition objectives, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

4.6. Development Plan

4.6.1. The Offaly County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

SMAO-10 objective to improve poor road alignment and junctions where incidents of collision are recorded and funding is available.

5.7.8 Aggregates and Minerals

BLP-11 policy to protect and conserve the landscape, natural heritage and biodiversity value of esker systems in the county as identified in the Offaly Esker Study, 2006.

BLP-12 policy to assess the impact of proposals for quarry development on nearby eskers, with reference to their status or relative importance, for example, amenity, landscape and scientific value in the context of the overall esker system.

BLP-13 policy to recognise the natural heritage value of disused quarries as rich habitats and to encourage landowners to preserve quarries post extraction as habitats rather than levelling or infilling the quarry area where possible subject to health and safety considerations and the protection of the relevant conservation objectives, qualifying interests and integrity of Natura 2000 sites.

Areas of High Amenity

BLP-35 policy to protect and preserve the county's Areas of High Amenity namely the Slieve Bloom Mountains, Clonmacnoise Heritage Zone, Durrow High Cross, Abbey and surrounding area, the River Shannon, Lough Boora Discovery Park, Grand Canal, Croghan Hill, Raheenmore Bog, Pallas Lake, Clara Bog, Clara eskers, Eiscir Riada and other eskers… It is policy to facilitate the sustainable extension and expansion of existing visitor, tourist related or other rural enterprises within the Areas of High Amenity, where such development is appropriate and where it can be demonstrated that it gives 'added value' to the extending activity and to the immediate area which is the subject of the 'Area of High Amenity' designation.

Geology, Eskers and Quarries

BLO-08 objective to increase pedestrian and cycling access to esker and geological sites in turn increasing appreciation of esker and geological heritage, where possible, subject to Article 6 of the Habitats Directive.

BLO-09 objective to consider, in consultation with the National Parks and Wildlife Service, Westmeath County Council, the Geological Survey of Ireland and others, the potential designation of the north Offaly esker landscape as a UNESCO Geopark, to promote the unique geological heritage of the area.

BLO-22 objective to ensure that new development, whether individually or cumulatively, does not impinge in any significant way on the character, integrity and distinctiveness of or the scenic value of the Areas of High Amenity listed in Table 4.17.

Areas of High Amenity (AHA) are areas worthy of special protection / enhancement due to their uniqueness and scenic / amenity value. These designations are additional to statutory national and European designations which may overlap with these AHA. It is a priority of the Council to protect and preserve the AHAs in Table 4.17 and Figure 4.18.

The site is within areas 12 (Clonmacnoise Heritage Zone) and 1 (River Shannon and Callows) and Areas of High Amenity – Eskers.

The Eiscir Riada which traverses the north-western corner of County Offaly in a more or less continuous line from Shannonbridge to Clonmacnoise and on to Clara, Durrow and Rahugh (County Westmeath), is worthy of conservation due to its geomorphologic, scientific, historical, recreational and amenity value and uniqueness. The Council recognises the potential that the esker landscape in the north and north west of the county has to be a UNESCO Geopark, to promote the unique geological heritage of the area.

The site is in an area of high landscape sensitivity as designated in figure 4.22 and table 4.20: the River Shannon and Callows; the Esker landscape; and Archaeological and Historical landscapes.

4.7. Offaly County Council Development Contribution Scheme 2014 - 2020

This includes:

Land use for: (a) the winning and/or working of minerals (b) deposit of refuse or waste (c) land filling (inert material): €1,526 per 0.1 hectare of site area subject to a minimum charge of €10,000.

4.8. **European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, S.I. No. 113 Of 2022** (GAP regulations)

Prevention of Water Pollution from Fertilisers and Certain Activities - Distances from a water body and other issues,

Article 17 sub-article 18 is a requirement, that in certain circumstances livestock should be excluded from direct access to a watercourse on the landholding, by the use of fencing, in order to avoid pollution.

4.9. Natural Heritage Designations

4.9.1. The River Shannon Callows SAC 000216, 1.9km distance; Pilgrim's Road Esker SAC 001776, 1km distance; Fin Lough (Offaly) SAC 000576, 0. 8km distance; and Mongan Bog SAC 000580, SPA 004017, 0. 7km distance, are the nearest Natura sites.

5.0 Responses

5.1. Planning Authority Response

5.1.1. The Planning Authority (PA), Offaly County Council, submitted a response to the application, including a recommendation regarding granting of substitute consent and a draft schedule of conditions.

The response refers to the then operative county development plan, now replaced, and the Development Contribution Scheme, now replaced.

The Environment and Water Section comments are:

> Re. biodiversity – the applicant proposes to retain the existing lagoon, habitat enhancement measures should be considered and should include grading of the slopes for vegetation establishment which would in turn provide refuges for flora and fauna and benefit biodiversity.

The sand martin colonies shall not be disturbed either through planting or regrading of the faces in which the birds have nested.

No material is to be imported to the site for restoration or any other purpose unless under a valid Waste Facility Permit / Certificate or Registration granted by Offaly County Council.

Re water: Their comments are reflected in condition no. 5 of the recommended schedule.

It is the view of the planning authority that sufficient details of the phasing programme have not been provided as part of the substitute consent application. It is reasonable to suggest that prior to commencement of works, the applicant shall submit a comprehensive reinstatement programme.

Area Engineer's comments are:

The county development plan outlines the intention to upgrade the R444 which borders the site to the north. To date ground investigation (bore holes) and a road width survey have been completed. The next step is to apply for funding for the road proposal under the 'Specific Improvement Grant' funding stream with the aim of carrying out works on a phased basis over a number of years. As shown on Drawing No. PP-110-01 Final Site Layout Map, once the site has been restored, lands adjacent to the regional road will be for agricultural use and therefore should not hinder future widening of the road.

Development Contribution – a Development Contribution of €14,700 associated with the subject site was paid to the LA in November 2004 (associated with the grant of permission PL2/03/1918). While a development contribution has been previously applied to the subject site, no contribution has been applied to the area of 0.97ha which was the subject of planning application PL2/16/102.

It is the view of the PA that the lodgement of a bond with the LA to secure the satisfactory reinstatement of the subject site is appropriate. This bond will be applied to the full subject site area: 15.34ha @ €5,000 per hectare.

The recommendation is that substitute consent should be granted subject of the schedule of conditions they provide.

Schedule of Conditions

1) Per submitted documents of 25th July 2019.
2) No future extraction; all plant and machinery to be removed on completion of agreed restoration plan.
3) A comprehensive remediation plan for written agreement, including:
    a) Source and details of the make-up of the fill which will be imported onto the site for restoration of part of the pit floor.
    b) Details of the timescale for each phase of restoration over the entire site.
    c) Habitat enhancement measures for the existing lagoon which is proposed to be retained. This shall include grading of the slopes for vegetation establishment which would in turn provide refuges for flora and fauna and benefit biodiversity.
    d) The slopes to the south of the application area, that have been re-vegetated and adjacent to the pNHA woodland, shall be retained as an important biodiversity feature.
    e) Detailed aftercare programme including fertilising, planting, vegetation maintenance and an ongoing long-term commitment to the restored land. The applicant may consider leaving a flat area of currently exposed gravel to recolonise naturally, to allow more biodiverse plant communities within the overall proposed application area to be restored to agricultural grassland.
4) The entire subject site shall be completed and reinstated, in accordance with the plans and particulars, including the remedial EIS received by the LA on the 25th July 2019 and the reinstatement programme as per condition 3. In the event of failure to provide for such reinstatement, the planning authority shall be permitted to invoke the bond referred to in condition number 11.
5) Per Environment and Water Section comments:
    a) Refuelling shall only take place on impermeable areas, that drain through hydrocarbon interceptor(s).
    b) Spill kits to be maintained on site.

c) Incident response plan outlining steps to be undertaken including responsibilities, authorities to be notified and clean up measures to be employed in the event of a spillage or other potentially polluting scenario.

d) Provision of suitably bunded areas for storage of oils and waste oils.

e) No refuelling within 30m of standing water or bore holes.

f) All bunded structures are in compliance with EPA guidelines: 110% of the capacity of the largest tank within the area or 25% of the total volume of the substance which could be stored within the area, whichever is the greater.

g) Where decommissioning of bore holes is required decommissioning is undertaken in accordance with EPA Drinking Water Advice Note, Advice Note no. 14: Borehole Construction and Wellhead Protection.

6) The identified sand martin colonies shall not be disturbed either through planting or regrading of the faces in which the birds have nested.

7) No material shall be imported to the site for restoration or any other purpose unless under a valid Waste Facility Permit / Certificate or Registration granted by Offaly County Council.

8) All surface water run-off from the development shall be collected and disposed of within the site to soakpits/ adjacent watercourses. In particular, no such surface water run-off shall be allowed to flow onto the public roadway or other adjoining properties.

9) The agreed restoration on site shall operate only between 0700 hours and 1900 hours, Monday to Friday, and 0700 hours and 1600 hours on Saturdays. There shall be no restoration works or associated activities on Sundays or public holidays.

10) Within 3 months of the date of this permission, a contribution shall be payable to Offaly County Council, in accordance with the Council's Development Contribution Scheme, in respect of public infrastructure and facilities benefitting development in County Offaly, that is provided or that is intended will be provided by, or on behalf of the Council…

€14,802.20 (0.97ha @ €1,526 per 0.1ha.)

11) Within 3 months of the date of this permission, the developer shall lodge with the planning authority a cash deposit or a bond for an insurance company or such other security …

€76,700 (15.34ha @ €5,000 per ha.)

To secure the satisfactory decommissioning and reinstatement of the development…The bond shall remain in full force and effect until discharged by the Council.

5.2. Applicant Response

5.2.1. The applicant has responded to the submission from Offaly County Council, regarding their recommended conditions:

- 1 - agreed.
- 2 - it is acceptable that no further extraction of material for commercial purposes shall be undertaken. However as the application included the entire site, the applicant wishes to be given a sufficient amount of time to complete the restoration works which will include the removal of all plant and machinery and stockpiles.
- 3 - a) agreed.

  b) as much of the area has already been restored, a plan only for the remaining restoration area is required.

  c) as the general area will be restored and used for agriculture purposes, the lagoons will still be in use as part of the agriculture use of the land and therefore the applicant does not want any special conditions which will have additional cost. However if Offaly Co Co is willing to contribute to the creation of a special biodiversity habitat on the site, the applicant may consider that as an alternative option to agricultural use.

  d) agreed.

  e) the proposed restoration is for agriculture purposes only. The programme for aftercare will be reflected in this objective. There is no

proposal by the developer to provide any special areas for biodiversity other than those that may already exist within the development area.

- 4 - The developer has already agreed to the restoration plan as submitted. As much of this work is already complete, it is proposed to complete the restoration works within 3 years from the date of permission. Therefore they are of the opinion that there is no need for a bond.
- 5 - a-g agreed
- 6 - Sand Martin - bird sites will be agreed on site and procedures put in place to protect them.
- 7 – agreed.
- 8 – agreed.
- 9 – agreed.
- 10 – as the duration of extraction of the specific area of 0.97ha was less than 5 years they are of the opinion that the contribution be in accordance with Section 2.5 subsection (m) of Offaly Co Co Development Scheme 2014-2020, the developer is liable for 50% of the fee, which is €7.401.
- 11 – a substantial area (6.17ha) is already restored in accordance with the restoration plan which has been submitted (appendix II). Therefore the area remaining to be restored is 9.17ha and at €5,000 per ha, that is, €45.850. However as the restoration is substantially complete and the duration of the remaining restoration is anticipated to be 3 years they are of the opinion that in this particular case no bond is required.

5.2.2. The applicant's response, which includes a letter from their advisor William Smyth, refers to the background to this application, including:

The pit has accepted pre '63 origins and a further two planning permissions for small extensions, the last having an EIA. Almost all the current development was completed prior to the expiry of the last permission in 2009.

The pre '63 area operated without a term. The first permission had no term applied. The PA sought, in section 261, to have both these areas covered by the expiry of the second permission, 31st December 2009.

The operator continued to work from stockpiles and also to extract in a very minor way post 2009, in the area within the first permission; and continued to wash, process and stockpile aggregates within this area and other areas within the overall site.

The PA's examination for the purposes of Section 261A in 2012, concluded 'No Further Action' required under that section. The PA found that no NIA offence had occurred. The operator continued to operate as before. In 2015 a Warning Letter related to the continued development post expiration of the 2004 permission deadline, and with regard to restoration of the site. The operator sought to regularise.

The PA required EIA, implying that it was legally permissible with retention, despite the entire site having undergone EIA previously, the 'No Further Action' conclusion of the Section 261A process, and the new extracted area post 2009 being a small percentage of sub-threshold EIA.

During the course of planning application, the PA requested a Stage 2 NIS, based on a request from the Department of Arts, Heritage and the Gaeltacht. This had not been raised prior to the application, and the PA had previously determined in the Section 261A, that NIA was not an issue; with no significant change in the meantime. The PA's decision to grant permission was appealed and overturned by the Board.

The area extracted since 2012 is small. The area for prospective extraction is also small. Together they remain below the EIA threshold. The PA examined the site in 2012. In 2015 a warning letter referred to the expiry of the 2004 permission.

The operator, on expert advice, remains of the view that neither EIA or NIA was required for the proposed development, which contained a small area for retention; alternatively the PA's conclusion in the Section 261A in 2012 was flawed, and the site should have the benefit of the provisions of Section 261A in 2012: the opportunity to refer any Section 261A(2)/(3) determinations to the Board and to have abided by the outcome of such referral. Such outcome may have included a Substitute Consent application under Section 177 with EIA and / or NIA: the 'sunset clause' provisions available to previously authorised sites.

5.3. Observation

5.3.1. An Taisce submitted an observation, 27th August 2019, in which they state that they see no exceptional circumstances to justify regularising unauthorised extraction and thereby rewarding unauthorised development. They consider that the determination of 8th January 2019 by An Bord Pleanála to grant acceptance of leave to apply for Substitute Consent is in breach of Aarhus Compliance Committee's determination in relation to a Meath quarry. They provide a link to a website and a copy of related documentation.

6.0 Assessment

6.1.1. The main issues which arise in relation to this substitute consent application are, exceptional circumstances, appropriate assessment, environmental impact assessment, development contribution, bond, and other issues, and the following assessment is dealt with under those headings.

6.2. Exceptional Circumstances

6.2.1. The first matter which the Board must consider is whether or not exceptional circumstances under 177K(1J) of the Planning and Development Act, as amended, exist to allow the Board to grant permission,i.e:

a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;

b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;

d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;

e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;

f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development; and

g) other matters considered relevant.

6.2.2. Would regularisation of the development circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive?

A remedial EIAR has been submitted with the application. EIA is referred to under a separate heading later in this report, but it is worth noting here that EIA was carried out in respect of an application for retention of a sand and gravel extension in 2004 (Board Ref 205910). It is stated that the current application arises from conditions 2 and 3 of the permission then granted, which required cessation of operations in December 2009, and restoration of the land. Although the extraction area then identified did not include the extraction area of 0.97ha in respect of which retention of extraction is now sought, the area was subject to EIA as part of the overall quarry development.

It is reasonable to conclude therefore that carrying out the development did not circumvent the purpose and objectives of the Environmental Impact Assessment Directive.

As regards whether regularisation of the development concerned would circumvent the purpose and objectives of the Habitats Directive, this application process requires the preparation of a remedial Natura Impact Statement, (rNIS). Such rNIS must include any appropriate remedial or mitigation measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy or mitigate any significant effects on the environment or on a European site. This is addressed further under the heading Appropriate Assessment later in this report.

It is reasonable to conclude therefore that carrying out the development did not circumvent the purpose and objectives of the Habitats Directive.

6.2.3. Could the applicant reasonably have had a belief that the development was not unauthorised?

The condition of the permission which was breached is clearly stated, a warning letter was issued (15th August 2011) in respect of the unauthorised development, ie

the continuation of quarrying beyond the conditioned date of 31st December 2009; therefore the applicant could not reasonably have had a belief that the development was not unauthorised.

It is stated in the subject application that the applicant believed and continues of the view, that neither EIA nor NIA was/is required for the proposed development; which would imply the possibility of retention under the Section 34.

6.2.4. Has the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has not, been substantially impaired.

In my opinion it has not. A remedial Environmental Impact Assessment Report is presented with this application. A remedial Natura Impact Statement is presented with this application. The processes by which the Board carries out the required assessment in each case provides for public participation, such that public participation in such assessments has not been substantially impaired.

6.2.5. What are the actual or likely significant effects on the integrity of a European site resulting from the carrying out or continuation of the development? These matters are addressed under the heading appropriate assessment below. They are not such as to indicate that exceptional circumstances do not exist in this case.

6.2.6. The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated is not such as to indicate that exceptional circumstances do not exist in this case.

6.2.7. There is nothing on the file to indicate that the applicant has not complied with previous planning permissions granted or has previously carried out an unauthorised development.

6.2.8. No other matters arise which the Board might consider relevant.

6.2.9. I am satisfied that exceptional circumstances exist that would justify the grant of consent.

6.3. Appropriate Assessment

6.3.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision; by carrying out appropriate assessment.

6.3.2. AA Screening Report and rNIS

6.3.3. To facilitate the Board in carrying out this function the applicant has submitted a Remedial Natura Impact Statement. In response to the PA's submission the applicant has submitted documents which were presented with a previous application, including a Natura Impact Statement to which is attached a Hydrogeological and Hydrological Assessment.

6.3.4. The sites with potential for impact and the qualifying interest/special conservation interest species (QI/SCI) for these sites are considered in a screening report within the NIS prepared by Seán Meehan, Ecologist. It identifies sites with potential for impact, and the qualifying interest/special conservation interest species (QI/SCI) for these sites.

Summary Table of European Sites within a possible zone of influence of the proposed development:

European Site (code)	Qualifying Interests / Special Conservation Interests	Distance	Requiring further consideration yes / no (Y/ N) & reason
Castlesampson Esker SAC 001625	Turloughs Semi-natural dry grasslands and scrubland facies on calcareous substrates (important orchid sites)	14.5km	N - Distance and lack of connectivity
Lough Ree SAC 00440	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation Semi-natural dry grasslands and scrubland facies on calcareous substrates (important orchid sites)	14.1km	N - Distance and lack of connectivity

	Active raised bogs Degraded raised bogs still capable of natural regeneration Alkaline fens Limestone pavements Bog woodland Alluvial forests with Alnus glutinosa and Fraxinus excelsior Otter		
Carn Park Bog SAC 002336	Active raised bogs (priority habitat) Degraded raised bogs still capable of natural regeneration	12.8km	N - Distance and lack of connectivity
Crosswood Bog SAC 002337	Active raised bogs (priority habitat) Degraded raised bogs still capable of natural regeneration	10.3km	N - Distance and lack of connectivity
Ferbane Bog SAC 000575	Active raised bogs (priority habitat) Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	6.7km	N - Distance and lack of connectivity
Moyclare Bog SAC 000581	Active raised bogs (priority habitat) Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	5.8km	N - Distance and lack of connectivity
River Shannon Callows SAC 000216	Molinia meadows on calcareous, peaty or clayey-silt-laden soils Lowland hay meadows Alkaline fens Limestone pavements Alluvial forests with Alnus glutinosa and Fraxinus excelsior Otter	1.9km	N - Moderately sensitive to hydrological change however activities are unlikely to impact
Pilgrim's Road Esker SAC 001776	Semi-natural dry grasslands and scrubland facies on calcareous substrates (important orchid sites)	1.0km	N – lack of connectivity

Fin Lough (Offaly) SAC 000576	Alkaline fens Geyer's Whorl Snail	0.8k	Y – Highly sensitive to hydrological change
Mongan Bog SAC 000580	Active raised bogs (priority habitat) Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	0.7km	Y – Highly sensitive to hydrological change
Lough Ree SPA 004064	Little Grebe Whooper Swan Wigeon Teal Mallard Shoveler Tufted Duck Common Scoter Goldeneye Coot Golden Plover Lapwing Common Tern Wetland and Waterbirds	14.1km	N - Distance and lack of connectivity
River Suck Callows SPA 004097	Whooper Swan Wigeon Golden Plover Lapwing Greenland White-fronted Goose Wetland and Waterbirds	9.5km	N - Distance and lack of connectivity
Middle Shannon Callows SPA 004096	Whooper Swan Wigeon Corncrake Golden Plover Lapwing Black-tailed Godwit	1.9km	N - Highly sensitive to hydrological change however activities are unlikely to impact

	Black-headed Gull Wetland and Waterbirds		
Mongan Bog SPA 004017	Greenland White-fronted Goose	0.7km	Y – Highly sensitive to hydrological change

6.3.57. I am satisfied that the sites listed in the foregoing table are the only protected sites which require to be considered, and that no other sites are likely to be affected by the proposed development.

6.3.58. Potential impacts on the sites: Mongan Bog SPA/SAC and Fin Lough SAC require further consideration. No further consideration of the remaining sites is required.

6.3.59. Screening Summary of Potential Impacts on the Identified Sites:

Impact	Description of Impact	Potential for Impact
Direct Habitat Loss	Habitat Loss	No – there is no direct habitat loss.
Effects of habitat loss, damage, fragmentation and disturbance to qualifying Annex II species	Habitat loss and damage can impact populations of some Annex II species or other individual or groups of species on which the qualifying species depends	Yes – Fin Lough holds an internationally important population of the Annex II species Geyer's whorl snail, which requires stable precise hydrological conditions. Ex-situ impact on the Greenland White-fronted Goose of Mongan Bog SPA is not likely in the context of landcover in the area.
Changes to the hydrological regime (ground and surface waters)	Changes to the hydrological regime and surface water levels can have a range of ecological impacts on both habitats and species, aquatic and terrestrial, including impact on habitat.	Yes – due to the proximity of both Mongan Bog and Fin Lough, and the possibility of hydrological connection. Further assessment required.
Changes in water quality (ground and surface waters)	Contamination through direct recharge of ground-waters close to the ground surface or of deeper aquifers through percolation and other hydrological pathways.	No – the sand and gravel pit, the subject of this consent application has operated above the groundwater table. Waste water has not discharged into adjacent

		watercourse. Water was recycled through a closed water management regime. Machinery was re-fuelled on a hardstand area with little fuel stored on site. This will continue. An oil interceptor is located at the hardstand to contain a spillage if it were to occur.
Disturbance	Noise, vibration and visual.	No – any noise resulting from the application site, due to machinery movements, is likely to have been and will continue to be, of short duration and sufficiently distant.
Cumulative Impacts	In-combination effects with other current or reasonably foreseeable plans and projects.	No – the development site is contained within an area which has been modified and will be restored. The applicant operates a pit located 1.5km to the east which is subject to sand and gravel extraction. Peat extraction is undertaken at a number of locations in the study area; the closest location approx. 610m to the north of the site. Due to the distance between the application site and these sites and the small localised nature of the proposed extraction, it is not likely that an in-combination impact will occur.
Dust deposition	Where large amounts of dust are deposited on vegetation over a long time-scale there may be some adverse effects on plants, restricting photosynthesis, respiration and transpiration. Weather in the area is frequently wet which would be expected to wash dust depositions off plants before the health of the plant is compromised. Long dry periods during which dust deposits could accumulate are rare.	No – fugitive dust is typically deposited within 100 – 200 m of the source; the greatest proportion, comprising larger particles, greater than 30 microns, is deposited within 100m. The nearest European site, Mongan Bog SAC / SPA is located 0.7km from the study site, farther than the ranges likely for dust particles.

6.3.84. Screening Conclusion

6.3.85. The likelihood of impact on groundwater quantity and quality to Mongan Bog SPA/SAC and Fin Lough SAC, having regard to the water dependent nature of these protected sites and their proximity to the subject site, requires further consideration and potentially mitigation, and requires stage II AA.

6.3.86. **Appropriate Assessment Stage II**

6.3.87. An assessment of the hydrology and hydrogeology of the area has been provided by the applicant. That assessment was undertaken by Hydro Environmental Services in July 2016, titled: 'Hydrogeological and Hydrological Assessment' and is attached as an appendix to the NIS (i.e. submitted 26th July 2021). It was prepared by Hydro-Environmental Services (HES).

6.3.88. Findings of that report stage are incorporated into the rNIS.

6.3.89. The report includes:

The sands and gravels which underlie the pit were not classified as an aquifer by the GSI as they are not laterally extensive enough to meet the criteria. However they are likely to be saturated to some extent and typically will have moderate to high permeability, depending on clay and silt content, along with the capacity to store significant amounts of groundwater.

The sand and gravel deposits form an east/west oriented ridgeline. The recharge is expected to flow both north and south, from either side.

The report disagrees with the NPWS Conservation Plan (2006-2011) for Fin Lough, where it states that the presence of the Clonfinlough Esker to the north and east of the site indicates that the area is also glacial in origin, suggesting that sand and gravel deposits to the north and east of the lake are the sources the main groundwater inflows to the lake. The base of the lake is reported to be underlain by marl, and cutover peat is mapped to the south of the lake, and therefore significant groundwater inflows would not be expected into the lake via these deposits.

The report disagrees with the NPWS Natura 2000 Standard Data Form for Mongan Bog, where it states that the peat basin is surrounded by esker ridges to the north and south, indicating that these areas drain to the bog. The information suggests that

the sand and gravel deposits in the area of the pit (i.e. southeast of Mongan Bog) extend in a northerly / north-westerly direction towards the River Shannon. However the hydrology of the bog itself is dominated by surface water (i.e. rainfall) and groundwater appears to be isolated below the low permeability clays.

A water balance has been carried out, which shows that annual pit water usage only accounts for 10% of the annual site groundwater recharge. The groundwater cone of contribution to the pit wells does not extend outside the site boundary.

They have delineated a groundwater level contour map, based on ground water level in wells on-site and off-site, and this is attached to the report as figure 4. This suggests that groundwater flow direction down-gradient of the pit is in a southerly, northerly and westerly direction away from the pit, as expected from the local topography. On-site groundwater level data suggests that groundwater flow direction beneath the pit is in a south / south-westerly direction. There is likely to be some groundwater flow leaving the site in all directions, but mainly in a south-westerly direction, towards Fin Lough.

The hydrogeological conceptual model they provide considers that the limited groundwater flow towards the Shannon will flow through the sands and gravels beneath the low permeability clays underlying Mongan Bog, such that connectivity to the bog is minimal, and that no impact on the bog occurs. Southwards the sand and gravel deposits do not extend to Fin Lough and the hydrogeological connection is very limited. The likely source of groundwater flow to Fin Lough is the sand and gravel deposits immediately to the north and east of the lake. The groundwater contours suggest that there is no flow of groundwater from the pit towards these deposits.

A stream, the Glebe stream, which discharges into Fin Lough, flows in a westerly direction south of Clonfinlough and the pit. This stream runs just south of where the sand and gravel appears to transition into limestone tills. It is likely that some of the recharge, in the sand and gravel deposits to the north of Clonfinlough and the area of the pit, flowing into this stream as groundwater movement further south / southwest, is restricted by the presence of the lower permeability limestone tills. The presence of the stream along with the limestone tills indicates that there is unlikely to be any significant direct groundwater connection between the pit and Finn Lough.

The only groundwater connection between the pit and Finn Lough is an indirect groundwater connection, whereby some of the groundwater from the pit flows into Finn Lough via the local stream. The hydrochemistry of the stream is very similar to the groundwater in the lagoon.

Hydrological Impact Assessment:

Sand & Gravel Extraction - there is no requirement to de-water the pit and therefore no potential to impact on the hydrology of either Fin Lough or Mongan Bog in terms of lowering of local groundwater levels towards these designated sites. No mitigation is required in respect of sand and gravel extraction and potential impacts on local groundwater levels.

Groundwater Extraction – the maximum extraction rate is only 12.23m^3/day. This is not expected to increase. A water balance carried out shows that annual pit water usage only accounts for 10% of the annual site groundwater recharge. This is a conservative estimate as some of the water that remains on the stone after washing will actually percolate back down into the underlying natural sand and gravel deposit and the only groundwater actually lost is via evaporation from the stockpiled stone which is likely to be 3-4%. There is no potential to impact off-site as the groundwater zone-of-contribution to the wells will remain within the site boundary.

The lowest recorded groundwater level in the pit (44.017m OD) is 5.89m higher than the water level in Fin Lough and at least 3.25m higher than the groundwater in the southern section of Mongan Bog. It is also reflective of the pumping water level in the washing well / sump 1, and therefore also demonstrates that there is no potential to impact on Fin Lough or Mongan Bog from groundwater extraction.

No mitigation is required in respect of groundwater extraction for washing purposes and potential impacts on local groundwater levels.

Groundwater Quality Impacts – the primary potential on-site pollutants would be fuels, oils and greases. Fuels are rarely stored on-site as fuel delivery trucks are now used to refuel plant and machinery. Mobile plant is refuelled on a dedicated hardstanding area in the north-western section of the site which drains to an oil interceptor, and therefore any leaks or spills can be contained. Maintenance of mobile plant also occurs on this hardstanding area and spills can be contained. Refuelling is undertaken by a trained fuel delivery operator and spill kits are ready in

the unlikely event of an accidental spill. Plant is also inspected on a regular basis to ensure that there is no fuel or oil leak.

The pit has a relatively limited future lifespan. Provided that good management practices for sand and gravel pits are adhered to, the existing and proposed development will not impact on Fin Lough SAC or Mongan Bog SAC.

6.3.90. It should be noted that the Hydrological Impact Assessment report was written in 2016 in the context of quarrying continuing at that time. Any reference to future quarrying no longer applies.

6.3.91. **Effects of Construction/Operation**

6.3.92. The integrity of the Natura sites: Mongan Bog SAC & SPA and Fin Lough SAC were at risk of being significantly affected as a result of past extraction at the subject site, arising from indirect adverse effects on their habitats and species from impact on water quality and quantity.

Impact on Fin Lough SAC

6.3.93. Water quantity - Fin Lough is groundwater fed. Although the groundwater contours and local topography to the south of the site suggest the potential for groundwater flow from the site towards the lake, subsoil mapping indicates that the sand and gravel deposits in the area of the pit do not extend south. Limestone tills are mapped in this area and the groundwater connection with Fin Lough is very limited, due to the low permeability characteristics of the tills, and distance. The likely source of groundwater flow to Fin Lough is the sand and gravel deposits immediately to the north and east of the lake. There is not likely to have been any groundwater connection with the pit. An indirect connection, via the Glebe stream would have had little impact as dewatering of the pit site was minimal.

6.3.94. Water quality - The potential impact via the Glebe stream which discharges into Fin Lough and which flows in a westerly direction south of the pit, is considered. Based on the Hydrogeological and Hydrological Assessment, it is likely that some of the recharge in the sand and gravel deposits to the north of Clonfinlough and part of the area of the pit, flows into this stream.

6.3.95. Mitigation measures which were implemented are set out:

- Process water from the washing plant was collected and treated in a closed water management system at the site.
- A minimal amount of fuel was stored on site in a bunded tank. A mobile fuel truck was used by specialist fuel supplier to refuel plant.
- All plant was regularly maintained and inspected daily for leaks of fuels, lubricating oil or other contaminating liquids/liquors.
- Mobile plant and machinery were serviced regularly to minimise the risk of uncontrolled release of polluting liquids to groundwater.
- A spill kit was kept on-site to stop the migration of any accidental spillages, should they occur.

All extraction, the subject of this consent application, was above the groundwater table level. The washing plant on site operated as a closed loop system with water treated on site and recycled. No water was discharged from the site. The maximum daily water usage was 12.23m^3 per day, which was abstracted from the on-site wells. This volume of water was not always required, as precipitation kept the ponds on site topped up. This amount of daily abstraction is not considered likely to have had any impact on the hydrological regime at either European site.

Impact on Mongan Bog SAC / SPA

6.3.96. Based on the Hydrogeological and Hydrological Assessment, the groundwater contours to the north of the site suggest that the groundwater flow direction is north-westerly towards the River Shannon. Mongan Bog is northwest and likely to be down-gradient of the northwestern part the pit at least. Available geological / hydrological information on the bog suggests that sands and gravels underlie the low permeability clays beneath the bog and any groundwater recharge occurring on the ridge of sand and gravels in the area of the pit is likely to flow under Mongan bog and discharged to the Shannon.

6.3.97. The majority of recharge occurring within the pit flows to the southwest rather than to the north/northwest. The hydrogeological connection between the pit and Mongan Bog is very limited. There is no evidence that the operation of the pit has impacted on Mongan Bog. It is not likely that the development has impacted on the Mongan

Bog SAC or the qualifying interest species of the SPA Greenland White-fronted Goose.

6.3.98. **Conclusion of Appropriate Assessment**

6.3.99. It is concluded that:

6.3.100. Taking account of the mitigation measures which have been implemented, and the clarification of the water regime in the area provided by the Hydrogeological and Hydrological Assessment, it is not likely that any adverse impact has occurred at the designated sites from either water quantity or quality as a result of the quarrying.

6.3.101. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

6.3.102. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on European sites: Fin Lough SAC (site code 000576), Mongan Bog SAC (site code 000580 and Mongan Bog SPA (site code 004017). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

6.3.103. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects is not likely to have adversely affected the integrity of the European sites No 000576, 004017 or 000580, or any other European site, in view of the sites' Conservation Objectives.

6.3.104. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

6.4. Environmental Impact Assessment

6.4.1. A remedial EIAr (dated July 2019) was submitted with the application.

6.4.2. The rEIAR is presented in two volumes: a main volume and a non-technical summary. The main volume comprises the following chapters:

chapter 1 - Introduction

chapter 2 - Screening and Alternatives

chapter 3 - Planning & Legislative Framework

chapter 4 - Project Description

chapter 5 – Population and Human Health

chapter 6 - Biodiversity

chapter 7 – Land, Soils and Geology

chapter 8 – Water

chapter 9 - Climate

chapter 10 - Air

chapter 11 - Noise

chapter 12 - Traffic

chapter 13 - Landscaping and Restoration

chapter 14 - Material Assets

chapter 15 - Cultural Heritage

chapter 16 - Interactions

chapter 17 - Mitigation Measures and Monitoring Summary

There are 2 appendices:

Appendix 1 - An Bord Pleanála Leave to Apply Order

Appendix 1 - An Bord Pleanála Extension of Time Order

6.4.3. The application is also accompanied by a remedial NIS. A Hydrogeological and Hydrological Assessment was submitted on the 25th July 2021.

6.4.4. Article 3(1) of the EIA Directive, requires that the rEIAR identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and the interaction between the factors referred to in points (a) to (d).

6.4.5. The requirements of Article 3(2) to include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned, relates to 'establishments' and therefore does not arise in this case.

6.4.6. Alternatives – Alternatives studied are addressed in chapter 2. No alternatives were considered as this is an application to obtain substitute consent for an existing development.

6.4.7. The rEIAR includes a non-technical summary of the information, as required by Article 5 (e).

6.4.8. No specific difficulties are stated to have been encountered in compiling the required information. The participation of the public has been effective and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

6.4.9. Adequacy of Information - The information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. I am satisfied that the information contained in the rEIAR complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU.

6.4.10. Direct and indirect significant effects - I have carried out an examination of the rEIAR and other relevant information presented by the applicant in this case.

6.4.11. The direct and indirect significant effects of the development are considered against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

a. population and human health;
b. biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
c. land, soil, water, air and climate;
d. material assets, cultural heritage and the landscape;
e. the interaction between the factors referred to in points (a) to (d).

<u>Population and Human Health</u>

6.4.12. Population and human health impacts are dealt with under various chapter headings, including chapter 5, and also with regard to air, noise and traffic.

6.4.13. Noise and dust emissions are within thresholds established by conditions attached to the registration under Section 261. The traffic generated would not have increased traffic on local roads significantly.

6.4.14. Reinstatement of the site is intended to return the lands to agricultural use. The quarrying has exposed the groundwater, which is a water supply source. Protection of the groundwater is dealt with under the heading 'water', later in this report, and in condition no. 2.

6.4.15. Assessment - In my opinion the continuation of quarrying, for the period since the 2009 deadline, has not impacted unduly on population or human health, and, subject to compliance with conditions of this consent, in particular condition no. 2, reinstatement of the lands will have a beneficial impact on population and human health.

Biodiversity

6.4.16. Biodiversity is dealt with in chapter 6. Included are a survey of habitats on the site which states that the majority of the site comprises exposed sand and gravel and ground type habitats. In areas of the site where works are no longer being carried out, vegetation has become established. Gorse and willow are forming scrub habitat in sections of the site, which is providing habitat for bird and invertebrate species. It states that such habitat should be retained as much as possible.

There is a sand martin colony in the cliff face near the site entrance.

Clonfinlough Esker pNHA was surveyed for ground flora. The range of species present is typical of oak-ash-hazel woodland on calcareous substrate.

6.4.17. Mitigation measures are outlined.

Dust deposition monitoring was undertaken and will continue to be carried out during the restoration phase.

Re-fuelling of machinery will be carried out by trained personnel and spill kits will be on hand.

6.4.18. Ecological mitigation and restoration measures will be carried out to enhance the biodiversity value of the site:

- The use of native species will support a wider range of insects and animals and will contribute more to the ecology of the region. Suitable tree and shrub species include ash, hawthorn, hazed *Corylus avellana*, blackthorn, gorse and willow *Salix spp*.

- This added vegetation will also enhance the local wildlife corridor connecting the site with the surrounding landscape.

- Using plants adapted to or tolerant of the existing site conditions will reduce the need for expensive remedial measures (such as replacing failed plants).

- Hedgerows and tree lines along the site perimeter will be retained.

- Planting of trees and shrubs, where required to replace dead plants, will take place during the dormant season; this is usually between November and March/April. Avoiding times when the ground is actually frozen; this will mean either autumn or spring planting.

- Planting areas will be suitably fenced to exclude farm stock, rabbits, sheep and other browsing animals. It may be more economical to protect each tree individually rather than fence the whole area.

- No herbicides, pesticides or fertiliser will be applied to the berm.

- The immediate area around the sand martin colony near the site entrance will not be planted, to ensure the continuation of access for the birds to their nesting burrows in the cliff face. In response to the PA's submission the applicant has confirmed that bird sites will be agreed on site and procedures put in place to protect them.

- It is stated in the rNIS that the integrity of Clonfinlough Esker pNHA is not at risk from ongoing or proposed operations at the site due to its removed location and the cessation of operations in its immediate vicinity. The proposal also involves phased restoration of the pit and returning the site to a beneficial use.

6.4.19. Regarding decommissioning, it is stated that the restoration plan for the pit floor involves spreading a layer of overburden on areas which were extracted. These areas will be seeded and returned to agricultural use. A layer of overburden will be spread on side slopes and will be allowed to vegetate naturally. No impacts on

groundwater quality or quantity (flows or levels) are anticipated during or after these works.

6.4.20. The overburden used for the proposed restoration works was previously extracted at the site during the sand and gravel extraction works. There is no potential for groundwater contamination from this material. It is proposed that the site will be used for agricultural purposes after the restoration is complete. The proposed land use is consistent with the land use locally.

6.4.21. The decommissioning plan will have biodiversity enhancement to the fore and will create a landscape that will benefit many species in the site itself and the surrounding areas. In response to the PA's submission the applicant states that as the general area will be restored and used for agriculture purposes, the lagoons will still be in use as part of the agriculture use of the land and therefore the applicant does not want any special conditions which will have additional cost. However if Offaly Co Co is willing to contribute to the creation of a special biodiversity habitat on the site, the applicant may consider that as an alternative option to agricultural use.

6.4.22. Assessment - In my opinion, for the period of continued extraction since the 2009 deadline, the development has not impacted unduly on biodiversity.

6.4.23. In my opinion the future use, post restoration, for agriculture, will not impact unduly on biodiversity provided that the groundwater is protected per condition no 2.

6.4.24. Impact on biodiversity should not be a reason to refuse consent.

Land, Soil, Water, Air and Climate

6.4.25. Land, Soil, Water, Air and Climate factors are dealt with in Chapters 7, 8, 9 and 10 and also in the Hydrogeological and Hydrological Assessment (Appendix 1 to the NIS) received 26th July 2021.

Land and Soil

6.4.26. The subject site is an aggregate extraction area where the land had been disturbed prior to the development for which consent is sought. There has been limited soil disturbance arising from the subject development.

6.4.27. The 'Application Area Location Map', dated 2019, which was submitted with the application for substitute consent, identifies an area which was subject to extraction after the expiration of planning permission on 31st December 2009. This area of

0.97ha is located at the northern end of the site, to the south and west of the nearby residential properties. The 'Application Area Location Map', Map 3, dated August 2017, supplied in response to the planning authority's submission, divides this area into area 'A' 'winning and working of aggregates' 0.54ha and area 'B' 'retention & continuation of the winning and working of aggregates' 0.43ha. This indicates that extraction commenced in area 'A', after expiration of planning permission on 31st December 2009.

6.4.28. The EIAR states that a significant amount of landscaping and restoration works have been completed which have included placing a layer of overburden on side slopes and the pit floor. Mitigation measures include 'soils retained on site were used in rehabilitation and this shall be the case going forward. The site will be capped with a layer of topsoil in order to restore it back to agricultural use. Restoration works were not carried out during excessively dry or wet weather'. It is also stated that the overburden used for the proposed restoration works was previously excavated at the site during the sand and gravel extraction works.

6.4.29. The planning authority has submitted a proposed schedule of conditions for attaching to a permission for substitute consent. Condition number 3 of the schedule states:

> Prior to the commencement of restoration works, the Applicant shall submit, for written agreement of the Local Authority, a comprehensive reinstatement programme which provides (at a minimum) the following details:
>
> **Source and details of the make-up of the fill which will be imported onto the site for restoration of part of the pit floor.**
>
> Details of the timescale for each phase of restoration over the entire site.
>
> Habitat enhancement measures for the existing lagoon which is proposed to be retained. This shall include grading of the slopes for vegetation establishment which would in turn provide refuges for flora and fauna and benefit biodiversity.
>
> The slopes to the south of the application area, that have been re-vegetated and adjacent to the pNHA woodland, shall be retained as an important biodiversity feature.

Detailed aftercare programme including fertilising, planting, vegetation maintenance and an ongoing long-term commitment to the restored land. The applicant may consider leaving a flat area of currently exposed gravel to recolonise naturally, to allow more biodiverse plant communities within the overall proposed application area to be restored to agricultural grassland.

6.4.30. As a mitigation measure in section 7.6 of the rEIAR it is stated:

Soils retained on site were used in rehabilitation and this shall be the case going forward. The site will be capped with a layer of topsoil in order to restore it back to agricultural use.

6.4.31. The applicant's commitment to use only overburden previously excavated at the site during the sand and gravel extraction works should be accepted and conditioned.

6.4.32. Assessment - I am satisfied that no significant impact on land or soil arises.

Water

6.4.33. The rEIAR states:

The sand and gravel pit was operated as a dry pit except where dredging below the groundwater table was completed. No significant dewatering ever occurred (8.7.3).

No impacts on groundwater levels in any of the local wells has or will occur as the water use within the site was small and the water balance demonstrates there was sufficient recharge within the site to supply all pumping needs.

Mitigation measures are listed, which involved best practice measures to prevent hydrocarbon pollution. There was no discharge of wastewater. A portaloo at the site was emptied by a licensed contractor and discharged to an authorised off-site wastewater facility.

Restoration phase and post restoration phase – the restoration plan involves spreading a layer of overburden on areas where extraction has occurred. These areas will be seeded and returned to agricultural use. A layer of overburden will be spread on side slopes and will be allowed to vegetate naturally. The overburden used for the proposed restoration works was previously excavated at the site during the sand and gravel extraction works. There was and is no potential for groundwater contamination from this material. It is proposed that the site will be used for

agricultural purposes after the restoration is complete. The proposed land use is consistent with the land use locally.

6.4.34. The extraction has exposed the groundwater. It is intended that the site be reinstated to agricultural use. It is therefore likely that the future use will be as pasture for livestock. Allowing access to the lagoon such as for drinking purposes or to other areas of groundwater vulnerability would be likely to pollute the groundwater. The lagoon should be fenced to prevent access by livestock. In addition to the area identified as a lagoon on the maps provided, there is a large area of shallow water in the eastern area of the site.

6.4.35. Prior to any use of the site for agriculture, a hydrogeological assessment of the restored site is required to determine to extent of areas from which livestock must be excluded and the mitigation required to ensure that use for agriculture does not pollute the groundwater.

6.4.36. The detailed Hydrogeologist's report should include proposals for the infilling of the dug wells and the capping of the bored well, if appropriate (i.e. except in circumstances where the bored well is to be retained for use. In such case, detailed proposals for its use should be provided).

6.4.37. Assessment - Subject to the provision for agreement of a detailed Hydrogeologist's report regarding the suitability of the restored site for agricultural use and proposals for its future management, and detailed proposals for the infilling and capping of the existing wells, I am satisfied that no significant impact on water arises.

Air and Climate

6.4.38. Air is dealt with in chapter 10 and climate in chapter 9.

Air

6.4.39. The Air Quality Health Information Working Group, formed in 2011 have established an Air Quality Index for Health (AQIH) on a scale of 1-10, divided into 4 bands – good, fair, poor and very poor. The AIQH is based on measurements of five air pollutants all of which can harm health: ozone, nitrogen dioxide, sulphur dioxide, PM2.5 (particles with a diameter of 2.5µm), and PM10 (particles with a diameter of 10µm). The index for each pollutant is calculated separately. The overall AQIH is the worst index of the five pollutant indices. This area is classified as 2 'good'.

6.4.40. Dust monitoring was carried out in 2008 and the location of monitoring sites is shown in plate 10.3 and the results in table 10.5. The results are well below the recommended guideline value (350mg/m^2/day). Dust monitoring carried out in 2015/2016 and the location of monitoring sites is shown in table 10.6 and plate 10.4. The results are well below the recommended guideline value. Dust monitoring carried out in 2019 and the location of monitoring sites is shown in table 10.7 and plate 10.5. The results are below the recommended guideline value.

6.4.41. Mitigation measures are stated as:

- Soil handling activities such as overburden removal were restricted to periods of dry weather with little or no wind.
- The access road was inspected regularly and kept in good condition.
- Imposition and enforcement of an appropriate speed limit on haul roads to prevent unnecessary generation of fugitive dust emissions.
- During very dry periods, dust emissions from heavily trafficked locations were controlled by spraying surfaces with water.
- Stockpiles were sprayed with water to reduce dust blow, where required.

6.4.42. The rEIAR recommends that these measures continue during the landscaping and restoration phase of the development.

6.4.43. Dust monitoring will be undertaken during the landscaping and restoration phase at three locations identified in plate 10.6.

6.4.44. No residual impacts are anticipated.

Climate

6.4.45. The heading Climate addresses the global protocols and agreements in an historic framework beginning with the Kyoto Protocol of 1997.

Ireland's commitment to achieving a target of 20% below 2005 emissions by 2020, is compared to our emissions to date and as projected.

The EPA publication 'Ireland's Greenhouse Gas Emissions Projections 2018-2040' (EPA, June 2019) provides an updated assessment of Ireland's total projected greenhouse gas emissions to 2040 which includes an assessment of progress

towards achieving its emission reduction targets to 2020 and 2030 under the EU Effort Sharing Decision (Decision No 406/2009/EU) and Effort Sharing Regulation (Regulation (EU) 2018/842). Greenhouse gas emissions are projected to 2040 using two scenarios; with existing measures and with additional measures.

6.4.46. Impact of the development - the movement of vehicles and heavy commercial vehicles and operation of plant such as excavators and processing plant would have generated exhaust emissions – which included CO_2 (carbon dioxide) and N_2O (nitrous oxide). These emissions could not be eliminated and are assessed as slight impact over a long term period. Cumulative impacts considered are road traffic and livestock farming. It is unlikely that there would have been a cumulative impact on climate due to the low level of activity in the area. Mitigation measures which were implemented are listed and will be practised during landscaping and restoration.

6.4.47. Assessment - I am satisfied that impact on Air or Climate should not be a reason to refuse consent.

Material Assets, Cultural Heritage and the Landscape

Material Assets

6.4.48. Material Assets are dealt with in the rEIAR in Chapters 14 and are listed as including land, buildings, water supplies, scenic views, public utilities, roads and traffic, tourism and archaeology.

It is stated that development of the application site did not result in a significant increase in visibility of the pit and no impact on amenity or tourism.

It is stated that development of the application site did not result in any impact on the integrity of the Clonmacnoise site which is located approximately 3.5km to the west.

A number of dwellings were constructed in the vicinity of the pit during the operational period, which demonstrates that day to day activity associated with the pit did not deter people from living in the area.

Noise and dust emissions are within thresholds established by conditions attached to the registration under Section 261. The traffic generated would not have had a significant increase in traffic on local roads.

The majority of the extraction close to the boundary of the Clonfinlough Esker pNHA was undertaken prior to the designation of the protected site. The 0.97 ha extraction

area is located along the northern boundary, therefore the pNHA was not impacted. The proposed landscape and restoration plan will ensure that remaining areas are preserved.

Traffic movements based on the transport of products to market was an average of 5 loads/day, associated with the extraction of the 0.97 ha site.

Cultural Heritage

6.4.49. Cultural Heritage is dealt with in the rEIAR in Chapter 15 which notes that there are no archaeological features in the immediate vicinity of the site but there are such features in the surrounding area as shown on plate 15.1.

Landscape

6.4.50. Landscape is dealt with in the rEIAR in Chapter 13. The site is located in an area of high landscape sensitivity as designated in figure 4.22 of the County Development Plan 2021-2027. The areas identified in the vicinity of the site as of high landscape sensitivity are somewhat different to those identified in the 2014-2020 plan.

The protected views in the vicinity, identified in figure 4.24 of the current plan, are the same as those in the previous plan and I concur with the assessment in the rEIAR that views of the pit from publicly accessible locations are limited.

It is stated in the rEIAR that losses of existing vegetation as a result of extraction of sand and gravel will be offset by the proposed landscaping / restoration plan.

It is stated in the rEIAR that while sand and gravel extraction has altered the landscape to date, it did not result in an increase in visibility of the pit; and it assesses the magnitude of visual impact as low. It also concludes that there was no impact on amenity or tourism in the area as a result of past development.

6.4.51. It is noted that extraction was established at this location prior to 1964. The Development Plan has been referred to earlier in this report as stating that the site is located in an area of high amenity where the policy is to protect the area for reasons associated with its various attributes. The site is in an area of high landscape sensitivity: the River Shannon and Callows; it is within the Esker landscape; and the Archaeological and Historical landscapes. It Is a priority of the Council to protect and preserve Areas of High Amenity (AHA) due to their uniqueness and scenic / amenity value. The esker system in County Offaly has been the subject of a detailed study -

County Offaly Esker Survey, in 2006. The Council recognizes the potential of the esker landscape in the north and north-west of the county and states its intention to promote the unique geological heritage of the area as a UNESCO Geopark.

6.4.52. The 'Geological Heritage of County Offaly, An audit of County Geological Sites in County Offaly', jointly published by the Geological Survey of Ireland, Offaly County Council and The Heritage Council in 2016, states that 'it is imperative that the balance is found between geological heritage conservation and aggregate extraction in the future, to ensure that the best examples of our eskers are protected'.

6.4.53. It has to be acknowledged that aggregate extraction in this location is incompatible with the protection of this area as an area of high landscape sensitivity, an area for protection associated with the River Shannon and Callows, the designated Esker landscape; and the designated Archaeological and Historical landscapes.

6.4.54. Negative impact on the landscape may in the past have been mitigated by screening by surrounding higher ground and vegetation. Figure 4.21 of the County Development Plan, shows the Eiscir Riada at Clonmacnoise, in a photograph taken from the air. This illustrates that technology now available allows landscape to be experienced in new ways. Views from the air, either directly by those engaged in aerial sport activities or remotely via imaging, exposes the juxtaposition of the extraction site and natural and built heritage features.

6.4.55. Although not referred to in the rEIAR as a cumulative impact, this occurs in combination with other extraction sites in the area.

6.4.56. The restoration of the site for agricultural use, offers mitigation.

Interactions

6.4.57. Interactions are dealt with in the rEIAR in Chapter 16 and presented as a matrix. The interaction between landscape and material assets is acknowledged. This would include negative impact on tourism.

Reasoned Conclusion

6.4.58. Having regard to the examination of environmental information contained above, and in particular to the rEIAR and supplementary information provided by the applicant and the submissions received from the Planning Authority and prescribed bodies in the course of the application, it is considered that the main significant direct and

indirect effects of the proposed development on the environment and measures to avoid, prevent or reduce such effects are as follows:

Landscape: The quarrying activities which have altered the landscape at this site were commenced prior to the coming into force of the Local Government Planning and Development Act 1963, and the development the subject of this consent application is less exposed to view by the presence of surrounding higher land and vegetation. It nevertheless is an incompatible intervention in this protected landscape, which the restoration of the site will assist in mitigating.

Groundwater: The extraction has exposed the groundwater. Future use as pasture for livestock could lead to groundwater pollution unless measures are undertaken for its protection. A detailed Hydrogeologist's report should be provided following restoration of the site and prior to its use for agriculture, for the agreement of the Planning Authority.

6.5. Assessment of Other Issues

Aarhus

6.5.1. An Taisce have submitted an observation which states that the granting of Leave to apply for Substitute Consent was in breach of Aarhus Compliance Committee's determination.

6.5.2. The subject consent application does not rely in any way on the Leave to apply for Substitute Consent, previously granted.

Development Contribution

6.5.3. The current Development Contribution Scheme 2021-2025 requires the payment of a contribution for the winning and/or working of minerals at a rate of €2,000 per 0.1 hectare of site area, subject to a minimum charge of €15,000.

6.5.4. In their schedule of recommended conditions, the PA include a requirement for the payment of €14,802.20, based on an area of 0.97ha @ a rate of €1,526 per 0.1ha, being the rate applicable under the Development Contribution Scheme 2014 - 2020.

6.5.5. The applicant response is that as the duration of extraction of the specific area of 0.97ha was less than 5 years they are of the opinion that the contribution should be

in accordance with Section 2.5 subsection (m) of Offaly Co Co Development Scheme 2014-2020, the developer is liable for 50% of the fee, which is €7.401.

At the current rate of €2,000 per 0.1 hectare of site area, the appropriate contribution would be €19,400, however the applicable rate is that applying at the time the application was made in 2019; therefore the Development Contribution Scheme 2014 – 2020 applies. Section 2.5 Exemptions & Reductions includes under (m) temporary permissions, that a reduced rates for temporary permissions be calculated as follows:

33% of normal rate for permission of up to 3 years

50% of normal rate for permission up to 5 years

66% of normal rate for permission up to 10 years.

6.5.6. This appears to be where applicant's claim for a reduced fee arises.

6.5.7. The Board must consider whether there is sufficient basis for comparison between a temporary permission, and the development in this application for substitute consent, in order to apply the exemption provision.

6.5.8. The development the subject of this application falls under class D 'Land use for: (a) the winning and working of minerals (b) deposit of refuse or waste (c) land filling (inert material)' at a rate of €1,526 per 0.1 hectare of site area, subject to a minimum charge of €10,000. Although a development within this class is likely to continue for a finite period, the charge is based on area not duration. I am inclined therefore to consider that notwithstanding the limited period, stated to have been the duration of the subject extraction, the development the subject of this application is not akin to a temporary development and therefore the exemption does not apply.

Bond

6.5.9. In their schedule of recommended conditions, the PA include a requirement for the provision of security for the completion of the reinstatement, in the sum of €76,700 at a rate of €5,000 per ha for the entire area of 15.34ha.

6.5.10. The applicant response is that a substantial area (6.17ha) is already restored in accordance with the restoration plan which has been submitted (appendix II). Therefore the area remaining to be restored is 9.17ha and at €5,000 per ha, that is, €45.850. However as the restoration is substantially complete and the duration of the

remaining restoration is anticipated to be 3 years they are of the opinion that in this particular case no bond is required.

6.5.11. As stated previously in this report, restoration and future use for agriculture as proposed, requires careful management in order to avoid pollution of the groundwater, currently exposed in parts of the site and vulnerable in the remainder of the site. It is reasonable to require a bond, as proposed by the PA, in such circumstances.

7.0 Recommendation

7.1. I recommend that permission is granted for the Reasons and Considerations set out below, and subject to the attached Conditions. I attach a draft order below for consideration by the Board.

8.0 Draft Order

WHEREAS Dermot Nally Stone Ltd. care of Earth Science Partnership Ire. Ltd of Tonranny, Westport, County Mayo made an application to An Bord Pleanála on the 19th July 2019, pursuant to section 37L of the Planning and Development Act, 2000 as amended, to regularise the planning status of the sand and gravel quarry at Clonfinlough, County Offaly in accordance with plans and particulars lodged with the Board.

AND WHEREAS, the Board has decided, pursuant to section 37N of the of the Planning and Development Act, 2000, as amended, to grant consent, subject to conditions, for the development.

NOW THEREFORE, the Board has decided to grant consent, subject to conditions, based on the Reasons and Considerations set out below.

Reasons and Considerations

In coming to its decision the Board had regard, inter alia, to the following:

(a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Section 37L and the provisions of the Planning and Development Regulations, 2001, as amended;

(b) the applicable national, regional and local planning policy including in particular, the provisions of the Offaly County Development Plan 2021-2027;

(c) the remedial Environmental Impact Assessment Report and the remedial Natura Impact Statement and supporting documentation submitted with the application;

(d) the report and the opinion of the planning authority and the applicant's response to the report;

(e) the planning history of the subject site;

(f) the nature, scale, characteristics and location of the development;

(g) the Inspector's assessment as set out in the Inspectors Report;

(h) the mitigation measures outlined and the restoration scheme proposed.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment in relation to the proposed development, taking account of:

(a) the cessation of extraction and the limited amount of stockpiled aggregate to be removed from the site prior to restoration,

(b) the remedial Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions received from the planning authority, prescribed bodies and the applicants response,

(d) the Inspector's assessment on environmental effects as set out in the Inspector's Report;

The Board considered that the environmental impact assessment report, supported by information provided by the applicant during the course of the application, identifies and describes adequately the direct and indirect effects of the proposed development on the environment. The Board is satisfied that the information contained in the remedial EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board concluded that, subject to the implementation of the mitigation measures proposed in the remedial EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and

projects in the vicinity, would be acceptable. In doing so, the Board generally adopted the report and conclusions of the Inspector. The Board considered, and agreed with the inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment and measures to avoid, prevent or reduce such effects are as follows:

Groundwater: Impacts on groundwater having regard to the exposure of groundwater on parts of the site and the reduction of site levels to below or near groundwater level over large parts of the site, such that the use of the site for agriculture requires post restoration examination.

Birds: Impacts on the established breeding colony of Sand Martin (Riparia riparia) on site which would be mitigated by agreeing the location of bird sites on site and putting procedures put in place to protect them.

Landscape: Notwithstanding the limited visibility at ground level in the landscape due to elevated surrounding ground levels and vegetation, the potential for viewing the site from the air, in the context of the surrounding protected landscape is acknowledged. Restoration of the site, through measures, including suitable landscaping to soften the man-made appearance of the lagoon, offers some mitigation.

Appropriate Assessment

Appropriate Assessment Stage 1 (Screening)

The Board agreed with the Screening Assessment carried out by the Inspector which concluded that the following European Sites are those for which a Stage 2 Appropriate Assessment is required, and that significant effects on any other European Sites can be ruled out:

Mongan Bog SPA (site code 000417), Mongan Bog SAC (site code 000580) and Finn Lough SAC (site code 001776).

Appropriate Assessment Stage 2

The Board considered the remedial Natura Impact Statement and all other relevant submissions including the Hydrogeological and Hydrological Assessment and carried out an Appropriate Assessment of the implications of the proposed development for Mongan Bog SPA (site code 000417), Mongan Bog SAC (site code 000580) and

Finn Lough SAC (site code 001776), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the assessment, the Board considered the likely direct and indirect impacts arising from the development, both individually or in combination with other plans or projects, the mitigation measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site. The Board is satisfied that, subject to the implementation of the identified mitigation measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, would not have adversely affected the integrity of this European site or any other such European designated site, in view of the conservation objectives of any such site.

Proper Planning and Sustainable Development

Having regard to the nature, scale and extent of the development and noting the integrity of European Sites would not be adversely affected, in view of the relevant sites' conservation objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that the subject development would be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 19th July 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars. **Reason:** In the interest of clarity.
2.	No future extraction, for commercial purposes shall take place on the site. All remaining stockpiled aggregate which is to be removed for sale shall be

	removed from the site before June 2024. All plant and machinery shall be removed from the site on completion of an agreed restoration plan. **Reason:** In the interest of clarity.
3.	a) The lands shall be reinstated in accordance with a plan which shall be agreed in writing with the planning authority prior to its implementation and which shall include landscaping of the lagoon edges to reduce the geometric form and soften the man-made appearance. No material is to be imported to the site for restoration or any other purpose. b) Following reinstatement and prior to the any future use of the lands, the applicant shall provide the planning authority with a report from a Hydrogeologist on measures to be put in place to protect the groundwater, including: Proposals for the infilling of the dug wells and the capping of the bored well, if appropriate (i.e. except in circumstances where the bored well is to be retained for use. In such case, detailed proposals for its use should be provided). The suitability of the reinstated land for agricultural use, and specific requirements for its future management. **Reason:** To protect the groundwater.
4.	The following environmental protection measures shall be implemented during the reinstatement process: a) Refuelling shall only take place on impermeable areas, that drain through hydrocarbon interceptor(s). b) Spill kits to be maintained on site. c) Incident response plan outlining steps to be undertaken including responsibilities, authorities to be notified and clean up measures to be

	employed in the event of a spillage or other potentially polluting scenario. d) Provision of suitably bunded areas for storage of oils and waste oils. e) No refuelling within 30m of standing water or bore holes. f) All bunded structures are in compliance with EPA guidelines: 110% of the capacity of the largest tank within the area or 25% of the total volume of the substance which could be stored within the area, whichever is the greater. g) Where decommissioning of bore holes is required decommissioning is undertaken in accordance with EPA Drinking Water Advice Note, Advice Note no. 14: Borehole Construction and Wellhead Protection. **Reason:** To protect the groundwater.
5.	The agreed restoration on site shall operate only between 0700 hours and 1900 hours, Monday to Friday, and 0700 hours and 1600 hours on Saturdays. There shall be no restoration works or associated activities on Sundays or public holidays. **Reason: I**n the interests of residential amenity.
6.	The sand martin colonies shall not be disturbed either through planting or regrading of the cliff faces in which the birds have nested. **Reason:** To protect the nesting birds.
7.	Within 3 months of the date of this permission the developer shall pay to the planning authority a financial contribution of € 14,802 (fourteen thousand, eight hundred and two euro) 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. **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.
8.	Within 3 months of the date of this permission, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The amount of the security shall be €76,700. The bond or other security shall remain in full force and effect until discharged by the Council. **Reason**: To ensure the satisfactory restoration of the site in the interest of visual amenity and environmental protection.

Planning Inspector

8th February 2024

Appendices:

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027, extracts.

Appendix 3 Offaly County Council Contribution Scheme 2014-2020.