An Bord Pleanála

Inspector's Addendum AA Report ABP-306297-20.

Development	Permission is sought for a new sand and gravel extraction development on an overall site of c.32.2 hectares, with an extraction operational period of 12 years with 2 years to complete restoration (total duration sought 14 years). This application is accompanied by an EIAR and NIS.
Location	Racefield, Ballyshannon, Kilcullen, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/1097
Applicant(s)	Kilsaran Concrete (trading as Kilsaran Build)
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Kilsaran Concrete
Observer(s)	77 observations submitted in relation to this appeal. A further 3 observations were deemed invalid.
Date of Site Inspection	14/05/2020
Inspector	A. Considine

1.0 Introduction

1.1. Planning permission is sought to develop a new sand and gravel extraction development on an overall site of c.32.2 hectares, including all associated services and facilities. The overall Kilsaran landholding in this location is indicated at 58.2ha and a full description of the site location and the proposed development is provided in the previous Inspectors Report.

1.2. The purpose of this Addendum Report is to address the submission of the First Party, following a Section 131 request from the Board, in terms of the Inland Fisheries Ireland submission in respect of Appropriate Assessment.

2.0 IFI Appeal Submission & Previous AA Conclusion

2.1. During the Boards consideration of the proposed development, Inland Fisheries Ireland submitted a response to the first party appeal raising a number of concerns in relation to the proposed development. The response from IFI is summarised as follows:

- IFI have reviewed the aquatic survey report submitted. An inspection of the Ballysax Little Stream in January 2020 highlighted that large trout are resident in the watercourse and that the habitat represents excellent salmon spawning / nursery habitat.
- Eaglehill Stream has salmonid potential.
- In relation to the water quality recorded at the streams, further inspections throughout both catchments are proposed to identify and rectify the agricultural source contributing to unsatisfactory biological conditions.
- Details of the water usage of the sand-washing plant and loss of water to evapotranspiration discussed.
- Concerns raised in relation to the water deficit associated with the operation of the wheel wash, which IFI considers may be significant, especially during the summer months.

- IFI notes that the majority of sand deposits on site are below the groundwater level. The applicant is asked to quantify the expected water losses to evapotranspiration during summer months.
- The applicant has not quantified the combined water deficits associated with various operations on site. IFI have concerns that the combined water deficit of all operations may be multiples of the 1.9l/sec and may, during prolonged dry spells, represent a significant loss in the base flows of the Eaglehill and Ballysax Little streams.

2.2. Section 10 of my previous report dealt with Appropriate Assessment, and this report addresses the additional information submitted by the first party as requested by the Board. The previous AA concluded that:

> 'there remains incomplete detail with regard to the potential impact of the development, in the context of the water deficit associated with dust suppression at the proposed crushers, as well as the sand-washing plant cycle, and the potential impacts during prolonged dry spells in the base flows of the Eaglehill and in turn the Ballysax Little Streams during such low flow events due to the potential of these watercourse to support salmon spawning / nursery habitat in the Ballysax Little Stream. As such, I cannot conclude, based on the most up to date data, that the development will not adversely affect the integrity of the European site, the River Barrow and River Nore SAC (Site Code: 002162), in view of the site's Conservation Objectives.'

2.3. This conclusion was reached following consideration of the IFI submission to the Board in relation to the appeal, and in particular to the conflicting assessment of salmon spawning / nursery habitat within the Ballysax Little Stream between the IFI submission and surveys and the NIS submitted in support of the application. Salmon are a QI of the River Barrow and River Nore SAC.

2.4. In terms of AA, it was noted that the IFI survey of January 2020 was the more recent survey, the Aquatic Survey Report submitted as part of the NIS having been undertaken on the 19th of June 2019. The full findings of this IFI survey were not submitted and it was noted that further surveys were proposed in 2020. I also noted that at the time of the submission of the application and appeal, the applicants

survey would have been the most up to date data. There remains however, a difference in opinion in terms of the quality of the habitat.

2.5. Following the consideration of the file at the Board meeting held on 10/09/2020, the Board decided to defer consideration of the case and to issue a Section 131 notice regarding the following:

> 'Request the applicant to make submissions or observations in relation to the submission received from Inland Fisheries Ireland on 24th March 2020.'

2.6. Following the submission of the response as requested, the Board did not consider that further cross-circulation of documents was necessary and was not sent to the IFI for comment. As such, the IFI has not had an opportunity to respond to the applicants' submission of the 16th October 2020.

2.7. The file was returned to me, as presiding Inspector, for further assessment / recommendation and the preparation of an addendum report in respect of Appropriate Assessment in the context of the applicants' response to the IFI submission.

3.0 Appropriate Assessment

3.1. The subject site is located outside any Natura 2000 site and the NIS identified 5 SACs and 2 SPAs within 20km of the proposed development site. The Stage 1 Screening identified the River Barrow & River Nore SAC, Site Code 002162 as the only European site on which there is the possibility of a significant effect arising from the proposed development and a stage 2 AA was carried out. The potential impacts (direct / indirect and in-combination effects) of the development on the site were examined in light of each of the sites' conservation objectives. Detailed Conservation Objectives for The River Barrow and River Nore SAC (Site Code 002162) are available for the SAC with the overall objective being to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been designated.

3.2. In terms of the applicants' response to the IFI submission the following is relevant:

3.2.1. IFI Item 1 – Ballysax Little Stream potential habitat

- The habitat assessment presented in the EIA and AA documentation that accompanied the application is based on the requirements for salmonids and has considered brown trout.
- The substrate at the location surveyed within the Ballysax Little was heavily silted with compacted clods of sediment. The photo referred by the IFI is misleading as what looks like gravel in sections is actually clods of sediment.
- The Ballysax Little was resurveyed in October 2020 to verify the findings.
- With the absence of any sensitive macroinvertebrate taxa identified in the applicant survey a Q3 was assigned indicating '*Poor'* ecological condition.
- The Ecologist concluded in the Aquatic Report that 'the habitat was unsuitable for salmon but there is potential for trout to be present'. This is confirmed by the IFI observation of large trout in the stream in January 2020.
- It is also acknowledged that another tributary nearby was found to hold excellent populations of all age classes of juvenile salmon and was noted in the Aquatic Survey Report in the application.
- The applicant acknowledges that should improvements to water quality and substrate quality occur, then the Ballysax Little could become an excellent fishery supporting SAC. But based on the baseline surveys, the Ballysax Litte is in '*Poor'* ecological condition and could not be considered to constitute either '*good quality salmonid habitat'* or '*excellent salmon spawning/nursery habitat'* as suggested by the IFI.

3.2.2. IFI Item 2 – Eaglehill Stream salmonid potential

- 3 locations along the stream were surveyed and the details and findings are presented in the Aquatic Survey Report, Appendix B of the NIS.
- Adult brown trout may be present within a very short section at the confluence with the Ballysax Stream but given the substrate condition, it is considered that there is no spawning potential at this location.

- Based on the evidence of the surveys, the current condition of the Eaglehill Stream could not be considered to have '*salmonid potential'* as proposed by the IFI.

3.2.3. IFI Item 3 – Water Quality Issues

- The point raised by the IFI is acknowledged and supports the findings of the data presented by the applicant in the EIAR and AA with regard to the '*Poor'* condition of the Ballysax Little Stream.
- It is questioned how the IFI can maintain the contradictory view that the stream represents good quality salmonid habitat in this context.

3.2.4. IFI Item 4 – Operation of the sand-washing plant and water use

- The water usage will be circa 136m^3 as stated by the IFI and the operation will work through a closed loop system, with no water discharging from the site.
- During the summer months there is potential for evaporation losses from the silt lagoons resulting in a potential natural loss of water from the cycle. Where there is a loss, the additional water will be sourced from a groundwater sump which will be excavated within the excavation area to draw water from the underlying gravel aquifer.
- There will be no losses through transpiration from the operational facility.

3.2.5. IFI Item 5 - Water deficit associated with the operation of the wheel wash.

- The wheel wash will be provided in close proximity to the site entrance and the proposed operations of the facility are described on page 39 of the EIAR.
- The water capacity of a standard wheel wash when full is 11m^3.
- The proposed production equates to 36 loads per day passing through the wheel wash per day.
- Estimated loss of water per truck is 3% of bath capacity, therefore the daily losses and subsequent top-up of water, equates to approximately 11.9m3 per working day during the summer months.

3.2.6. IFI Item 6 – Water deficit associated with dust suppression at the crushers.

- The primary and secondary crushing units are each fitted with a single spray nozzle and with a typical 10 hour working day with plant at operating capacity of 85% the plant will operate for 8.5 hours.
- The nozzle delivery rate of 10l per minute equates to 5.1m^3 per working day.
- The typical daily use for dust suppression will be 10.2m^3 per day.

3.2.7. IFI Item 7 – The majority of the sand deposits are below groundwater level. The expected water losses to evapotranspiration during summer months is to be quantified.

- The change in natural water balance across the site between the existing baseline and the proposed extraction area is presented in a simple water balance based on prevailing meteorological conditions in the area.
- Figure 1 of the submission sets out summarises the data in relation to annual mean rainfall, potential evapotranspiration and evaporation.
- Table 4 presents the baseline scenario water balance, and it is noted that on-site groundwater monitoring is employed to validate the natural balance. The baseline conditions show that the natural groundwater level peaks in March and troughs in October with a natural fluctuation of 1.12m in water level between seasons.
- Following the excavation of the 17.2ha pit, the main water loss mechanism for the site is evaporation, with the remainder of the site retaining vegetation. In this scenario, the balance shows a peak in November and a trough in July.
- The report concludes that the expected water losses to evaporation during the summer months when all deposits of sand above ground level have been extracted will be in line with the current water losses experience for the baseline scenario.
- There will be no potential for significant adverse impact to these water levels as a result of the excavation.

3.2.8. IFI Item 8 – Combined water deficits

- Based on the analysis presented above, the operational water losses combined from IFI items 4 to 6 have been combined to provide an analysis of the combined

water losses to the system for each month both from natural losses and operational losses.

- The daily operational water outputs equate to circa 79.9m^3/day during the summer months of April to August.

3.2.9. IFI Item 9 – Expected increase in evapotranspiration from groundwater

- Table 7 of the applicants' response sets out the natural and operational water balance figures noting that during the summer months, there will be an operational loss of 1,644m^3 per month.
- It is concluded that the expected water losses to evaporation during the summer months and there will be no potential for significant adverse impact to these water levels as a result of the excavation combined with the operational water losses on the site.

3.2.10. IFI Item 10 – Concerned that the combined water deficit of all operations may be multiples of the 1.9l/sec related to the silt ponds and may represent a significant loss in the base flows of the Eaglehill and in turn the Ballysax Little Stream during prolonged low-flow events.

- It is submitted that the proposed development will have a negligible impact on the quality of storm water feed to the surface water network and there will be negligible potential for significant loss in the base flows of the Eaglehill and in turn the Ballysax Little Stream during prolonged low-flow events.
- In terms of groundwater, the expected losses to evaporation during the summer months coupled with the combined operation losses will be in line with the current water losses experience for the baseline scenario.
- The data clearly presents the net changes in water balance for each of the cited scenarios on a seasonal basis and in all cases the analysis indicates that there will be a negligible change to the natural water fluctuations observed at the site.
- There are no predicted significant adverse impacts from the proposed development on ground water levels or any potential for significant loss in the base flows of the Eaglehill and in turn the Ballysax Little Stream.

3.2.11. The report concludes that the IFI observation that these streams represent good quality salmon habitat appears to rely on a single sighting of a trout and a misinterpretation of the photographic evidence provided in the application. The applicant strongly disputes the proposition by the IFI that these streams are a sensitive ecological receptor with good/excellent salmonid habitat.

3.2.12. It is acknowledged that in the event of the existing pressures on the stream (agricultural related) are reduced then the ecological value of the stream may improved from this baseline. However, it is submitted that the analysis presented shows that the development will have no significant adverse impact on the surface water network. The operational requirements of the proposed development are also fully addressed in terms of water losses/gains at the site. There is no potential for significant adverse impact to groundwater levels in the area as a result of the excavation proposed combined with the operational water losses.

3.3. AA Conclusion

3.3.1. I have read the submitted Natura Impact Statement in its entirety, together with all other environmental reports submitted with the planning application in support of the proposed development, and I am satisfied that it generally assesses the likely significant impacts arising from the proposed development on the integrity of the River Barrow and River Nore SAC (Site Code: 002162). I am further satisfied that the first party has adequately addressed the initial concerns regarding the completeness of the NIS in their submission to the Board dated the 16th October 2020, in response to the Inland Fisheries Ireland concerns raised.

3.3.1. I have had full regard to the Stage 2 Appropriate Assessment as set out in Section 6 of the NIS, supplemented by the applicants most recent submission. I am satisfied that it has adequately identified and assessed the key characteristics of the potential impacts arising as a result of the proposed development, both alone and in combination with other projects, which could undermine the stated conservation objectives of the Natura 2000 site.

3.3.2. In the interests of protecting the conservation objectives of the European Sites, mitigation measures are proposed in section 7 of the submitted NIS as part of the proposed development. Mitigation measures are proposed for both the construction and operational phases of the sand and gravel extraction facility and on

implementation, it is submitted that there are no likely residual negative impacts on the River Suir SAC (Site Code 002137) and The River Barrow and River Nore Special Area of Conservation (Site Code 002162. It is concluded that the proposed development will not have a significant adverse effect on the integrity of the Natura 2000 Network.

3.3.3. Having regard to the nature of the subject development site, the nature of the proposed development and its location at a remove from existing Natura 2000 sites, together with the details presented in the Environmental Impact Statement and Natura Impact Statement, and supplemented by the first party submission of the 16th October 2020, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, I consider it reasonable to conclude on the basis of the information on the file, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site, the River Barrow and River Nore SAC (Site Code: 002162), or any other European site, in view of the site's Conservation Objectives.

4.0 Conclusion

4.1. In the context of the above, I am satisfied that the previous recommended reason for refusal no. 3 can be removed from my original recommendation.

A. Considine
Planning Inspector

12th May, 2021