



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306929-20

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| <b>Development</b>                  | Extension and Enhancement of Established Racecourse Facilities together with associated Extraction and Continuation of previously permitted Restoration Works at Walshestown. |
| <b>Location</b>                     | Punchestown, Walshestown, Blackhall, Tipperkevin and Bawnogue, Naas, Co. Kildare  |
| <b>Planning Authority</b>           | Kildare County Council  |
| <b>Planning Authority Reg. Ref.</b> | 19523   |
| <b>Applicant(s)</b>                 | Punchestown Racecourse  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Split – Grant & Refuse  |
| <b>Type of Appeal</b>               | First & Third Party   |
| <b>Appellant(s)</b>                 | Punchestown Racecourse (First)<br>Blackhall Road Residents Association (Third)  |
| <b>Observer(s)</b>                  | Ruth O'Connor   |

**Date of Site Inspection**

4 December 2020

**Inspector**

Una Crosse

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## 1.0 Site Location and Description

- 1.1. Punchestown Racecourse is located c.2.5km southeast of Naas and is accessed via the R411. The site area to which the appeal relates has a total area of c.88.5 hectares within the townlands of Punchestown, Walshestown, Blackhall, Tipperkevin and Bawnogue in County Kildare and comprises two separate but adjoining and interconnected elements which I will outline in turn.
- 1.2. The application area within the existing Punchestown Racecourse site has an area of c.15 hectares and is located immediately east of the existing Grandstand accommodating the existing home straight of the Racecourse. The documentation submitted outlines that the Racecourse hosts 18 fixtures annually including the five-day annual Punchestown Festival which takes place annually at the end of April. The facility also hosts, festivals, shows and other public events and trade shows.
- 1.3. The second area comprises the Walshestown site and has an area of circa 73.5Ha. This includes the existing quarry to the north of the area which includes areas which have been worked out. Much of the central area of the site (proposed excavation area) was not previously excavated but was subject to some surface disturbance such as topsoil stripping. To the south, much of this area (proposed track extension) was previously quarried and has been reinstated with low-grade pasture and a manmade lake and is at a considerably lower level than the adjoining public road to the east.
- 1.4. Within the wider area there are detached one-off dwellings located sporadically on the adjoining public roads and agricultural holdings. On the other side of the public road from the Walshestown facility there is a soil recovery facility which is operated by Behan.
- 1.5. There are a number of different inter-related owners of the overall site with letters of consent submitted with the application from Blackhall Racing Company Unlimited T/A Punchestown Racecourse, Walshestown Restoration Limited and the Kildare Hunt Club.

## 2.0 Proposed Development

### 2.1. Introduction & Context

- 2.1.1. There are two interconnected elements to the proposal which I will outline below. The documentation provided also outlines the need for the proposed development which I outline separately in Section 2.7 below.
- 2.1.2. It is outlined that the Racecourse was first established in 1824 and is widely regarded as Ireland's premier racetrack with the title of Ireland's Racecourse of the Year awarded in 2018. It was ranked in the top 10 of the world's greatest racecourses in 2019. Currently 18 annual fixtures with the five-day Punchestown Festival at the end of April the premier event contributing in excess of €60m to the local economy attracting c.127,000 visitors to the region. Punchestown provides direct and indirect employment within County Kildare and surrounding area.
- 2.1.3. It is outlined that the concept for the proposed development first arose when Punchestown in association with Walshestown Restoration Ltd. acquired the former Cemex quarry site immediately to the east of Punchestown. The lands presented opportunities for Punchestown to futureproof its facility and to extend the track. It is also stated that Punchestown have serious concerns that the former quarry, if left in its current state, would impact on views of the Racecourse from the Grandstand.

### 2.2. Extension and Enhancement of Racecourse

The development proposed to the racecourse is as follows:

#### 2.2.1. Track Extension

- It is proposed to extend the existing racetrack by approximately 660m in length to the southeast of the existing track with a width of 80m, over an area of c.64,213m<sup>2</sup>, connecting into the existing racetrack allowing for a maximum race distance of 1 mile (1609m) to the existing finish line. The topography within this area varies by approximately 20m, from approx. 160m OD to the east at the site boundary to 140m OD to the west at the existing track and in order to provide the required gradient of 3% significant earthworks are required with the gradient of the proposed track extension to be reduced by approx. 5m for every 165m in

length to tie in with the existing track at grade. The foundations for the proposed extension require approx. 334,000m<sup>3</sup> tonnes of fill materials primarily comprising subsoil but also topsoil, sands and gravels sourced from the adjoining quarry (as outlined below).

- Re-contouring of lands to north and south of track extension to blend in with existing contours requiring placement of approx. 24,000m<sup>3</sup> to the north and 213,000m<sup>3</sup> to the south of the track extension comprising subsoil, gravel and sand and some topsoil.
- Drain and fill in the existing surface water pond located within the site of the proposed track extension and create two new surface water ponds one to the north (approx. 50,000m<sup>3</sup> capacity) and one to the south (approx. 30,000m<sup>3</sup> capacity) of the track extension which will also be used as attenuation ponds to cater for run-off from the track extension, the quarry and surrounding lands. The main attenuation pond is the larger northern pond with an overflow pipe from same connected to the southern pond with the southern pond having an overflow to a soak-away to the south of the proposed track.

### 2.2.2. Widening Home Straight

- It is proposed to widen the existing home straight over a distance of 800m by a maximum of 54m, over an area of c.19,010m<sup>2</sup>, with the finish line home straight 35m wider than existing, facilitating races to finish closer to spectators in the main stand. Significant earthworks are required to achieve the relevant gradient with existing ground levels to be raised by approx. 1m requiring 68,000m<sup>3</sup> of fill materials (subsoil, topsoil, sands and gravels).
- The relocation of current attenuation ponds in front of the grandstand which serve to attenuate storm water run-off from surrounding hardstanding areas within Punchestown. It is proposed to relocate these ponds to the east towards the centre of the racetrack providing one larger pond with capacity to store approx. 12,000m<sup>3</sup> in normal conditions (no restriction on outflow). It is proposed to install a shut-off valve allowing water levels to increase to allow for a max. storage of up to 31,000m<sup>3</sup>. This pond will drain to the existing soakaway in the central area of the track.

### 2.2.3. **New Ambulance Track**

- Provide a new ambulance track in front of the Grandstand approx. 480m long and 4m wide. A new ambulance track is also proposed around the perimeter of the proposed racetrack extension approx. 1410m in length and 4m wide connecting with the existing track to follow the entire track with ancillary infrastructure including 4 passing laybys with further access road provided to facilitate access for TV crews and maintenance.

### 2.2.4. **Sand Canter**

- Construction of a sand canter in front of the main stand and adjacent to widened home straight for a distance of approx. 490m over a 3m width constructed using imported Wexford sands or similar materials.

### 2.2.5. **Other Associated Infrastructure**

- Repositioning of photo finish tower
- New fencing/running rails.
- Two new positions for temporary giant screens during festival.
- Ducting for services (electrical and water).

## 2.3. **Extraction and Restoration of Adjoining Lands**

There are effectively two elements to this part of the development. Extraction of material to facilitate raising site levels for the proposed track extension/widening and restoration of this area and continuance of already permitted restoration of the quarry area. The following summarises the proposal:

### 2.3.1. **Extraction**

- 2.3.1.1. The extraction of materials, with a total volume of 639,000m<sup>3</sup> from lands within the former quarry, is proposed to facilitate the construction outlined above in respect of track extension and widening. The materials are comprised primarily of subsoils and topsoil with some sand and gravel with the area over which the extraction is proposed stated to be 164,550m<sup>2</sup>. The average extraction depth is 7.5m with a

maximum depth extending to c.13m with all extractions a minimum of 1m above the high winter water-table. The depth of extraction ranges from 143m AOD to the west to 147m AOD to the east.

2.3.1.2. It is proposed to transport these extracted materials from Walshestown to the location of the track widening and track extension by way of internal access roads.

2.3.1.3. Research undertaken on behalf of the applicant is outlined and states that the only viable option for a track extension to meet the criteria outlined was determined to be extraction of native materials from adjoining lands within one holding.

### **2.3.2. Restoration Works and Landscaping**

2.3.2.1. The Walshestown quarry is currently being restored from a disused sand and gravel pit to agricultural use under KCC Ref.08/2159 which is due to expire in 2020 and EPA Waste Licence Ref. W0254-01 which it is stated will have to be reviewed.

2.3.2.2. The continuance of the permitted restoration use is sought for an additional 8.5 years to complete the current permitted restoration works permitted under KCC Ref.08/2159 but not completed and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works as outlined above.

2.3.2.3. The restoration works include importation and placement of inert materials over an area of c.40.05 hectares in six phases/cells. It is proposed to import a total of 3.985 million tonnes over the 12 years (c.330,000 tonnes per year) with the current permitted number of 65 trucks arriving per day to be continued.

2.3.2.4. It is proposed that the finished contours of restoration are to remain as per current authorised levels. Landscaping design associated with the restoration includes grading of the restoration works and the new track extension to create a dynamic curving profile visible from the Grandstand area, recreation of the grassland layout of Priests Hill with the old hedgerow lines incorporated and landscaping/new habitat creation.



2.3.2.5. This element of the proposal also includes:

- Processing of non-hazardous materials including crushing, screening and magnetic separation using mobile machinery for recovery and recycling of engineering materials;
- Storage and continued use of all established and permitted structures, storage facilities, hardstanding, drainage infrastructure, utilities and works.
- Maintenance and storage shed of 3,500 sq.m gross to facilitate proposed restoration use to be removed when restoration complete.

#### 2.4. **Surface water drainage, Water Supply and Wastewater**

2.4.1. The elements of the proposed surface water drainage system have been outlined above, in respect of the changes to the existing attenuation ponds, with the design proposed to ensure there will be no increase in run-off arising from the proposed development. Run-off is to be regulated in the attenuation ponds detailed above discharging to existing and new soakaways with no new discharges to existing surface water courses. Drainage for the ongoing regulation of Walshestown will continue to be regulated by the EPA.

2.4.2. An increased water demand will be required for water irrigation of the increased track area with the current annual maximum water demand of 38,000m<sup>3</sup> increasing to 57,000m<sup>3</sup> equating to a 50% increase in demand with a peak demand in preparation for and during the festival of 20,000m<sup>3</sup>. It is proposed to source the water by reusing surface water run-off collected in the increased attenuation ponds and noted that there may be occasions when the storage ponds need to be supplemented with abstracted groundwater from the underlying aquifer.

2.4.3. No change is proposed to the existing authorised wastewater treatment facilities serving both Punchestown and Walshestown.

#### 2.5. **Phasing**

2.5.1. The construction phase of the proposed racecourse element is estimated at 12-18 months undertaken in a number of stages. All works on the home straight are proposed to be built in one season commencing directly after the Annual Festival while track extension works will continue on through the winter period.

## 2.6. Duration of Permission

- 2.6.1. The proposed extraction and restoration works are envisaged to take 12 years. It is proposed that it will take 8.5 years to complete the current permitted restoration works and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works. A 12-year permission is sought for the extraction and restoration works. The application documentation states that a 10 year permission was granted for the restoration works in 2010 with the EPA Licence granted three years later in 2013 with works commencing in 2016, some 5.5 years after the permission was granted and therefore works have only been carried out for 4 of the permitted 10 years. The EPA Licence limits materials to be imported to 330,000 tonnes per annum.

## 2.7. Need for the Proposed Development

- 2.7.1. Section 2.5 of the EIAR outlines the need for the proposed development which it is stated is necessary to safeguard the future of Punchestown Racecourse and vital from a commercial perspective with a number of fundamental factors as follows:

### 2.7.2. Health and Safety

The existing width of the home straight does not make it possible to accommodate an ambulance/emergency route parallel to the home straight of the track with potential risk to the health and safety of Jockeys and welfare of horses. Provision of this facility is a top priority with the proposal providing a suitable emergency route around the full circumference of the race track.

### 2.7.3. Future Security and Additional Racing Opportunities

Racing activity equates to c.90% of Punchestown's annual turnover and it is significantly reliant on income generated from media rights associated with staging racing fixtures. The proposal provides security to accommodate both the existing racing schedule and provides flexibility to cater for additional racing opportunities which may arise.

### 2.7.4. Customer Experience

Limitations with the width of the existing home straight provides it is not possible to fulfil the existing race programme on the main straight and given economic importance of the Punchestown Festival to the business it is vital to preserve this

ground through the winter season. This requires that a number of current fixtures are staged on the inside track in the middle of the racecourse with resultant negative feedback from spectators and stakeholders regarding difficulty in viewing and staging on a different track. The proposal provides sufficient width to facilitate race finishes closer to spectators in the main stand enhancing experience.

#### 2.7.5. Flexibility

Proposal provides further flexibility to improve the existing layout of the racetrack assisting in accommodating the racing programme and providing the potential for it to be enhanced. It also provides alternative options to cater for a wider range of racing distances catering for future requirements and the possibility of staging additional racing which provides opportunities to increase revenue safeguarding the viability of the facility.

#### 2.7.6. Prolonged Season

No fixtures are staged from mid-June to mid-October with the proposal facilitating meetings to take place during the summer providing opportunities to increase revenue safeguarding the viability of the facility.

### 2.8. Further Information

- 2.8.1. A request for further information issued to the applicant on 4<sup>th</sup> July 2019. A response to same was received by the PA on 13/12/2019 and is detailed in Section 3.2 of this report.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority by Order dated 21 February 2020 decided to Grant Permission for the Extension and Enhancement of the Racetrack and the extraction of material from lands adjoining the established racecourse and Refuse permission for the continued restoration of the quarry in a split decision as follows:

### 3.2. Grant

- 3.2.1. Permission was **granted** for the extension of the existing racecourse by approx. 660m and raising ground levels on the track extension area to tie into the existing

site levels that range from approx. 160m OD to the east to 140m OD to the west, widening of the home straight over a distance of 800m between 30m & 35m, new ambulance track over a length of 1,890m and ancillary works including relocation of 2 existing attenuation ponds and creation of 2 additional attenuation works. To facilitate these works site levels are to be raised to match existing contouring requiring approximately 1.15 million tonnes of topsoil, subsoil, sand and gravel which are to be extracted from lands adjoining the established racecourse which are currently being restored from a disused sand and gravel pit to agricultural use (Ref. 08/2189 & EPA licence W0254-01) subject to 25 conditions which include the following:

- 2) outlines the elements of the development authorised by the permission;
- 6) Extracted material for proposed racetrack extension and widening to be sourced only from adjacent site at Walshestown which shall be transported directly to the site;
- 9) off carriageway parking facilities for traffic associated with construction phase;
- 12) suitably qualified archaeologist to undertake monitoring of all topsoil stripping;
- 20) Excavation shall not take place below a level of at least 1m above the highest seasonal water table level on site & ground water monitoring programme required.
- 23) Environmental Audit to be carried out annually.
- 24) Environmental Management System
- 25) Extractive Waste Management Plan.

### 3.3. Refusal

- 3.3.1. Permission was refused for the continuance of the permitted restoration of the Walshestown lands for a period of an additional 8.5 years to complete the current permission restoration works and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works (12 years in total). Proposed restoration works include the importation and placement of inert materials over an area of c.40.5 ha; processing of non-hazardous materials including crushing, screening and magnetic separation using mobile machinery for the purpose of recovery and recycling of engineering materials; storage and continued use of all established and permitted structures, storage facilities, hardstanding, drainage

infrastructure; storage shed of 3,500 sq.m to facilitate restoration use. The reasons for refusal are as follows:

1. Considered the local road network serving the proposed development at Walshestown is substandard in terms of condition, capacity, width and surface and is inadequate to accommodate the type and volume of traffic movements generated by the proposed development. Considered that the proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.
2. Applicant has not sufficiently demonstrated that they can carry out or have adequate legal consent to carry out the necessary road improvement measures on the L6042 to accommodate the increased HGV traffic and address the deficiencies in the local road network. In the absence of the necessary road improvement measures, the proposed development would endanger public safety by reasons of traffic hazard, would seriously injure the residential amenity and depreciate value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

### **3.4. Planning Authority Reports**

#### **3.4.1. Planning Reports**

##### **3.4.1.1. First Report (04/07/2019)**

The report is summarised as follows:

- Four recorded monuments within the landholding of the applicant but none within area of proposed development.
- Site located in Eastern Transition Landscape Category which are defined as having capacity to accommodate a range of uses without significant adverse effects.
- Planning History and Local Planning Policy Context outlined;
- Proposed development detailed;
- Ruined farmhouse & buildings (L6051) proposed for demolition with no details provided and considered that structure while in ruined state adds to vernacular

heritage of the area and further details are required. Noted conservation officer required further information as outlined below.

- Noted no submission received from Department Culture, Heritage and Gaeltacht.
- Proposed temporary maintenance shed c.13m high on higher ground on Punchestown land with berms around Walshestown appearing to screen with shed to be removed and visual impact generally acceptable.
- Landscaping proposals outlined with no protected views in the local area with protected view c.5km from site with glimpse views of subject site from same.
- Restoration works at Walshestown visible in local landscape given long history as a quarry with impacts lessening with restoring and landscape berms and while accepted that there will be visual impacts, will be screened by ongoing re-creation of Priest's Hill and tree belts and not considered proposal would negatively impact landscape;
- From discussion with Heritage Officer further information required in respect of a bat survey and invasive species management plan;
- Issues raised on residential amenity considered valid and note further information request from Roads section;
- Noted that no change proposed to current access arrangements at Punchestown and Walshestown with 65 trucks per day permitted to access with concerns raised by Roads section outlined.
- Existing and proposed drainage arrangements outlined and queried why, if the shut off valve from Pond C to the Morrell River is locked, is it required.
- Proposed changes to attenuation ponds outlined with existing pipework noted to be maintained with no proposed increase in volume of runoff predicted.
- Proposed works do not impact volume of foul water generated.
- Noted no issues raised by Environment Section in relation to Air Quality, Dust and Noise.
- AA screening assessment in Appendix A of report and Environmental Impact Assessment contained in Appendix B with relevant classes within Schedule 5 outlined.

- Rationale noted and generally complies with objectives in Development Plan in supporting equine and tourism industry and while most aspects acceptable considered further information required.

#### 3.4.1.2. **Further Information Request**

Further Information was requested from the applicant on 4<sup>th</sup> July 2019 in respect of the following matters:

1. Concerns in respect of the use of L-6042 and request to consider developing a new haul route from the quarry to the L-2023 via lands within the applicant ownership.
2. Details of proposed upgrade to section of L6042 between Begger's End junction and junction with L6401.
3. Clarify if proposed to demolish old cottage and farm building to south of proposed racetrack extension and requested to consider the retention and potential reuse of the cottage as part of proposal.
4. Invasive Species Management Plan
5. Clarify if bat survey carried out.
6. Impact analysis and commentary on historic structures and their setting within and adjacent to receiving environment.
7. Clarify need to connect to Morell River from Pond C if shut off valve proposed is closed at all times.
8. Address issues raised in submission from Inland Fisheries Ireland
9. Comment on third party submissions received.
10. Amend chapters of the EIAR having regard to revisions arising from FI request.

#### 3.4.1.3. **Response to Further Information**

Response to same received by the PA on 13/12/2019 and is summarised as follows:

##### Road Upgrades (1)

Detailed appraisal of different potential haul routes undertaken including detailed evaluation of two new potential haul routes that would traverse Punchestown with

upgrades to existing access arrangements also considered with pros and cons of each option outlined in Table 1 of Appendix A.

Assessment determined that Option 3, continued use of L6042 on basis of agreed road improvement was preferred solution with consultation on same.

### Road Upgrades (2)

Drawings submitted presenting proposals to upgrade section of L6042 between Begger's End Junction and its junction with L6401. Works undertaken in 2018 comprised 1km of resurfacing on the L6042 from Walshestown entrance to existing L6042/L6041 priority junction. Proposed as part of proposed development to make a special contribution to KCC to facilitate KCC undertaking further resurfacing and road improvement works on L6042 for another c.1km from existing L6042/L6041 priority junction to existing L2023/L6042 priority junction providing approximately 2km of road would be resurfaced. Further works proposed include some additional carriageway improvements, 2 additional truck passing areas, access arrangements to individual properties improved and improved road marking and signage. Strict traffic management procedures by operator of Walshestown to be implemented.

### Cultural Heritage

Not proposed to demolish old cottage and farm buildings which are outside the working boundary and are proposed to be retained.

### Biosecurity

An Invasive Species Management Plan for Japanese Knotweed has been submitted which outlines the location of the JK on the site in the vicinity of attenuation pond within the racetrack and the management works completed to date.

### Bat Species

Surveys undertaken outlined and included an assessment of suitability of the habitats within the site to support roosting, foraging and commuting bat species with old cottage and farm buildings also inspected. Majority of site considered suitable for commuting and foraging will be protected and retained and no trees or buildings identified as having the potential to support roosting bats. Considered highly unlikely any impacts on bat species will occur as a result of the proposed development in accordance with best practice with bat species scoped out from further consideration



with no more detailed bat surveys required but applicant committed to protection of bats and mitigation measures will be implemented.

#### Cultural Heritage

Comprehensive Archaeological Assessment undertaken as part of EIAR with assessment providing adequate information on the built heritage through the form of impact analysis and commentary on the historic structures and their settings. No buildings are proposed to be demolished.

#### Water

Connection to the Morell River via an outlet pipe is required as part of the Specified Engineering Works to manage surface water runoff from the existing Waste Processing Area (WPA) at the Walshestown facility which is a strict requirement of the EPA as stipulated in Conditions 3.5, 3.11 and Schedules B & D of the waste licence (W0254-01). Can be concluded that the shut-off valve will remain locked and closed at all times with no discharge into the Morell River.

#### Inland Fisheries Ireland

Issues raised by IFI addressed in the EIAR with further clarifications provided in terms of mitigation measures in proximity to waterways noting that there is no discharge from the site to the Morrell River.

#### Third Party Submissions

In relation to third party submissions, consultations undertaken have been outlined and proposed future communication.

#### EIAR

Clarified that the response to further information does not require any amendments to the EIAR.

#### **3.4.1.4. Further Information – Significant**

It was determined by the Planning Authority that the Further Information received was significant and further public notices (dated 20/12/2019) were required inviting further submissions.

#### **3.4.1.5. Second Planners Report (02/2020)**

In response to Further Information Response a further report outlines the following:

- In response to roads matters noted Roads section recommend a partial grant and refusal for restoration for a number of reasons (outlined below) and agreed;
- Other matters noted and deemed acceptable;
- Further submission from Blackhall Road Residents Association noted which disputes a number of issues and notes no agreement regarding third party lands.
- Considered that section 14 of EIAR should have been updated to take account of road improvement works proposed;
- Principle of extending the racetrack, widening the home straight, new ambulance track and other works to attenuation ponds acceptable and would accord with Development Plan;
- Accepted there will be visual impacts but noted these will be screened by ongoing re-creation of Priests Hill and tree belts with overall impact considered acceptable;
- Concerns regarding roads and transport in relation to proposed restoration works as outlined in Roads reports;
- Issues raised in third party submission regarding residential amenity considered valid and applicants FI response has not adequately addressed issues raised;
- Conclusion on AA screening remains applicable following FI response;
- Considered EIAR adequately describes direct and indirect effects except in relation to transportation with alternatives considered reasonable;
- PA does not concur with EIAR that there would be no likely significant effects on amenity following mitigation measures with concerns that quarry restoration will have negative effects on human health which should have been more detailed in the EIAR and has not been adequately addressed to justify a grant of permission for restoration element with proposed development having an unacceptable direct, indirect or cumulative effect on population and human health;
- EIAR and FI response fully address potential impacts on biodiversity.

- Lands and soil section of EIAR reviewed by Environment section who are satisfied subject to condition with no unacceptable impacts envisaged;
- Increase in water demand outlined with EIAR adequately identifying and assessing potential impacts on water.
- EIAR adequately identifies and assesses potential impacts on air quality, climate, noise and vibration.
- Proposal accompanied by adequate screening and given nature of proposal to restore landscape considered proposal will give rise to positive impacts with landscape adequately addressed in the EIAR;
- Proposal would not have any unacceptable impact on archaeology, architectural or cultural heritage;
- Noted Traffic section of EIAR was not updated following further information response and PA consider EIAR deficient in assessing impact of quarry restoration for 12 years on adjoining local road and on residential amenity of the area and in light of concerns of Transport Department do not concur with EIAR that there would be no likely significant or permanent impacts;
- Potential impacts in respect of waste management adequately addressed
- Relevant interactions addressed except Traffic and Transport and resultant impacts on residential amenity and traffic safety of local residents and road users.
- Reasoned conclusion addresses each environmental factor and all acceptable except for roads and traffic which has not been fully addressed with split decision proposed and concludes that likely significant environmental effects arising have not been satisfactorily identified, described or assessed;
- Split decision recommended.

#### 3.4.1.6. **Appropriate Assessment Screening Assessment (04/07/2019)**

Notes location of site approximately 4.3km from Poulaphouca Reservoir SAC to the south-west and 4.3km from Redbog SAC to the north-east. In identifying sites which may be impacted reference is made to River Barrow and River Nore, Slaney River Valley and Holdenstown Bog in respect of freshwater habitats or species, wetland

habitat and terrestrial sites with development not within 1km or 100m of same as set out in form (considered to be an error). No SPA's stated to be within 5km of the site. No impacts are considered likely with the conclusion noting that significant impacts on habitats within Natura 2000 sites can be ruled out and no further assessment is required. The screening conclusion states that having regard to the proximity of the nearest Natura 2000 site and lack of pathways to protected sites it is not considered that there would be potential for significant effects.

### **3.4.2. Other Technical Reports**

#### **3.4.2.1. Roads and Transportation Section – First Report (28/06/2019)**

Capacity assessment of key junction demonstrate that in time a number of junctions will reach capacity with queuing of traffic on a number of junction arms however as proposed racetrack improvements and associated material haulage will take place within development boundary effect to traffic on public roads in vicinity of site attributed to increased traffic from other sources.

No road design issues identified with TTA demonstrating no additional traffic generated however 12 year permission sought with traffic associated with quarry restoration remaining on the roads for longer period than covered by extant permission (Ref. 08.2159).

Importation of material to the site would equate to 120 HGV movements per day with impact on road serving the quarry raising significant concerns from Naas Municipal District Engineer.

Further information required.

Naas Municipal District Engineer raised concerns relating continued use of the L-6042 for restoration of quarry for a further 12 years. Road has been subject to significant volumes of HGV traffic associated with quarry with deterioration and erosion of verges accelerated largely due to insufficient road width available for two HGV's to pass each other with increased maintenance costs resulting for the MD Engineer with poor quality of life experienced by local residents. Roads and Transportation section proposes that applicant consider developing a new haul route from the quarry to the L-2023 via lands under control/ownership of the applicant (Malone O'Regan Drawing 100 Ref. P – site location map) which would allow

applicant retain current access as either an entry or exit only halving the HGV traffic on the L-6042.

Following receipt of Further Information Response the following is stated:

Recommends partial grant of permission permitting extension of existing racecourse and widening of home straight and raising of site levels to match existing contours requiring approximately 1.15 million tonnes of topsoil, subsoils, sands and gravels from lands adjoining the established racecourse at Walshestown only that are currently being restored from a disused sand and gravel pit to agricultural use under KCC Reg. Ref. 08/2159 and EPA Licence W0254-01. Conditions are proposed including that all fill material for the development shall be sourced only from the adjacent site at Walshestown directed to the development site with no vehicular movement of fill on the public road network.

Recommends refusal of permission for the continuation of the permitted restoration use of the Walshestown lands for 8.5 years to complete the current restoration works and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works. The reasons for refusal relate to absence of third party consent from land in private ownership for improvement works, disimprovement of visibility splays at a number of entrances, 12 additional years would result in further deterioration of the L-6041 and its verges representing a traffic hazard.

#### **3.4.2.2. Naas Municipal District Engineer (18/02/2020 & 22/06/2019)**

Not satisfied that adequate information submitted to fully assess application with further information required as follows:

Applicant to consider developing a haul route through their lands onto the L2023 due to significant quantity of material to be hauled to development and current limitations of the L6042 for the proposed level of HCV's over a 12 year period which could form part of a 1-way haul route for vehicles.

Submit details of how it is proposed to achieve an upgrade of the section of the L6042 between Begger's End junction and its junction with the L6041 to facilitate the proposed level of HCV traffic.

Following receipt of Further Information Response the following is stated:

Recommends partial grant of permission permitting extension of existing racecourse and widening of home straight and raising of site levels to match existing contours requiring approximately 1.15 million tonnes of topsoil, subsoils, sands and gravels from lands adjoining the established racecourse at Walshestown only that are currently being restored from a disused sand and gravel pit to agricultural use under KCC Reg. Ref. 08/2159 and EPA Licence W0254-01. Conditions are proposed including that all fill material for the development shall be sourced only from the adjacent site at Walshestown directed to the development site with no vehicular movement of fill on the public road network.

Recommends refusal of permission for the continuation of the permitted restoration use of the Walshestown lands for 8.5 years to complete the current restoration works and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works. The reasons for refusal relate to absence of third party consent from land in private ownership for improvement works, disimprovement of visibility splays at a number of entrances, 12 additional years would result in further deterioration of the L-6041 and its verges representing a traffic hazard.

**3.4.2.3. Architectural Conservation Officer (20/06/2019)**

Further information required on built heritage impact analysis and commentary on historic and existing structures and their setting within and adjacent to the receiving environment including historic research of documentation and maps, comment on impact of proposal on receiving environment and its setting, construction environment and residual environment with proposed mitigation measures.

**3.4.2.4. Water Services (28/05/2019)**

Happy with proposals set out in documentation with condition proposed the land and roadside drainage shall not be impaired.

**3.4.2.5. Environment Section (3/02/2020 & 28/06/2019)**

No obvious environmental or technical issues with conditions proposed. Second report request that applicant shall implement all measures outlined in the Japanese Knotweed Management Plan.

**3.4.2.6. Environmental Health (14/01/2020 & 25/06/2019)**

Proposal acceptable subject to compliance with review of EPA Waste Licence Ref. W0254-01. No further comments on further information.

**3.4.2.7. Fire Service (11/02/2020 & 20/06/2019)**

Fire Safety Certificate required.

**3.4.2.8. Kildare National Roads Office (13/01/2020 & 10/06/2019)**

No comments

**3.4.2.9. Heritage Officer (05/02/2020)**

Invasive species report reviewed and all recommendations to be carried out in full.

**3.5. Prescribed Bodies**

**3.5.1. Transport Infrastructure Ireland (19/12/2019 & 29/05/2019)**

- No comments on original documentation and further information.

**3.5.2. Inland Fisheries Ireland 07/06/2019)**

- Development in catchment of River Morell which provides spawning habitat for a key population of Atlantic Salmon and supports significant populations of Brown trout. River Liffey and several tributaries including Morrell River exceptional in the area in supporting Atlantic Salmon, sea trout, brown trout and freshwater crayfish and lamprey.
- Ground preparation and associated construction works including large scale topographic alteration have significant potential to cause release of sediments and pollutants into surrounding watercourses with pollution of adjacent freshwaters having potential to have a significant negative impact on fauna and flora of sensitive freshwater system.
- CMP should provide mechanism for ensuring compliance with environmental legislation and statutory consents.

- Stockpiling of topsoil must be considered and planned such that risk of pollution is minimised and drainage from topsoil storage area may need to be directed to a settlement area for treatment.
- Undisturbed buffer zone between development area and river bank should be maximised and riparian vegetation retained in as natural a state as possible.
- Discharges to surface streams on site must not impact negatively on salmonid status of the river.
- Invasive species and biosecurity plan should be included to treat and manage identified invasive species.
- Silt traps should have regular inspection and maintenance with a written log of same available for inspection.
- Dewatering of ground water during construction treated by infiltration over land or to an attenuation area before discharge.
- Discharges to be in compliance with EC (Surface Water) Regulations 2009 and EC (Groundwater) Regulations 2010.

### 3.5.3. **Irish Water**

- No objection

### 3.5.4. **Environmental Protection Agency (11/07/19)**

Outlines that Cemex (ROI) Limited issued with a Waste Licence (W0254-01) on 23/10/2013 and details the licenced waste disposal and recovery activities which are licenced. It is noted that the licence was transferred to Walshestown Restoration Limited on 8/12/2015. As part of its consideration of any licence review application that may be reviewed which addresses changes proposed, the Agency will ensure that before any revised licence is granted, the licence application will be made subject to an EIA as respects the matters that come within the functions of the Agency and in accordance with Section 40(2A) and Section 42(1G)(a) of the Waste Management Act with consultation carried out with the PA required to provide documentation relating to the EIA carried out to the Agency and notes that the Agency cannot issue a licence on a proposed development until a planning decision has been made.



### 3.6. **Third Party Observations**

A number of observations were received both following receipt of the application and then following submission of significant further information. They are as follows:

#### Blackhall Road Residents' Association

Matters relate to use and repair of road, noise and dust from trucks and are outlined in the grounds of appeal below. Correspondence to and from EPA also attached. A further submission was submitted following submission of the Further Information Response which addresses the response received by the PA from the applicant in respect of the proposed road upgrades and the consultation undertaken by the applicant in respect of same. The matters raised are detailed in the Grounds of Appeal below.

A number of submissions in support of the proposed development were submitted from the following:

County Kildare Chamber, Horse Racing Ireland, Harry Murphy Jnr., Harry & Lillian Murphy, Daire & Audrey Cullen, David Murphy, Kildare Failte, Irish Jockeys Association CLG, Association of Irish Racecourses, The Elms, Colm Molloy.

## 4.0 **Planning History**

### 4.1. **Racecourse**

- 4.1.1. Documentation submitted notes that the first race was held in 1825 and by the 1860's the course had a grandstand, fences and hurdles. Table 2-1 of the EIAR provides a comprehensive overview of the planning history pertaining to the site with the following applications outlining key stages of development/redevelopment:
- 4.1.2. Ref. 709322 – Stage 1 Redevelopment of Racecourse granted February 1970.
- 4.1.3. Ref. 79339 – Construction of New Grandstand, Club/Bar facilities granted February 1979;
- 4.1.4. Ref. 97544 – Punchestown Equestrian Centre granted July 1997 with revisions under Ref. 98131 granted in April 1998.

- 4.1.5. Ref. 00748 – Agricultural event and exhibition centre (7,328sq.m) and 130 new stables granted September 2000.
- 4.1.6. Ref. 17/58 – Permission granted for demolition of existing old external stand and construction of a new three storey trackside stand with bars, restaurants and ground floor link building to existing trackside unit, integrated external viewing grandstand terracing and new separate catering facility unit.

## 4.2. **Walshestown**

- 4.2.1. **KCC Ref.15/4** - Application withdrawn – permission sought by Cemex Ltd for an extension of duration of Ref. 08/2159 for continuation of restoration activities at their existing sand and gravel pit.
- 4.2.2. **KCC Ref.08/2159** - Permission granted for continuation of restoration activities with intention of applicant to restore lands back to Eastern Kildare Uplands Transition Character and to meet a specific objective of the Kildare County Development Plan 2005-2011 (Walshestown Pit 9). Area of restoration works 40 hectares of overall site of 68 hectares. Development consists of (a) importation and placement of inert materials over a period of c.15 years (b) inert materials processing and stockpile area; (c) processing of inert materials including crushing, screening and magnetic separation using mobile machinery for purposes of recovery and recycling of engineering material; (d) wheelwash; (e) quarantine area within existing shed (change of use); and (f) provision of vehicle maintenance sheds (change of use). Condition 3 of the permission limited duration of permission to 10 years. ABP-PL09.235776 – An appeal was submitted to the Board in respect of Condition 62 which related to the Section 48(2)(c) Development Contribution which the Board decided on 6 May 2010 had not been properly applied and that Condition 62 should be removed.

### **EPA Waste Licence Ref. W0254-01**

The EPA granted a licence on 23/10/2013 to Cemex (ROI) Ltd. with the Main Activity **Class D5** - Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.).

Other Classes of Activity are as follows:

**Class D1** - Deposit into or on to land (e.g. including landfill, etc.).

**Class D15** - Storage pending any of the operations numbered D1 to D14 (excluding temporary storage (being preliminary storage according to the definition of "collection" in section 5(l), pending collection on the site where the waste is produced).

**Class R3** - Recycling /reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes), which includes gasification and pyrolysis using the components as chemicals.

**Class R4** - Recycling/reclamation of metals and metal compounds.

**Class R5** - Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

**Class R13** - Storage of waste pending any of the operations numbered R1 to R12 (excluding temporary storage (being preliminary storage according to the definition of 'collection' in section 5(l)), pending collection, on the site where the waste is produced).

The EPA notes that licence Reg. No. W0254-01 was transferred to Walshestown Restoration Limited on 8 December 2015. It is also noted that the licence was amended on 27 May 2020 under Section 42B(1)(c) of the Waste Management Act 1996 as amended.

**UD6865** – Non-compliance with Ref. 08/2159 conditions 1, 2, 16, 17, 41, 42 and 49 with Status of same noted by the PA as resolved.

- 4.2.3. **KCC Ref. 96/100** - Permission was granted on appeal by the Board (Ref. 09.098844) following Notification to refuse permission by KCC for the extraction of gravel from an area of 17.2ha on an overall site of 18.1ha.

Condition 10 of this permission stated the following:

The site of the proposed development shall be restored in accordance with a scheme which shall include detailed plans and particulars and which shall provide for

phased and final restoration, profiling and landscaping and which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The restoration, profiling and landscaping scheme shall include the following:

- (a) Provisions for the removal from the site of structures and plant associated with the extraction operations and of waste materials that are not required for restoration purposes.
- (b) Details of the nature of any filling materials which may have to be imported in to the site for restoration purposes and the method and timing of any filling operations arising from such importation.
- (c) Provision for the suitable preparation and grading of the area to be restored by the use of imported materials, waste materials or overburden materials.
- (d) Provisions for spreading over the area to be restored, the subsoil and topsoil or imported subsoil and topsoil, if required.
- (e) Details of the final surface water levels of the restored area, which levels shall be such as to allow satisfactory drainage of and outfall from the site and provisions for the restoration of natural surface and subsoil drainage of the area to be restored.
- (f) Details of the slopes to which the faces of the pit shall be graded.
- (g) Details of the aftercare management, such as cultivation, seeding, planting and subsequent maintenance and management, which it is proposed to take in order to render such area of land restored under this condition suitable for use which shall be appropriate to the area, and
- (h) A detailed programme for the implementation of the restoration operations required by this condition including an indication of the dates relative to the progress of the gravel extraction by which each phase of the restoration shall be completed.

4.2.4. **Ref. 340/76** - Permission granted to Roadstone for extraction of sand and gravel at the site

- 4.2.5. **Ref. 8359** - Permission granted to Roadstone for the operation of a gravel pit in December 1969.

## 5.0 Policy Context

### 5.1. National Planning Framework

- 5.1.1. One of the frameworks National Strategic Outcomes seeks to strengthen rural economies and communities. It states that *'rural areas play a key role in defining our identity, in driving our economy and our high quality environment and must be a major part of our country's strategic development to 2040. In addition to the natural resource and food sector potential as traditional pillars of the rural economy, improved connectivity, broadband and rural economic development opportunities are emerging which offer the potential to ensure our countryside remains and strengthens as a living and working community'*.
- 5.1.2. The framework includes a suite of National Policy Objectives which includes the following: NPO 14 which seeks to *'protect and promote the sense of place and culture and the quality, character and distinctiveness of the Irish rural landscape that make Ireland's rural areas authentic and attractive as places to live, work and visit. The Action Plan for Rural Development will support this objective up to 2020; thereafter a review of the Action Plan will be undertaken to ensure continued alignment and consistency with the National Policy Objectives of this Framework'*.
- 5.1.3. Furthermore, National Policy Objective 21 proposes to *'enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT based industries and those addressing climate change and sustainability'*. NPO 22 seeks to *'Facilitate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, which prioritises projects on the basis of achieving maximum impact and connectivity at national and regional level'*.
- 5.1.4. It is stated at page 78 of the plan that *'aggregates and minerals extraction will continue to be enabled where this is compatible with the protection of the environment in terms of air and water quality, natural and cultural heritage, the*

*quality of life of residents in the vicinity, and provides for appropriate site rehabilitation'. To this end, National Policy Objective 23 seeks to: 'facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism'.*

- 5.1.5. It is noted that NPO 52 states that *'the planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital'.*

## **5.2. Eastern and Midland Regional Spatial and Economic Strategy**

- 5.2.1. The RSES supports the implementation of the National Planning Framework at a regional level. The Eastern and Midland Regional Assembly decided to make the Regional Spatial and Economic Strategy for the Eastern and Midland Region on the 28th June 2019, in accordance with section 24(9) of the Planning and Development Act 2000. The RSES was subject to a Ministerial Direction issued on 14th January 2020. The Regional Strategic Outcome (RSO) 3 relates to rural communities and proposes to *'support sustainable rural development and strengthen rural networks, economies and communities. Manage urban generated growth in areas under strong urban influence and encourage sustainable growth in areas that have experienced decline or stagnation'*. RSO 7 addresses the Sustainable Management of Water, Waste and other Environmental Resources by seeking to *'conserve and enhance our water resources to ensure clean water supply, adequate waste water treatment and greater resource efficiency to realise the benefits of the circular economy'*.
- 5.2.2. In terms of the regional profile, it is noted (pg.17) in respect of employment, that *'the Eastern and Midland counties have the highest share of micro-enterprises with specialisations, which include tourism, the equine, food and creative industries'*. It is also noted that RPO 6.7 seeks to *'support local authorities in developing 'sustainable and economically efficient rural economies through initiatives to enhance sectors*

*such as agricultural and food, forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage’.*

### **5.3. Kildare County Development Plan 2017-2023**

- 5.3.1. Chapter 5 of the Plan deals with Economic Development, Enterprise and Tourism and states at the outset that Kildare has a strong rural economy with equine, agriculture, energy production and tourism featuring strongly. Section 5.11 addresses ‘Equine’ and it states that *‘it is estimated that 5,000 people are directly employed in the equine industry within the county, with a further c. 10,000 people in associated industries and services. There are 104 stud farms in the county. Race courses at Punchestown, Naas and The Curragh, the State owned National Stud Farm, Kill International Equestrian Centre, and Goff’s Equine Auction Centre are important economic contributors to the county. There are considerable opportunities to optimise these existing resources in order to increase employment and to further develop equine tourism and promote Kildare as a location for national and international equine events. There is also scope to further diversify the sports related horse industry which, given the proximity to Dublin, could be integrated with show jumping, eventing and general equine related leisure activities’.* Council equine policies include the following:

**Policy ECD 24** - Actively promote and support the equine industry as an economic driver for Kildare.

**Policy ECD 25** - Support the redevelopment and upgrading of the Curragh, Punchestown and Naas racecourses and their associated facilities.

- 5.3.2. Section 5.15 addresses tourist attractions in Kildare noting that Kildare currently has a varied tourism portfolio with a position of excellence in heritage, golf, equine and horse racing. Whether operating individually, within clusters, or along touring routes, these facilities and activities must be developed and marketed as attractive day visits or touring options that appeal to both domestic and international visitors. Council Tourism policy includes the following:

**ECD 28** Promote, protect, improve, encourage and facilitate the development of tourism throughout the county as an important contributor to job creation in accordance with the proper planning and sustainable development of the area.

**ECD 32** Support the development of new tourist facilities or upgrading/ extension of existing tourist facilities at tourist sites in accordance with proper planning and sustainable development principles. These facilities should avail of shared infrastructure and services where possible.

**ECD 34** Facilitate the expansion of existing tourism and recreation related development, and the development of new tourism and recreation related development, subject to the protection of the receiving environment.

The following tourism objectives are considered relevant:

**EO 39** Encourage clustering of tourism products and services within identified hubs and nodes and to avail of shared infrastructure and services where possible, to increase linkages within and reduce leakage from the local economy.

**EO 40** Support the expansion and development of tourism in Kildare, investigating the feasibility of key opportunities such as those centred on the racing industry, retail, golf and eco-tourism to include: Arthur's Way, the Dublin – Galway Greenway, the Barrow Blueway, the Shackleton Trail, the Gordon Bennett Route, the Grand Canal Greenway and other opportunities.

**EO 41** Develop innovative marketing campaigns to promote Kildare's heritage, culture, attractions and festivals and events.

- 5.3.3. Section 5.21 deals with events and festivals and notes that 'Festivals can be a key driver of local economies and a means of revitalising and maintaining local culture. Festivals are important in terms of attracting visitors to the county during the off-peak season and encouraging dwell time. County Kildare hosts a wide range of festivals and annual events including the internationally renowned Punchestown and The Curragh racing festivals which provide a significant boost to the County's tourism industry. The following policy of the council is relevant:

**ECD 39** Support and promote existing festivals and sporting events to increase the cultural, heritage and lifestyle profile of the county, and where appropriate to promote and facilitate the development of new events and venues to host these events.



5.3.4. Chapter 10 addresses Rural Development where it is stated that *'the Council is committed to promoting balanced and inclusive rural communities, to achieving an appropriate scale of development supporting farming and other rural based economic activity (such as equine development, forestry and boglands) as important sources of income, while also fostering sustainable economic diversification and development in rural areas. Section 10.4.2 refers specifically to equine and notes that the equine industry is hugely important to the economy of the county, generating significant foreign direct investment and attracting large numbers of tourists to the county each year. The Irish Field Directory records 104 stud farms in the county. It is estimated that Kildare has the highest concentration of licensed trainers at 13.5% and also has the highest concentration of registered breeders at 13.7% of the island total <sup>2</sup>. The industry directly employs approximately 5,000 people in the county, with a further c.10,000 people working in associated industries and services. Three premier race courses are located in the county (i.e. The Curragh, Punchestown and Naas) together with training and educational facilities for the equine industry. In addition there has been significant growth in the sport horse industry. At present, in County Kildare there are 14 Association of Irish Riding Establishments (AIRE) approved equestrian centres, some of which are known internationally. An increasing number of establishments in the county are concentrating specifically on breeding, training and competing sport horses. In recognising the importance of the bloodstock industry, both in land-use and in terms of direct and indirect employment generated by it, the Council will continue to support and encourage the development of a vibrant bloodstock industry, which plays a major role in the rural economy'*. Policies relating to the equine industry include the following:

**EQ 4** Protect the Curragh, Punchestown and Naas racecourses from any development that would interfere with their amenity qualities while, at the same time, promoting the enhancement of facilities for race-goers.

**EQ 5** Recognise and support the development of the Irish sport horse industry in the county, including breeding, competing and training.

**EQ 6** Support the relevant equine bodies / organisations in the county in the pursuit of their objective to maintain the position of the equine industry in the world's international markets.

- 5.3.5. Section 10.4.9 deals with Mineral Resources noting that they are *'generally located within the rural area. The nature of the extractive industry is such that the industry must be developed where the resource occurs. The industry can have damaging environmental effects and permission will only be granted where the Council is satisfied that residential and natural amenities will be protected, pollution will be prevented and aquifers and ground water safeguarded. Section 10.7 outlines in more detail considerations in relation to the sector together with appropriate policies and objectives'*. Section 10.8 outlines objectives in relation to rural enterprise and notes *'aggregate resources are important to the general economy and provide a valuable source of employment in some areas of the county. The Department of the Environment and Local Government Report 'Preventing and Recycling Waste – Delivering Change' (2002) calls for the re-use or recycling of 85% of construction and demolition (C and D) waste by 2013. If achieved, this target, together with other national sustainable development objectives and a leveling off of construction activity, is likely to lead to a decrease in the rate of extraction of aggregates in the future. The nature of the extractive industry is such that the industry is required to be developed where the resource occurs and may give rise to land-use and environmental issues that must be considered in the planning process. It is necessary to ensure that aggregates can be sourced without significantly damaging the landscape, environment, groundwater and aquifer sources, road network, heritage and / or residential amenities of the area'*.
- 5.3.6. Section 10.7 deals specifically with the extractive industry with the specified aim *'to ensure that adequate supplies of aggregates are available to meet the future needs of the county and region in line with the principles of sustainable development and environmental management'*. Section 10.7.1 addresses the siting of extractive activities, section 10.7.2 provides detail in respect of the layout and design of such industries stating that *'in order to minimise visibility from the surrounding countryside, overburden (topsoil, subsoil and waste) should be located to enclose and screen the proposed development. This objective must take account of the operation's reasonable requirement to minimise the length of haulage routes and to avoid double handling of material within the site'*. Section 10.7.3 dealing with the long term vision and states that extractive operations should outline a long term strategic vision with proposals to minimise a wide or long exposed work face, dispersed structures and

incongruous spoil heaps. The principal cause of this problem is the tendency to begin working at the toe of the steepest face. A more appropriate alternative is to begin at the upper part of the resource and to gradually work downward facilitating continuous restoration, minimising visibility and contributing to a significantly smaller environmental footprint. Policies in relation to same are set out in section 10.7.8 and include:

**EI 2** - which seeks to *“Recognise the role and facilitate the exploitation of County Kildare’s natural aggregate resources in a manner which does not unduly impinge on the environmental quality and the visual and residential amenity of an area, while continuing to regulate the extraction of aggregates and to seek the delivery of environmental benefits in the form of sustainable habitat creation in conjunction with the restoration phases of development”*.

**EI 4** - which seeks to *“Ensure that extraction activities address key environmental, amenity, traffic and social impacts and details of rehabilitation. In the assessment of planning applications for new development, intensification of use or diversification of activity, the Council will have regard to the nature of the proposal, the scale of activity proposed, the impact on the adjoining road network, the effect on the environment including important groundwater and aquifer sources, natural drainage patterns and surface water systems and the likely effects that any proposed extractive industry may have on the existing landscape and amenities of the county, including public rights of way and walking routes”*.

**EI 12** – which seeks to *“Ensure that all existing workings are rehabilitated to suitable land-uses and that extraction activities allow for future rehabilitation and proper land-use management”*.

#### **5.4. Natural Heritage Designations**

5.4.1. Four Natura 2000 sites are within c. 10km of the subject site as follows:

- Red Bog, Kildare SAC (Site Code 000397) c.5.5km;
- Poulaphouca Reservoir SPA (Site Code 004063) c.5.4km;
- Wicklow Mountains SAC (Site Code 002122) c.8.9km;
- Wicklow Mountains SPA (Site Code 004040) c.11.3km;

## 5.5. EIA Screening

5.5.1. The proposed development falls within the definition of a project under the EIA Directive (85/337/ECC) as amended by Directive 2014/52. Part 2 of Schedule 5 of the Planning and Development Regulations 2001 provide that an EIA is required for the following:

- Extractive Industry - Class 2 (b) – extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares.
- Infrastructure Projects - Class 10(b) - where urban development would exceed an area of 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- Other Projects – Class 11(b) – installations for the disposal of waste with an annual intake greater than 25,0000 tonnes (not included in Part I of the schedule)
- Changes/Extension – Class 13 – any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part I) which would:

Result in an increase in size greater than:-

- 25% or
- An amount equal to 50% of the appropriate threshold.

Therefore, EIA is mandatory and the applicant has submitted an EIAR. An EIA is undertaken at Section 9 of this report.

## 6.0 The Appeals

### 6.1. First Party Appeal

6.1.1. A first party appeal was received by the Board and relates to the decision to refuse permission for the continuance of the previously permitted restoration works at the former Walshestown sand and gravel pit.

### 6.1.2. Grounds of First Party Appeal

The first party appeal is summarised as follows:

- Racecourse extension and enhancement and further partial extraction and comprehensive restoration of the former quarry within the same application site are integrated and inter-dependent elements of the same development.
- Rationale for extracting material from the proposed location outlined with only viable option the extraction of native topsoil and subsoil from adjoining lands some of which being currently restored;
- Restoration of the former quarry to be completed as formerly permitted and to include that area where material is proposed to be extracted significantly improving the landscape character and visual amenities of the area and setting and aspect from within the racecourse and particularly from the main stand which is a key objective of the applicant.
- Council decision to permit the extraction of material for the construction of the racecourse but not the restoration of the extraction area is unsustainable and would only compound negative visual impacts from existing quarry area.
- Permission granted for landscape works in 2010 temporary 10-year permission but application documents made it clear that a longer duration and further permission would be required with only 4 of permitted 10 years carried out due to recession, transfer of lands and limited capacity.
- Proposal consistent with Kildare County Development Plan policies which supports equine industry and improvement of visual amenities with restoration of Walshestown lands and additional extraction area directly related and fundamental to racecourse extension and enhancement.
- Refusal of restoration works exacerbate the landscape, visual and amenity impacts of lands that frame views of the Racecourse from the main stand.
- Walshestown restoration consistent with Development Plan policy including EI12 which seek to ensure that all existing workings are rehabilitated to suitable land-uses and consistent with Ministerial Guidelines for Quarries and Ancillary Activities;
- To address traffic concerns in PA decision appeal provides further refinement and detail on road improvement works with resurfacing over 1km distance with local widening and two truck passing areas resulting in significant improvement of

condition, capacity, width and surface of L6042 which has been subject of Road Safety Audit and letters of consent to demonstrate sufficient legal interest.

- Concerns of PA relate specifically to Local Road L6042 and do not extend to wider road network, which is a single carriageway varying in width from 5.2m to 6m wide with trucks arriving and departing from the restoration works travelling just under 2km along the L6042, where a speed limit of 80km applies, from the existing L6042/L6041 priority junction.
- RSA accident data confirms no recorded history of accidents along this 2km section since 2005 with capacity of L6042 stated as 5,000 vehicles daily with AADT for 2019 for L6042 stated as 1040 confirming significant available capacity with adequate current width for vehicles to pass including with a larger HGV but with two large HGV's requiring greater care to pass on sections where carriageway width is below 5.3m.
- Applicant undertakes to make a special contribution to KCC to facilitate completion of further resurfacing and road improvement works on L6042 for c.1km extending from existing L6042/L6041 priority junction to existing L2023/L6042 priority junction including local widening of existing carriageway to minimum width of 5.5m.
- In addition to resurfacing works, proposed to provide carriageway widening at specified areas identified on drawing 18132-01-0101, 2 additional truck passing areas and appropriate road markings and signage to control speed of trucks.
- Currently 9 accesses to residential properties along extent of proposed carriageway widening, 7 of which will have no change to sightlines, 2 where sightline slightly reduced but no material change on existing situation, house access not in use and field access will see slight reduction but at all these locations carriageway edge has broken away with improvement works reclaiming unimproved surface between the existing road edge and existing verge improving access arrangements with main contributory factor to poor sightlines at these properties lack of maintenance of adjoining hedgerows.

- Applicant prepared to engage with PA to make contribution annually to maintenance of hedgerows which with road improvement works proposed would provide improved sightlines.
- Road safety audit undertaken on road improvement works with no major issues raised with minor issues related to signage or road markings.
- Previous permission authorised 65 trucks a day (130 movements) based on road infrastructure at the time with no increase in truck movements proposed and receiving environment along L6042 has not materially changed since 2010 apart from road resurfacing works on part and proposed resurfacing as part of subject development on part of road currently in poor condition and will improve road.
- Access to soil recovery facility operated by Behan located almost directly across from subject facility with Behan accounting for c.55% of HGV's using L6042. Waste Licence for Behan facility (W0247-01) available on EPA website states Behan facility will be at capacity in 2021 resulting in significant reduction in HGV movements on the L6042.
- Details of meetings with Local Authority outlined and understood by applicant that Roads Department were satisfied that proposed upgrade proposal would ensure local road network would be brought to appropriate standard. Meetings with Blackhall Road Residents are outlined with the haul route options addressed at further information with pros and cons and continued use of L6042 considered optimum option.
- Adequate capacity on local road network with no adverse road safety impacts on human health with no evidence that proposal involving same number of trucks as existing over longer time frame will create a traffic hazard, proposal will contribute to road improvements, adjoining development generating majority of movements will be fully restored in near future and accident statistics do not support that existing traffic is a traffic hazard.
- Proposed improvement works require consent of two landowners or the County Council with consent of two landowners attached to appeal.
- Design of proposed development has avoided where possible and otherwise mitigated potential adverse impact on residential amenity, population and human

health and also noted that three separate quarries accessed via the L6042 have operated in the area since the 1950's predating many of the one-off houses with volumes of HGV movements over duration of restoration works significantly less than when these quarries were operational with residential amenity impacts also reduced with a summary of potential amenity issues outlined under environmental headings including air quality, noise and vibration, landscape and visual and operational management.

### 6.1.3. **Third Party Appellant Response to First Party Appeal**

The third party response to the first party appeal is summarised as follows:

- Consider Board should examine the proposal as separate entities and consider quarry element should have been applied for as a separate application with developments purposely merged to disguise adverse impacts.
- Consider 2008 has not been fulfilled and restoration works unlikely to happen within long-term time frames proposed with 12 years sought excessive;
- Local road network substandard in terms of condition, capacity, width and damaged surface with volume of HGV traffic extensive and ask Board to review comments of KCC Transport Department report 28/06/2019.
- Request Board consider the existing business operation at Walshestown started in 2016 comprising a standalone business with its core function as a waste facility not interdependent or integrated to the racetrack;
- Note EPA report in 2017 and that complete assessment of compliance could not be possible as required waste records were not available with other non-compliance/observations outlined;
- Applicants changes to road design of proposal after third parties raised issue of ownership with reference to refinement in first party appeal a slight of hand as omits road widening that encroached on Ryan property with verge dimensions omitted from new design to give misleading schematic maps to create impression of minimum landtake;
- Road works suggested are located outside ownership and not within subject site or described in public notices and cannot be legally considered with current



proposal affecting other property owners not included by applicant and traffic safety not improved;

- Do not accept applicant view that there will be no long-term impacts on property prices with detrimental impacts on adjoining properties.
- Do not accept applicants view that only part of permission granted for restoration has been used with permission now expired;
- Road works proposed at Beggar's End junction adjoins an historic building which is referenced by the NIAH with a regional rating which will be adversely affected;
- Numerous collisions along road including truck falling off the road into a garden.
- Road not wide enough for 2 HGV's to pass each other which is a major concern with incremental loss of private property from unofficial and ad-hoc widening overtime and ask Board to review letters of consent from non-residents and works undertaken to date to road purported to be on behalf of KCC;
- No legal entitlement to carry out works to junction at Beggars End with folio maps attached showing local resident owns land at location of improvement works;
- Road Safety Audit submitted completely inadequate with no reference to lack of public lighting or footpaths.
- Reference to meetings with residents not formalised with large amount of complaints on file with KCC and EPA.
- No proper noise, dust or air quality assessment carried out in vicinity of Blackhall Road with appellant trying to use different locations as receiving environments.
- Large volumes of ground water being used for operations with major adverse impact on hydrology of local area with many resident's having wells run dry with one local resident's copy of grant documentation (dated April 2004) for a new well attached and ask Board to consider potential impact and adverse effect on water table and consider EIS focuses on racecourse extension and not the quarry operations with no detailed assessment of reduction of water tables or impacts on aquifer;
- Proposed environmental management procedures not acceptable as arrangement has not worked out in the past;

- KCC requested applicant reconsider use of L6042 and develop a haul route to the L2023 and no detailed assessment by KCC of proposed upgrade of L6062;
- EIAR inadequate including inadequate consideration of alternatives, location of monitoring locations, continuous complaints, issues with noise survey, traffic survey, speed limit, collision data, volume of HGV's, queue lengths.

#### 6.1.4. Planning Authority Response

The response is summarised as follows:

- Considers key points of appeal are that:
  - Key Issue for Punchestown Racecourse is that the Walshestown Sand and Gravel Put has a negative impact on the visual and landscape amenities of the area and setting of the racecourse.
  - Pit Restoration works limited to 65 HGV's arriving at facility per day (130 movements) in both directions using L6042 and existing access with materials to be extracted for racecourse works to be internally moved with no impact on local road network.
  - Information submitted by first party confirms that existing widths on L6042 range from 5.2m to 6m with drawings submitted with minor modifications to road improvement works proposed at further information stage with two HGV passing bays proposed with letters of consent from two property owners.
- PA comments on appeal
  - Proposed restoration works for a 12 year period would require land acquisition by agreement from third parties but in reality any land acquisition would probably have to be by CPO which is costly and will take time to complete with overall cost substantial and not addressed in the application as lodged to KCC;
  - PA supports development of Punchestown Racecourse and has no objections to improvement works proposed in the application.

- Concerns regarding continued restoration of the adjoining quarry remain as outlined and request the Board uphold the split decision.

## 6.2. Third Party Appeal

6.2.1. A third-party appeal was received from the Blackhall Residents Association and is summarised as follows:

### 6.2.2. Grounds of Third-Party Appeal

- Serious erosion of residential amenity suffered due to traffic associated with Walshestown quarry with the local road unsafe.
- Racetrack extension and continuation of use of the quarry inextricably linked and extension depending on material from the quarry.
- Much of quarry has not been reclaimed and ask the Board to consider that the lands at the quarry and racetrack provide habitats for several red list species and ask Board to review impact of proposal and risk to Dublin Bay SAC, risk to spawning beds for Atlantic Salmon and potential impact on habitats of red list species.
- Appellants ask Board to refuse permission for the extension of the Walshestown lands as per PA's decision and review proposed conditions of the grant of permission to ensure local residents' residential amenity are fully protected;
- Description of development inadequate and misleading, does not comply with s.26(3)(b) of Regulations and considered invalid as does not reference proposed intensification of use of the track with extended season and number of fixtures with absence of detail on same making it impossible to determine extent of impacts such as traffic;
- No detail on disposal of wastewater or surface water run off on site and no detail on site treatment system or evidence of site suitability.
- Site borders Morell River, tributary of River Liffey that feeds into Dublin Bay SAC and identified by IFI as important spawning ground for Atlantic salmon and trout with likely impact on same and Stage 2 AA required and not carried out.

- Morell River Flood Management Scheme not taken into consideration with existing pollution of river from silt and run-off from quarry.
- Applicant and KCC have failed to take into account negative impact of proposal on red list endangered species and habitats with no detailed environmental or ecological assessment of ponds to be filled in with biodiversity assessment in EIAR deficient.
- Traffic assessment deficient as results confined to locally generated traffic only and not reflective of proposed development and intensification of horse racing at the track.
- Access road to Walshestown quarry severely damaged by volume of trucks, verges and hedgerows eroded by HGV's, silt and dirt deposited on roadway, surface water runoff from quarry floods the roadway and entrances, local wells have run dry and required deeper bores.
- Residents have surveyed over 200 HGV movements per day serving the quarry with traffic detrimental to residential amenity and request Board consider EPA/KCC correspondence about unauthorised quarry/landfill across the road from Walshestown quarry which has no permission.
- Inadequate information provided on materials forming track build up and no cross sections and unclear if an all-weather track is contemplated with surface critical in determining proposed intensification of racing;
- Intensification of use not properly described, number of additional fixtures not specified, without detail appears track potential unlimited with application invalid;
- In line with precautionary principle, unacceptable to fail to undertake appropriate assessment on basis that it's not certain that there are significant effects;
- Reference is made to IFI comments on potential for large-scale topographic alteration to have significant potential to cause release of sediments and pollutants into watercourses with applicant proposals to address ill-defined & inadequate;
- Morell River Flood Management Scheme attached and ask Board to review in light of appeal submissions;

- Hydrological pathway exists from site via Morell and Liffey Rivers to Dublin Bay SAC which is not examined in the AA screening document;
- Insufficient detail provided on surface water treatment and storage with on-site attenuation ponds not appearing to have permission and suggested moving of ponds does not correspond to artists impression of improved track, hydrological assessment in EIAR did not include Morell River nor was Flood Management Scheme considered and to reduce risk of contamination, outlet pipe to Morell River should be removed.
- EIS submitted with waste licence application containing survey of wildlife and habitats at the quarry with species and habitats identified outlined;
- Disturbance of endangered species and destruction of habitats for the purpose of a track extension is unacceptable.
- Ask Board to consider refusing permission for track extension and Walshestown works on basis of endangerment of red list species & habitats and continuing pollution of Morell River.
- Request traffic assessment reconsidered on basis of further racing activities with traffic counts not coinciding with a racing fixture with local road network making intensification of fixtures unacceptable and not adequately assessed and permission should be refused given lack of evidence of potential traffic impacts/management of future traffic volumes;
- Residential amenity of local residents severely affected by flooding of roadways, degradation of verges and hedgerows, ingress of surface water, deposits of dirt and mud, incessant noise of HGV's;

### **6.2.3. Applicant Response to Third Party Appeal**

6.2.3.1. The applicant's response to the third-party appeal is summarised as follows:

- Response approached on basis appellant's support racecourse element and issues raised on construction and operation of racecourse can be managed by conditions;

- Procedures put in place to facilitate direct communication with facility manager to report grievances with proposal for bi-annual meeting with applicant committed to working constructively with local residents;
- Development description appropriately identifies extent of works and complies with Regulations with use and operation of racecourse not subject to any conditions limiting number of race meetings with changes to current race calendar not requiring separate grant of permission;
- Horse Racing Ireland allocate and control race meetings with race calendar currently full, limited opportunity for significant expansion in short/medium term;
- Concerns that disposal of wastewater and surface water not addressed in application without basis as EIAR states no changes to wastewater and drainage system designed to ensure no increase in surface water run-off with changes to attenuation ponds outlined.
- Hydrological assessment does include Morell River in Chapter 8 with no discharges but further commitments proposed to protect river with silt traps.
- Outlet pipe to Morell River is a requirement of the EPA licence but is locked at all times with no discharge to the river.
- Assertion that ecological assessment is inadequate unsupported by any evidence or expert opinion with assessment undertaken by fully qualified ecologist with methodology in accordance with relevant legislation and best practice which seeks to identify those ecological receptors that could be adversely affected and assertion precautionary principle not adopted is without basis and was employed in AA screening;
- In terms of concerns expressed about Morell River, no direct discharges to River and none from current operations at Walshestown, with small section historically culverted to provide access with only potential impact from indirect run-off from small section of public road adjoining river.
- Walshestown Restoration Ltd has installed and maintained silt traps to protect river from run-off and operate a wheel wash and road sweeper.

- Senior Ecologist determined zone of influence (10km) for identifying potential adverse effects on Natura 2000 sites with Dublin Bay SAC screened out given separation distance of 42-47km, c.41 tributaries between site and SAC that feed into River Liffey before discharging to Dublin Bay.
- Chapter 8 of EIAR notes that proposal located c.500m at closest point to section of Morell River designated as being at risk of flooding and 550m from nearest recurring flood point with no discharge to the river, no impact on flooding.
- River Water Framework Directive 2013-18 classifies Morell River status as Good with water monitoring of the River undertaken by applicant with water quality good.
- No evidence of red list endangered species on the site provided with dates and methodology of specialist ecological surveys outlined with Lapwing only endangered species on site with studies noting no breeding Lapwing with phased restoration and creation of wetland areas increasing available foraging habitat and amber-list sand martin having abundance of habitat in wider landscape and would not be significantly impacted and was identified in 2008 EIS with protected species on the site appropriately addressed in the EIAR;
- All onsite habitats including ponds assessed with an increase in waterbodies with gain of habitat and increased diversity with overall positive ecological impacts;
- Issues raised by IFI were addressed within EIAR and clarified in RFI as confirmed in Planners report;
- All racing events at Punchestown subject to site specific traffic management plans agreed with relevant authorities' in advance and not standard practice to undertake traffic counts during major sporting events given restrictions in place.
- L6042 where road improvements are proposed is not used to provide access to race events with traffic using the L2023;
- Traffic impact assessment undertaken by experts and road safety audit stage 1/2 undertaken with no major safety or traffic management issues raised.
- Walshestown operator will continue to implement strict traffic management procedures which will be strictly enforced.

- Three separate quarries use the L6042 operating in the area since the 1950's with long history of HGV use on the road with 55% of traffic generated by operation opposite subject site and which is near completion reducing impacts on carriageway and verges.
- Walshestown provided development contribution in 2018 to finance road resurfacing for c.1km on L6042 from Walshestown entrance to L6042/6041 junction with further 1km up to L2023 priority junction which is currently in poor condition proposed herein and local widening;
- Residential amenity concerns appropriately identified in the EIAR with amongst others, a specialist assessment of dust and noise impacts concluding no adverse impacts with operation regulated by an EPA Waste Licence and no change in number of trucks transporting waste material to the site.
- Significant level of available capacity on the L6042 even with predicted volumes from proposal.
- No evidence provided to support assertion that local wells running dry with wells along perimeter of site monitored regularly as part of EPA Licence none of which have run dry and no dewatering proposed;
- Concerns regarding unauthorised quarrying in the area a matter for the PA;
- Proposed track extension will not comprise an artificial surface and concerns that same would facilitate an intensification of use are unfounded.

#### 6.2.4. **Planning Authority Response**

6.2.4.1. As above at Section 6.1.3.

#### 6.3. **Observations**

6.3.1. An observation was made by Ruth O'Connor and is summarised as follows:

- Noted that no permission currently exists for new extraction of materials from the Walshestown facility with permission existing for the restoration of the former quarry which is active and operational;



- Purpose of current application is to re-introduce the process of quarry extraction prior to full restoration which requires the further continuation of commercial waste disposal within the facility beyond that authorised.
- No necessity for the works to the racecourse which could continue to operate without the proposed works and no evidence that racetrack facility would be compromised or inhibited without the works;
- Proposal is effectively seeking a modification to the terms of the existing permission, a stay on compliance with that permission, reintroduction of mineral extraction and an extension of commercial waste processing activities with the activities beyond the scope of development authorised under current permission and unnecessary to facilitate the permitted restoration works;
- Decision by KCC to grant any part of the proposal is contrary to proper planning and sustainable development with sufficient material grounds to refuse permission outright;
- Split decision issued does not facilitate any additional restoration to take account of the additional extraction permission resulting in a material deviation from the plans and particular in Condition 1 of Ref. 08/2159;
- Proposed development not required for purpose of restoration of the Walshestown facility but required solely for commercial development of the racecourse and contrary to landuse activities authorised under Condition 3 of Ref. 08/2159 which prevents further excavation and would render the ref.08/2159 permission un-implementable with changes to 2008 permission material constituting a formal modification to the terms of same;
- Implementation of proposed development and completion/compliance with 2008 permission reliant on planning consent being obtained in the future for a material change to the 2008 permission and permitting proposal which is reliant upon a further permission to modify 2008 permission is contrary to proper planning;
- EIAR fails to sufficiently assess potential effect of proposal on receiving environment as required as follows:

- EIAR does not present an assessment of potential effects of the project in cumulative assessment with existing operations and processes with project assessed as an isolated project which fails to take into account landuse activities which proposal is reliant on and is not unlike project splitting failing to take account of existing processes and activities with no acknowledgement that traffic in the area will increase exponentially as a result of prolonged race season and/or continuance of waste processing;
- Individual/cumulative assessment Chapter 5 devoid of consideration of potential effects of proposal on perception of development, potential effect on amenity outlook of existing residents and potential effects of a continuation of process for 12 years with no evaluation of potential adverse effect to existing properties amenities from prolonged race season and proposed continuation of the waste processing & disposal;
- Interaction between biodiversity & water not clearly defined with potential for effects on European sites dismissed solely on basis of AA screening with no details of CEMP provided which is yet to be prepared with the potential success of mitigation not presented or examined in EIAR;
- EIAR makes no reference to potential effects on permitted restoration arrangements as permitted under 08/2159 and no cumulative consideration of potential effects of proposal on restoration arrangements and noted considerable portion of Walshestown site will not be restored to natural state but will comprise racecourse extension and drainage;
- Noise modelling does not appear to take account of noise associated with excavation of materials nor has any plant been mentioned with prolonged race season not addressed with cumulative effects inconclusive.
- Landscape and visual effect of proposal in scenario of split decision has not been addressed in EIAR and unclear what predicted effect on landscape would be if extraction to occur without mitigation and particularly relevant as proposal will impede completion of full restoration of Walshestown;

- Assessment of potential effects on Natura 2000 sites not fully or sufficiently examined with conclusions in AA screening statement concluding that Stage 2 not required but conclusions highly questionable as based on likelihood and requirement for mitigation measures which are unknown and requirement for a CEMP that is not included;
- Conclusion drawn on basis of no hydrological connection between the site and external water bodies which is not accurate given the existence of an outlet pipe to the Morell River with potential for off-site effects not addressed in the AA screening but acknowledged interactions outlined in the EIAR;
- Trigger for Stage 2 is very light and must be undertaken where potential risk cannot be ruled out with no evidence presented in the AA screening or EIAR confirming any reasonable scientific certainty with concerns expressed by IFI;

#### **6.4. Response from Environmental Protection Agency**

In response to a request from the Board under Section 42 of the Waste Management Act 1996 as inserted by Article 7(1F) of the EU (Environmental Impact Assessment)(Waste) Regulations 2012, the EPA provided the following submission which was received on 21 July 2020 and which is summarised as follows:

- Cemex issued Waste licence (W0254-01) on 23/10/2013 for activities which are outlined – D01, D05 (principal activity), D15, R03, R04, R05 & R13 with licence transferred to Walshestown Restoration Limited on 08/12/2015;
- Licence may need to be reviewed or amended to accommodate the changes proposed in the planning application.
- Agency will ensure prior to any revised licence being granted that the licence application will be made subject to EIA as per the functions of the Agency and consultation on the licence application and EIAR will be carried out.
- Board will be requested to provide the documentation relating to the EIAR carried out by the Board to the Agency as per Section 173B(4) of the PDA 2000, as amended;

- All matters to do with emissions to the environment from activities proposed will be considered and assessed by the Agency with options for decision by the EPA outlined.

#### 6.5. Request under Section 137

The request to the Applicant dated 10 September 2020 stated the following:

The Board proposes to take into account that the proposed development would:

1. Appear to fall within a class of Environmental Infrastructure Development, referred to in the Seventh Schedule of the Planning and Development Act, 2000, as amended. Part of the proposed development may therefore constitute strategic infrastructure development in accordance within Section 37A(2) of the Act. The Act, as amended, requires that an application for Strategic Infrastructure Development shall be made directly to the Board.
2. Section 37B(1) provides that a person who proposes to apply for permission for any development specified in the Seventh Schedule shall, before making the application enter into consultations with the Board.
3. Having regard to the above, the Board considers that it would be appropriate for the applicant in this instance to request consultations with the Board under s.37B(1) of the Act, as amended, in relation to the proposed development. The further consideration of the subject appeal will be placed in abeyance pending the outcome of such consultations and any subsequent determination of the Board as to whether the proposed development would, or would not, constitute strategic infrastructure development for the purpose of the Act.

In accordance with section 137 of the Planning and Development Act, 2000, as amended, the applicant was invited to submit any submissions or observation that they may have in relation to the matters raised. It was also requested that any submission or observation made should be confined to the issues specified above as the Board cannot consider comments that are outside the scope of the matter(s) in question.

## 6.6. Applicant Response to Request

The response dated 14 October 2020 can be summarised as follows:

- Class 3 of Seventh Schedule and Section 37A of PDA outlined:
- Nature and extent of proposed development as per the public notices outlined noting that land restoration element described as the **continuance of the permitted restoration use** of the Walshestown lands for a period of an additional 8.5 years **to complete the current permitted restoration works**, and an additional 3.5 years to restore the additional area of extraction required for the racecourse extension works (12 years in total). All proposed restoration works are consistent with those **previously permitted under KCC Ref. Ref. 08/2159** (bold emphasis is applicants).
- Planning history of the quarry is outlined.
- Noted Condition 4 of Reg. Ref. 08/2169 restricts term of permission to 10 years.
- Reference is made to Section 40 of the PDA where limiting duration of permissions does not apply to permissions of limited duration (such as Ref. 08/2169) or permissions requiring compliance with restoration conditions, or with conditions requiring conditions to be done or not to be done.
- Ref. 08/2169 was applied for and permitted under s.34 of the PDA in 2008 & 2010 after the coming into effect of the SID provisions (2006 Act) with an EIA and EPA Waste Licence issued.
- Land restoration element is mandated by conditions and a permission granted under s.34 of PDA;
- Precedents where PA's have determined application under s.34 of the Act for restoration of quarries where volume exceeds Class 3 of Seventh Schemes and precedent decisions where the Board has determined appeals under s.37 in relation to such applications with Table 1 outlining same.
- Approach by PA & ABP establishes that the accepted interpretation of the legislation is that an application for the continuance of an ongoing quarry restoration use permitted under s.34 is made under s.34, which is particularly the case in circumstances where the restoration of the quarry is a condition attached to the permission for the quarry use.

- Application was made to KCC on basis of established practice and precedent and noted that since making application Board has made two s.37A determinations in respect of quarry restoration application both of which relate to **new operations** in disused quarries (applicant's emphasis) (Ref. ABP-304436-19 & ABP-304735-19) first one determined not to be SID and second determined to be SID.
- If Board consider subject development is SID, reference in Inspector's report Kilbride assessment relevant - ABP-304735-19 had regard to 2016 report titled 'Construction and Demolition Waste: Soil and Stone Recovery/Disposal capacity' commissioned by regional waste authorities but not subject to SEA and cannot be used as a framework for development consent.
- Proposal comprises 3.9m tonnes with capacities of other facilities outlined in Table 2 with annual capacity of proposal 41% of Kilbride and 59% of Bay Lane and significantly less important than both, and overall capacity basis proposal less important than Kilbride which was SID and more important than Bay Lane – not SID and considered proposal not SID on basis of these precedents.
- Proposal does not come within scope of Class 3 of Seventh Schedule as:
  - element constituting land restoration is an ancillary and integrated element of larger development which is primarily a racecourse extension and land restoration elements. Principal element of proposal enabling upgrade of Punchestown facilities is not connected with waste disposal.
  - Restoration element is continuation of permitted land restoration mandated by conditions under s.34 and should continue to be determined under those provisions as it is also an ancillary and integrated element of a much larger development;
  - Proposal as a single application does not come within definition of SID and Board should continue to determine appeal on this basis;
  - If Board considers proposal in its entirety comes within Class 3 considered it does not come within scope of s.37A(2) criteria which are assessed in following sections:
- Assessment of s.37A(2)(a),(b)&(c) criteria provided within abundance of caution should Board determine proposal is a scheduled activity.

- S.37A(2)(a) - Proposal is not nor will it become of strategic economic or social importance to the State or the region in which it would be situate for the following reasons:
  - Conclusions on Kilbride determination was that 800,000 p/a over 8-14 years was of strategic importance referencing the document 'Construction and Demolition Waste: Soil and Stone Recovery/Disposal capacity' and the significant capacity issue identified in this report that the proposal would address.
  - Noted since report prepared (2016) review of market and capacity for C&D waste undertaken which is outlined and which notes that capacity in the region has increased significantly (estimated at c.6m tonnes) since 2016 (c.2.5m tonnes).
  - Reference also made to change since 2016 in classification as by-product rather than waste leading to re-use of significant amount of C&D waste and questioning validity of capacity concerns in 2016 report;
  - As detailed above, Walshestown significantly less important than Kilbride in both annual and total capacity and considered that determination that proposal is not of strategic economic importance would be consistent with precedent decisions.
  - Site operators predict they will receive c.50% of licenced capacity for 2020 (c165,000 tonnes) which is approx. 1-2% of available and permitted capacity in Leinster regions with trend of classifying soil and stone as by-product set to increase.
  - Significant policy and sustainability reasons why ABP should not take an overly-expressive interpretation of the concept of strategic infrastructure in respect of soil and stone facilities as it will be a disincentive to participate in the circular economy and violate Circular economy objectives in the NPF and RSES acting as a major disincentive to participate in circular economy as cheaper and quicker to use virgin soil and stone resulting in deficit of sites for C&D waste;
- S.37A(2)(b) - Proposal would not contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional planning

guidelines in force in respect of the area or areas in which it would be situate, for the following reasons:

- NSO9 and NPO56 of NPF and RSO7 of RSES outlined as are polices E13 & E14 in the Eastern-Midlands Region Waste Management Plan 2015-2021 noting that proposal forms a small component of wider capacity for soil and stone available in Leinster region with new facilities permitted and future development adequately catered for.
- Recent waste management policy emphasising circular economy (as outlined above) and note no policy objectives relating to capacity of disposal of construction and demolition waste in NPF.
- Primary objective is not provision of waste recovery facility but to complete restoration of disused quarry and facilitate racecourse extension.
- Proposed land restoration element not of strategic importance to polices referenced and no broad objective for achieving appropriate capacity for disposal of wider C&D waste and in absence of quantitative information in NPF and RSES on required capacity not possible to determine that any quantity of capacity is significant.
- C&D capacity not identified in NPF as key need for Dublin and therefore cannot be of strategic importance with Regional Waste Plan for Dublin and Midlands (2015-2021) out of date with no useful information on capacity needed for C&D waste other than stating in respect of C&D waste that capacity is plentiful.
- S.37A(2)(c) - Proposal would not have a significant effect on the area of more than one planning authority for the following reasons:
  - EIAR addressed entirety of KCC area to identify and address direct and indirect impacts with proposal ensuring comprehensive and robust mitigation measures are put in place with no significant visual or traffic impacts identified on Kildare or County Wicklow c.2.9km to the west.

## 6.7. Third Party Responses to S.137 Notice

- 6.7.1. The third parties were afforded the opportunity to respond to the S.137 Notice issued to the Applicant dated 10 September 2020 in correspondence dated 21 September



2020. They were specifically informed that the submission/observation should be confined to the issues specified in the Notice as the Board cannot consider comments that are outside the scope of the matter in question. Responses were received from the third party however given the matters included in the response referred to matters outside of the scope specified in the S.137 Notice they were returned to the third parties and are therefore not considered in this assessment.

## **7.0 Planning Assessment**

### **7.1. Introduction**

7.1.1. Pursuant to site inspection and inspection of the surrounding environs including the road network, examination of all documentation, plans and particulars and appeals/observations on file, I consider the following the relevant planning considerations of this application and where they relate to either the racecourse/extraction element or the restoration element of the proposal, or both, I will make this clear:

- Procedural Matters
- Principle of Proposal
- Traffic and Transport Matters
- Water, Surface Water Management and Flooding
- Residential Amenity
- Biodiversity
- Inadequacies in the EIAR
- Other Matters
- AA screening

### **7.2. Procedural Matters**

There are a number of procedural matters which arise which I will address in turn. Firstly, the consideration of the restoration element of the proposal under Section 34 of the Act and secondly, other matters.

## 7.2.1. **Consideration of Restoration Element under Section 34.**

### 7.2.1.1. **Context**

As outlined in Section 6.5 above, the Board requested that the applicant respond to a request under Section 137 as to whether part of the proposed development may fall within a class of Environmental Infrastructure Development, referred to in the Seventh Schedule of the Planning and Development Act, 2000, as amended and on this basis, may constitute strategic infrastructure development in accordance within Section 37A(2) of the Act. The relevant class of Seventh Schedule development in this instance is Class 3 as follows: *“An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.”*

The applicant’s response raises a number of arguments in respect of their contention that the proposal would not come within the scope of Class 3 of the Seventh Schedule and therefore cannot be considered to be SID. Where appropriate I will provide my opinion in relation to the arguments which I consider of relevance as follows:

### 7.2.1.2. **Duration of Permission**

Reference is made to Section 40 of the PDA where limiting duration of permissions does not apply to permissions of limited duration (such as Ref. 08/2169) or permissions requiring compliance with restoration conditions, or with conditions requiring conditions to be done or not to be done. However, this is not expanded upon. I would note as I reference elsewhere in this report that Condition 4 of Ref. 08/2169 states that the *“permission is for a period of 10 years from the date of this permission unless at the end of this period a further permission has been granted for its continuance on site”*. The permission was granted by the Board on appeal on 6 May 2010.

### 7.2.1.3. **Established Approach by PA’s and the Board for Restoration**

#### **Precedents under Section 34**

The applicants argue that Ref. 08/2169 was applied for and permitted under S.34 of the PDA in 2008 & 2010 after the coming into effect of the SID provisions (2006 Act) with an EIA and EPA Waste Licence issued. The land restoration element is

therefore, mandated by conditions and a permission granted under s.34 of PDA. The applicant then outlines precedents where PA's have determined applications under s.34 of the Act for the restoration of quarries where the volume exceeds Class 3 of the Seventh Schedule and precedent decisions where the Board has determined appeals under s.37 in relation to such applications with Table 1 of the submission outlining same.

I would accept the applicant's arguments that there have been decisions issued by both Local Authorities and the Board under Section 34 where the volume of material exceeds Class 3 of the Seventh Schedule since the coming into effect of SID in 2006. Table 1 of the applicant's response provides the reference numbers, quarry locations and the quantum of material. I note all the operations referenced had an annual intake greater than 100,000 tonnes. The following table outlines the details in Table 1 of the applicant's response.

| <b>Ref</b>  | <b>Location</b>  | <b>Quantum (tonnes)</b> | <b>New Operation or Continuance</b>   |
|---|------------------|-------------------------|---|
| FCC FW12A/0022<br>ABP 06F.241693 (First party against conditions)   | Huntstown Quarry | 750,000                 | Continuance of facilities and activities authorised under a 2003 permission                                   |
| FCC FW16A/0120  | Huntstown Quarry | 750,000                 | Increase in rate of importation from current max of 750,000 tonnes p.a (above) to max of 1,500,000 tonnes p.a |
| KCC Ref. 16/526<br>ABP PL09.248013 (First party against conditions) | Boherkill Quarry | 225,000                 | Restoration of excavated pit with condition 2 of Ref. 07/188 requiring restoration                            |
| MCC Ref. RA170127<br>ABP PL17.248391                                | Tullykane Quarry | 400,000                 | restoration of quarry permitted under Ref 99/1230 and TA/802731   |

|                                    |                  |         |                                |
|------------------------------------|------------------|---------|--------------------------------|
| WCC Ref. 16/574<br>ABP PL27.248297 | Calary<br>Quarry | 300,000 | Restoration of pre-1964 quarry |
| WCC Ref. 20110746                  | Brownswood       | 400,000 | Could not find.                |

I would also note two recent pre-application consultation determinations from the Board whereby the proposed intake of material to facilitate the restoration of a quarry was determined to be SID in one instance and in the other that it was not SID.

### **Precedents under Section 37B**

**ABP-304735-19:** Proposed inert landfill and construction and demolition waste recovery facility, Ballinclare, Kilbride, Co. Wicklow. The prospective applicant was Kilsaran Concrete. The proposed intake was 800,000 tonnes per annum, with a duration of 8.2 – 17.6 years, depending on rate of intake. The Board determined that the development would fall within the scope of section 37A(2)(a) and (b) of the Act and would constitute strategic infrastructure.

I would also note a recent pre-application consultation determination from the Board whereby the proposed intake of material to facilitate the restoration of a quarry was determined through the pre-application consultation process not to be SID.

**ABP-304436-19:** Restoration of a quarry void with soil and stone waste, Bay Lane Quarry, St Margaret's, Co. Dublin. The proposed intake of soil and stone was 560,000 tonnes per annum, with a duration of 2.5 to 5 years (1.4 million tonnes in total). The Board determined that, having regard to the size, scale, location and limited duration of the proposed development and the proximity of source material, the proposed development constitutes development that falls within the definition of infrastructure in the Seventh Schedule but is considered not to be of strategic importance by reference to the requirements of Section 37A(2)(a), (b) and (c) of the Act.

In terms of the rationale for the decisions to determine one SID and the other not SID, the applicant has undertaken a comparison of the proposed development with those already decided. It is outlined in Table 2 of the response. To summarise the response, it states that the proposal comprises 3.9m tonnes with capacities of other facilities outlined in Table 2 with annual capacity of proposal 41% of Kilbride and 59% of Bay Lane and significantly less important than both, and overall capacity

basis proposal less important than Kilbride which was SID and more important than Bay Lane – not SID and considered proposal not SID on the basis of these precedents.

While I acknowledge the argument put forward in relation to the significance or otherwise of the capacities, I would note that the consideration of both precedents was addressed by the Board under the pre-application consultation process (Section 37B). I further address this matter in Section 7.2.1.5 below.

#### **7.2.1.4. Distinction between Continuance of Permitted Restoration & New Operations**

This argument is the most salient, in my opinion. The applicant refers to the approach taken to date by PA's & ABP in accepting such operations under Section 34 and which they consider establishes that the accepted interpretation of the legislation is that an application for the continuance of an ongoing quarry restoration use permitted under s.34 is made under s.34, which is particularly the case in circumstances where the restoration of the quarry is a condition attached to the permission for the quarry use. The argument is moved forward, I would suggest, by reference to the fact that in this instance the development comprises the continuation of a permitted restoration activity, where the restoration was a condition of the quarry use, rather than a new operation which was the case in the precedents outlined above. For the Boards information, the quarry use in this instance was permitted by the Board under Ref. 09.098844 (KCC Ref. 96/100). Condition 10 of that permission provided very detailed requirements in respect of restoration. This is outlined in Section 4.2.3 above. Permission was then sought from Kildare County Council under Ref. 08/2159 (PL09.235776) for the continuation of the restoration activities with the intention of the applicant to restore the lands back to Eastern Kildare Uplands Transition Character and to meet a specific objective of the Kildare County Development Plan 2005-2011 (Walshestown Pit 9). This was granted in May 2010 following a first party appeal to An Bord Pleanala against the Development Contribution condition. This, as outlined above, was after the coming into effect of the SID provisions (2006).

The applicant states that the instant application was made to KCC on the basis of established practice and precedent in respect of this site. I consider this a pertinent argument in this instant case and one which is individual to this site. The applicant

argues that since making the instant application, the Board has made two S.37A determinations (as outlined above) in respect of quarry restoration applications (Ref. ABP-304436-19 & ABP-304735-19), first one determined not to be SID and second determined to be SID, both of which relate to new operations in disused quarries.

I consider that this argument has merit in the context of the proposed development and those considered under the provisions of Section 37B. I would note that the quarries referenced by the applicant in Table 1 (those considered under Section 34) comprise a mix of continuance of operations and new restoration operations proposed to comply with a condition of the permission to grant the quarry use.

The applicant has followed the course of action undertaken in the previous permission to continue the restoration of the quarry. The continuance application in 2008 followed on from the permission granted by the Board on appeal under Ref.96/100 where a very specific and comprehensive restoration condition was attached to the permission by the Board (Condition 10 outlined in Section 4 above). I consider that it would be unreasonable to consider, from the applicant's perspective, that the legislative context had changed from 2008 given the provisions of SID had commenced in 2006.

One matter which I note relates to the potential withering of the permission granted under Ref. 08/2159 which had an express condition stating it was for 10 years from the date of the permission which was granted by the Board on appeal on 6 May 2010. Notwithstanding, I would argue that the principle of the continuance of the restoration was established by the permission in itself.

#### **7.2.1.5. Consideration of Proposal under Section 37A(2)(a), (b) and (c)**

The applicants response to this matter is comprehensive and notwithstanding the applicant's contention that they do not believe the proposal comes within Class 3 of the Seventh Schedule, a response to each of the three tests in Section 37A(2) is provided. While I note the content of the response, I would point out that the consideration of these matters under 37A(2) are a matter for the pre-application process, as they are considered when it has been established that the proposal is a class for the purposes of the Seventh Schedule. Given that the purpose of the further information was to establish if the proposal comes within the scope of the Seventh Schedule, I do not intend to provide a response to same other than to note that in

addressing Class 3 of the Seventh Schedule that the development in its entirety is a single integrated development.

#### **7.2.1.6. Conclusion on Consideration of Restoration Element**

I consider that given the specific nature of this development whereby it comprises the continuance of restoration already permitted under Section 34 rather than a new operation that the most appropriate course of action in this instance is to continue to assess the proposal under Section 34 and make a decision on this basis. I consider that to alter the procedural context at this stage would be unreasonable.

#### **7.2.2. Other Procedural Matters**

7.2.2.1. One of the third parties considers that the description of the development is inadequate and misleading and does not comply with s.26(3)(b) of the Regulations and is considered invalid as it does not reference the proposed intensification of use of the track with extended season and number of fixtures with absence of detail on same making it impossible to determine extent of impacts such as traffic. I do not concur. I consider that the public notices outlining the proposed development provide the general public with adequate information regarding the proposed development outlined such that submissions may be made on same, which in this case the appellant was able to do. The development is described in detail in the documentation provided with the application including the proposed operational changes which may arise as a result of the proposed changes to the racetrack.

7.2.2.2. The appellant also considers that the proposals should be examined as separate entities and should have been applied for separately and that the Walshestown operation is a standalone business not related to the racetrack. Having regard to the matters addressed in Section 7.2.1 above I consider that both elements can be considered within the same application. In terms of the assertion that the developments were merged to disguise impacts, I do not agree given how clearly the elements are set out. I would also note for the Boards information that I have addressed the constituent elements separately where appropriate in relation to matters of principle and in respect of the EIA below. In relation to the contention that

Walshestown is a standalone business, this is not a matter of relevance to the Board's consideration of the land use and environmental considerations in this application. It is clearly outlined in section 2.2 of the EIAR that approximately 65ha under the ownership of Punchestown has been leased to Walshestown Restoration Ltd with the intention of restoring the lands and with the applicant having satisfactory interest in the lands to make the application.

7.2.2.3. An observer to the appeal raises a number of matters which address procedure which I will address in turn. Firstly, they consider that the purpose of the current application is to re-introduce the process of quarry extraction on the site prior to full restoration which requires the further continuation of commercial waste disposal within the facility beyond that authorised. It is quite clear from the application documentation that extraction is proposed as part of the development. Permission has been sought for same with the stated purpose outlined clearly for the extracted material. It is not proposed to extract the material for purposes outside of the application site and it is clear that the area of proposed extraction is proposed to be restored. It is also clearly outlined that permission is required to continue the restoration of the site as it was not commenced for several years for different reasons. It is clear that permission is being sought for such a continuance and I do not concur with the observer's contention that the activities go beyond the scope of that authorised given that the new extraction and additional restoration are clearly detailed and addressed. Therefore, I do not consider that there is anything procedurally amiss with the purpose of the application.

7.2.2.4. The observer considers that the decision by KCC to grant any part of the proposal is contrary to proper planning and sustainable development with sufficient material grounds to refuse permission outright. My assessment which follows will refute this contention. The concern expressed that the split decision issued does not facilitate any additional restoration to take account of the additional extraction permission thereby resulting in a material deviation from the plans and particular in Condition 1 of Ref. 08/2159 does not address the fact that the Board considers the entire proposal de novo with the principle of the proposed development assessed in the next section.



7.2.2.5. The observer contends that the proposed development is not required for the purpose of restoration of the Walshestown facility but is required solely for commercial development of the racecourse and is contrary to landuse activities authorised under Condition 3 of Ref. 08/2159 which prevents further excavation and would render the ref.08/2159 permission un-implementable with changes to the 2008 permission material constituting a formal modification to the terms of same. I consider that the purpose of the extraction proposed is clear, the restoration of the existing extracted area and proposed extraction area is equally clear and while the observer may have their own opinion on the matter, the rationale for the proposed development is clearly provided in the comprehensive documentation which accompanies the application which the applicant is entitled to make.

7.2.2.6. Finally in relation to procedures, I would note that reference to unauthorised development on the subject site or others and non-compliance with EPA Licences on this or other sites are not matters of relevance to the Board as it does not have enforcement or licence powers.

### 7.3. **Principle of Proposal**

There are three elements to the development as proposed which is presented as an integrated proposal, the rational for which is clearly outlined. I will address each of the elements in turn.

#### 7.3.1. **Racecourse Extension**

7.3.1.1. Firstly, I would note that the racecourse at Punchestown was established in 1824 and is therefore a long established use within this area. While I note that the third-party appellants state within their documentation that they are not opposed to the extension of the racecourse, the observer to the appeal contends that there is no necessity for the works to the racecourse which, they contend, could continue to operate without the proposed works. They assert that there is no evidence that the racetrack facility would be compromised or inhibited without the works. I do not concur. The documentation presented in the application clearly outlines the rationale for the changes to the racetrack and the extension of same. These are set out in the

EIAR in respect of the need for the proposed development and include health and safety, future security and additional racing opportunities, customer experience and flexibility. Prolonging the racing season is also provided in respect of the rationale. Furthermore, Policy ECD 25 within the current Kildare County Development Plan specifically seeks to support the redevelopment and upgrading of the Curragh, Punchestown and Naas racecourses and their associated facilities. The proposed development is therefore clearly supported by local planning policy.

### **7.3.2. Extraction**

7.3.2.1. Firstly, I would note that permission was granted for the operation of a gravel pit on these lands in December 1969 and therefore the use is long established. The rationale for extracting material for the proposed racetrack extension from the location indicated is outlined in detail in the documentation presented by the applicant in the application and appeal. It is stated that the only viable option is the extraction of native topsoil and subsoil from the adjoining lands given the very specific soil/subsoil conditions required for the new track extension and track widening. The rationale outlined is rational and satisfactory. The material is proposed to be transported internally within the site to the proposed location of the track extension and track widening which adjoins the extraction site which is favourable and reduces the use of the public road for such traffic movements. While I note the details in respect of the extraction proposed are outlined in the Sections provided (Sections C, D & E in particular) I would recommend that a consolidated site layout plan outlining the direction of works would be useful and could be conditioned, if the Board are minded to grant permission.

### **7.3.3. Restoration**

7.3.3.1. Arguably the main issue in this appeal is the restoration element. The restoration of the area already extracted and the restoration of the area proposed for new extraction all of which are effectively contained within the same site. While I deal with impacts arising from same in the following sections, in terms of the principle of the restoration, there are a number of matters to be considered. Firstly, as outlined above, I address the matter of procedure wherein I consider the salient matter of

continuance. The restoration which it is proposed to continue has already been permitted in principle. In the first instance, by way of the specific restoration condition in the 1996 permission for the extraction and following same, in the permission granted in 2010 for the continuance of this activity. Secondly, there are specific policies within the current Kildare County Development Plan which seek the restoration of extractive operations including Policy EI 12 which seeks to ensure that all existing workings are rehabilitated to suitable land-uses and that extraction activities allow for future rehabilitation and proper land-use management.

7.3.3.2. In addition, the proposed restoration of the proposed extraction area included in the current application would be supported by the principle of restoration permitted on the site and also by the aforementioned planning policy provision which is equally applicable to the existing restoration area and the proposed additional area. I would also agree with the applicant that permitting the extraction of material for the construction of the racecourse but not the restoration of the extraction area is unsustainable and would only compound the negative visual impacts from existing quarry area.

7.3.3.3. I would also concur with the applicant that the restoration of the former quarry would significantly improve the landscape character and visual amenities of the area and setting and aspect from within the racecourse and particularly from the main stand which is a key objective of the applicant. Views from the Main Stand are impaired by the existing scarring on the landscape and the restoration of the former undulating landscape would be of considerable benefit both to the amenity of the Racecourse and to the amenity of the wider area. Drawing 130 'proposed overall restoration layout' provides an overview of the restored landscape outlining the finished levels for each of the 6 cells numbered 1-6 which indicate the sequence of work and completion.

7.3.3.4. I note that the duration proposed for the restoration of the existing and proposed areas of extraction is 12 years the rationale for which is clearly outlined. In this regard I propose that a specific condition is attached to any grant of permission which specifies this duration for the restoration element of the proposal.

7.3.3.5. In conclusion, I would note that the reasons for refusal from the Planning Authority do not relate to the principle of restoring the lands. I consider that the proposed restoration, both the ongoing restoration of already worked out areas and the restoration of the proposed extraction area, is acceptable in principle.

#### **7.4. Traffic and Transport Matters**

In the consideration of this matter, I note that the first party in their appeal against the refusal seek to address the reasons outlined in the PA's Notification while the third-party appeal seeks to uphold the Notification to refuse permission. I will address the matters in turn. However, I would note at the outset that both the permission for the quarrying operation and the permission for the continuance of restoration of same permitted the use of this public road to access the facility. I would therefore propose to the Board that the principle of using this route has been established.

##### **7.4.1. Reasons for Refusal**

As outlined in section 3.1 above, there were two reasons outlined in the Notification of Decision from Kildare County Council in respect of the restoration element of the proposal. They can be summarised as follows:

- Local road network serving is substandard in terms of condition, capacity, width and surface and is inadequate to accommodate the type and volume of traffic movements generated by the proposed development and would endanger public safety by reason of traffic hazard.
- Applicant has not demonstrated sufficiently that they can carry out or have adequate legal consent to carry out the necessary road improvement measures on the L6042 to accommodate the increased HGV traffic and address the deficiencies in the local road network, in the absence of which the proposal would endanger public safety by reasons of traffic hazard, would seriously injure the residential amenity and depreciate value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

##### **7.4.2. First Party Proposals to Address the Reasons for Refusal**

In response to the reasons for refusal the applicant has included with their first party appeal what they state to comprise further refinement and detail on road improvement works proposed in response to the further information request and provided to the Planning Authority with meetings held with relevant representatives at that time. As outlined in the appeal, and with which I would concur, the concerns relate specifically to Local Road L6042 and do not extend to the wider road network. The L6042 is described as a single carriageway which varies in width from 5.2m to 6m wide where a speed limit of 80km applies. Trucks associated with the restoration operation arrive and depart from the entrance into the facility located on the L6042 and travel just under 2km along the L6042 to the Beggar's End priority junction (L2023/L6042).

Also of note is the provision in 2018 of a development contribution from Walshestown Restoration Ltd to Kildare County Council to finance road surfacing works on the L6042 for approx. 1km from the entrance to the facility to the existing L6042/L6041 priority junction (c. half of the L6042 route from the facility entrance to the junction with the L2023). In addition to the resurfacing works, local widening of the carriageway to ensure a minimum width of 5.5m was undertaken and the works were completed in 2018. I would note that condition 49 of Ref: 08/2159 for the continuance of restoration works required the applicant to submit proposals for resurfacing, widening and drainage of a section of road from chainage 850m to 1,900m.

To address the concerns outlined in the further information and refusal reasons, the applicant proposes to make a special contribution to KCC to facilitate the completion of further resurfacing and road improvement works on the L6042 for c.1km extending from the existing L6042/L6041 priority junction to the existing L2023/L6042 priority junction including local widening of the existing carriageway to a minimum width of 5.5m. In addition to the resurfacing works, it is proposed to provide carriageway widening at specific areas identified on drawing 18132-01-0101, 2 additional truck passing areas and appropriate road markings and signage to control the speed of trucks. As stated, it is proposed to pay a special contribution to the Local Authority to facilitate these works. For the Board's information, drawings 18132-03-0101 & 18132-03-0102 refer to proposed road improvement works with drawings 18132-03-0103 & 18132-03-0104 outlining existing and proposed visibility splays.

I note the response from the Planning Authority to the appeal where they refer to the minor modifications now proposed from that received at further information with two HGV passing bays and the letters of consent submitted. They state that facilitating the works would require land acquisition by agreement from third parties but then continue by stating that in reality any land acquisition would probably have to be by CPO which is costly and will take time to complete with overall cost substantial and not addressed in the application lodged with the Local Authority. I consider that the Planning Authority response in relation to the proposed road improvements lacks the detail one would expect and rather than outlining exactly what they consider is at issue is based on surmise in respect of the potential for CPO's. I would suggest to the Board that the applicant has outlined the proposed improvements works, provided third party letters of consent to support same, indicated they are willing to pay a special contribution to facilitate the works and as outlined above, have already contributed to the upgrade of part of the roadway.

As I outlined above, the previous permission related to the restoration operation established the principle of using this route for access to the facility. As outlined by the applicant, it authorised 65 trucks a day (130 movements) based on the road infrastructure at that time. I would note that no increase in truck movements is proposed as part of the subject proposal and the receiving environment along the L6042 has not materially changed since 2010 apart from improvements to road resurfacing works on part of the roadway as outlined above. Furthermore, the L6042 is used by other operations within the vicinity of the site. As outlined by the applicant, an access to the soil recovery facility operated by Behan's is located almost directly across from the subject facility with Behan's facility accounting for c.55% of the HGV's using the L6042. The applicant outlines that the Waste Licence for the Behan facility (W0247-01) (available on EPA website) states that the Behan facility will be at capacity in 2021 following which there will be a significant reduction in HGV movements on the L6042.

The applicant refers to RSA accident data which confirms that there is no recorded history of accidents along this 2km section of road since 2005. I note reference by the third party to a truck falling into a garden and while acknowledged this incident does not establish a trend. As outlined in the EIAR, the capacity of the L6042 is stated as 5,000 vehicles daily with the AADT for 2019 for the L6042 stated as 1040

vehicles confirming significant available capacity with adequate current width for vehicles, but it is acknowledged that greater care is required for two HGV's to pass each other on sections where the carriageway width is below 5.3m.

The applicant outlines that currently there are 9 accesses to residential properties along the extent of the proposed carriageway widening. Of these, 7 will have no change to sightlines. Two of these will have sightlines slightly reduced (1m & 9m respectively) but it is contended that there will be no material change on the existing situation and it is noted that neither comply with accepted DMRB standards. In addition, it is clarified that there is an existing access to a house not currently in use and a field access which would see a slight reduction. It is further stated that in all these locations the carriageway edge has broken away and the improvement works only propose to reclaim the unimproved surface between the existing road edge and the existing verge which will improve access arrangements. It is stated that the main contributory factor to poor sightlines at these properties is the lack of maintenance of the adjoining hedgerows. The applicant states that they are prepared to engage with the Local Authority to make an annual contribution to the maintenance of hedgerows which, with the road improvement works proposed, would provide improved sightlines. If the Board consider this necessary then an appropriate condition could be attached however I consider that the maintenance of the public road which is to the benefit of all road users should not be specifically paid for by the applicant.

The applicant also references meetings with the third-party appellant in relation to alternative haul routes including the use of part of the Punchestown lands to create a one-way system. The continued use of the L6042 is considered the optimum option.

I would also note that the proposed improvement works require the consent of two landowners or the Local Authority with the consent of the two landowners attached to the appeal each of which is accompanied by a layout plan outlining the section of the road to which their consent applies. Furthermore, a road safety audit was undertaken on the road improvement works and identified no major issues with minor issues related to signage or road markings.

In conclusion I consider that there are a number of important points to note in relation to this matter. Firstly, permission was previously granted by the Local Authority to use this haul route for the restoration facility in the absence of the road

improvements now proposed. Secondly, the previous permission/licence limited the number of daily truck movements and it is not proposed to increase same as part of the subject application. Thirdly, the applicant contributed towards the improvement of the road surface and width for c.1km with the works completed in 2018. Fourthly, the applicant proposes to make a special contribution towards the improvement of the remaining 1km of roadway. The fifth consideration relates to the cessation of truck movements associated with the Behan facility in 2021 which accounts for more than half of the truck movements on this route thereby significantly reducing the number of daily truck movements in the near future. Finally, the assessments undertaken demonstrate adequate capacity on the road network with no evidence of accidents occurring. I consider that the applicant has demonstrated that the continued use of this road to facilitate the restoration of this longstanding operation will not endanger public safety by reason of traffic hazard and that permission should not be refused on this basis.

#### **7.4.3. Third Party Traffic Concerns**

The third-party appellant considers that the traffic assessment is deficient as the results are confined to locally generated traffic only and is not reflective of proposed development and intensification of horse racing at the track. I consider that the traffic assessment undertaken is robust, providing traffic flows for each of the five junctions identified with the detailed traffic counts and surveys included in the appendices of the EIAR. The appellants request that the traffic assessment is reconsidered on the basis of further racing activities with traffic counts not coinciding with a racing fixture and not adequately assessed and permission should be refused given lack of evidence of potential traffic impacts/management of future traffic volumes. I note that specific traffic management plans are put in place for race events at Punchestown facilitating ease of movement along the local road network for such events. I would also note that it is not standard practice to undertake surveys during such sporting events as measures associated with traffic management alter the normal traffic patterns. I consider that this is reasonable. Furthermore, the L6042 does not form part of the traffic management system on race days.



It is stated that the access road to Walshestown quarry is severely damaged by the volume of trucks, that verges and hedgerows are eroded by HGV's with silt and dirt deposited on the roadway, surface water runoff from the quarry flooding the roadway and entrances. I do not concur with the appellants in their contention in this regard. I noted on my site visit the wheel washing facilities, the comprehensive surface water systems in place within the Walshestown site, the measures in place along the roadside edge to protect the watercourse and other measures which are detailed within the EIAR which outline that the development is operated appropriately.

It is stated that residents have surveyed over 200 HGV movements per day serving the quarry with traffic detrimental to residential amenity and request Board consider EPA/KCC correspondence about unauthorised quarry/landfill across the road from Walshestown quarry which has no permission. The surveys undertaken by residents are noted however, traffic surveys and counts included within the EIAR provide categoric evidence provided by experts in the field. The matter of compliance with permitted traffic movements is a matter for the Local Authority and matters related to the unauthorised nature of any other operation are not a matter to which the Board can have regard.

In terms of concerns expressed with regard to road works proposed within the appeal on lands owned by third parties, the applicants have set out the proposed works, provided third party consent where required to facilitate the design proposal and outlined that they propose a special development contribution to carry out the works. This is appropriate in my opinion and is well established practice. The works proposed to the road were included within the further information response where upon following the receipt of same the Planning Authority considered that the information was significant, and the applicant advertised this fact. Observations were invited and the third-party appellant responded to same. I do not consider that there is any impediment to the Board considering the road works proposed as part of the proposed development.

Concern is expressed that the proposed road works at the Beggars End junction will impact an historic building however given the minimal intervention in the public road

in terms of resurfacing, minimal widening and minor fencing this concern is unfounded. The concern that works at the junction cannot be carried out because of absence of legal entitlement are noted. Photos 15-17 of the third party submission show this area of grass verge and road edge outside of the fenced field boundary. I would note that the folio map submitted in Photo 13 cannot clearly confirm the contention nor can the map included as Photo 14. Furthermore, I would note that the alignment of this junction is not a matter raised specifically by the Planning Authority in their reason for refusal and works can be undertaken within the public road to facilitate resurfacing where appropriate.

## **7.5. Water, Surface Water Management & Flooding, Groundwater and Wastewater**

### **7.5.1. Water Supply**

For the Boards information it is noted that the proposed racetrack extension and widening will result in an increased water demand in order to irrigate the new track area. Currently the annual maximum water demand is stated as approximately 38,000m<sup>3</sup> with the proposed alterations to the course requiring an additional 50% increase up to approximately 57,000m<sup>3</sup> with peak demand during the festival period which in itself equates to a c.20,000m<sup>3</sup> demand. It is clarified that these figures are worse case scenarios and are dependent on factors such as weather conditions. I would note that it is proposed that much of this water will be sourced by using surface water run-off collected within the increased storage capacity provided by the attenuation ponds. If these are insufficient it is proposed to abstract water from the underlying aquifer.

### **7.5.2. Surface Water Management & Flooding**

The racecourse currently incorporates ponds which store water for use on the track. There is an existing pond located to the south of the existing restoration area in the area proposed for the new track extension. There is an existing soakaway within the centre of the racetrack. The drainage system proposed has been designed such that no increase in run-off arises from the works proposed. Run-off is proposed to be stored and regulated in attenuation ponds which are clearly outlined in the layout

plans provided before discharging to either the existing soakaway within the racetrack or to a new soakaway proposed to the south of the race-track extension. It is clearly stated that no new discharges are proposed to existing water courses. I would also note that there is an existing discharge outlet from the Walshestown site to the Morrell River. This is shut off with a valve and locked. It is a requirement of the EPA licence and is not used as a discharge from the site. It is located substantially higher than the water level within the pond (Pond C) below and a strict regime is provided for its management.

I consider that the contention that there is no detail on the disposal of surface water run off on site or that insufficient detail has been provided on surface water treatment and storage is unfounded. It is stated that on-site attenuation ponds do not appear to have permission and suggested moving of ponds does not correspond to artists impression of improved track. I would suggest to the Board that the artist impression is just that and what is of relevance is the layout plans and supporting documentation presented to the Board.

The appellants state that reference is made to IFI comments on potential for large-scale topographic alteration to have significant potential to cause release of sediments and pollutants into watercourses with applicant proposals to address ill-defined & inadequate. As confirmed by the applicant in their response to the appeal, the matters raised were addressed in the EIAR and response to further information as confirmed in the Planners Report at application stage.

Contrary to the appellants assertion, the hydrological assessment in the EIAR does include the Morell River. In addition, I would note that no discharges are proposed to the River and there are further commitments outlined in respect of silt traps. This matter has been appropriately addressed in the documentation.

Concern has been expressed by the appellants that the Morell River Flood Management Scheme was not taken into consideration, with the Board requested to review same and that there is existing pollution of the river from silt and run-off from the quarry. The applicant has responded to this matter and states that as outlined in Chapter 8 of the EIAR, the proposal is located c.500m at its closest point to the area of the Morell River designated as being at risk of flooding and 550m from the nearest recurring flooding point. Given there is no discharge from the proposal development

to the Morell River and the existing discharge remains locked there is no risk of flooding from the proposed development. I consider that this matter has been addressed satisfactorily. It is also suggested that to reduce the risk of contamination that the outlet pipe to the Morell River should be removed. As noted elsewhere in this report, this outlet pipe is a requirement of the EPA Licence. It is a shut off valve which remains locked and is located some distance above the water level in the pond (pond C) below. There is no reasonable evidence to suggest it should be removed.

The appellants seek that the Board consider refusing permission for the track extension and Walshestown works on basis of endangerment of red list species & habitats and the continuing pollution of Morell River. While I address biodiversity below, there is no evidence to suggest that the development does or will continue to pollute the Morell River which as outlined is classified as having a Good Status for the purposes of the Water Framework Directive with ongoing water quality monitoring undertaken as part of the EPA Licence.

### 7.5.3. **Groundwater**

It is asserted that there are large volumes of ground water being used for operations which have a major adverse impact on the hydrology of local area with many resident's having wells run dry. To highlight this point the third party have included a copy of one local residents grant documentation for a new well attached and ask Board to consider potential impact and adverse effect on the water table. They consider the EIS (sic) focuses on the racecourse extension and not the quarry operations with no detailed assessment of reduction of water tables or impacts on aquifer. In response I note that the grant document is dated April 2004 and therefore cannot be considered relevant to the matters now before the Board as there is no evidence to suggest that this is as a result of the restoration programme now in place at the former quarry which the applicant has attested commenced circa 2016. Furthermore, there is no dewatering in place or proposed. I also note that the applicant outlines that the monitoring of wells along the perimeter of the site is required by the EPA licence. I would also note that the environmental factor of water is assessed in Section 9.3.4 of the EIA below. I consider that the matter has been appropriately addressed within the documentation.

#### 7.5.4. **Wastewater**

Finally, while the appellants state that there is no detail on site treatment system or evidence of site suitability as noted throughout the documentation submitted, no change is proposed to the existing wastewater regime in either the racecourse or the restoration facility.

#### 7.6. **Residential Amenity**

7.6.1. The main concern in respect of residential amenity is the impact from traffic associated with the restoration facility. The third-party appellants state that there is a serious erosion of residential amenity suffered due to the traffic associated with the Walshestown quarry with the local road unsafe as a result. It is further outlined that the residential amenity of local residents is severely affected by flooding of roadways, degradation of verges and hedgerows, ingress of surface water, deposits of dirt and mud and the incessant noise of HGV's. The appellants ask the Board to refuse permission for the extension of the Walshestown lands as per Planning Authority's decision and review the proposed conditions of the grant of permission to ensure local residents' residential amenity are fully protected.

7.6.2. As I outlined above in relation to traffic, the subject restoration facility is limited to 130 truck movements per day. This is one such facility within this immediate area, the other one operated by Behan's which is located across the road. This is due to reach its capacity in 2021, the cessation of which will significantly reduce the traffic using this road. As outlined above in relation to the principle of development, the restoration of this former quarry was imbedded in the permission for the quarry. The restoration element has a proposed lifespan of 12 years which is based in part on the limitations placed on it by its EPA Licence and the traffic movements permitted. Part of the L6042 has been resurfaced and proposals are outlined within the subject development to resurface and widen the remainder. The nature of quarrying operations is that they must happen where the material is located and within a rural area. Furthermore, restoration is a critical factor of the extraction process and given the length of time quarrying has been permitted at this site – since the late 1960's – and the previous permission granted for the restoration a balance is required in respect of facilitating the restoration and the residential amenity of properties within

the area, some of which post-date the quarry operation. I note in their response to the appeal that the applicant notes that three separate quarries were operating in the area since the 1950's and have been accessed via the L6042 predating many of the one-off houses with the volumes of HGV movements over duration of restoration works significantly less than when these quarries were operational with residential amenity impacts also reduced.

- 7.6.3. The application documentation has proposed construction and environmental management plans and measures, and I consider that these measures are appropriate. I note that the appellants state that environmental management procedures are not acceptable as they have not worked out in the past. However this is a matter of opinion. While the traffic associated with this and other facilities in the area may contribute to the impact on the verges and hedgerows the applicant proposes to pay a special contribution to assist in resurfacing and widening the road. I do not consider that the flooding of the road and the ingress of surface water to properties can be reasonably levelled at the subject application site. The appellant also states that no proper noise, dust or air quality assessment was carried out in the vicinity of Blackhall Road with the appellant trying to use different locations as receiving environments. I do not consider this is a fair reflection of the EIAR undertaken which has followed best practice and clearly shows the locations of noise sensitive receptors.

## 7.7. **Biodiversity**

- 7.7.1. Prior to addressing the matters specifically raised by the appellants in respect of biodiversity I would refer the Board to section 9 of this report where I have undertaken an EIA with biodiversity specifically considered at section 9.3.2. Furthermore, I have undertaken AA screening at Section 8 of this report.
- 7.7.2. The appellant states that much of quarry has not been reclaimed and ask the Board to consider that the lands at the quarry and racetrack provide habitats for several red list species. They ask the Board to review the impact of the proposal and risk to Dublin Bay SAC, risk to spawning beds for Atlantic Salmon and the potential impact on habitats of red list species. It is considered that the disturbance of endangered species and the destruction of habitats for the purpose of a track extension is

unacceptable. The appellant also considers that the applicant and the local authority have failed to take into account the negative impact of the proposal on red list endangered species and habitats with no detailed environmental or ecological assessment of ponds to be filled in with the biodiversity assessment in EIAR deficient. Reference is made to the EIS submitted with the waste licence application which contains survey of wildlife and habitats at the quarry with species and habitats identified outlined.

7.7.3. In their response to the appeal, the applicant states that there is no evidence of red list endangered species on the site. They outline the dates the specialist ecological surveys were undertaken. Lapwing is noted as the only red-list endangered species identified on site. Reference is made to the previous EIS which identified the grassland area around the large waterbody as being suitable habitat for breeding Lapwing. It is stated that further follow up breeding surveys undertaken (April 2019 – Appendix D of EIAR) as part of the EIAR did not identify any breeding Lapwing. It is stated that while a small area of foraging and nesting habitat will be lost, given the absence of nesting activity at the site, impacts on nesting/breeding Lapwing is not anticipated. In addition, the phased restoration of the quarry area and the creation of wetland areas within the overall site will increase available foraging habitat for Lapwing. It is also noted that a few active sand martin (amber listed) nests were noted within the development site. It is stated that there is an abundance of habitat within the wider landscape and that the species would not be significantly impacted. The impact on this species was identified in the 2008 EIS wherein it was established that the protected species had a plentiful supply of similar habitat to relocate to within the area. It is considered that the impact on these species has been appropriately addressed in the EIAR. In relation to the absence of detailed assessment of the existing ponds, the applicant outlined that these habitats were adequately considered and that the proposed alterations to the site would provide an increase in the area of the waterbodies on site. I concur with the applicant's response which would correlate with my assessment of biodiversity at Section 9.3.2 below.

7.7.4. I have addressed the matter of invasive species at Section 9.3.2 of the EIA below. An area of Japanese Knotweed was identified adjoining one of the ponds and ditch in front of the Grandstand in 2018 and a plan was put in place at that time to address the matter. The applicant presented an Invasive Species Management Plan in

response to the further information request. I would recommend that a condition is attached to any grant of permission which requires the applicant to undertake a pre-construction invasive species survey and following same shall update the Invasive Species Management Plan for the development site.

- 7.7.5. I have addressed matters related to Natura 2000 sites within the Appropriate Assessment Screening section at Section 8 above.

## **7.8. Inadequacies in the EIAR**

- 7.8.1. While I undertake an Environmental Impact Assessment in section 9 below, the Planning Authority, the third-party appellant and the observer have outlined what they consider to be inadequacies in the EIAR which I propose to address in this section. It is attested that the EIAR fails to sufficiently assess the potential effect of the proposal on the receiving environment for a number of reasons which I will address in turn.
- 7.8.2. The Planning Authority in their second report state that they do not concur with the EIAR findings that there would be no likely significant effects on amenity following mitigation measures with concerns that the quarry restoration will have negative effects on human health which should have been more detailed in the EIAR. They do not provide any specific concerns in respect of how it is inadequate but rather state that they consider that the matter has not been adequately addressed to justify a grant of permission for the restoration element with the proposed development having an unacceptable direct, indirect or cumulative effect on population and human health. I do not concur with their contention which as I state earlier is unsubstantiated. I would also note that further on in their report they state that the EIAR adequately identifies and assesses potential impacts on air quality, climate, noise and vibration. The EIAR robustly examines the impacts from the restoration element of the proposal which would have the potential to effect population and human health. These, as outlined in Chapter 5 of the EIAR are assessed in the individual chapters related to factors such as water, noise and air quality. Secondly, the restoration element of the proposal is subject to a Waste Licence which has specific requirements in respect of the appropriate measures for each of these



factors and requires considerable ongoing monitoring of noise, air and water which is detailed in the EIAR.

7.8.3. The planning authority also state that they note that the traffic section of the EIAR was not updated following the further information response and the PA consider the EIAR is deficient in assessing the impact of the quarry restoration for 12 years on the adjoining local road and on the residential amenity of the area and in light of concerns of the Transport Department do not concur with the EIAR that there would be no likely significant or permanent impacts. Again, no definitive specific matters are addressed or outlined. I do not consider that the further information provided in respect of a road resurfacing and limited widening would require that the EIAR chapter on traffic and transportation be amended. It is not clear why the PA consider that it would. Furthermore, the residential amenity of the properties on this road have been addressed under the environmental factors of noise and air amongst others. It should also be noted that the PA granted permission for the restoration works in 2010, specifically conditioning resurfacing works to be part of the route and it was the EPA that conditioned the limitations on the volume of material which could be imported annually thereby limiting traffic movements associated with same. The restoration facility is subject to conditions and monitoring associated with that licence.

7.8.4. It is stated that the EIAR does not present an assessment of potential effects of the project in cumulative assessment with existing operations and processes with the project assessed as an isolated project which fails to take into account landuse activities which proposal is reliant on and is not unlike project splitting failing to take account of existing processes and activities with no acknowledgement that traffic in the area will increase exponentially as a result of prolonged race season and/or continuance of waste processing. Firstly, the EIAR addresses cumulative impacts within each Chapter of the EIAR. Given the location of the site and the activities within the site I consider that the consideration is reasonable. Furthermore, the observer does not offer any planned or extant development which has not been considered and which should have been. Secondly, I would note that there is no evidence presented to support the observer's contention that traffic in the area will increase exponentially as a result of prolonged race season and/or continuance of

waste processing. Traffic is considered in Section 7.4 above and in Section 9.3.10 of the EIA below.

- 7.8.5. The observer considers that the assessment within Chapter 5 including cumulative assessment is devoid of the consideration of potential effects of the proposal on the perception of development, the potential effect on the amenity outlook of existing residents and potential effects of a continuation of process for 12 years with no evaluation of potential adverse effect to existing properties amenities from prolonged race season and proposed continuation of the waste processing & disposal. The consideration of the environmental factor of population and human health addresses all the considerations which would be expected within that Chapter. It also acknowledges the overlap with other chapters in terms of, human health in particular. I do not consider that this chapter of the EIAR is inadequate for the reasons outlined by the observer, further it is not clear how an assessment of the perception of a development could be tangibly undertaken.
- 7.8.6. I do not concur with the observer that the interaction between biodiversity & water is not clearly defined. They consider that the potential for effects on European sites is dismissed solely on basis of AA screening with no details of the CEMP provided which is yet to be prepared with the potential success of mitigation not presented or examined in EIAR. Firstly, it is not appropriate to conflate processes. The EIA and AA Screening undertaken by the Board are separate assessments and are outlined separately in this report. I consider it is clear that there is no potential for significant effects on European sites and secondly, the conditional preparation of a CEMP is a standard aspect of such developments and is recommended as part of the conditions I recommend below.
- 7.8.7. It is not made clear why or what the EIAR would be required to make reference to in respect of the potential effects on the permitted restoration arrangements as permitted under 08/2159 given the restoration proposed is a continuation of what has already been permitted. The contention that a considerable portion of the Walshestown site will not be restored to natural state but will comprise a racecourse extension and drainage is clearly a misunderstanding of the overall proposal which seeks to restore already worked out areas of excavation and the new area of excavation. Concerns regarding noise modelling are noted but the noise assessment undertaken clearly outlines the methodology and consideration. I do not concur that

the cumulative effects are inconclusive. The observer contends that the landscape and visual effect of the proposal in a scenario of a split decision has not been addressed in the EIAR and that it is unclear what predicted effect on landscape would be if extraction was to occur without mitigation and particularly relevant as proposal will impede completion of full restoration of Walshestown. While it is not clear what will impede the completion of full restoration of Walshestown, I note that the landscape and visual assessment is comprehensive with the Board the competent authority in assessing the potential impacts in respect of the scenario envisaged.

7.8.8. It is also attested that the EIAR is inadequate due to an inadequate consideration of alternatives, the location of monitoring locations, the continuous complaints, issues with noise survey, traffic survey, speed limit, collision data, volume of HGV's and queue lengths. However as is clear from the EIA I have undertaken below at Section 9, I do not concur with the concerns expressed with all the relevant matters outlined addressed below.

## 7.9. **Other Matters**

7.9.1. The third-party appellants consider that inadequate information has been provided on the materials which it is proposed will form the track build up with no cross sections provided and that it is unclear if an all-weather track is contemplated with the surface critical in determining proposed intensification of racing. I consider that appropriate information has been provided on the materials proposed to facilitate the track extension as detailed in particular in the EIAR. While clear from the documentation provided I note that the applicant has confirmed in their response to the appeal that the track will not comprise an artificial surface and therefore concerns that same would facilitate an intensification of use are unfounded.

7.9.2. The proposed development includes the development of a temporary storage shed to be located within the Walshestown site. The maintenance and storage shed of 3,500 sq.m gross is proposed to the north of the site close to the existing admin building and is to be removed when the restoration is complete. I consider that the proposal is appropriate.

## 8.0 AA Screening

- 8.1.1. An AA screening report was submitted with the application, dated May 2019. Both the third-party appellant and observer raise concerns that a Stage 2 NIS was not prepared referencing in particular the precautionary principle and the hydrological pathway that exists from the Morell River, adjoining the site, to the Dublin Bay SAC. The observer also considers that the conclusions are highly questionable as they are based on the likelihood and requirement for mitigation measures which are unknown and the requirement for a CEMP that is not included. I will address these concerns in my consideration of this matter. At the outset I would note and accept, as confirmed by the Screening Report that the proposed development is not directly connected with or necessary to the management of Natura 2000 sites. The screening report outlines the desk and field-based studies undertaken, describes the site and the development with Figure 3-2 outlining the watercourses in the vicinity of the site. The screening report notes that the Morell River flows in a northwesterly direction and is a tributary of the River Liffey which it joins c. 12.6km north of the site. The River Liffey then discharges into Dublin Bay c. 35km northeast of the site. The screening report outlines the construction procedures and notes that all potential construction phase environmental impacts will also be addressed through the implementation of a comprehensive Construction Environmental Management Plan in accordance with current best practice guidelines.
- 8.1.2. The screening report identifies the Natura sites (Fig. 4-1) located within 10km of the site, of which there are three, and outlines the context within which the sites are located vis a vis the subject site noting that given the absence of hydraulic links and distance from sites that it is considered highly unlikely that the proposed works will have an impact on the sites identified. I would note, for the Boards information that the test set out in Article 6(3) is that it is beyond reasonable doubt that there would be an adverse affect on the conservation objectives of the sites in question.
- 8.1.3. I would refer the Board to the Appropriate Assessment Screening Assessment, dated 04/07/2019, undertaken by the Planning Authority, while noting the location of the most proximate sites as identified in the screening report. In the brief assessment undertaken to identify sites which may be impacted reference is made to River Barrow and River Nore, Slaney River Valley and Holdenstown Bog SAC's in respect

of freshwater habitats or species, wetland habitat and terrestrial sites with development not within 1km or 100m of same as set out in form. It states that no SPA's are located within 5km of the site. It concludes that no impacts are considered likely noting that significant impacts on habitats within Natura 2000 sites can be ruled out and no further assessment is required. The screening conclusion states that having regard to the proximity of the nearest Natura 2000 site and lack of pathways to protected sites it is not considered that there would be potential for significant effects. Notwithstanding the presumed typographical errors referencing the River Barrow and Nore in particular, I would note that the Board is now the competent authority in respect of Appropriate Assessment or the screening out of same.

8.1.4. To this end, I have undertaken a search of all sites within approximately 10km catchment, as proposed by the applicant and which I consider appropriate given the context of the site and pathways from same. (I have included a map in the accompanying Photos showing same). While the applicant has not included the Wicklow Mountains SPA as it is outside the 10km zone of influence, given its overlap with the Wicklow Mountains SAC and the proximity to the 10km catchment I have included this site for screening purposes. These four sites are as follows:

- Red Bog, Kildare SAC (Site Code 000397) c.5.5km from the appeal site;
- Poulaphouca Reservoir SPA (Site Code 004063) c.5.4km from the appeal site.
- Wicklow Mountains SAC (Site Code 002122) c.8.9km from the appeal site;
- Wicklow Mountains SPA (Site Code 004040) c.11.3km from the appeal site;

The distances above are direct rather than along any pathway.

While outside of the catchment or zone of influence outlined above and considered satisfactory, the following site is referenced by the appellant and observer as being within the zone of influence.

- South Dublin Bay SAC (Site Code 000210) c.31.2km as the crow flies from the appeal site and longer by the river pathway; This site is considered separately below.

8.1.5. The following table sets out the four sites within the zone of influence, their qualifying interests/special conservation interests and the conservation objectives and outlines whether there is a pathway from the subject site to the designated site.

| Site Name                 | Site Code | Qualifying Interests/Special Conservation Interests  | Conservation Objectives                                   | Distance from appeal site | Impact Pathway |
|---------------------------|-----------|--|---|---------------------------|----------------|
| Red Bog Kildare SAC       | 000397    | <ul style="list-style-type: none"> <li>Transition mires and quaking bogs [7140]</li> </ul>   | Maintain favourable condition                             | 5.5km                     | No             |
| Poulaphouca Reservoir SAC | 004063    | <ul style="list-style-type: none"> <li>Greylag Goose (Anser anser) [A043]</li> <li>Lesser Black-backed Gull (Larus fuscus) [A183]</li> </ul>   | Maintain or restore the favourable conservation condition | 5.4km                     | No             |
| Wicklow Mountains SAC     | 002122    | <ul style="list-style-type: none"> <li>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</li> <li>Natural dystrophic lakes and ponds [3160]</li> <li>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</li> <li>European dry heaths [4030]</li> <li>Alpine and Boreal heaths [4060]</li> <li>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</li> <li>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> <li>Blanket bogs (*if active bog) [7130]</li> </ul> | Maintain or restore the favourable conservation condition | 8.9km                     | No             |

|                       |        |  |   |        |    |
|-----------------------|--------|--|---|--------|----|
|                       |        | <ul style="list-style-type: none"> <li>• Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</li> <li>• Calcareous rocky slopes with chasmophytic vegetation [8210]</li> <li>• Siliceous rocky slopes with chasmophytic vegetation [8220]</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>• Lutra lutra (Otter) [1355]</li> </ul> |   |        |    |
| Wicklow Mountains SPA | 004040 | <ul style="list-style-type: none"> <li>• Merlin (Falco columbarius) [A098]</li> <li>• Peregrine (Falco peregrinus) [A103]</li> </ul>   | Maintain or restore the favourable conservation condition | 11.3km | No |

8.1.6. In respect of the potential impacts arising I would note that these can be addressed by way of potential construction impacts and operational impacts. While the screening report does not provide much detail in terms of potential impacts it is clear having regard to the nature of the proposal that they comprise all construction activities which may pose a potential risk to watercourses as surface water arising at a site may contain contaminants. However, it is not proposed to have any direct discharge from the site to the Morell or Punchestown Rivers. The existing valve from the Walshestown site to the Morell River is permanently locked and is noted as a requirement of the EPA Licence. Furthermore, the valve is located far higher than the level of the water in the overflow pond (pond C) above which it is located. The surface water drainage proposal is outlined in detail elsewhere in this report with no discharges proposed as part of the subject proposal to the River Morell. I note that the Screening report states that there are no habitats for which the SAC's are designated present within the site nor were any of the special conservation interests

of the SPA identified in the field surveys. However, given the absence of any pathway from the subject site to the sites outlined above, it is reasonable to conclude that the proposed development would not be likely to have a significant effect on the sites in question.

- 8.1.7. During the operational phase, stormwater management is proposed by way of the attenuation system described in this report at Section 7.5 and I would concur with the conclusion that this development would not give rise to any significant effects to designated sites given the absence of any hydrological pathway.
- 8.1.8. As outlined, none of the sites in the list above have a direct pathway from the proposed development site to a Natura 2000 site. I would concur with the applicants Screening Report that they do not require further consideration. I also note in the Screening Report that the application site does not itself support any habitat which might be used by any species listed as a special conservation interest. This is supported by the findings in the EIAR in relation to biodiversity.

#### **Sites Outside the Zone of Influence**

- 8.1.9. As I note above, the third-party appellant and observer raise concerns about the potential impacts on the South Dublin Bay SAC (Site Code 000210) which they state is hydrologically linked to the subject site via the River Morell and River Liffey. As the crow flies the appeal site is c.31km from the South Dublin Bay SAC and I note that the applicant's response to the appeal outlines that by river it is 42-47km and that there are c.41 tributaries between the site and the SAC that feed into River Liffey before discharging to Dublin Bay. Given that it is not proposed to discharge directly to the Morell River, the potential for significant effects is unlikely. Furthermore, it is reasonable to assume that any potential run-off which may accidentally enter the watercourse would not be perceptible in the offshore European site given the significant separation distance of up to 47km and the significant level of dilution and mixing of surface and seawater which would occur.
- 8.1.10. As outlined in the introduction above, the observer considers that the conclusions are highly questionable as they are based on the likelihood and requirement for mitigation measures which are unknown and the requirement for a CEMP that is not included. I would not concur with this conclusion. Firstly, as noted above there are no pathways to proximate designated sites within the zone of influence which provides



that there are no direct or indirect effects that would be likely to have significant effects on any Natura 2000 sites in view of the sites' conservation objectives.

Secondly, the screening report does not refer to mitigation measures but states that the construction works will be undertaken in accordance with recognised best practice guidance as outlined in the EIAR as would be required.

8.1.11. Therefore, the development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly. This conclusion is consistent with the appropriate assessment screening report submitted with the application. Similarly, there are no direct or indirect effects that would be likely to have significant effects on any Natura 2000 site in combination with any other plan or project.

8.1.12. Having regard to the nature and scale of the proposed development, the absence of pathways, the nature of the receiving environment and distance to the nearest European site it is reasonable to conclude that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on European sites Red Bog Kildare SAC, site code 000397; Poulaphouuca Reservoir SPA, site code 004063, Wicklow Mountains SAC, site code 002122, Wicklow Mountains SPA, site code 004040, or any other European site, in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.

8.1.13. Measures intended to reduce or avoid significant effects have not been considered in the screening process

## **9.0 Environmental Impact Assessment**

### **9.1. Introduction and Context**

9.1.1. This application was submitted to the Board after 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

9.1.2. The appeal was made under Section 34 of the Planning and Development Act 2000, as amended. The proposed development comprises a number of elements and would come within the following project types for the purposes of EIA:

- Extractive Industry - Class 2 (b) – extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares.
- Infrastructure Projects - Class 10(b) - where urban development would exceed an area of 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- Other Projects – Class 11(b) – installations for the disposal of waste with an annual intake greater than 25,0000 tonnes (not included in Part I of the schedule)
- Changes/Extension – Class 13 – any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part I) which would:

Result in an increase in size greater than:-

- 25% or
- An amount equal to 50% of the appropriate threshold.

Therefore an EIAR is required.

9.1.3. The EIAR is laid out in three documents, the Non-Technical Summary (Volume 1), the Main document (Volume 2) and the Appendices (Volume 3).

9.1.4. The likely significant direct and indirect effects are considered under the following headings, after those set out in Article 3 of the Directive from Chapter 5-15 as follows:

- Population and Human Health
- Biodiversity
- Land and Soils
- Water
- Air Quality
- Climate
- Noise and Vibration
- Landscape and Visual
- Cultural Heritage

- Material Assets – Traffic and Transport
- Material Assets – Waste Infrastructure

9.1.5. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application and appeal. A summary of the submissions received by the Planning Authority and from appellants and observers has been set out at Sections 3.5 and 3.6 and Section 6 of this report and include matters relevant to the EIA. The relevant issues raised are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation including conditions. I would also refer the Board to Section 7.8 of my report above, where I specifically address the matters raised by the Planning Authority, the appellant and observer in respect of inadequacies in the EIAR.

9.1.6. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2000, as amended and the provisions of Article 5 of the EIA Directive 2014.

## 9.2. **Alternatives**

9.2.1. Article 5(1)(d) of the 2014 EIA Directive requires the following:

*“a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the project on the environment.”*

Annex IV (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

*“2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of*

*the main reasons for selecting the chosen option, including a comparison of the environmental effects.”*

- 9.2.2. The submitted EIAR outlines the alternatives examined at Chapter 4 and the alternatives examined relate to alternative location/design of the track extension; alternative source sites for the fill material for the track; alternative ambulance road options; and alternative drainage options which I will address in turn.
- 9.2.3. In relation to alternative locations and designs it is stated that the key initial criteria in considering the proposed track extension was that the distance to the existing finish line had to extend to 1 mile to make it viable. Other options for the track extension were considered but eliminated based on constraints including engineering design such as length of track, permitted curvature with tolerable gradient and infrastructure requirements with the optimum approach considered to be a single bend with a width of 80m. The options are outlined in Figure 4-1 to 4-3.
- 9.2.4. Reference is made, in respect of alternative source sites for the fill material for the track, to the report prepared by PSD Agronomy Labosport which states that the build-up of the track must be made up of solid inert fill material from a single source and the requirement for same to be completed within one season further highlighting the necessity for a nearby source. Options for external sources were considered but discounted on the basis of the traffic impact, and the inability to find a single source. It is also noted that an evaluation of the Walshestown site was considered in detail with preliminary assessments undertaken to establish the volume of suitable natural materials and characteristics of these materials and that the only viable source of materials was determined to be the materials on the adjoining site which is the proposed source.
- 9.2.5. The consideration of alternative ambulance road options is outlined with Figures 4-4 to 4-5 outlining options. The options considered included sand crossing of the existing track, temporary mobile crossing, installation of an underpass or the installation of an ambulance track around the entirety of the track extension. Paramount in the choice of the latter option, the ambulance track around the entire track relates to safety of riders and horses and the gradients on the site.
- 9.2.6. In terms of the alternative drainage options considered I note Figures 4-6 to 4-8 which outline the different options considered for the installation of three ponds in

different shapes and configurations. It is stated that the locations of the attenuation/retention ponds were decided based on accessibility and efficiency for watering the racetrack, the feasibility of following the current drainage system where possible and the ecological benefits for wildlife and visual amenity for spectators with the decision to install one large pond along the home straight chosen as it facilitates holding greater volumes of water and visually enhances the view from the grandstand.

- 9.2.7. I consider that the matter of alternatives has been adequately addressed in the application documentation, which is to be considered by ABP as the competent authority in the EIA process.

### 9.3. **Assessment of Likely Significant Direct and Indirect Effects**

#### 9.3.1. **Population and Human Health**

Population and human health is considered in chapter 5 of the EIAR. The methodology of the assessment is presented, noting that the population of the wider Naas area is experiencing significant increase with the site located in a predominantly agricultural rural area with the local small area population experiencing a population decline. It is noted that the area in the vicinity of the site includes a number of one-off residential dwellings and farm holdings. Economic activity and employment within the wider area is outlined.

**Potential Impacts:** In terms of potential impacts on population and human health, it is noted that the anticipated construction works for the track extension and widening is 12-18 months with the track widening works time sensitive in respect of the racing calendar. The employment created from same is estimated at c.40 persons and is predicted as a positive impact. In relation to operational phase impacts, the proposed development at Punchestown is anticipated to sustain the existing 20 jobs with increased events having a positive indirect impact on employment within the wider area. There is a wider indirect impact on tourism within the area. A strong positive long-term impact on the local economy and employment is predicted. In relation to the Walshestown element, it is anticipated that the proposed extension of the restoration element will sustain the existing 15-20 direct jobs. Potential impacts on

population and human health as they arise in respect of air quality, noise, landscape and visual and traffic are addressed in the chapters that follow.

**Unplanned Events:** the racecourse operates the racetrack and associated facilities in accordance with best practice guidance and safety standards with no unplanned event likely to arise as a result of the proposal. Walshestown operates an environmental management plan which includes a safety statement and site safety rules are in place for all workers and contractors as well as visitors. Emergency procedures are also in place.

**Mitigation Measures:** Mitigation measures relating to the related factors of air, noise, landscape and visual and traffic are outlined in the individual chapters and within Chapter 17 of the EIAR.

**Residual Impacts:** significant, positive long terms on local economy.

**Monitoring:** Emissions monitored and reported at Walshestown under EPA licence and therefore the Board cannot include conditions related to emissions. No monitoring of Punchestown element necessary.

**Cumulative Impacts:** Section 5.6 notes that the site forms part of the broader landownership boundary of Punchestown with the proposed development having a positive impact on the local and regional population in terms of employment opportunities. The principle cumulative impacts relate to the creation of additional population and demand for services within the area and the provision of facilities within the development.

**Potential interactions:** air, noise & vibration, landscape & visual and material assets - traffic.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **population and human health** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **population and human health**.

### 9.3.2. Biodiversity

Prior to undertaking an assessment of the environmental factor of biodiversity, I would refer the Board to section 7.7 of this report where I have addressed matters raised by the appellant in respect of biodiversity. Furthermore, I have undertaken AA screening at Section 8 of this report wherein I conclude that a Stage 2 assessment is not required.

The study outlines the methodology employed and provides a study of relevant national and local planning policy. Two field surveys were undertaken in May and June 2018 and included the potential for these habitats to support other features of nature conservation importance such as species afforded legal protection under either Irish or European legislation including bats, badgers, birds and amphibians. The survey also aimed to identify the presence of any invasive species on the site. The study outlines in detail the methodology employed and the need to evaluate the conservation importance of the site. Table 6-3 sets out a record of the legally protected or otherwise notable species which are known to occur or have occurred within a 2km radius of the site.

### Habitats

The existing habitats within the site, which are detailed in section 6.3.3.1 and shown on Figure 6-3, include improved grassland, which is the dominant habitat within the site. The site also includes wet grassland on the edges of the artificial lake to the southeast of the site, hedgerows and treelines around the site, scrub, artificial lakes and ponds and the site of the former quarry which is undergoing restoration. In relation to habitat value, all of these habitats have a low local value except for the artificial waterbodies which have a high local value.

### Species

In terms of species, firstly, I would note that no plant species protected under the Flora Protection Order were identified on the site. In terms of other species, the EIAR states that it is considered that the some of the site habitats and waterbodies are considered suitable foraging habitat for bat species and commuting and it is considered likely that bats will use the site for such purposes, but no trees or buildings were identified within the development area as having the potential to support roosting bats. It is noted that the NBDC hold no records for bat species within 2km of the site. There are records (NBDC) of badger within 2km of the site

with suitable sett building location within hedgerows and foraging within the grassland but it is noted that no setts were found.

The majority of bird species recorded on site are common species within the Irish countryside with nesting and foraging widely available. In respect of the red/amber lists for birds of conservation concern, two species were noted on the site, the lapwing and sand martin. A number of active sand martin nests were identified to the east of the site within exposed soil in the quarry face and in stockpiles of material. A pair of common buzzards were noted flying above the site. Within the waterbodies a number of wildfowl species were noted including mallard, mute swan, coot, waterhen, little grebe and tufted duck. In relation to lapwing which is an Annex II bird species, a lapwing survey report, dated April 2019, was undertaken and is included in Appendix D of the EIAR. The report states that previous studies at the site identified the grassland area around the large waterbody as being suitable habitat for breeding Lapwing and while the species were observed foraging on the short grasses in the Racecourse and on lands within the racecourse, no breeding Lapwing were identified within the area to the southeast of the site around the waterbody.

In terms of amphibians, the waterbodies within the site provide potential habitats for same with frog, spawn and tadpoles noted in the survey. The smooth newt was also identified in the temporary waterbodies created by vehicle movements with this species favouring smaller water bodies.

#### Invasive Species

Stands of Japanese Knotweed were identified located adjoining one of the existing ponds within the existing track to the west of the site and along a section of ditch which connects the two ponds (figure 6-4). It is stated that following the identification of this species in 2018 during the initial site survey that a programme of in-situ treatment commenced in 2018.

**Potential Impacts:** Firstly, in relation to designated sites, no significant impacts are anticipated and I would refer the Board to my AA screening at Section 8 above. I would also note that none of the four proposed Natural Heritage Areas (pNHA's) located within 5km of the site would be impacted given the intervening agricultural grassland and the distances separating the sites. Secondly, prior to addressing potential impacts of the species identified, I note the statement that the project



design has incorporated a suite of measures to minimise any adverse effects on biodiversity. These include the implementation of a comprehensive Biodiversity Management Plan for the lands and the creation of additional habitats as part of the restoration programme. Other measures are addressed under mitigation measures below. I would note that the authors of the EIAR biodiversity report provides, at Table 6-4, an evaluation of the important receptors with each one assessed and a scoping justification provided for each receptor for the combined construction, operation and restoration phases. While the impacts are more likely to relate to the construction phase, for ease of reference for the Board I propose to address each of the receptors as they are presented rather than duplicating the phases for the consideration of impacts.

### Habitats

In relation to habitats, the habitats where there is potential for impact are the **artificial waterbodies** which are known to support notable species, and which are considered to be of high local value in terms of biodiversity and add to habitat diversity. The impacts on hedgerows/treelines can be mitigated by way of general mitigation by way of the timing of works as it applies to nesting birds which are considered separately below.

### Species

In relation to **bats**, while there is no suitable trees or buildings for roosting bats were identified the site has habitat which is suitable for foraging and commuting, the majority of which will be retained. I would note that no additional lighting is proposed. No impacts are predicted on this species, but it is noted that the proposal offers opportunities for the enhancement of the site with measures proposed to be included within the Biodiversity Management Plan.

Similarly, while no setts were identified on site, the suitability of the site for foraging and commuting there is the potential for impacts on **badgers** and general mitigation is required.

In terms of **birds**, significant impacts are not predicted given that the majority of hedgerows and trees are being retained. Works which are required to a small area of hedgerows/trees, which is minimal, this will be undertaken outside of nesting season (1<sup>st</sup> March – 31<sup>st</sup> August) which is a general mitigation measure. There is potential

impact, due to the temporary disturbance/loss of habitat, on the lapwing and mitigation is proposed although it is noted that there is suitable ground nesting habitat for this species within the wider landscape. There is also potential for impact on the sand martin who are noted to nest within the quarry with the proposal having the potential to impact on nesting areas although it is noted that this species is an opportunist with an abundance of similar habitats available within the wider area, however mitigation is required.

While the site is not likely to support significant numbers of **amphibian** species given the levels of activity already on the site, it is considered that the waterbodies within the site would support amphibians and given the loss of suitable habitat for same there is a potential impact at construction stage given the changes proposed to existing bodies within the site.

#### Invasive Species

**Japanese Knotweed** has been identified on the site and this highly invasive non-native species has the potential to cause both the loss of biodiversity and damage infrastructure requires further mitigation which is set out in the next section.

**Mitigation Measures:** The study provides a comprehensive consideration of mitigation for both the construction and operational phases which I will address below. I would note that it is proposed that an Ecological Clerk of Works will be appointed for the duration of the project with those working on site to be made aware of notable species.

#### Construction Phase:

The main mitigation measure is the preparation and implementation of the **CEMP** which it is proposed will be prepared and submitted for agreement of the planning authority prior to commencement. It is proposed that the CEMP will refer to a range of guidance including the Control of Water Pollution from Construction Sites.

In respect of protection for **birds**, the main measure relates to the management of vegetation outside of the nesting season (1 March – 31 August). It is also proposed that the Ecological Clerk of Works will direct any such works and inspect waterbodies for nesting waterfowl in advance of any works. Should Lapwing nests be observed, the Ecological Clerk of Works will be consulted for advice. Species

measures are proposed for the sand martin. The Biodiversity Management Plan for the site to include measures for enhancing the site for nesting bird species at operational stage.

To avoid impacts on **amphibians** the proposed ponds and wetlands areas will be created in advance of the removal of the existing waterbodies with pre-construction surveys to be undertaken of the waterbodies prior to their removal.

Procedures and mitigation measures for **badger** are proposed which are in line with TII Guidance.

Specific measures are proposed for the treatment of **Japanese knotweed** identified on site which are subject to ongoing treatment since 2018 and an updated survey is proposed in advance of works with a detailed management plan to be developed which will detail how the plant is to be eradicated/managed. Other measures to avoid the further introduction of the species onto the site are outlined including the cleaning of machinery and equipment.

Detailed measures for the **protection of trees and hedgerows** are outlined which include the creation of buffers between same and the works proposed. Measures are also proposed for the **protection of stockpiled soil** such as the use of dedicated routes within the site. In relation to the **restoration phases**, the biodiversity management plan is a key mitigation measure in this regard it is proposed that this plan will incorporate beneficial measures for species such as increased waterbodies facilitating an increase in the diversity of wildlife within the site. I note that it is proposed to undertake an updated ecological assessment in advance of the implementation of the Biodiversity Management Plan.

#### Operational Phase:

In relation to the operational phase the main mitigation measures are the implementation of the landscape plan and its execution on the site. The creation/enhancement of habitats will enhance wildlife in the area all of which will be implemented through the Biodiversity Management Plan. In relation to the restoration phases, the biodiversity management plan is outlined in detail with measures proposed for all habitats and species.

**Unplanned Events:** the presence of invasive species on the site is noted which I have addressed above with in-going ecological monitoring of the site considered appropriate in addition to the management of the identified stands of the species.

**Cumulative Impacts:** No cumulative impacts are predicted.

**Potential interactions:** lands & soils, water, noise & vibration and landscape & visual.

**Residual Impacts:** considered to be negligible/slightly positive in short term and following completion of the Walshestown restoration considered to have a positive impact on biodiversity.

**Monitoring:** It is proposed that the Ecological Clerk of Works to be appointed till undertaken monitoring work to ensure implementation of the mitigation measures.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **biodiversity** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **biodiversity**.

### 9.3.3. Land and Soils

This environmental factor is addressed in chapter 7 of the EIAR. In relation to the receiving environment, it is noted that the site is situated in an area of gently undulating topography with the area of the former quarry significantly modified by historic quarrying with ground levels ranging from 170m AOD to the east of the site to 140m AOD in the pond in the northwest corner. The bedrock beneath the site is Silurian Carrighill Formation with none exposed. A review of the boreholes from the site investigations shows bedrock encountered at depths ranging between 15.1mbgl at BH3 to 37.9mbgl at BH5 with a summary provided at Table 7-1. In relation to quaternary geology, according the GSI database, the eastern portion of the site is underlain by gravels derived from Limestone with the western portion underlain by till derived from limestones (Figure 7-3). The soils beneath the eastern portion of the site are shallow well drained mineral soils with the western portion comprised of deep, well drained mineral soils. (Figure 7-4). In relation to land use, the site

comprises a horse racing facility and a former quarry undergoing restoration. I would note that no new land use not previously undertaken is being introduced to the site. While extraction is proposed within the restoration area, the area was previously extracted and therefore this land use was previously permitted on the lands.

**Potential Impacts:** Construction Phase: In terms of potential impacts on land and soils, during construction the main impact is the extraction of c.1.15million tonnes of soil, subsoils, sands and gravel from a central area of the site that was not previously excavated. The depth of extraction is on average 7.5mbgl with a maximum to 13m bgl in some area all of which will remain at least 1m above the high winter groundwater table. It is proposed that the construction site and temporary compound for same will be segregated from the normal operations within Walshestown. Given that the soils are being transported directly to the site of the proposed racetrack stockpiling will be minimal. There is a slight impact potentially, in respect of the machinery moving the material and the potential for accidental spillages. While mitigation is proposed and outlined below, the EIAR considers that the risk to soils and geology during the construction phase is neutral.

Operational Phase: In relation to Walshestown it is proposed that the facility will continue to restore the former quarry in strict adherence to the EPA Licence will continue in respect of the restoration of the site with no impact predicted. The proposal to restore the former quarry and proposed extraction area and landscape same is considered a positive impact on land-use. In terms of Punchestown, potential impacts at operational stage, none are anticipated.

**Unplanned Events/Flood Risk:** The earthworks proposed will be undertaken with standard machinery with mitigation proposed no significant effects are expected.

**Mitigation Measures:** In relation to construction, it is proposed that works will be carried out using best practice procedures including the appropriate guidance such as Control of Water Pollution from Construction. Minimal stockpiling will occur and to minimise impacts from potential spillages a range of measures are outlined which should be incorporated into the CEMP. It is stated that all operational phase works will comply with the requirements of the EPA waste licence.

**Cumulative Impacts:** None anticipated.

**Potential interactions:** biodiversity and water.

**Residual Impacts:** none following mitigation.

**Monitoring:** monthly, quarterly and annual surface water/groundwater monitoring will continue as part of the EPA Waste Licence.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **land and soils** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **land and soils**.

#### 9.3.4. **Water**

Water is addressed in chapter 8 of the EIAR, with the detailed analyses set out in Appendix F, and considers the impact on receiving hydrology (surface water) and hydrogeology (groundwater).

##### Hydrology

The hydrological context for the site is outlined noting that the site is within the Liffey and Dublin Bay catchment and Eastern River Basin District (ERBD). The Morell River (waterbody code: IE\_EA\_09M010060) the closed hydrological feature to the north of the site and comprising the site boundary along certain sections. The Morell River flows in a north-westerly direction joining the River Liffey c.12.6km north of the site which then discharges into Dublin Bay c.35km northeast of the site. The Morell River has a good status in the WFD. There are a number of existing surface water monitoring points along the Morell River both upstream and downstream of the quarry area with Table 8-1 providing a summary which indicates key determinants are low level concentrations below applicable surface water standards with the exception of NH<sub>3</sub> where low level elevations above the standard were found 5 occasions in total for the two locations but the three most recent monitoring rounds found levels were below the detection limit.

The Punchestown River (IE\_EA\_09L011300) is located c.76m southwest of the site boundary at its closest point and flows in a southerly direction draining into agricultural lands to the south of the site. The study details the ponds within the site boundary including two interconnected ponds to the northwest of the Walshestown

site, one to the northeast and a waterbody to the south of the site which is manmade and perched with no connection to the water table. There are a number of existing attenuation ponds in front of the grandstand serving as attenuation and irrigation features for the track which are connected via an underground pipe to an attenuation pond and soakaway in the centre of the racetrack. These features are detailed in Figure 8-1. The screening assessment to ascertain flood risk is outlined. In relation to flood risk, I note that reference is made to Flood maps where it is indicated that during a 10% AEP fluvial event there is a risk of flooding in a portion of the Morell River to the north of the site c.500m from the site with the site 550m from the recurring flood point in the River.

### Hydrogeology

The east of the site is underlain by the West Blessington Gravels aquifer which is classified as local important. However as noted in the EIAR, the subject site and c. 3 other sites within the wider vicinity have been historically quarried for sand and gravel which has diminished the extent and significance of this sand and gravel aquifer within the locality of the site. It is considered that given the diminishment of the deposit that any remaining deposits would not act as a continuous aquifer making the locally important aquifer classification no longer appropriate. To the west of the site, a very small portion of the landholding is underlain by the Curragh Gravels aquifer which is a regionally important aquifer. (Figure 8-4). The bedrock aquifer beneath the site is classified as poor and generally unproductive and considered to be an aquitard (poor hydraulic connection between the 2 groundwater bearing units). It is stated that groundwater storage and movement in the formation takes place only in the weathered zone and fractures (figure 8-5). The groundwater vulnerability rating for the majority of the site is high but noting the present of between 15.1-37.9m of overburden across the site, the author considers that a moderate rating is more appropriate which appears reasonable.

Monitoring of groundwater levels has been undertaken on the site since 2017 with water levels ranging from 135m above OD in the western portion (BH14) to 152m AOD in the eastern portion in the overburden (BH4). Water levels within the bedrock range from approximately 132m AOD in the west (BH13) to 145m AOD in the east (BH7). Monitoring data shows groundwater in the overburden flowing to the northwest with a hydraulic gradient ranging from 0.016 in the central area of the site

to 0.04 in the northeast. Groundwater in the bedrock flows to the west with a hydraulic gradient ranging from 0.008 in the west to 0.027 in the northeast. The EIAR states that groundwater levels in the overburden can be several metres above that in the underlying bedrock which indicates a poor hydraulic connection between the two and which is due to the relatively low permeability of clayey sands and gravels. A series of 'slug' tests were undertaken to estimate hydraulic connectivity in the overburden and bedrock groundwater bearing units (appendix F) and indicates a highly variable hydraulic conductivity ranging from 0.06 to 86 m.d<sup>-1</sup> in the overburden and ranges of 0.75 to 33 m.d<sup>-1</sup> in the bedrock. The study undertook a search of the GSI well database identifying wells in the wider area with 49 reported boreholes within a 2km radius. I would note that I addressed a concern regarding wells in Section 7.5.3 of this report above. It is stated that the applicants use a groundwater abstraction well to supplement the surface water ponds used for irrigation with an additional well installed to the west of the site in 2019. I note that there are 13 groundwater wells currently monitored as part of the restoration programme in the site and they are set out in Figure 8-9. Pump tests found that the new well installed in 2019 near the grandstand had a negligible effect on the groundwater levels at the boreholes further east within the Walshestown facility. In relation to groundwater quality monitoring undertaken since 2016 as part of the EPA licence which test for a wide variety of determinants and when compared to the groundwater standard (Groundwater Regulations 2010 as amended), the recorded concentrations (table 8-2) are consistently below standards save for a number of incidences of a slight exceedance of chloride and total ammonia in a number of tests but since December 2017 only one exceedance has been recorded.

**Potential Impacts:** Construction Phase: In terms of potential impacts on water, during construction the main impact is silt run-off and incorrect handling of deleterious materials and earthmoving activities having the potential to release sediment. It is stated that the depth of proposed extraction will remain at least 1m above the highest recorded groundwater level in this section of the site. The works proposed to replace existing surface water features note that the drainage patterns with the new features will follow greenfield discharge rates. The movement of soils from the excavation area to the proposed track will avoid the Morell River. these relate to the construction phase of the proposed development. While mitigation is



proposed and outlined below, the EIAR considers that the risk to surface and groundwater during the construction phase is neutral.

**Operational Phase:** In relation to Walshestown it is proposed that strict adherence to the EPA Licence will continue in respect of the restoration of the site. Reference is made to a Hydrogeological Risk Assessment undertaken to assess any potential risk to groundwater from leaching of contaminants through the basal liner of the engineered inert landfill. It is concluded that the existing restoration and additional infill required of the excavated area would not cause a risk to surface/groundwater resources. In terms of Punchestown, potential impacts at operational stage relate to water supply for the enlarged track however sufficient supply is readily available even for peak demand during the annual festival with the new abstraction well providing a top up facility if required.

**Unplanned Events/Flood Risk:** The earthworks proposed will be undertaken with standard machinery with mitigation proposed no significant effects are expected. In relation to flood risk, the site is located 550m from the recurring area of flood on the Morell River with the development have no impact on current drainage patterns in this waterbody an imperceptible impact with regard to flood risk.

**Mitigation Measures:** In relation to construction, it is proposed that appropriate guidance including Control of Water Pollution from Construction. Measures set out in the CEMP in relation to the protection of waterbodies will be implemented with measures outlined in previous sections above in relation to biodiversity and land & soils. The depth of extraction will remain 1m above the highest recorded ground level. Silt traps along the Morell River will be maintained and transit routes will avoid crossing the Morell River. In terms of the operational phase, it is not anticipated that any significant effects will arise with drainage proposed to follow existing greenfield rates. Silt traps in Walshestown will be subject to weekly inspections and the facility will continue to operate in accordance with the EPA Licence with the impact considered neutral.

**Cumulative Impacts:** None anticipated.

**Potential interactions:** biodiversity and land & soils.

**Residual Impacts:** none following mitigation.

**Monitoring:** monthly, quarterly and annual surface water/groundwater monitoring will continue as part of the EPA Waste Licence.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **water** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **water**.

#### 9.3.5. Air Quality

Air Quality is addressed in chapter 9 of the EIAR which provides the assessment methodology with a detailed overview of air quality legislation and ambient air quality. Given that the existing Walshestown facility is subject to an EPA Waste Licence, dust deposition monitoring is regularly carried out with six monitoring locations across the site which are outlined in Figure 9-1. Two of these locations adjoin the L6042 to the north of the site and two along the southeastern boundary adjoining the public road to the east south of the location of the proposed track extension. The study undertaken reviewed the results for the entire year of 2018 (Table 9-3) with six occasions identified when the licenced limit of 350mg/m<sup>2</sup>/day was exceeded. Following a number of exceedances, the Facility Manager decided to analyse further dust samples for organic and inorganic dust (Table 9-3) which concluded that organic dust from overhanging trees, hedgerows and surrounding vegetation was causing exceedances with monitoring locations D3, D4 and D5 moved to more appropriate locations as approved by the EPA.

It is noted that no dust complaints have been received in the two years previous to the study with previous complaints related to dirt on the road. Figure 9-2 outlines the location of sensitive receptors in the vicinity of the site with distances to these receptors detailed in Table 9-5 with the nearest one (dwelling to the northeast) c.220m from the main dust emissions. As noted in the AA screening undertaken above, the nearest natura 2000 sites are in excess of 4km from the site and therefore potential dust emissions would not impact on them.

**Potential Impacts:** In terms of the construction phase, potential impacts in respect of air quality include particulate matter (dust) from excavation, soil works and internal transport of fill material. As noted, the transport of the fill material for the track extension will be internal and therefore will not use public roads mitigating potential impacts. Operational phase impacts for Punchestown are related to traffic emissions but this is considered imperceptible. In relation to Walshestown, the continued restoration will result in generation of dust but given the ongoing restoration which will continue at existing levels the impact is not considered significant. It is also noted that the limits in the EPA licence will continue to apply.

**Mitigation Measures:** Mitigation measures for the construction phase relate primarily to the implementation of the proposed CEMP, ongoing dust deposition monitoring and control of speed of vehicles. Operational mitigation is proposed for Punchestown by way of the alternative transport options available to the site for events such as bus transfers and shuttle services. In terms of Walshestown, the site will be regulated by the EPA licence with the current dust regime continuing and strict compliance with a documented EMS. The provision of a temporary storage shed within the facility will assist in lessening dust generation as processed waste materials will be stored within same.

**Potential interactions:** population & human health in respect of exposure to emissions and biodiversity although distance of designated areas would provide no impacts would arise.

**Residual Impacts:** none following mitigation.

**Monitoring:** current dust deposition monitoring maintained under remit of current EPA Licence with any additional requirements to be agreed with the EPA.

**Cumulative Impacts:** stated that adjacent Blackhall Soil recovery facility carried out similar activities with similar impacts to air quality. The two facilities have been in concurrent operation for last 3 years with no noticeable increase in monitored dust deposition levels and conclude that cumulative impact of both is not significant.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **air quality** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am

therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **air quality**.

#### 9.3.6. **Climate**

Climate is considered in chapter 10 of the EIAR. The methodology of the assessment is presented as is the receiving environment. I note the study of microclimate wherein it is stated that there is no specific microclimate of note within or surrounding the development area supporting distinctive species or related to a particular agricultural or land use practice that are not prevalent elsewhere.

**Potential Impacts:** at construction phase, machinery associated with haulage and extraction and additional car traffic generated from construction personnel will give rise to GHG emissions. The impact is considered imperceptible given the limited duration of the works and the sourcing of materials for the track extension within the existing quarry adjoining the site. Operational phase impacts within the Punchestown development area relate to GHG emissions from additional staff and visitor traffic to and from the proposal for existing and potential new events but given that an expansion in attendance numbers is not proposed the anticipated effect are not considered significant. In relation to Walshestown, potential operational impacts relate to HGV movements however there is not proposed increase in truck movements with no significant impact predicted. The future use and availability of the former quarry area as a natural amenity area is considered a positive impact

**Mitigation Measures:** Mitigation measures are outlined for the construction phase include construction site Eco-Drive principles promoting good vehicle use and maintenance. In terms of operational measures, for Punchestown measures to be promoted include use of public transport initiatives and use of low emission raw materials for operation of the racecourse. For Walshestown, adherence to the environmental management plan and waste licence obligations will result in a reduction of GHG emissions.

**Residual Impacts:** measures to reduce the carbon footprint of proposal are proposed with impact on climate change considered to be imperceptible but considered mitigation measures will ensure GHG emissions reduced as far as possible.

**Monitoring:** monitoring is not considered necessary.

**Cumulative Impacts:** given the absence of significant impacts in respect of the development itself, cumulative impacts are not considered to be significant, but mitigation measures will ensure any cumulative residual impacts will be imperceptible.

**Potential interactions:** population and human health in relation to climate change and CHG emissions and biodiversity in respect of same for living environment and flora and fauna health and sustainability respectively.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **climate** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **climate**.

#### 9.3.7. **Noise and Vibration**

Noise and vibration are considered in chapter 11 of the EIAR with reference made to the acoustic goals and policies in the Kildare County Council Noise Action Plan 2013-2018. The methodology is outlined including the assessment criteria for both the construction and operational phases. The noise environment associated with a racetrack is outlined. In relation to the Walshestown facility, it is stated that the existing Waste Licence incorporates conditions for the control of noise with clarification provided in respect of the frequency of monitoring to be undertaken and the locations and limits which are specified in the relevant Schedules to the Licence. There are 6 monitoring points around the perimeter of the site. This provides that there is very detailed existing information on the local noise environment at the applicant's disposal. I would also note that the compliance monitoring undertaken confirmed compliance. Figure 11-1 sets out the noise sensitive receptors of which there are 5 which are located primarily on the eastern and western boundary of the development site. I would note given the extent of the landholding owned by the applicant that there a relatively low number of residential properties in close proximity.

Acoustic monitoring was undertaken at 4 noise monitoring locations (figure 11.3) which are representative of the locations of the receptors identified. Ambient noise levels at the 4 locations are presented in Table 11-11. The ambient monitoring data collected to characterise the locality showed an increased in recorded sound pressure levels towards the west and northwest with NM4 recording the highest  $L_{AeqT}$  value at 61dB which would most likely arise from proximity to the R411. This I note is in line with the findings of the Walshestown compliance reports. The conclusion reached on the existing ambient acoustic environment is that ambient existing sound levels surrounding the site are moderate arising from traffic on the local roads and the R411 along with industrial facilities such as Walshestown.

In relation to the characterisation construction and operational phase noise, the EIAR usefully outlines the phases of construction wherein there will be overlap between excavation at the Walshestown site, continued acceptance and processing restoration and the construction of the track extension. The track widening at the home straight are removed from any receptor and I consider that this work which is proposed over a single summer season will be imperceptible. From an operational perspective Punchestown is characterised by typical days where the main activities are the upkeep and management of the facility and event days which currently are c.17 days with the addition of further events limited. The restoration of Walshestown is envisaged to continue for c.12 years and following same will be returned to amenity lands.

**Potential Impacts:** at construction stage the main noise and vibration impacts arise from plant associated with the construction programme and continued restoration works. In the operational phase noise and vibration will arise from race day events and the continued restoration of Walshestown until its completion. Noise modelling was undertaken for these three impacts. In relation to the construction phase, As outlined in Table 11-14, the noise nuisance limit of 55dBA is not predicted to be exceeded at any of the four noise sensitive receptors. In relation to the operational noise from Punchestown following the proposed changes resulting from the track extension, and notes that two of the receptors will remain unchanged with the other 3 experiencing a minor decrease. The Walshestown facility will remain in compliance with the EPA licence requirements.

**Mitigation Measures:** Mitigation measures for the construction phase are outlined and include hours of construction, powering down plant when not in use and communication with the local community. The operational phase impacts for Punchestown provide for the communication of race events well in advance as is currently undertaken. For Walshestown, the continued restoration of the site itself will mitigate noise emanating within the wider area.

**Residual Impacts:** no significant residual impacts predicted.

**Monitoring:** compliance with the EPA licence and monitoring for same will continue.

**Cumulative Impacts:** primary source of noise in the area is the R411 and the study undertaken has provided cumulative ambient acoustics levels with the measured ambient background levels and modelled emissions predicted to be at or lower than the existing measured general noise levels with remaining noise characteristics remaining as currently experienced.

**Potential interactions:** population and human health and biodiversity.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **noise and vibration** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **noise and vibration**.

#### 9.3.8. **Landscape and Visual**

Landscape and Visual is addressed in chapter 12 of the EIAR. I note that A3 copies of the photomontages are included within Appendix H (Volume 3). The assessment methodology is outlined as are the nature of impacts associated with the two elements of the proposed development. The policy context for landscape character is set out with the site located within the Eastern Transition Lands which have a medium sensitivity (Class 2) rating and they adjoin the Eastern uplands further east which has a Class 3 sensitivity. There are a number of panoramic views towards the site from the southeast and northeast on the higher lands at a distance of c.2.5km and 5km respectively. It is noted that the previous permission to restore

Walshestown (ref. 08/2159) required that the lands be restored to re-create the former Priest's Hill. This work is being progressed particularly along the eastern boundary with the racetrack with other conditions of the permission requiring the reinstatement of bridle paths.

**Potential Impacts:** In terms of potential impacts on landscape and visual, these relate to the short-term impacts in the construction phase from removal of trees and hedgerows to facilitate works and in the medium term the ongoing works to restore the Walshestown facility. It is noted that the ongoing restoration works to the north and east of the Walshestown site will screen the proposed works from the north. Views from the minor road to the east will be available. In relation to operational phase impacts, one area where there will be considerable change is to the east of the site along the L6051 to the east of the proposed track extension (photomontage view 2). This is currently remote with little by way of development. Given the proposal the area will be a marshalling area for horses and vehicles altering the existing situation with screen planting proposed along this boundary. The ongoing restoration of the lands including the proposed new excavation area will create negative impacts on the new racetrack but the proposed completion of the restoration works will result in a positive impact. of the proposed development. Six photomontages have been prepared to address views from a number of locations and I address each one in turn below in the following table. The viewpoint locations are set out in Figure 12-8 and are as follows:

| <b>Viewpoint (each description starts with view)</b>   | <b>Impact (Construction)</b> | <b>Impact (Operational)</b>     | <b>Quality of Change</b>   |
|--|------------------------------|---------------------------------|----------------------------|
| 1 – southeast towards the site from main Grandstand    | Slight Negative              | Imperceptible<br>Medium         | No permanent visual impact |
| 2 – northwest from L6051 at Walshestown (at racetrack) | Slight Negative              | Slightly<br>Negative/<br>Medium | No permanent visual impact |



|   |                              |                               |                            |
|---|------------------------------|-------------------------------|----------------------------|
| 3 - northwest from L6051 at Walshestown (south of racetrack)    | Slight Negative              | Slight Negative               | No permanent visual impact |
| 4 northwest from L6055 at Slieveroe towards track               | Imperceptible/<br>Short term | Imperceptible/<br>medium term | No permanent visual impact |
| 5 – southwest from L6051 at Walshestown towards track extension | Imperceptible/<br>Short term | Imperceptible/<br>medium term | No permanent visual impact |
| 6 –south from L6042 at Blackhall towards track extension        | Slight Negative              | Imperceptible/<br>medium term | No permanent visual impact |

I consider that the description and evaluation of the predicted impacts as shown in the photomontages presented is reasonable.

**Mitigation Measures:** Mitigation measures the design of the racetrack extension to incorporate two wildlife ponds and planting in addition to the graded embankments associated with the track itself all of which were incorporated into the design. Screening is also proposed to the local road to the east of the track extension. The other main measure is the restoration of the Walshestown site including the restoration of the area of extraction proposed to facilitate the track. Section 12.7.1.1 of the EIAR sets out the phases of restoration from phases 1-6 with 12-9 & 12-10 detailing same and outlining the nature of the habitat. It is noted that the proposed racetrack extension is designed to merge in with the proposed contours of the Walshestown restoration works and Priest’s Hill landscape recreation. Cells 3-5 within Phases 3-5 include the area of proposed extraction with Cell/phase 6 including the waste sorting facility to the north of the site.

**Residual Impacts:** the main residual impact is the change from an agricultural landscape to racetrack and the reinstatement of the Walshestown lands from a quarry to a restored amenity area with original undulating profile complementing the

racetrack and its extension as set out in Figure 12-22 which shows the landscape masterplan for the lands.

**Monitoring:** the establishment of planting requires monitoring to ensure a successful outcome with other normal management practice for such lands such as maintenance of boundaries and drainage to be monitored.

**Cumulative Impacts:** None anticipated given unique nature of proposals and noted that the two quarries to the north (Blackhall & Newtown Great) are in the process of being remediated which will have a positive impact on the wider landscape. The in-combination impact of the operation of the landfill operation, the excavation of the lands and the constriction of the racetrack extension is acknowledged. However all are within the boundary of the application site and their impacts have been considered within the EIAR.

**Potential interactions:** biodiversity and noise & vibration.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **landscape and visual** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **landscape and visual**.

#### 9.3.9. Cultural Heritage

Cultural Heritage is addressed in chapter 13 of the EIAR. It is outlined that given the extensive modifications which have already taken place within the landscape the potential impact on cultural heritage is low. It is noted that much of the area of the proposed track extension was previously quarried and has been reinstated with low-grade pasture and a manmade lake. The area of proposed excavation within the central area of the site much of which was not previously excavated but was subject to some surface disturbance such as topsoil stripping. This area was subject to previous licenced monitoring (appendix I-1). While there are a number of recorded monuments within the wider area and within the wider landholding, as outlined in Figure 13-3, there are none within the application boundary. Reference is made to

the dilapidated cottage and farm buildings located to the south of the proposed racetrack extension.

**Potential Impacts:** In terms of potential impacts on cultural heritage, these relate to the construction phase of the proposed development and in particular the disturbance of ground. Given the extent of previous disturbance within the site area, the only area considered in terms of impact is the eastern area of the proposed track extension and the area of ground to the south of the track where a proposed attenuation pond is proposed. The other impact addressed was the demolition of the existing cottage in ruins to the south of the track.

**Mitigation Measures:** Mitigation measures comprise archaeological monitoring of previously undisturbed ground at eastern end of proposed track extension as set out in Figure 13.6 during the construction phase would be proposed and conditioned. It was proposed that a demolition survey of the ruined cottage and outbuildings be undertaken however, it is proposed to retain this structure (further information response).

**Residual Impacts:** none following mitigation.

**Monitoring:** no requirement for long-term monitoring but proposed that archaeological monitoring of previously undisturbed ground as outlined above.

**Cumulative Impacts:** None anticipated.

**Potential interactions:** noise & vibration and landscape & visual.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **cultural heritage** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **cultural heritage**.

#### 9.3.10. **Material Assets - Traffic**

This environmental is addressed in chapter 14 of the EIAR with appendices J1-J3 providing the data and traffic counts. For the Boards information I also address matters in respect of traffic and transport within the planning assessment at Section

7.4 above. The methodology of the assessment is presented, noting the traffic counts undertaken at 5 junctions and the assessment of existing and future year traffic. The existing road network is appropriately described with existing traffic usefully outlined in a series of tables. Collision data is provided and as noted at Section 7.4 above.

**Potential Impacts:** Construction – the main impact is related to traffic associated with construction staff. As noted elsewhere in this report, the material excavated from within the Walshestown facility is proposed to be transported the short distance to the proposed track extension location within the confines of the site providing that there will not be any additional traffic using the public road.

Operational – Punchestown – it is proposed that an increased number of patrons using the facility will increase traffic although it is noted that new summer race events would not attract the same numbers which attend the annual Festival.

Operational – Walshestown – traffic movements will not increase as a result of the extended restoration period and therefore additional impacts are not predicted.

I note that the junction capacity assessment notes that by 2032, the R411/L2023 crossroads junction and R410/L2023/L0635 crossroads junction will have reached capacity with small queues and delays at peak times with the remainder operating within capacity. The road capacity undertaken notes that all bar the R410 would operate within the recommended capacity for a Level of Service D in 2032. While the R410 is slightly over the recommended 8,600 AADT in 2032, it is noted that the restoration activity is proposed to be complete by c.2032 which would increase capacity in this part of the network.

**Mitigation Measures:** Mitigation measures for Punchestown at operational stage relate primarily to the compilation and implementation of an event management plan which includes a traffic management plan. Given the existing events on site and the use of a such a tool, this is considered to comprise an extension of an existing measure and is acceptable. Public transport to the site for race meetings is also outlined with shuttle buses available from Sallins Train Station. The mitigation measures for Walshestown include ensuring movements use the strategic road network and an agreement to cease HGV deliveries during festival week. The

proposed resurfacing and widening of the L6042 is also outlined as a measure with the upgrade works undertaken in 2018 to part of the road detailed.

**Residual Impacts:** No significant residual impacts identified.

**Monitoring:** proposed that ongoing monitoring of traffic associated with Punchestown will be undertaken.

**Cumulative Impacts:** The consideration of how the two elements of the proposed development would cumulatively impact on traffic concludes that on festival days HGV traffic in Walshestown would cease to operate. The proposed development was considered cumulatively with the adjoining Blackhall restoration facility. No additional traffic movements above that currently undertaken at Walshestown are proposed and I would note that the adjacent facility is due to reach capacity in 2021 which will reduce traffic generated on the network.

**Potential interactions:** noise & vibration, and air and climate.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **material assets – traffic and transport** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **material assets – traffic and transport**.

#### 9.3.11. **Material Assets - Waste**

Waste is considered in chapter 15 of the EIAR. The receiving environment is outlined in respect of regional and national waste policy and consideration of C&D waste capacity. I would also note the matter of capacity of C&D waste was addressed by the applicant in response to the request from the Board under Section 137, as detailed in Section 6.6 above, which appears to provide more up to date information than outlined in this Chapter. The existing waste management regime at both Punchestown and Walshestown are outlined. As noted elsewhere in this report, there is no change proposed to the wastewater treatment facilities serving the overall development.

**Potential Impacts:** In terms of potential impacts the extracted materials generated from the proposed development are proposed to be used within the development site for the track extension therefore providing no export of waste or material off-site. Other potential impacts at construction stage is the generation of waste by staff. In relation to the operational phase, waste likely to be generated at both the Punchestown and Walshestown facility are outlined and include food and packaging waste at Punchestown and miscellaneous waste at Walshestown arising from material delivered to the facility but which is predicted to be minor.

**Mitigation Measures:** Construction phase mitigation relate primarily to the preparation and implementation of a construction waste management plan and a site-specific C&D waste management plan which it is proposed will form part of the CEMP. In relation to the operational phase, it is outlined that existing operational arrangements which are outlined, are satisfactory to mitigate the volume and variety of waste generated in Punchestown. In terms of Walshestown it is outlined that the facility will continue to comply with the waste licencing requirements implemented but the EPA licence and its own environmental management plan.

**Residual Impacts:** Construction phase residual impact considered short term and not significant with no significant operational impact on waste disposal sites.

**Monitoring:** Walshestown facility monitored under EPA licence.

**Cumulative Impacts:** while not specifically considered in the EIAR, having regard to the information on file I consider it reasonable to conclude that given that the development in itself will not create any significant impacts, that no significant cumulative impacts would arise.

**Potential interactions:** solid waste considered to interact with human beings in respect of waste practices during the operational phase.

**Conclusion:** I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to **material assets - waste** would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of **material assets - waste**.

### 9.3.12. Interactions between Environmental Factors

Chapter 16 of the EIAR deals with the interactions between environmental factors. The primary interactions are summarised in the EIAR under construction phase and operational phase as follows:

- Population and human health is considered with potential interactions with air, noise and traffic.
- With the relevant mitigation measures in place no significant residual negative impacts on population human health are predicted.
- Biodiversity is considered with several factors having the potential for significant impacts including water, noise and landscape and visual.
- With the relevant mitigation measures in place no significant residual negative impacts on biodiversity are predicted.
- Air is considered with several factors having the potential for significant impacts including climate and material assets in respect of the import of fill material.
- With the relevant mitigation measures in place no significant residual negative impacts on air are predicted.
- Noise and Vibration is considered with several factors having the potential for significant impacts including landscape and visual, cultural heritage and material assets - traffic.
- With the relevant mitigation measures in place no significant residual negative impacts on noise and vibration are predicted.
- The corollary of the interactions above are also considered with no significant residual negative impacts identified.

The various interactions have been properly described in the EIAR and have been considered in the course of this EIA.

### 9.3.13. Major Accidents and Disasters

Article 3(2) of the Directive includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and/or disasters that are relevant to the project concerned are considered. I would note that the subject lands

are not proximate to or within the consultation zone for any Seveso/COMAH designated sites. Section 1.8 addresses major accidents/disasters and unplanned events. It states that in accordance with EPA Guidance (5) the risk of accidents and unplanned events which may be either caused by or have impact on the proposed development have been assessed. A risk-based approach was employed and based on the risk accidents and unplanned events related to the following topics have been subject to disaster risk assessment:

- Human Health
- Biodiversity
- Land and Soils,
- Water
- Air Quality
- Climate; and
- Material Assets – Traffic & Waste

Each of the aforementioned chapters addresses the matter under the heading unplanned events and I address it in the assessment of each above as appropriate. It can be concluded that the likelihood of the proposal causing major accidents and/or disasters is not significant. I consider that the matter has been appropriately and comprehensively considered.

#### **9.3.14. Cumulative Impacts**

Cumulative impacts are addressed under the specific chapters above and are addressed under the individual headings where appropriate. I consider that the matter has been appropriately and comprehensively considered.

### **9.4. Reasoned Conclusion on the Significant Effects**

- 9.4.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the applicant, and to the submissions from prescribed bodies and observers in the course of the application, it is considered that



the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Benefits/positive effects on **population, land, biodiversity** and **landscape & visual** by the restoration of a former quarry and area of proposed extraction to recreate the former landscape profile, provide usable land with amenity values and habitat creation and enhancement providing grassland and wetland areas to support a wide variety of wildlife.
- Impacts arising on **soils & land** and **water** by the extraction of 639,000m<sup>3</sup> of materials over an area of 164,500m<sup>2</sup> from within the former quarry to facilitate the construction of the extended track. The impacts are mitigated by the extraction 1m above the recorded water levels, the internal transport of the materials to the site of the track extension and the restoration of the lands with the finished contours as per the previously approved levels.
- Impacts arising on **biodiversity** as a result of spread of invasive species (Japanese Knotweed) present on the site and which would be mitigated by the continuation of the implementation of an Invasive Species Management Plan and method statement for the control of disturbance of soils containing Japanese Knotweed and the requirement that a suitably qualified ecologist would be engaged to oversee the undertaking of a pre-construction survey and the implementation of the Invasive Species Management Plan and monitor the success of the mitigation measures post-construction.
- Risk of pollution of **water** as a result of accidental spillages of chemicals, hydrocarbons or other contaminants during the construction and operational phases. The impacts would be mitigated by measures within a Construction and Environmental Monitoring Plan (CEMP) and adherence to best practice construction measures and incorporation of appropriate drainage facilities. Measures set out in the CIRIA guidance document on 'control and management of water pollution from construction sites' would be implemented.
- Potential effects on the **road network** during the construction phase that will be mitigated by the transport of material from the proposed area of extraction to the proposed track extension internally within the site.

- Potential effects on the **road network** during the operational phase that will be mitigated by event management planning associated with events at the Racecourse and the upgrade works proposed to part of the L6042 to facilitate the continued restoration of the Walshestown lands which will be completed in the medium term.

9.4.2. The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed. They would not require or justify refusing permission for the proposed development or requiring substantial amendments to it.

## 10.0 Recommendation

10.1. Having regard to the assessment outlined in the preceding sections, I recommend that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

## 11.0 Reasons and Considerations

Having regard to the:

- a) The policy objectives set out in the National Planning Framework 2040 and the Eastern and Midland Regional Spatial and Economic Strategy.
- b) the policies and objectives in the Kildare County Development Plan 2017-2023;
- c) the established uses and planning history on the site and the pattern of existing and permitted development in the area, and
- d) submissions and observations received,

It is considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites,

taking into account the nature, scale and location of the proposed development within an existing racecourse and restoration facility, the information for the Screening for Appropriate Assessment submitted with the application, the Inspector's Report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board, in accordance with the requirements of Section 172 of the Planning and Development Act 2000, as amended, completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on the site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) the planning history associated with the site and the Board's previous Environmental Impact Assessment (EIA) relating to the site,
- (d) the submissions received from the appellants and prescribed bodies, and
- (e) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the application and appeal. The Board considered that the main significant direct and

indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Benefits/positive effects on **population, land, biodiversity and landscape & visual** by the restoration of a former quarry and area of proposed extraction to recreate the former landscape profile, provide usable land with amenity values and habitat creation and enhancement providing grassland and wetland areas to support a wide variety of wildlife.
- Impacts arising on **soils & land** and **water** by the extraction of 639,000m<sup>3</sup> of materials over an area of 164,500m<sup>2</sup> from within the former quarry to facilitate the construction of the extended track. The impacts are mitigated by the extraction 1m above the recorded water levels, the internal transport of the materials to the site of the track extension and the restoration of the lands with the finished contours as per the previously approved levels.
- Impacts arising on **biodiversity** as a result of spread of invasive species (Japanese Knotweed) present on the site and which would be mitigated by the continuation of the implementation of an Invasive Species Management Plan and method statement for the control of disturbance of soils containing Japanese Knotweed and the requirement that a suitably qualified ecologist would be engaged to oversee the undertaking of a pre-construction survey and the implementation of the Invasive Species Management Plan and monitor the success of the mitigation measures post-construction.
- Risk of pollution of **water** as a result of accidental spillages of chemicals, hydrocarbons or other contaminants during the construction and operational phases. The impacts would be mitigated by measures within a Construction and Environmental Monitoring Plan (CEMP) and adherence to best practice construction measures and incorporation of appropriate drainage facilities. Measures set out in the CIRIA guidance document on 'control and management of water pollution from construction sites' would be implemented.
- Potential effects on the **road network** during the construction phase that will be mitigated by the transport of material from the proposed area of extraction to the proposed track extension internally within the site.

- Potential effects on the **road network** during the operational phase that will be mitigated by event management planning associated with events at the Racecourse and the upgrade works proposed to part of the L6042 to facilitate the continued restoration of the Walshestown lands which will be completed in the medium term.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in Chapter 17 of the environmental impact assessment report, 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 adopted the report and conclusions of the Inspector.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking the decision.

### **Proper Planning and Sustainable Development**

The Board considered that the proposed development would be compliant with the current Kildare County Development Plan 2017-2023 and would therefore be in accordance with the proper planning and sustainable development of the area. Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable form of development, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **12.0 Conditions**

|    |   |
|----|---|
| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 13 day of December 2019 and by the further plans and particulars received by An Bord Pleanála on the 9 day of April, 2020, except as may otherwise be required in order to |
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|    |  |
|----|--|
|    | <p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>  |
| 2. | <p>The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.</p> <p>Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p> |
| 3. | <p>The restoration element of this permission shall be permitted for a period of 12 years from the date of the grant of permission.</p> <p><b>Reason:</b> In the interest of orderly development.</p>  |
| 4. | <p>Prior to the commencement of development a consolidated site layout plan setting out the detailed design and the direction of works within the proposed extraction area shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of clarity and orderly development.</p>  |
| 5. | <p>Prior to commencement of development, the developer shall undertake a pre-construction invasive species survey and following same shall update the Invasive Species Management Plan for the development site. The Plan</p>  |

|    |  |
|----|--|
|    | <p>shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>  |
| 6. | <p>No extraction of aggregates shall take place at least 1 metre above the level of the winter water table.</p> <p><b>Reason:</b> To protect groundwater in the area.</p>  |
| 7. | <p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p> |
| 8. | <p>(a) Surface water run-off from open cut areas shall not be discharged directly to any watercourse. All such water shall be trapped and directed to temporary settling ponds.</p> <p><b>Reason:</b> In the interest of public health and to protect water quality.</p>   |
| 9. | <p>The noise levels generated during the extraction of materials shall not exceed 55 dB(A) Leq,1hr when measured at the nearest noise sensitive receptor. When measuring the specific noise, the time shall be any one-hour period [during which the sound emission from the quarry is at its maximum level].</p> <p><b>Reason:</b> In order to protect the residential amenities of property in the vicinity.</p>   |

|     |   |
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| 10. | <p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and to ensure a satisfactory standard of development.</p>  |
| 11. | <p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the south eastern area of the site as indicated in Figure 13-6 of the EIAR. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development within this area,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p> |
| 12. | <p>The quarry, and all activities occurring therein, shall only operate between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or public holidays.</p> <p><b>Reason:</b> In order to protect the residential amenities of property in the vicinity.</p>   |



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| 13. | <p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity.</p>  |
| 14. | <p>Prior to commencement of development, 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 form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.</p>  |
| 15. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p> |

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|     | Development Contribution Scheme made under section 48 of the Act be applied to the permission.   |
| 16. | <p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of facilitating the completion of further resurfacing and road improvement works on the L6042 for c.1km extending from the existing L6042/L6041 priority junction to the existing L2023/L6042 priority junction. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p> |

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Una Crosse  
Senior Planning Inspector

January 2021