



An
Bord
Pleanála

Inspector's Report ABP 308034-20

Development	Importation of uncontaminated soil and stone for the improvement of lands for agricultural purposes.
Location	Knockmark, Drumree, Co. Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA191230
Applicant(s)	Rossmore Civils Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Rossmore Civils Limited
Observer(s)	None
Date of Site Inspection	26 th January 2021
Inspector	Brendan Coyne

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1.0 Site Location and Description

The site has a stated area of 12.21ha and is located on the northern side of a local road, in the rural townland of Knockmark, c. 0.5 km to the north-west of Drumree village and c. 3 km to the west of Dunshaughlin in County Meath. The site is irregular in shape with its main section located c. 280m from the public road to its south. The site is accessed via an existing agricultural entrance, located immediately to the east of a farmyard complex, which fronts onto the public road. The access route serving the site boundary has a length of c. 350m and runs on a north-east / south-west axis along the south-eastern side of an existing field boundary, defined with mature trees and hedgerow. The main section of the site comprises an open agricultural field used for grazing. Its ground level drops in a north-easterly direction, dropping from 88.5m OD at its south-western corner, 86m OD at the north-western corner and 84m OD at the south-eastern corner to 81m OD at the north-eastern corner. The western, southern and eastern boundaries are defined with mature trees and hedgerow. A raised embankment runs along the north-eastern boundary which historical maps show served a former railway line, now removed. Drainage ditches run along all the western, south-eastern and north-eastern boundaries, which link with the Skane River, located c. 410m to the north-east. The main section of the site appeared reasonably well drained on the date of site inspection. The character of the surrounding area is characterised with one-off rural housing and agricultural buildings. A residential house known as 'Knockmark House' is located c. 105m to the west of the main section of the site. An archaeological monument (ME044-002) identified as a mound is located on lands adjoining the farmyard complex to its west. Knockmark church and graveyard, identified as recorded monuments ME044-001, ME044-001001, ME044-001002 and ME044-001003, are located further to the west of the site.

2.0 Proposed Development

2.1. *Application as lodged on the 18/09/2019.*

The proposed development is described in the public notice as follows;

- The importation of uncontaminated soil and stone for the improvement of lands for agricultural purposes.
- The importation of crushed concrete to facilitate the construction of a temporary internal haul road, which will be removed upon completion of the development.
- 1 no. temporary onsite welfare hut comprising an office and toilet unit, which will serve as an office for the duration of the infilling process.

2.1.1. The public notice states that subsequent to planning permission, a waste facility permit will be sought from Meath County Council for the duration of the infilling process.

2.1.2. The Environmental Report submitted with the application provides greater detail on the scale and extent of the proposed development, as follows:

- Approx. 90,000 tonnes of material will be imported into the site as infill.
- The area of land to be infilled is 4.95 Ha.
- The volumetric area of the site to be infilled is 60,000m³.
- The land will be infilled at a rate of 22,500 tonnes per annum, over a 4-5-year period.
- The infill material will consist of clean / uncontaminated soil and stone only.
- The quantity of material required for the temporary haul road is 920 tonnes / 460m³. This will be removed post fill.
- The portacabin / site office serving the infilling activity will contain 1 no. chemical portable toilet.
- Infill is required in order to improve the land for the purpose of developing a new training pitch for the club (as stated in Section 1.1).
- Infilling is required for the improvement of lands and to provide the land with the basis for improved agricultural grassland (as stated in Section 2.1.1).
- Infilling of the site will not exceed 90,000 tonnes.
- The hours of operation of the proposed development are 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, excluding Sundays and public holidays.

2.1.3. Documentation submitted with the application includes the following:

- Environmental report, prepared by Tús Nua Environmental.
- Screening report for Appropriate Assessment, prepared by Whitehill Environmental.

2.2. **Significant Further Information / Revised Plans were submitted on the 05/06/2020** - comprising the following:

- An archaeological impact assessment, prepared by John Purcell Archaeological Consultancy.
- Revised site layout plan, cross section and sightline drawings.

3.0 **Planning Authority Decision**

3.1. **Decision**

Meath County Council REFUSED permission for the proposed development. The reason for refusal was as follows;

1. It is an Objective of Meath County Council (CH OBJ 7) *“To protect archaeological sites and monuments, underwater archaeology, and archaeological objects, which are listed in the Record of Monuments and Places, and to seek their preservation in situ (or at a minimum, preservation by record) through the planning process”*. It is considered, on the basis of the information contained in the planning application, that the Archaeological Impact Assessment report submitted contains significant errors, therefore the report cannot be evaluated with confidence. As a result, it is considered that the proposed development may have a serious and adverse impact on the amenities of the area, on the archaeological conservation objectives, and would materially contravene a development objective of the development plan and

would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *First Report (08/11/2019)*

- The improvement of land for agricultural purposes complies with the Meath County Development Plan.
- The Environmental Report states that the c. 90,000 tonnes of material to be imported will be required to fill the land for the purpose of developing a new training pitch for the club. The Planning Authority presume that the club referenced in the Environmental Report is the nearby Drumree GAA club. There is no reference of a club in any of the other documentation submitted.
- The levels on the section drawings do not correspond with the site layout plan.
- The lettering on the section drawings is very small and difficult to read.
- The wheel wash, quarantine area and site welfare unit are considered acceptable.
- The proposal does not exceed a threshold requiring a mandatory Environmental Impact Assessment.
- Having regard to the Screening Report for Appropriate Assessment submitted, the proposed development, by itself or in combination with other plans and development in the vicinity, would not be likely to have a significant effect on European sites.

3.2.2. **Further information** was requested on the 08/11/2019 requiring the following:

1. Engage the services of an archaeologist to carry out an archaeological assessment of the site and submit a written report to the Planning Authority and the Dept. of Culture, Heritage and the Gaeltacht.
2. Submit revised drawings accurately showing the cross-section levels of the site.
3. Clarify the exact location of the access to the site. It appears on the site location map to pass through existing farm buildings and appears in a different location on the sightline drawing.

3.2.3. **Significant Further Information** was received on the 05/06/2020.

3.2.4. **Second Report (30/07/2020)**

- As a result of the inadequacies in the archaeological report submitted, the Planning Authority cannot be sure that the proposed development will not have a detrimental impact on possible archaeology on the site. On this basis, refusal of permission will be recommended.
- The revised drawings submitted are acceptable.

3.3. **Other Technical Reports**

Transportation Section: No objection subject to Condition requiring a special levy of €43,000 towards the cost of restoring the local roads L-22071 and L-5047, affected by the proposed development.

Environment Section: No objection subject to 21 no. Conditions. Noted Conditions include the following:

1. Planning permission be granted for no longer than 5 years.
2. The applicant shall apply for a Waste Facility Permit prior to the commencement of activities on site.
3. Hours of operation.
4. Road haul culvert construction requirements.
5. A mobile wheel wash shall be installed. Any waste-water / silt from the wheel wash to be removed by a licensed haulier to an authorised facility.
6. No topsoil shall be removed from the site.
7. No more than 60,000 m³ of Class 5 waste may be imported over the lifetime of the development. Only clean, uncontaminated soil and stone shall be imported onto the site.
9. No more than 920 tonnes of Class 7 waste may be imported over the lifetime of the development.

11. A Construction Environmental Management Plan (CEMP) shall be submitted to the Planning Authority for approval.
12. There shall be no exceedance of the upper annual tonnage allowance for a Waste Facility Permit i.e. 25,000 tonnes per year.
13. Topographical survey requirements.
17. Noise level requirements.
18. Daily dust level requirements.
19. Surface water which flows across the site and ponds within the fill area, before joining the ditch to the east of the site, shall be adequately re-directed around the site prior to the commencement of activities.
20. A 5m buffer shall be maintained between the fill location and adjacent ditches.
21. The chemical portable toilet shall be removed off-site on expiry of the grant of permission.

Water Services Department: No objection subject to condition.

Conservation Officer: No objection subject to the proposed structure being temporary. Condition recommended that in the event that archaeological material being found, all works should halt and the Department of Culture, Heritage and Gaeltacht be notified.

3.4. Prescribed Bodies

3.4.1. Dept. of Culture, Heritage and Gaeltacht

First Report - dated 21st October 2019

- The proposed development is large scale in extent and close to a mound of archaeological interest and to Knockmark church and graveyard, Recorded Monument Nos. ME044-022 and ME044-001 respectively, which are subject to statutory protection in the Record of Monuments and Places.
- Aerial photographs (Google Earth coverage) show evidence of the presence of earthwork features likely to be of archaeological significance.

- Recommended that an Archaeological Impact Assessment be submitted to assess the potential impact, if any, on archaeological remains in the area.

Second Report - dated 14th June 2020

3.4.2. Report in response to Significant Further Information submitted states the following:

- The archaeological testing report contains significant errors in terms of the contents, list of figures and other typographical errors.
- There is no explanation of the images (not numbered) that appear to show flooded excavation cuttings and how archaeological observations were made.
- There are references in the report to County Kildare, Drummans and the M1 motorway. Such errors add considerable confusion for the reader.
- The Planning Authority should request the applicant to resubmit an Archaeological Impact Assessment.

3.4.3. **H.S.E. Environmental Health Officer** – report concludes the following:

- The length of time of the proposed development is unclear, ranging from 2 to 5 years.
- The volume of material to be imported onto the site is unclear, ranging from 60,000 to 90,000 tonnes. The applicant should clarify this.
- The applicant should ensure that a suitably qualified staff member is available at all times when the site is open to provide security and ensure that every waste load is examined.
- The applicant did not outline environmental impacts on soil, groundwater or surface water in the Environmental report. The applicant should be requested to address these issues, to ensure the proposal would not have a significant negative impact.
- A public complaints procedure should be developed and implemented on the site to ensure that any complaints regarding nuisance can be dealt with in a timely manner.

3.4.4. **Irish Water:** No objection subject to condition.

4.0 Planning History

None for subject site.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Meath County Development Plan 2013 - 2019 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is located on un-zoned land, outside a zoned town.

Landscape Character Area: The suite is located with the South East Lowlands Landscape Character Area (No.11).

RD POL 26 To ensure that all existing workings shall be rehabilitated to suitable land uses and that all future extraction activities will allow for the rehabilitation of pits and proper land use management. The biodiversity value of the site should be considered in the first instance when preparing restoration plans. Where land filling is proposed, inert material is the preferred method. Each planning application shall be considered on a case-by-case basis and where relevant will be dealt with under the relevant regional Waste Management Plan.

WM OBJ 1 To facilitate the provision of appropriate waste recovery and disposal facilities in accordance with the principles set out in the appropriate Waste Management Plan applicable from time to time made in accordance with the Waste Management Act 1996.

WM POL 6 To encourage the development of waste infrastructure and associated developments in appropriate locations, as deemed necessary in accordance with the requirements of the Regional Waste Management Plan.

WM OBJ 7 To promote the implementation of Waste Management Activities in accordance with 'Best Practice' and national policy.

WM OBJ 8 To facilitate the implementation of national legislation and national and regional waste management policy.

Section 11.18 Archaeology

In considering developments which might impact on archaeology, Meath County Council will:

- Seek archaeological impact assessments as part of the planning submission when a proposed development could affect a Recorded Monument, a Zone of Archaeological Potential, or as yet unidentified elements of archaeological heritage, and;
- Require that a licensed archaeologist carries out all necessary archaeological works when permission is granted for development that requires mitigation of impacts on the archaeological heritage.

CH POL 7 To ensure that development in the immediate vicinity of a recorded monument is sensitively sited and designed so that it does not significantly detract from the monument. Where upstanding remains exist, a visual impact assessment may be required.

5.2. **European, National and Regional Policy**

“Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment”, issued by the Department of Housing, Planning and Local Government in 2018.

“Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government in 2003.

5.3. **Natural Heritage Designations**

5.3.1. The site is located c. 10.6 km to the south-east of the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299).

5.3.2. The Rye Water Valley/Carton SAC (Site Code: 001398) is located c. 13.5km to the south of the site.

5.4. **Environmental Impact Assessment Screening**

5.4.1. The proposed development provides for the importation of 90,000 tonne of clean / uncontaminated soil and stone as infill into a stated area of 4.95 Ha. The stated infill

intake will be less than 22,500 tonnes per annum over a 4-5 year period. I note from previous Board decisions (e.g. ABP 303598-18, ABP-303182-18 and ABP-302439-18) that this type of operation is considered to be a waste operation for the purposes of EIA Screening, even if not described as such on the application public notice.

- 5.4.2. Under Schedule 5, Part 2, 11(b) of the Planning and Development Regulations 2001 (as amended), the following class of development is subject to Part X, Section 176 of the Planning and Development Act 2000 (as amended) which requires a mandatory Environmental Impact Assessment;

Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

- 5.4.3. Given that the proposed development involves an annual intake of less than 22,500 tonnes of soil and stone per annum over a 4-5 year period, the proposal is below the threshold of development set out under Schedule 5, Part 2, 11(b) of the Regulations. Thus, there is not a mandatory requirement for the planning application to be accompanied by an Environmental Impact Assessment Report.

- 5.4.4. With regards sub-threshold development, guidance is provided in the Government's 'Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment', published in August 2018. Section 3.4 of the Guidelines state that 'for all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment', as required under Section 172(1)(b)(ii) of the Act and articles 103(1)(b) and 109(2)(b)(i) of the Regulations. Section 3.5 of the Guidelines states that the preliminary examination should have regard to the criteria set out in Schedule 7 of the 2001 Regulations, which sets out criteria for determining whether a development would or would not be likely to have significant effects on the environment.

- 5.4.5. Given the nature and scale of the proposed development, which is a sub-threshold development listed in Schedule 5 Part 2 of the Regulation, and that an EIAR has not been submitted, I have carried out a screening determination as required under Section 172(1)(b)(ii) of the Act and articles 103(1)(b) and 109(2)(b)(i) of the

Regulations. A copy of this screening determination is attached to this report. Having regard to;

- (a) The nature and scale of the proposed development, which is under the threshold in respect of Class 11(b) (Installations for the disposal of waste with an annual intake greater than 25,000 tonnes) of the Planning and Development Regulations 2001 (as amended),
- (b) The location of the site on land that is un-zoned land under the provisions of the Meath County Development Plan 2013-2019 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended),
- (e) The separation distance between the site and the recorded archaeological monuments to the west of the site and the results of the archaeological desk top study and investigations,
- (f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I conclude that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required. Having regard to the nature and scale of the proposed development and its proximity to watercourse ditches which drain into the Skane River located c. 410m to the north-east, which is a tributary of the River Boyne, I consider that the issues arising from the connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal was received from M.F. Dineen & Co. Ltd. Chartered Engineers representing the applicant Rossmore Civils Limited, against the decision made by the Planning Authority to refuse permission for the proposed development. The following is a summary of the grounds of appeal.

- The refusal of permission was unwarranted and disproportionate in the circumstances.
- There were procedural errors in the administration of the application which prejudiced the Applicant's chances of a favourable decision.
- The Appellant requests the Board to use its statutory powers and remit to consider the application *de novo*.
- It is accepted that the Archaeological Impact Assessment, submitted as Further Information on the 05/06/2020, contained a number of copying, typographical and formatting errors. However, the author of the Archaeological report contends that:
 - The report does not impede the results of the archaeological testing undertaken and the conclusions, as to the impact of the proposal on the archaeological landscape.
 - The report shows that the proposed development will have no impact on the existing archaeological landscape.
 - The closest recorded monument is located over 200m to the southwest of the main section of the study area.
 - No archaeological finds or features were recorded during the field walking and testing at the site and none are likely to be uncovered as a result of the proposed development.
- While the errors on the Archaeological report are acknowledged, the assessment methodology and reporting process are sound.

- The Department of Culture, Heritage and Gaeltacht report did not recommend a refusal of permission, but rather sought an archaeological impact assessment report be submitted.
- There was sufficient information in the archaeological impact assessment report to facilitate a grant.
- There was no basis for the refusal of the proposed development on archaeological grounds.
- The author of the archaeological impact assessment report has corrected the errors and a revised archaeological impact assessment has been submitted.
- The Planning Authority went for the easy option of refusal of permission.
- The Planning Authority should have granted permission subject to conditions requiring the preservation of any features, objects etc. of archaeological interest.
- The Planning Authority administered the application in such a way so that it had no time left to request the Applicant to clarify the further information submitted.
- Timelines of the application are set out, as follows;
 - 08/11/2019 - Further Information requested by the Planning Authority.
 - 27/05/2020 - The Applicant sought an extension of the appropriate period on the basis that it had ceased work on Friday 27/03/2020 due to the Covid-19 lockdown and was not back to work until the 18/05/2020.
 - 29/05/2020 - letter issued by the Planning Authority providing an extension of the appropriate period for a further 3 months. Letter states that the last date for receipt of Further Information is by close of business on the 05/06/2020.
 - 05/06/2020 - Further Information submitted by the Applicant.
 - 30/07/2020 – Notification of decision to refuse permission by the Planning Authority.
- The Planning Authority failed to allow for the inclusion of 8 weeks due to Covid-19 emergency legislation.

- Reference made to Circular Letter PI 02/2020, dated 29/03/2020 issued by the Dept. of Housing, Planning and Local Government which sets out that the period from the 29th March 2020 to 20th April 2020, inclusive, may be disregarded when calculating any appropriate period.

6.1.2. Supporting documentation lodged with the appeal includes the following;

- Revised Archaeological Impact Assessment, prepared by John Purcell Archaeological Consultancy.
- Copies of emails and correspondence between Meath County Council and the applicant regarding the extension of the appropriate period for the receipt of Further Information.

6.2. **Planning Authority Response**

The Planning Authority's response is as follows;

- The Board should confirm the refusal of planning permission as the application was deficient in appropriate information required by the Planning Authority to make a decision, to ensure the proposed development would not have adverse impact on the archaeology of the area.

7.0 **Assessment**

Having examined the application details and all other documentation on file, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are the principle of the proposed development and the issues raised in the grounds of appeal. These issues are addressed under the following headings:

- The Principle of the Proposed Development,
- Procedural Issues,
- Archaeology,
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issues for consideration are addressed below.

7.1. Principle of Development

7.1.1. The proposed development is described in the public notice as the

'importation of uncontaminated soil and stones for the improvement of lands for agricultural purposes. The importation of crushed concrete will be required to facilitate the construction of a temporary internal haul road (which will be removed upon completion of development). Permission is also sought for one temporary onsite welfare hut (office and toilet unit) which will serve as an office for the duration of the infilling process'.

The public notice states that subsequent to planning permission, a waste facility permit will be sought from Meath County Council Environment Section for the duration of the infilling process.

7.1.2. The Environmental Report submitted, prepared by Tús Nua Environmental, provides greater detail on the nature, scale and extent of the proposed development, as detailed in Section 2.0 above. The environmental report states in Section 1.1 that the proposed infill is required in order to improve the land for the purpose of developing a new training pitch for the club. The Planning Authority report acknowledges this and presumes that the club referenced is the nearby Drumree GAA club, and notes that there is no reference of the club in any other documentation submitted. Given that there is no other reference to such use within the documentation submitted, and that the proposed access haul road serving the site is to be removed upon completion of infilling at the end of the 4-5 year period, I consider it reasonable to conclude that the stated end use of the infilled land as a training pitch is erroneous and shall not be considered as such. The assessment of this appeal shall proceed on the basis that the end use of the infilled site will be agricultural grassland, as stated in Section 2.1.1 of the environmental report.

7.1.3. I note that the applicant Rossmore Civils Ltd. is described on the home page of their online website (www.rossmorecivils.com) as a building and civil engineering company who deliver building and civil infrastructure works. A letter of consent for the proposed

development has been submitted the owner of the land, George Troy of Knockmark, Drumree. By the very nature that the applicant states in the public notice and environmental report that a waste facility permit will be sought from Meath County Council for the duration of the infilling process, and having regard to the nature and extent of the proposed development and the business nature of the applicant, I consider it reasonable to conclude that the proposed development comprises a waste / soil recovery facility. The acceptability of such land use is not explicitly stated on un-zoned lands in the Meath County Development Plan 2013- 2019. I note however, that such development is acceptable in principle in accordance with policy objectives RD POL 26, WM OBJ 1, WM POL 6 and WM OBJ 7 of the Meath County Development Plan, as detailed in Section 5.1 above. The number and location of other such waste licensed soil recovery facilities in County Meath are detailed in Table 4.11 of the SEA Environmental Report, prepared for the Meath County Development Plan 2013 – 2019.

7.2. Procedural Issues

- 7.2.1. The appellant has appealed the decision of the Planning Authority on the grounds that there were procedural errors in the administration of the application, which prejudiced the Applicant's chance of a favourable decision. The appellant puts forward that the Planning Authority administered the application in such a way that it had no time left to request the Applicant to clarify its further information submission. The appellant contends that a clarification of further information would have been the appropriate procedure in relation to the errors in the archaeological impact assessment report, submitted as further information. The Appellant provides a timeline of the application and states that the Planning Authority failed to allow for the inclusion of 8 weeks due to Covid-19 emergency legislation.
- 7.2.2. The timeline of the different stages of the planning application were as follows;
- 18/09/2019 - Date of receipt of the application by the Planning Authority.
 - 08/11/2019 – Date of Further information request by the Planning Authority.
 - 27/05/2020 – Date of email request by the Applicant to the Planning Authority seeking an extension of the appropriate period, for the submission of further

information. In the email request to the Planning Authority, the applicant states that it had ceased work on the 27/03/2020 due to the Covid-19 lockdown and were not back to work until the 18/05/2020. The applicant requested that an extension of the appropriate period for further information submission be given until the **05/06/2020**. A copy of this email correspondence is attached with the grounds of appeal.

- 28/05/2020 – Date the Planning Authority issued a letter of notification to the applicant, providing an extension of the appropriate period, for the submission of further information, for a further 3 months. The letter states that the last date for receipt of further information is by the close of business on the **05/06/2020**.
- 05/06/2020 – Significant Further information received by the Planning Authority.
- 30/07/2020 – Date of notification of decision to refuse permission by the Planning Authority.

Having regard to the documentation submitted on file, it is evident that the applicant requested an extension of the appropriate period, for the submission of further information, up to the 05th June 2020. The Planning Authority responded to this request, providing an extension of the appropriate period up to the 05th June 2020, as was requested by the applicant. I note however, that there is an anomaly in the letter of notification by the Planning Authority (dated the 28/05/2020) whereby it states that *'it has been agreed by the Planning Authority to further extend the appropriate period for receipt of further information on RA191230 for a further 3 months'*. Notwithstanding this anomaly, it is my view that the Planning Authority responded to the applicant's specific request, i.e. that an extension of the appropriate period be given until the 05/06/2020. The applicant submitted further information to the Planning Authority on the 05/06/2020, in accordance with the date requested by the applicant. In any event, clarity should have been sought by the applicant on this issue, given the dates sought by the applicant and the anomaly in the dates detailed by the Planning Authority. I do not consider the anomaly of dates in the letter of notification of extension of the appropriate period prejudiced the 'chances for a favourable decision', as put forward by the appellant. The Planning Authority provided an extension of the appropriate

period in accordance with the date requested by the applicant. On this basis, I recommend that the appeal should not be upheld in relation to this ground of appeal.

7.3. Archaeology

7.3.1. The Planning Authority refused permission for the proposed development on the grounds that the archaeological impact assessment report submitted contains significant errors and could not be evaluated with confidence. As a result, the Planning Authority consider the proposed development may have a serious and adverse impact on the amenities of the area and on archaeological conservation objectives. On this basis, the Planning Authority consider the proposed development would materially contravene a development objective of the Meath County Development Plan and would be contrary to the proper planning and sustainable development of the area.

7.3.2. The Appellant's grounds of appeal regarding the reason for refusal is detailed in Section 6.1 above. In summary, the appellant contends that;

- The refusal of permission was unwarranted and disproportionate in the circumstances.
- While the archaeological impact assessment report submitted contained copying, typographical and formatting errors, the assessment methodology and reporting process are sound.
- The archaeological impact assessment submitted shows the proposed development will have no impact on the existing archaeological landscape in the area.
- The Department of Culture, Heritage and Gaeltacht report did not recommend a refusal of permission, but rather sought an archaeological impact assessment report be submitted.
- There was sufficient information in the archaeological impact assessment report to facilitate a grant.
- The Planning Authority should have granted permission for the proposed development subject to conditions requiring the preservation of any features, objects etc. of archaeological interest.

7.3.4. Documentation submitted with the appeal includes a revised archaeological impact assessment report, prepared by John Purcell Archaeological Consultancy. The methodology and findings of the Archaeological Impact Assessment are summarised as follows:-

Methodology:

- The assessment methodology comprised a desktop study and site inspection.
- The desktop assessment was compiled using the Record of Monuments and Places (RMO), the County Development Plan with reference to Record of Protected Structures (RPS) and Architectural Conservation Areas (ACA's), Buildings of Ireland, Excavations Bulletin, historic maps, aerial photographs, place names, historic books and journals.
- Archaeological testing was undertaken in February 2020.

Site Inspection:

- An archaeological field inspection was carried out to verify the location and extent of archaeological features and any newly identified features.
- Large areas of the site were waterlogged during testing.
- The site is at a remove from archaeological monuments in the area.

Archaeological Monuments in the Vicinity (details taken from archaeology.ie):

- ME044-001 – archaeological remains of a church located within the grounds of the medieval church of Knockmark,
- ME044-001001 – a graveyard located within the medieval church of Knockmark, located to the west of the site.
- ME044-001002 – a small coffin-shaped graveslab located within the graveyard of Knockmark parish church (ME044-001).
- ME044-001003 - A font located within the graveyard of Knockmark parish church (ME044-001).
- ME044-002 – Mound at lands to the west of the agricultural complex, adjoining the entrance to the site.

Previous Archaeological Works:

- Details provided of excavations recorded in www.excavations.ie for the townland of Drummans, as part of the M3 motorway to the west of the site.

Archaeological Testing:

- 8 no. test trenches were excavated along the length of the main body of the site.
- The area tested covered 2500 sq.m.
- Depth of trenches – c. 0.3m
- No archaeological finds or features were uncovered during the works.

Cartographic Evidence:

- Aerial photographs show a potential feature at the north-west of the site. This is visible at ground level. A test trench was excavated through this area. Findings show this is not archaeological in nature and appears to be part of a drainage system.

Archaeological Impact:

- Field walking and a series of archaeological tests did not uncover any archaeological remains.
- No finds, features or deposits were uncovered during the works.
- The proposed works will have no impact on the recorded archaeological landscape and no further archaeological input is required.

Conclusions:

- The proposed works will require the site to be stripped of topsoil to facilitate the works.
- The proposed development is at a remove from the recorded archaeological monuments in the area and will have no impact on them physically or visually.
- Archaeological testing did not uncover any archaeological remains and no further archaeological input is required.

7.3.5. I have reviewed the location and description of the recorded Archaeological Monuments in the area as detailed above, which can be viewed at the Archaeological Survey of Ireland's Sites and Monuments Records at

<https://maps.archaeology.ie/HistoricEnvironment/>. Having regard to the location of the proposed infill site which is located in excess of 160m from the closest recorded Archaeological Monuments (ME044-001001, ME044-001002, ME044-001003 and ME044-002) I consider the proposed development would not impact on these protected Archaeological Monuments. Having regard to historical maps, I note that the evidence of earthworks along the north-western boundary comprises a raised embankment which served a former railway line (now removed), as detailed on Historical maps. The proposed access haul road would not impact on the nearest archaeological monument (ME044-002), identified as a mound, located on land to the west of the farmyard complex which adjoins the entrance to the site. Having reviewed the revised archaeological impact assessment submitted with the appeal, and in the absence of evidence to demonstrate otherwise, I am satisfied that that the proposed development would not destroy, alter or damage an archaeological site. Notwithstanding this, I consider it appropriate to impose a Condition, in the event of a grant of permission, requiring the developer to employ a suitably qualified archaeologist to monitor all site investigations and other excavation works. Such Condition would facilitate the preservation, recording and protection of yet unidentified archaeological materials or features that may exist within the site. On this basis, I recommend the appeal should succeed in relation to the Planning Authority's reason for refusal.

7.4. Appropriate Assessment

- 7.4.1. The site is not located within any designated Natura 2000 European site. The closest European site is the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299), located c. 10.6 km to the north-west of the site. The Rye Water Valley/Carton SAC (Site Code: 001398) is located c. 13.5km to the south of the site.
- 7.4.2. The applicant has submitted a Screening Report for Appropriate Assessment of the proposed development, prepared by Noreen McLoughlin, MSc Environmental Consultant. This report analyses the potential impacts and effects of the proposed development on the special conservation interests of the River Boyne and River Blackwater SPA and SAC and Rye Water Valley/Carton SAC. The report evaluates the significance of potential impacts and effects of the proposed development, in view

of these Natura 2000 sites conservation objectives. The report concludes that in view of best scientific knowledge and on the basis of objective information, the proposed development, whether individually or in combination with other plans and projects, will have no impact on the Natura 2000 sites. The report concludes that the integrity of these sites will be maintained and the habitats and species associated with these sites will not be adversely affected.

- 7.4.3. The Planning Authority in its Appropriate Assessment of the proposed development conclude that the proposed development, by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on Natura 2000 sites.
- 7.4.4. Having reviewed the documentation available to me, I am overall satisfied that there is adequate information available in respect of baseline conditions to clearly identify the potential impacts on any European site and I am satisfied that the information before me is sufficient to allow for screening for appropriate assessment of the proposed development.

Stage 1 Screening

- 7.4.5. The proposed development is for the importation of 90,000 tonnes of clean / uncontaminated soil and stone, over a 4-5 year period, at a rate of 22,500 tonnes per annum, for the infilling of land for agricultural use (end use). Proposed works also include the importation of crushed concrete (920 tonnes) to facilitate the construction of a temporary internal haul road, which will be removed upon completion of the development and the development of 1 no. temporary onsite welfare hut comprising an office and portable chemical toilet unit, which will serve for the duration of the infilling process.
- 7.4.6. The main section of the site is greenfield, which falls broadly from south-west to north-east. Boundaries consist of trees and hedges. Drainage ditches run along the western, south-eastern and north-eastern boundaries, which link with the Skane River, located c. 410m to the north-east.
- 7.4.7. The habitats on the site comprise agricultural grassland, hedgerow and trees. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence of species listed in Annex II of that Directive are present. I note from the screening report for Appropriate Assessment submitted that records show the

closest protected species is located 1km to the north-east of the site which consists of the badger *Meles Meles*, which is fully protected under the Irish Wildlife Act. There are a number of recorded archaeological monuments located to the east of the site, as detailed in section 7.3 above.

- 7.4.8. The infill soil and stone material to be imported to the site will be clean, uncontaminated and comprise porous and permeable material. Infilling will be undertaken in such a manner to ensure the natural infiltration of the existing ground, which is a porous and permeable soil, is maintained.
- 7.4.9. Wastewater from the site will comprise 1 no. portable chemical toilet which will be emptied by a licensed contractor as required. There will be no other wastewater on site as a result of the proposed development.
- 7.4.10. The site itself is not within or adjoining any European site. I note the following European sites are examined in the submitted Screening Statement:

Table 1:

Name of Site	Conservation Objectives	Qualifying Interests/Special Conservation Interests	Distance
River Boyne and River Blackwater SPA (Site Code: 004232)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	Kingfisher (<i>Alcedo atthis</i>)	c.10.6 km to the north-west of the site.
River Boyne and River Blackwater SAC (Site Code: 002299)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for	Alkaline fens Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i>)	c.10.6 km to the north-west of the site.

	which the SAC has been selected.	Atlantic Salmon - <i>Salmo salar</i> River Lamprey - <i>Lampetra fluviatilis</i> Otter - <i>Lutra lutra</i>	
Rye Water Valley/Cartron SAC (Site Code: 001398)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:	Desmoulin's Whorl Snail - <i>Vertigo moulinsiana</i> Narrow-mouthed Whorl Snail - <i>Vertigo angustior</i>	c. 13.5km to the south.

7.4.11. With regard to direct impacts, the application site is not located adjacent or within a European site, therefore there is no risk of habitat loss, fragmentation or any other direct impacts. I am satisfied having regard to the nature and scale of the proposed development, the separation distance of 10.6km from the River Boyne and River Blackwater SAC and SPA, the downstream distance of 16km from these European sites via the River Skane and the intervening uses, that no Appropriate Assessment issues arise in relation to these European sites.

7.4.12. In the absence of direct source – pathway – receptor linkage to the Rye Water Valley/Cartron SAC, I am satisfied that no Appropriate Assessment issues arise in relation to this European site. Any potential indirect impacts would be restricted to the discharge of surface water. Given the nature and scale of the proposed development and the separation distance of 13.5km from this European site, it is considered that no impacts will occur.

7.4.13. Cumulative impacts have been considered. There is no other similar development in the area likely to give rise to cumulative impacts on any European site.

Conclusion

Having regard to the nature and scale of the proposed development on un-zoned agricultural land, to the intervening land uses and distance from European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European Sites or any other European site, in view of the said sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

8.0 Recommendation

- 8.1. On the basis of the above assessment, I recommend that the Board grant permission for the proposed development for the reasons and considerations, and subject to conditions, set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature and extent of the proposed development and its location within a rural agricultural area, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would be in accordance with Development Plan policy and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 05 th day of June 2020 and by the further plans and particulars received by An Bord Pleanála on the 26 th day of August, 2020, except as may otherwise be required in order to comply
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	<p>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>Reason: In the interest of clarity.</p>
2.	<p>The permission shall apply for a period of five years from the date of this order. Following the expiration of this period, the importation of material to the site and operations on site shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.</p> <p>Reason: To regulate the duration of the development, in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The maximum quantities of inert soil and stone to be accepted at the site shall not exceed 25,000 tonne per annum and 90,000 tonne in total over the period referred to in Condition Number 2 of this permission with the number of deliveries limited to a maximum of 6 No. loads per day.</p> <p>Reason: In the interest of clarity and traffic safety.</p>
4.	<p>The imported material to be deposited on the land shall comprise clean uncontaminated inert soil, stone and topsoil only, and shall be levelled, contoured and seeded upon the completion of the works and protected until established.</p> <p>Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.</p>
5.	<p>Prior to the commencement of development, details regarding the origin/source of the proposed 90,000 tonnes of clean / uncontaminated soil and stone to be imported onto the site, and the crushed concrete to facilitate</p>

	<p>the construction of the temporary internal haul road, shall be submitted for the written agreement of the planning authority.</p> <p>Reason: To regulate the development, in the interest of the proper planning and sustainable development of the area.</p>
6.	<p>Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p>Reason: In the interest of environmental protection and public health.</p>
7.	<p>(i) A minimum 5 metre-wide buffer zone shall be maintained between that part of the site to be filled and adjacent drainage ditches and streams.</p> <p>(ii) The buffer zone shall be cordoned off from earth movement works and suitable bunds, barriers and/or silt fencing shall be erected along the boundary of the infill area and the buffer zone to prevent soil and sediment from entering watercourses throughout the course of works.</p> <p>(iii) Details of the buffer zone and the provision of bunds, barriers and/or silt fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of clarity and in order to protect receiving drainage water courses.</p>
8.	<p>(i) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted for the written agreement of the planning authority.</p>

	<p>(ii) All works on the site shall be carried out strictly in accordance with the mitigation measures specified in the Construction Environmental Management Plan (CEMP).</p> <p>(iii) No development shall be commenced on the site until part (i) of this condition is complied with.</p> <p>Reason: In the interest of environmental protection.</p>
9.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,</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>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
10.	<p>The importation of inert soil, stone and topsoil and the operation of associated machinery shall be carried out only between the hours of 08:00 and 18:00 from Mondays to Fridays, between the hours of 08:00 and 13:00 on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In the interest of good traffic management and to protect the amenities of the area.</p>

11.	<p>Details of road signage including advance warning notices and proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of traffic safety.</p>
12.	<p>(i) All necessary measures shall be taken by the applicant / developer to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant / developers own expense.</p> <p>(ii) The applicant or developer shall be responsible for the full cost of repair in respect of any damage cause to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the planning authority or pay the Council the cost of making good any such damage upon requirement by the Council</p> <p>Reason: To protect the amenities of the area.</p>
13.	<p>During the construction phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed-</p> <p>a) an LAr,T value of 55 dB(A) between the hours of 08:00 and 18:00 from Mondays to Fridays, between the hours of 08:00 and 13:00 on Saturdays (excluding public holidays).</p> <p>b) an LAeq, T value of 45 dB(A) at any other time.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>

14.	<p>During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, the commencement date and the frequency of monitoring results.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
15.	<p>The development shall not commence on this site until a Waste Facility Permit, has been issued and site operations shall be in accordance with the said permit.</p> <p>Reason: In the interest of amenity and to prevent environmental pollution.</p>
16.	<p>All trees and hedgerows on the boundaries of the site shall be retained and maintained. Retained trees and hedgerows shall be protected from damage during construction and infill development works.</p> <p>Reason: To protect trees and planting during the construction and infill period, in the interest of visual amenity and biodiversity.</p>
17.	<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>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion of any part of the development. 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>Reason: To ensure the satisfactory completion of the development.</p>

Brendan Coyne
 Planning Inspector

27th January 2021