



An
Bord
Pleanála

Inspector's Report

ABP-308584-20

Development	Restoration of quarry to improve the agricultural output by importing inert soil, stone and concrete.
Location	Ballyheeney, Clashmore, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19/1001
Applicant(s)	Gary O'Halloran
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellant(s)	Francis Joyce
Observer(s)	None
Date of Site Inspection	03.02.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located off the Regional Road R671, approx. 1.1km south of Clashmore village in south west Co. Waterford.
- 1.2. An existing vehicular access in the north east corner of the site is set back from the road edge. There is a hard shoulder for a short stretch north of the vehicular entrance. The site has a relatively flat, grassed, floor with very steep increases in ground levels around the rock face boundaries of the site consistent with a former quarry use. The largest difference in levels is approx. 9.00m to approx. 38.00m. There are some minor stone and gravel piles towards the front of the site. A local road (L2009) runs parallel to the southern boundary of the site. There is mature tree coverage along the southern and eastern boundaries and the site is not visible from the public realm. There are fields to the north and west.
- 1.3. The site has a stated area of 2.8123 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for the restoration of a quarry by importing soil, stone and concrete to improve the agricultural output.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by a 'Preliminary Ecological Appraisal' prepared by Cuthbert Environmental dated December 2019. This includes a number of appendices, including Appendix III (AA Screening)
- 2.3. Further information was submitted in relation to, inter alia, the annual quantity of material to be accepted on site (<25,000 tonnes per annum), anticipated timescale (minimum eight years), sightlines and a phasing plan. The application was re-advertised as significant further information. The planning report does not set out why the applicant's further information response was considered to be significant.
- 2.4. Clarification of further information was submitted in relation to, inter alia, sightlines and dust nuisance.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted by the planning authority subject to 11 no. conditions including that no more than 25,000 tonnes of waste shall be accepted on site in any one year, submission of a Traffic Management Plan, submission of site layouts on an annual basis detailing the areas and depths of all material deposited, maintenance of a 50 metres buffer zone around an identified Peregrine Falcon nest, surface water disposal, hours of operation, construction practices and development contributions.

3.2. **Planning Authority Reports**

3.2.1. Three Planning Reports form the basis of the planning authority decision. The last report concluded that, having examined the application and its supporting drawings and documentation and having considered the impacts of the development for which permission is sought and the relevant policies of the Waterford County Development Plan 2011, as varied and extended, a grant of permission was recommended.

3.2.2. **Other Technical Reports**

Environmental Services – No objection subject to conditions relating to, inter alia, a maximum of 24,999 tonnes of material to be accepted on site in any calendar year and submission of a phasing plan.

Heritage Officer – Comments made. No objections to the proposed works.

Transportation Dungarvan Lismore / Roads Section / District Engineer – Reference is made to these in the Planning Reports. However, as there are no written reports, either on the file or on the Council's website, it appears that these were all verbal discussions.

3.3. **Prescribed Bodies**

None.

3.4. Third Party Observations

- 3.4.1. One submission was received from Francis Joyce, Kilmaloo, Kinsalebeg, Youghal on the initial planning application. The issues raised are largely covered by the grounds of appeal.
- 3.4.2. A further submission was received by the planning authority from Mr. Joyce on foot of the re-advertised public notices. The issues raised are largely covered by the grounds of appeal with the exception of the following:
- The submitter queries what concrete has to do with making the site arable or agricultural.
 - The submitter is suspicious as to the true intention for use of the site.

4.0 Planning History

- 4.1.1. There have been two previous planning applications on site:

P.A. Reg. Ref. 01/718 – Permission was granted in 2002 to re-open an existing quarry, not exceeding 5 hectares, to include crushing facilities, wheel wash, weigh bridge, new entrance, sanitary and welfare facilities and an office.

P.A. Reg. Ref. 06/1596 – Permission was granted in 2007 to extend the operating life of the existing quarry for a further five years as conditioned in P.A. Reg. Ref. 01/718.

- 4.1.2. The planning authority's Planning Report states that there has been no quarrying activity on this site, registered as QY23 under section 261 of the Planning & Development Act, 2000 (as amended), since 2010.

5.0 Policy Context

5.1. Waterford County Development Plan 2011-2017 (as extended)

- 5.1.1. Following the amalgamation of Waterford County Council and Waterford City Council on 01.06.2014, the lifetimes of the existing development plans within the amalgamated council area were extended. The 2011-2017 County Development Plan remains in

effect until a new City and County Development Plan is prepared following the making of the Regional Spatial & Economic Strategy.

- 5.1.2. Section 10.57 of the Plan states that all lands outside of the designated settlements and land zoning maps is regarded as 'Agriculture A'. The land use zoning objective is 'To provide for the development of agriculture and to protect and improve rural amenity'. In the Land Use Matrix (Table 10.11), a 'Waste Management Site (public and private)' is open to consideration.

5.2. Natural Heritage Designations

- 5.2.1. The closest heritage area is the Natura 2000 site Blackwater River (Cork/Waterford) SAC within 100 metres of the site. A section of the SAC is located immediately to the south on the opposite side of the local road L2009 and immediately to the east on the opposite side of the R671.

5.3. Environmental Impact Assessment (EIA) Screening

- 5.3.1. The relevant EIA class in the Planning & Development Regulations, 2001 (as amended) is Schedule 5 Part 2 Class 11 (Other Projects) (b) (Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule).
- 5.3.2. In the planning application submitted to Waterford City & County Council, it was stated that the quarry was to be reclaimed using 129,188m³ of inert soil and stone and concrete. The concrete would be used for haul roads and turning areas. The applicant stated that he would apply for a waste facility permit prior to acceptance of the waste material. A Preliminary Ecological Appraisal was submitted with the application. The raising of the ground levels is to improve the agricultural quality of the existing grassland. Improved drainage would improve productivity. I noted on the site inspection that the ground was wet in places. The Appraisal states that there is currently very little soil on the site. It states a site visit was carried out in January 2019, not ideal for botanical or bird surveys. A peregrine falcon has nested on the site in the past, approximately five metres above ground level, though the nest had not been in use for two-three years. There was no visual evidence of a nest on a re-inspection in November 2019. Notwithstanding, mitigation is proposed in this regard. The ground

level at the base of the cliff will be retained and a 50 metres buffer zone will be implemented free from filling during the breeding season (March to June). The Appraisal considers the habitats on site to be of minimal ecological significance. The existing grassland would be restored.

5.3.3. In its first Planning Report the planning authority noted Part 2 Class 11(b) of Schedule 5. It considered that "Subject to less than 25,000 tonnes being imported annually the requirement for EIA would not trigger". The Council considered that, subject to this, and based on the information submitted with the application and the nature, size and location of the development in the context of Schedule 7, EIA was not required. Further information was sought, inter alia, requesting the applicant to indicate the volume of material to be imported annually. The relevant section of the further information response stated, "The quantity of material will be under the 25,000 tonnes per annum threshold set that relates to Environmental Impact Assessment". The tonnage required was expected to be 193,782 tonnes, imported over a minimum of eight years, at less than 25,000 tonnes per annum and whenever suitable material becomes available. Condition 2 of the planning authority decision required the developer to obtain a Waste Facility Permit and Condition 3(a) states that the amount of waste accepted onto the site in any one year shall not exceed 25,000 tonnes.

5.3.4. As the proposed development does not involve the importation of more than 25,000 tonnes of waste/inert soil and stone a year, mandatory EIA is not required. Notwithstanding, to ascertain whether this sub-threshold development may potentially require EIA as per Class 15 (Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7) there are four main considerations as a preliminary examination:

1. Is the size or nature of the proposed development exceptional in the context of the existing environment?

5.3.5. The site is a former quarry in a rural area. There is some one-off housing in the wider area. There are public roads to the south and adjacent to the east. The River Licky, a tributary of the River Blackwater, flows in a westerly direction on the opposite side of the local road to the south. The quarry face is approximately 29 metres high at its

highest point. The quarry is effectively out of view of the public realm because of boundary planting. There are agricultural fields to the north and west. It is proposed to import 193,782 tonnes/129,188m³ of material over a minimum eight year period. I assume that the tonnage specified is an estimate given the difficulty in predicting the specific soil/stone weight balance. The restoration of former quarries is not an unusual type of development. Though not referenced in the Waterford County Development Plan 2011-2017, Objective EE 12-3 of the Cork County Development Plan 2014, for example, states that with new quarries, regard should be had to re-instatement and landscaping of worked sites. Section 3.9 (Waste management) of the 'Quarries and Ancillary Facilities Guidelines for Planning Authorities' (2004) states that "Quarries should consider using inert C and D waste arisings, which do not have the potential to displace natural aggregates, for reinstatement and restoration purposes on the quarry site".

5.3.6. The restoration of the quarry as proposed would increase the ground levels and improve the agricultural output of the site. Agriculture is the main land use in the area. Higher ground levels would bring the topography more in line with existing fields and with its original topography, in particular to the north and west. As the post-development agricultural land use would be similar to the main land use in the area and as the restoration of quarries is currently relatively standard practice, I do not consider that the size or nature of the proposed development would be exceptional in the context of the existing environment.

2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?

5.3.7. The proposed development itself would not produce any significant waste. Inert soil and stone are to be imported to the site to increase ground levels and improve the agricultural output. The most likely emission is dust into the atmosphere. Dust mitigation measures were submitted as part of the clarification of further information response including placing and grading imported soil as soon as practicable after unloading, provision of a water bowser on site and provision of a wheel wash for vehicles prior to exiting the site. The applicant notes that, generally, Waste Facility Permits require operators to ensure all operations are carried out such that air emissions or odours do not result in significant impairment of amenities beyond the site boundary. The applicant expects that dust generation would be limited with any

impacts being temporary and localised and that there would be an imperceptible negative impact on air quality.

5.3.8. Appendix VI (Risk Assessment) of the submitted Preliminary Ecological Appraisal contains a brief risk matrix. This considers the risk of pollution occurring from percolation to groundwater is effectively zero. Dust in the atmosphere, while a high risk, was addressed by the subsequent 'Dust Mitigation Measures' document submitted as part of the clarification of further information response and the risk of surface water pollution is low. There is no watercourse on site.

5.3.9. I do not consider the development would result in the production of any significant waste or result in any significant emissions or pollutants.

3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location?

5.3.10. The nearest heritage area is the Natura 2000 site Blackwater River (Cork/Waterford) SAC within 100 metres of the site to the south and east. I have carried out an Appropriate Assessment screening of the proposed development (Section 8.0 of this Report) and concluded that it would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

5.3.11. A recently occupied peregrine falcon nesting site on one of the quarry faces has been identified and mitigation measures have been proposed to safeguard this area. Only one bird species was observed on the site visit for the Preliminary Ecological Appraisal, a Eurasian robin. No evidence of mammal activity was observed. The wooded area to the south may be used by a number of bird species and bats may forage along the trees and shrubs at the top of the quarry. I do not consider that there are any other significant environmental sensitivities in the area.

5.3.12. Therefore, I do not consider the development would impact on an ecologically sensitive site or location.

4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?

5.3.13. I do not consider that the proposed development would have the potential to affect other significant environmental sensitivities in the area. Appendix 9 (Scenic Landscape

Evaluation) of the County Development Plan 2011-2017 identifies the R671 at this location as a 'Scenic Route' (No. 6) on the Scenic Landscape Evaluation Map. However, the development site is largely hidden from view of the road and would have an agricultural use when development is completed. The site itself is in an area designated as a 'Normal Area'. The majority of the county is designated as a normal landscape. Figure 1 describes a 'normal' area as having the potential to absorb a wide range of new developments.

Conclusion

5.3.14. Notwithstanding the proximity of the proposed development to Blackwater River (Cork/Waterford) SAC, the nature and scale of the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from Francis Joyce, Kinsalebeg, Youghal (the appellant lives approx. 200 metres south of the site on the R671). The main issues raised can be summarised as follows:

- The Board is asked to look at the past history and planning breaches on site.
- The main reason for the appeal is the direct impact of activity on site on the appellant's quality of life. This includes noise pollution from machinery, vehicles, and rock breaking. The appeal is against allowable noise levels and times and days of operation i.e. six days.
- Concern is expressed about the volume of material to be imported. When the quarry was operational, approx. 90% of material exported was in the direction of Youghal, past the appellant's house. Vehicles that will be going to the site pass at speed and tend to veer over the hard shoulder yellow line road marking. With additional HGVs the appellant cannot exit or enter property safely.

- HGVs cause noise and vibration inside the appellant's house as well as road safety issues. The road is dangerous and unsuitable for loaded HGVs.

6.2. Applicant Response

The main points made can be summarised as follows:

- Permission has been obtained for the raising of the site to make it safe and return it to agricultural use. There is no requirement for rock breaking or continuous vehicle movements and related noise as mentioned.
- Condition Nos. 9 and 10 restrict the hours of operation and set noise limits. It is not anticipated that the limited site activities will cause nuisance.

6.3. Planning Authority Response

None.

6.4. Observations

None.

6.5. Further Responses

None sought.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Duration of Permission
- Sightlines and Traffic Safety

- Impact on Amenities in the Area

7.1. Zoning

7.1.1. The application site is in a rural area. The Waterford County Development Plan 2011-2017 states that all lands outside of the designated settlements and land zoning maps is regarded as 'Agriculture A'. The land use zoning objective is 'To provide for the development of agriculture and to protect and improve rural amenity'. The Land Use Matrix states that a 'Waste Management Site (public and private)' is open to consideration. Having regard to the proposed development i.e. restoration of the quarry by the importation of inert soil, stone and concrete, and the intended future use of the restored quarry for agricultural use, I consider the principle of development is acceptable, subject to the detailed considerations below.

7.2. Duration of Permission

7.2.1. Though it has not been cited as an area of concern in the grounds of appeal, the duration of the planning permission was identified as an issue during the planning application process. I consider that the duration of permission granted by the planning authority is a significant issue.

7.2.2. The further information request sought, inter alia, the anticipated timescale over which the proposed fill would be imported, and a phasing plan. The applicant stated that "It is anticipated that the filling will take a minimum of 8 years" because the quantity of material that would be accepted onto the site would not exceed 25,000 tonnes per annum. The second planning authority Planning Report noted that, while the anticipated timescale was eight years, the application only sought a standard five year permission. An eight phase programme for the filling and restoration of the site was also proposed. Clarification of further information was sought by the planning authority. Given the minimum eight year site operations, the planning authority invited the applicant "to confirm that any works on site beyond the statutory 5 year period will be subject to a subsequent planning application which will be assessed on its own merits". The applicant's response states, "It is the applicant's intention to make a subsequent application in five years' time to complete the filling at the site if required". The planning authority, in its third Planning Report, noted that the time to carry out the development

would be more than the duration of one planning application. In relation to the phasing programme, and notwithstanding that the depths of material proposed for deposition in the north west of the site do not make it possible to carry out the phases as proposed, the applicant's response was that it was the intention "to stick to the phased filling programme as proposed". The Planning Report initially recommended a temporary three year grant of permission, but a standard five years was granted.

- 7.2.3. Despite it being clear during the course of the planning application that the development being sought could not be completed within a five-year period, the planning authority granted permission. I consider that granting permission for the development in these circumstances is unreasonable and would be contrary to the proper planning and sustainable development of the area. An applicant is entitled to seek a permission longer than the standard five years for developments such as the type proposed in this application. Section 7.4 of the Development Management Guidelines for Planning Authorities (2007) states that "Planning authorities may grant permission for a duration longer than 5 years if they see fit, e.g. for major development (for example for wind energy developments) but it is the responsibility of applicants in the first instance to request such longer durations in appropriate circumstances". The applicant in this case did not request a longer duration. Therefore, because it is proposed to import 193,782 tonnes of material onto the site and because a limit of 25,000 tonnes of imported material a year has been imposed because this is the mandatory threshold for submission of an Environmental Impact Assessment Report (EIAR), which has not been submitted, the development would take an approximate minimum of eight years to carry out. The development cannot therefore be carried out within the lifetime of this permission. It is likely that the development would take substantially longer than eight years because the further information response stated "It is expected that filling will not occur over a steady period of time. The filling will take place when suitable material becomes available". I do not consider it reasonable or appropriate to rely on a further application to carry out the full extent of the proposed development. There is no guarantee that any further application would be granted. In the event of any possible enforcement issues there are no robust plans and particulars to outline what should have been completed by the end of the lifetime of the permission. There is no certainty for neighbours with a permission such as this where there is no clear expiration date.

7.2.4. I consider that it would be inappropriate to grant a standard five-year permission for a development that would take a minimum of eight years to complete. The development cannot be completed within the timeframe of the permission given the non-submission of an EIAR. I consider that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances and would be contrary to the proper planning and sustainable development of the area. I recommend a refusal of permission on this basis. As the issue of the duration of the permission was addressed during the course of the planning application, I do not consider this to be a new issue. Notwithstanding, the Board may wish to seek the views of the parties.

7.3. **Sightlines and Traffic Safety**

7.3.1. This issue was assessed in the course of the planning application. It has also been referenced in the grounds of appeal.

7.3.2. The site subject of the application is the site of a former, permitted quarry and there is an existing vehicular access to the R671 at the north east corner of the site. Details of, inter alia, the projected nature and volume of traffic and available sightlines, were sought at further information stage. The further information response stated that approx. 11,000 lorry loads would be required to import the 193,782 tonnes of material over a minimum eight year period. Sightlines of 120 metres to both sides of the entrance were shown on a Site Layout Plan and a Road Section drawing. However, these sightlines were to the far side of the road and not the nearside edge as required. The further information response also noted the development would utilise the same site entrance as that used for the quarrying activity which would have had a greater number of traffic movements. Clarification of further information was sought, in part, on the sightline issue. In response, a brief report was submitted by Enda Kirwan Consulting Engineering Ltd. which identified sightlines of 100 metres to the south and 107 metres to the north to the nearside road edge. These are the best available. Increased sightlines of 110 metres to the south and 125 metres to the north are available to the centre line. Additional road signage and road lining is proposed. The report states that a maximum 25,000 tonnes of imported material would equate to 1250 no. lorry loads per annum or 24 no. per week. The planning authority Planning Report states that the revised proposal has been deemed acceptable by the Roads Section.

- 7.3.3. Table 10.1 (Minimum Sightline Requirements) of the Waterford County Development Plan 2011-2017 requires sightlines of 160 metres on an 80kph Regional Road. This cannot be achieved in this instance. Notwithstanding, I acknowledge the previous permitted use of this site as a quarry and the fact that there is an existing access. The Roads Section of Waterford City & County Council considers the proposal is acceptable.
- 7.3.4. The grounds of appeal refer to the number of traffic movements accessing the site and considers that the speed of vehicles and the condition and nature of the road will lead to road safety issues. The road is a Regional Road, and I do not consider that it would be reasonable to refuse permission because of the nature of the Regional Road in the wider vicinity. I do not consider that the number of traffic movements associated with the proposed development would have any undue impact on the ability of the appellant to enter into or egress from his property.
- 7.3.5. Having regard to the foregoing, I consider the proposed development is acceptable in terms of sightlines and traffic safety.

7.4. Impact on Amenities in the Area

- 7.4.1. The grounds of appeal refer to noise nuisance from the proposed development, the permitted hours of operation, noise and vibration impact on the appellant's house and past alleged planning breaches on site.
- 7.4.2. The proposed development involves the importation of material onto the site to improve the agricultural output. The applicant's response to the grounds of appeal states that no rock breaking, as specifically mentioned in the grounds of appeal, would occur. The grounds of appeal also states that there is no requirement for continuous vehicle movements or related beeping. I consider that the proposed development, i.e. the importation of soil and stone to improve the agricultural output of the site, is acceptable and consistent with Development Plan provisions. In order to develop the site as proposed a certain amount of nuisance to the surrounding environment is inevitable. However, the site is largely set back from the public realm and is located within a former quarry area. The hours of operation set out in Condition 9 of the planning authority decision are reasonable. A Construction Management Plan should

also be agreed with the local authority should permission be granted setting out all mitigation measures to reduce nuisance to the surrounding area.

- 7.4.3. The impact of vehicular movements on the appellant's house appears to be as a result of the proximity of the house to the public road. As such I do not consider that it would be reasonable to refuse permission on this basis given it is a public road. In addition, the traffic movements, primarily 8 wheeled rigid 20 tonne lorries, would be spread out over a number of years.
- 7.4.4. The Bord has no role in enforcement matters. Any issue with regard to past breaches of planning conditions etc. is a matter for Waterford City & County Council.
- 7.4.5. In conclusion, it is inevitable that there would be some degree of nuisance to the general area on foot of development of the type proposed. However, the proposed development is consistent with the provisions of the County Development Plan 2011 – 2017 and appropriate mitigation can be put in place to reduce any impact as much as reasonably possible.

8.0 Appropriate Assessment Screening

8.1 Compliance with Article 6(3) of the Habitats Directive

- 8.1.1. The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

8.2 Background on the Application

- 8.2.1. The applicant has submitted a screening report for Appropriate Assessment as part of the planning application. This was included as Appendix III of the Preliminary Ecological Appraisal rather than as a stand-alone document. The report is titled 'EU Habitats Directive Stage 1 Screening Statement for Appropriate Assessment', prepared by Cuthbert Environmental and dated December 2019. The report is

intended to aid the competent authority in determining whether the proposed project is likely, alone or in combination with other projects, to result in significant effects to European Sites. The applicant's Screening Statement for AA concluded that "This Stage 1 Screening exercise has resulted in a finding of no significant effects to any European Sites occurring within the potential zone of influence of the project site. In light of the findings of this screening for Appropriate Assessment, it is concluded that the project will not have a significant negative effect on the special qualifying interests or conservation objectives or integrity of any European Sites. As it has been deemed that the implementation of the proposed project will not result in significant effects to European Sites, a Stage 2 appropriate assessment is not required".

8.2.2. Having reviewed the documents and drawings, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.3. Screening for Appropriate Assessment – Test of likely significant effects

8.3.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.3.2. The proposed development is examined in relation to any possible interaction with European Sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

8.4. Brief description of the development

8.4.1. The applicant provides a description of the project on Page 2 of the Screening Statement. The development comprises permission for the restoration of a quarry by importing inert soil and stone to raise existing field levels. Upon completion, the site will be restored to agricultural grassland.

8.4.2. The development site is not described in the Screening Statement. Section 4 (Site Visit) of the Preliminary Ecological Appraisal describes the site in the context of

habitats (primarily a flat grassland floor with occasional rushes with varying degrees of recolonisation on the quarry faces), birds (one Eurasian robin observed on inspection and a peregrine falcon has nested on the site in the past), mammals (no evidence of activity) and watercourses (none on site).

8.4.3. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:

- Construction related pollution
- Habitat loss/fragmentation
- Habitat/Species disturbance (construction and/or operational)

8.5. Submissions and Observations

8.5.1. The submissions or the grounds of appeal do not refer to appropriate assessment.

8.6. European Sites

8.6.1. The development site is located within approximately 100 metres of Blackwater River (Cork/Waterford) SAC.

8.6.2. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European Site has been identified, these sites are examined in more detail. The submitted Screening Statement contains all Natura 2000 sites within a 15km radius of the site. I do not consider that all of these European Sites are within the zone of interest for reasons including the relatively limited nature of the proposed development, the distances, including the hydrological distances involved, the absence of ecological corridors, the locations of some Sites on the opposite side of larger urban areas such as Youghal and the fact that the most likely potential pathway to some Sites is via the open sea. The Natura 2000 Sites within the 15km radius of the site that I have discounted are Ballymacoda (Clonpriest and Pillmore) SAC, Ballymacoda Bay SPA, Ardmore Head SAC, Helvick Head to Ballyquin SPA and Dungarvan Harbour SPA.

Summary Table of European Sites Within a Possible Zone of Influence of the Proposed Development

European Site (code)	List of Qualifying Interest / Special Conservation Interest	Distance from Proposed Development (km)	Connections (source, pathway, receptor)	Considered Further in Screening (Y/N)
Blackwater River (Cork / Waterford) SAC (002170)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum</p>	0.1	Air, Surface water	Y

	<p>in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> [91E0]</p> <p>Freshwater Pearl Mussel [1029]</p> <p>White-clawed Crayfish [1092]</p> <p>Sea Lamprey [1095]</p> <p>Brook Lamprey [1096]</p> <p>River Lamprey [1099]</p> <p>Twaite Shad [1103]</p> <p>Salmon [1106]</p> <p>Otter [1355]</p> <p>Killarney Fern [1421]</p>			
Blackwater Estuary SPA (004028)	<p>Wigeon [A050]</p> <p>Golden Plover [A140]</p> <p>Lapwing [A142]</p> <p>Dunlin [A149]</p> <p>Black-tailed Godwit [A156]</p> <p>Bar-tailed Godwit [A157]</p> <p>Curlew [A160]</p> <p>Redshank [A162]</p>	2.2	Air, Surface water	Y

	Wetland and Waterbirds [A999]			
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8.7. Identification of Likely Effects

8.7.1. In relation to construction related pollution, the development involves the importation of inert soil and stone to raise the ground levels of the former quarry. The imported material will be levelled on site. There are no ‘construction’ works per se. The River Licky is a tributary of the River Blackwater. The Licky is located in close proximity to the site, on the opposite side of the R671 to the east and on the opposite side of the L2009 road to the south. There is no watercourse within the former quarry site and therefore there would be no source, pathway, receptor link directly from the site to the River Licky. Any surface water runoff would be contained on-site. Some construction activity may give rise to dust nuisance. The site is located within an area of low lying land surrounded by higher land. The Screening Statement considers that “the bowl-shape of the site is expected to minimise this risk” and woodland to the south “also provides a dust shield of sorts”. The Statement also states that surfaces will be dampened during periods of dry weather when construction is underway. Dust mitigation measures are set out in a brief report submitted as part of the clarification of further information response. A footnote on Page 17 of the Screening Statement states that the dust suppression measures mentioned “are not mitigation measures for the protection of the nearby European Sites. Rather, they are standard good practice measures to minimise the risk of dust nuisances. Assessment of the likelihood of significant effects on European Sites has been carried out under the assumption that these dust suppression measures will not be in place. Significant effects on these sites are still considered unlikely”. Having regard to the shape of the site, the nature of the site boundaries and the location of the SAC on the opposite sides of the roads I do not consider any dust emissions would have a significant impact on the SAC and I do not consider the dust mitigation measures are intended to avoid or reduce the harmful effects of the proposed development on the SAC. They would have been included as a condition regardless of the proximity of the SAC. I do not consider the development would have any impact on the SPA given the separation distance

between both sites. Therefore, I do not consider construction related pollution to be an issue with the development.

- 8.7.2. In terms of habitat loss/fragmentation, no part of the site is located within or immediately adjacent to a European site and there will be no loss or fragmentation of habitat.
- 8.7.3. I do not consider there would be any habitat or species disturbance during construction or during the operational phase. As noted above, the construction phase would not have any impact on the SAC in terms of pollution. The Screening Statement references noise from vehicles. The bowl shape of the site is considered in the Statement to be “advantageous in terms of minimising noise emissions ... Blackwater Estuary SPA is designated for bird populations, but this is too far removed from the proposed site to be of concern”. I concur with this statement and do not consider noise would be an issue. In its operational phase the development would be used for agricultural purposes, which is the dominant land use in the area.
- 8.7.4. The Screening Statement addressed the ‘in-combination’ effects of the proposed development. “The proposed project is not expected to interact with any other project; much less to the extent that would cause a significant negative effect on Blackwater River SAC and/or Blackwater Estuary SPA”. I consider that, as the development itself would not have any adverse impact on either of the two European Sites, it would not adversely affect the two sites in combination with any other plans or projects.

8.8. Mitigation Measures

- 8.8.1. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.9. Screening Determination

- 8.9.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site Nos. 002170 (Blackwater River (Cork/Waterford) SAC) and 004028 (Blackwater Estuary SPA), or any other European

Sites, in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

- 8.9.2. This determination is based on the absence of hydrological or ecological links between the development site and the Natura 2000 sites, the low lying nature of the site within a former quarry, the location of the SAC on the opposite side of public roads from the site and the nature of the material i.e. inert soil and stone, to be imported onto the site.

9.0 Recommendation

- 9.1.1. I recommend that the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. The planning application is for a five-period period. However, the development as proposed would take an approximate minimum of eight years to complete. The development cannot be carried out within the lifetime of the permission. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of permission for the development in such circumstances.

Anthony Kelly

Planning Inspector

19.03.2021