



An
Bord
Pleanála

Inspector's Report ABP 309151-21

Development	Use of existing stockpiles for site restoration, importation of excavation spoil comprising natural materials of clay, sand, gravel.
Location	Newcastle, Enfield, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	TA/200121
Applicant(s)	Keegan Quarries Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Eco Advocacy Tommy Donnegan
Observer(s)	None.
Date of Site Inspection	16 th July 2021
Inspector	Brendan Coyne

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1.0 Site Location and Description

- 1.1.1. The site is located on the southern side of the R148 Enfield-Kinnegad Regional Road, in the townland of Newcastle, c. 3.5 km to the west of Enfield in Co. Meath. The stated area of land ownership is c.7.9 ha and the stated area of proposed restoration is 5 ha (5.85 ha including the access road). The site is irregular in shape with its main section located c. 750 m to the south of the R148. The site is accessed via an existing gated vehicular entrance with 2 no. agricultural sheds located on either side of the access road, adjacent to the entrance. These sheds are located outside the application site as outlined in red. The access road serving the site runs in a southerly direction before turning westerly and again in a south-westerly direction before reaching the main body of the site. Its surface treatment is gravelled and in poor condition, characterised with flooded potholes extending the width of the carriageway in places. The route follows the adjoining field boundaries which are defined with mature trees, hedgerow and fencing.
- 1.1.2. The main section of the site comprises a former sand and gravel pit / quarry. The pit itself comprises a large, exposed void with a flooded area / pond at its bottom. Stockpiles are located along the eastern and northern boundary of the pit / pond. A habitat of sand martins is evident on the eastern face of the pit. A smaller pond is located on the narrower western section of the site. The topography of the site varies from 63m OD at the floor level of the extracted pit to 79m OD at its highest point along the spoil stockpiled sections. The floor levels of the extracted pit are stated to vary from 63.3m OD to 69m OD. The groundcover of the land surrounding the quarry comprises grassland.
- 1.1.3. The River Blackwater (Longwood) flows along the western boundary of the site and marks the boundary between County Meath and County Kildare. The river flows in a north-westerly direction into the River Boyne (SAC), which is located c. 11km (6.5km as the crow flies) to the north-west. Drainage ditches flows along the northern boundary of the main section of the site and along the northern side of part of the access road. The Royal Canal (pNHA) adjoins the southern boundary of the site. The canal embankment is located c. 7m-12m above the site and is not hydrologically connected to the site. The surrounding area is largely agricultural, characterised with farm buildings and one-off houses. The closest residential dwelling is located c. 305m

to the south-west of the site. A residential house is located opposite the main entrance to the site. An 80kmph speed limit applies to the adjoining R148.

2.0 Proposed Development

2.1.1. Application as lodged to the Planning Authority on the 06/02/2020

2.1.2. Permission sought for the following (as described in the public notices);

- a) Use of existing stockpiles for site restoration;
- b) Importation of inert excavation spoil comprising natural materials of clay, silt, sand, gravel or stone for the purposes of restoration of a previously extracted area (QY/54) to restore the site to a beneficial agricultural and ecological after-use (5.85 hectares);
- c) Temporary Portacabin Offices and Staff Facilities (100 m2);
- d) Wheel Wash and Weighbridge (134 m2);
- e) Site entrance and access road;
- f) Lockable access gate at the pit entrance;
- g) All other ancillary buildings, plant and facilities for the restoration, and all ancillary site works.

2.1.3. The application is accompanied by the following:

- Environmental Impact Assessment Report and supporting documents, including a Traffic Assessment and Hydrological Assessment.
- Appropriate Assessment Screening Report.

2.1.4. The application relates to a restoration development for the purpose of an activity requiring a Waste Permit, to be issued by the Meath County Council.

2.2. Further Information submitted on the 25/08/2020 includes

- Further Information Response Report – Tobin Consulting Engineers;
- Risk Assessment (Appendix A);
- Amendments / clarification to the EIAR.

- 2.2.1. This was deemed as Significant Further Information by the Planning Authority and the applicant was requested to re-advertise the proposal.
- 2.2.2. A copy of the revised public notices was submitted to the Planning Authority on the 14/10/2020.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Meath County Council GRANTED permission for the proposed development subject to 16 no. Conditions. Noted Conditions are summarised as follows:
 - 2. No external material brought onto the site shall be used to fill the excavation void where the water table has been exposed. The overburden shall be filled to a minimum depth of 1 metre above the water table.
 - 3. The proposed development shall be carried out strictly in accordance with the phasing plan in the Risk Assessment, i.e. phases A, B & C.
 - 4. Prior to commencement of activity on site, the Applicant shall submit detailed calculations including BRE infiltration results demonstrating adequate capacity within the proposed attenuation pond and soakaway to cater for the surface water runoff created by the proposed development.
 - 6. Within 3 months of the date of permission, the applicant shall submit for the agreement of the Planning Authority, measures to be put in place to achieve required sightlines.
 - 7. No material shall be imported onto the site prior to obtaining authorisation under the Waste Management Regulations.
 - 8. The applicant shall install the weighbridge and wheel-wash as detailed in the EIAR.
 - 9. All mitigation measures shall be implemented as outlined in the EIAR.
 - 10. There shall be no surface water discharge from the site to local watercourses from the settlement ponds.

11. No works shall take place within 30m of the River Blackwater.
12. The quality of material to be imported shall be no greater than 200,000 tonnes. A maximum of 10 no. loads per day shall imported onto the site.
13. Only clean uncontaminated soil and stone shall be imported onto the site.
14. Hours of operation.

3.2. Planning Authority Reports

3.2.1. First Report (27/03/2020)

- The proposed development involves the restoration of a former quarry. The principle of such restoration to agricultural use is acceptable.
- The proposed development broadly complies with policy RD POL 26 of the Development Plan.
- The site is located partially within Flood Zones A & B. The Flood Risk Assessment referred to in the Hydrological Assessment has not been submitted.
- The annual intake of fill material onto the site is in excess of 25,000 tonnes. Therefore, the submission of an EIAR is mandatory.
- The proposed development (entire project) by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European Site(s).
- A Stage Two Appropriate Assessment Natura Impact Statement is not required.

3.2.2. The Environmental Impact Assessment Report submitted is assessed as follows;

- Re. Population & Human Health
 - The proposed development would not pose a significant impact to human beings.
 - The main impacts relate to traffic, noise, air and water quality.
 - The EIAR notes how the proposal would support the local and regional economy.

- Re. Biodiversity (Ecology)
 - The dominant habitat feature within the site is wet grassland field.
 - The EIAR does not identify any protected plant species within a 10km grid square of the site.
 - Couches, slides and spraint from Otter (*Lutra lutra*) were recorded along the River Blackwater.
 - Subject to the implementation of proposed mitigation measures, the proposal will not have a significant impact on biodiversity.

- Re. Lands, Soil and Geology
 - The proposed works will not significantly alter the local and regional environment.
 - The restoration of the site will have a minor benefit to agricultural activity in the area.

- Re. Water
 - The applicant proposes to backfill the void on a phased basis.
 - An access track will be progressively filled through the centre of the site, to divide up the site.
 - The area will be filled from the edge of the pond.
 - The infilling will displace water from pond A to pond B during the infill phase.
 - Water will settle in pond B before passing to the proposed settlement pond to the west of the site.
 - Water from the settlement pond will infiltrate back to ground in the existing soak pit.
 - Concern expressed with regards the proposed method of backfilling the existing void which contains a large pond.
 - The proposal does not provide protection of the existing quarry walls and floor during the course of backfilling the void. This presents a significant risk to contamination of surrounding groundwater.

- The initial stage should include the appropriate removal of all water from the pond followed by the appropriate lining of the pond prior to any proposed backfill being introduced.
- Re. Climate - No concerns raised.
- Re. Air Quality - No concerns raised.
- Re. Noise and Vibration
 - Potential noise and vibrations effects would come from noise construction.
 - Standard mitigation measures proposed.
- Re. Landscape and Visual Impact
 - Possible typographical error identified. The Applicant should be invited to address this issue by way of further information submission.
- Re. Land
 - The proposed method for backfilling the void is not considered acceptable, as detailed above.
- Re. Cultural & Archaeological Heritage - No concerns raised.
- Re. Traffic
 - The traffic impact of the proposed development has been suitably appraised and evaluated by the applicant.
 - Subject to the implementation and monitoring of the proposed mitigation measures, the proposed development would not have a significant impact on traffic.
 - Issues raised by the Transportation Department should be addressed by way of further information submission.
- Re. Interactions – suitably appraised as part of the EIAR.

3.2.3. **Further information was requested on the 27/03/2020 requiring the following:**

1. Hydrology:

The proposed method of backfilling the void is not acceptable to the Planning Authority and is considered to present an unacceptable risk of contamination to surrounding groundwater. The applicant is requested to present an alternative methodology which includes the following stages:

- Stage 1: Removal and suitable treatment of all water from the void prior to restoration of the site.
- Stage 2: The appropriate lining of the quarry floor and walls so as to suitably address and mitigate any potential groundwater contamination.
- Stage 3: Backfilling of the void.
- Stage 4: Landscaping
- Stage 5: Any further restoration works necessary to return the site to suitably agricultural use.

2. Flood Risk Assessment

The subject site is partially within Flood Zones A & B. Section 2.5 of the EIAR Non-Technical Summary refers to a Flood Risk Assessment which formed part of the hydrological assessment. The applicant is requested to provide a site-specific Flood Risk Assessment.

3. Landscape and Visual Impact

Chapter 11 of the EIAR relates to landscape and visual impact. The conclusion includes reference to residual impacts (after mitigation) and states '*based on a proposed restoration there are no significant noise and vibration impacts*'. This statement would appear to be a typographical error. The applicant is invited to address this issue and present a revised / amended version of Chapter 11.

4. Invasive Species Management

The applicant is requested to present an invasive species management plan for the subject site.

5. Traffic Safety / Sightlines

The applicant is invited to present proposals for the achievement of clear unobstructed sightlines of 160m in both directions from the proposed entrance onto the public road. Sightlines shall be shown to the metaled edge of the public road. All works necessary for the achievement of such sightlines should be contained within a revised red line boundary on a revised site layout drawing, scale 1:500 and a revised site location map. Should the achievement of adequate sightlines require any works on 3rd party lands, it will be necessary to provide the signed written consent of the relevant landowner. Such signed written consent should be witnessed in the presence of a Commissioner of Oats / practicing solicitor.

The entrance gate shall be recessed at least 17m from the edge of the road to allow a HGV to pull in fully off the road prior to the opening of the gate.

6. Third Party Submissions

The applicant is requested to address the issues raised in the third-party submissions.

3.2.4. **Second Report (07/12/2020)**

- Significant Further Information received.
- The Risk Assessment and Restoration Plan submitted, which includes a Materials Acceptance and Verification Procedure, is acceptable.
- The Site Specific Flood Risk Assessment is acceptable.
- The applicant's correction of the EIAR with regards landscape and visual impact is acceptable.
- The applicant has submitted a comprehensive response re. invasive species management, which addresses the issues raised and is deemed acceptable.
- The issue of sightlines can be dealt with by way of Condition.
- The applicant has submitted a comprehensive response to the 3rd party submissions.

3.3. Other Technical Reports

3.3.1. Internal Reports

Heritage Officer:

- No objection subject to a Condition requiring that no works take place within 30m of the Blackwater River.

Transportation Section (2nd report, in response to Further Information request):

- The applicant was requested to demonstrate sightlines of 160 metres to the nearside road edge from a setback of 2.4 meters. This has not been done.
- The applicant proposes to carry out some vegetation management at the entrance to ensure the existing sightlines are maintained to the west of the entrance. This is not enough to ensure that unobstructed sightlines of 160 meters to the near side edge of the road are achieved.
- The Applicant states that they are not in a position to set back the existing access gate as it would interfere with the existing landowner's access.
- The applicant has proposed to ensure that the gate will be open prior to any HGV's arriving on site, to prevent any potential queuing on the road.
- Condition recommended requiring that within three months of any granted permission, the applicant shall submit for the agreement after Planning Authority measure us to be put in place and maintained by the applicant to achieve the required sightlines.

Water Services: No objection subject to Conditions.

Environment Report (Scientific Officer): No objection subject to Conditions requiring the following:

- Prior to commencement of any site activity, the restoration of the site will require the importation of material from outside the site. This activity will require authorisation under Waste Management (Facility Permits and Registration) Regulations statutory instrument S.I. 82 of 2007 as amended. No materials can be imported to the site until the requisite authorisation is in place.

- The applicant shall install the weighbridge and wheel wash as described in the EIAR submitted.
- All mitigation measures in respect of the proposed activity shall be implemented as outlined in the EIAR.
- There shall be no surface water discharge from the site to local watercourses from the settlement ponds.

Flooding Section:

- The site is situated in Flood Zone C.
- The probability of flooding is less than 0.1% and therefore at low risk of flooding.
- Re. Flood Risk - No objections

3.3.2. Prescribed Bodies

Irish Water: No objections.

4.0 Planning History

The planning history of this quarry, insofar as it can be ascertained with any degree of certainty, is as follows;

ABP Ref. SU0074 Substitute Consent application for quarry with a site area of 1.996ha at Newcastle and Kilrathmurry (also known as Kilmurry) townlands, Enfield, County Meath. An Bord Pleanála in accordance with section 177K of the Planning and Development Act, 2000, as amended, GRANTED substitute consent to Keegan Quarries Limited subject to 4 no. Conditions. Of note, Condition No. 3 required the following:

A detailed restoration scheme for the site, shall be submitted to the Planning Authority for written agreement within three months of the date of this order. The following shall apply in relation to the design and timing of the restoration plan:

- (a) the proposed restoration may be undertaken on a phased basis and shall be completed in full within 24 months of the final approval of the scheme by the planning authority,

- (b) details relating to finished gradients of the quarry slopes, the type of restoration to be carried out and to measures to ensure safety during site restoration shall be provided,
- (c) the scheme shall incorporate tree planting/landscaping to screen views of the quarry from the towpath along Royal Canal proposed Natural Heritage Area, and
- (d) a timescale for implementation and proposals for an aftercare programme of five years shall be submitted to the planning authority for written agreement.

Date Signed: 23/10/2014.

P.A. Ref. QY54 & ABP Ref. QV0034 Board Quarry Review Decision - An Bord Pleanála decided as follows;

1. To confirm the Determination of the planning authority in respect of this development made under section 261A(2)(a)(i) of the Planning and Development Act 2000 (as amended); and
2. To set aside the Determination of the planning authority in respect of this development made under section 261A(2)(a)(ii) of the Planning and Development Act 2000 (as amended); and
3. To confirm the Decision of the planning authority in respect of this development made under section 261A(3)(a) of the Planning and Development Act 2000 (in so far as EIA is concerned).

The Board agreed with the Inspector that quarrying at the site probably had commenced before 1st October 1964. However in deciding not to accept the Inspector's recommendation that EIA was not required, the Board considered that the scale and intensity of quarrying activities had increased, in particular in the period after November 2006, to an extent that was well in excess of what might reasonably have been envisaged when the Planning Act of 1963 came into force. The Board agreed with the Inspector that there was no requirement for appropriate assessment at this site.

Date Signed: 01/05/2013

ABP Ref. SH0143 Permission sought by Keegan Quarries Limited for Substitute Consent – Extra Time. Date Lodged: 13/08/2013 Decision: Not detailed.

ABP Ref. SH0131 An Bord Pleanála GRANTED Substitute Consent – Extra Time to Keegan Quarries Limited. Date Signed: 17/06/2013

ABP Ref. QB0072 Keegan Quarries Ltd. Quarries Notice. Decision: Review Received. Date Signed: 03/10/2012

ABP Ref. QC2101 – Appeal on P.A. Ref. QY54 An Bord Pleanála confirmed with modifications the decision of the Planning Authority and directed the said Council, to REMOVE condition number 22 and the reason therefore and to AMEND condition number 2 as follows:

2. No quarrying/excavation shall be permitted outside the entire area outlined in blue on site map WS43 submitted to the planning authority on the 27th day of April, 2005 unless a separate grant of planning permission has been obtained. No blasting is permitted on site. No quarrying/excavation (or any other works) shall be permitted within 30 meters of the proposed National Heritage Area.

Reason: To define the extent of this permission and in the interest of orderly development.

Date Signed: 19/12/2007

P.A. Ref. QY54 Registration of the quarry (southern area of the site) as a pre-1964 development, under Section 261 of the Planning and Development Act 2000 (as amended). Decision date: 23rd April 2007.

4.1. **Enforcement History**

UD15/077: Unauthorised development consisting of the extraction of sand and gravel. An enforcement notice was issued on the 29th April 2015 requiring Keegan Quarries Limited to ‘cease all quarrying activity on site on lands outside those lands highlighted in blue on attached Enforcement Map UD 15/077 by 1st May 2015 at 17.00 hours’ and to ‘Carry out restoration works on excavated areas outside those lands highlighted in Blue on attached enforcement map UD15/077’ within 1 Month from date of Notice’. The Planning Authority report states that the status of this enforcement file is ‘legal status’.

UD/10/289: Related to complaint of unauthorised development at this quarry site. The site was inspected on 13th September 2010. Material was being extracted. It was decided that no further action was required.

5.0 Policy and Context

5.1. Development Plan

5.2. 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: As indicated in Appendix 7 of the Development Plan, the site is located in Landscape Character Areas 6 & 14 (Central Lowlands / the Royal Canal) which are of High Landscape value and moderate sensitivity.

Flood Risk: The site is located in a Flood Zone C, as identified on the OPW CFRAM Flood Maps and the Meath County Council County Development Plan SFRA 2019-25, where such zones are defined as areas with a low risk of flooding from rivers and the coast (i.e. less than 0.1% probability or less than 1 in 1000). The western boundary of the site adjoins lands which are situated in a Flood Zone A, which are defined as areas with the highest risk of flooding from rivers (i.e. more than 1% probability or more than 1 in 100).

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.

WM OBJ 13 To support the development of facilities to cater for commercial waste not provided for in the kerbside collection system such as WEEE, C&D type waste and hazardous materials in accordance with the requirements of the North East Waste Management Plan.

RUR DEV SO 7 To support the continuing viability of agriculture, horticulture and other rural based enterprises within rural areas and to promote investment in facilities supporting rural innovation and enterprise with special emphasis on the green economy, in the context of sustainable development and the management of environmental resources.

RD POL 12 To facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution.

5.3. **Other Relevant Government Guidelines**

National Planning Framework – Project Ireland 2040

The Planning System and Flood Risk Management – Guidelines for Planning Authorities and Technical Appendices' in November 2009.

Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (August 2018)

5.4. Natural Heritage Designations

- 5.4.1. The site is located c. 6.2 km to the south-east of the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299).
- 5.4.2. Carbury Bog NHA (Site Code: 001388) is located c. 6.9km to the south-west of the site.
- 5.4.3. The adjoining Royal Canal is designated a Proposed Natural Heritage Area.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.2. Two third-party appeals against the decision of the Planning Authority were received from;
 - Kieran Cummings of Trammon, Rathymon, Enfield, Co. Meath on behalf of Eco Advocacy.
 - Tommy Donnegan of Newcastle, Enfield, Co. Meath – neighbouring landowner and former landowner of the quarried site (as stated in grounds of appeal).

6.3. Appeal by Eco Advocacy

An appeal was received from Kieran Cummings on behalf of Eco Advocacy, against the decision made by the Planning Authority to grant permission for the proposed development. The appellant raises 77 no. issues which are summarised under the headings as referred to by the appellant below;

6.3.1. The Applicant

- The applicant has a history of enforcement, litigation and compliance issues across a number of sites in Counties Meath, Kildare and Westmeath.
- Covenants made in an EIAR cannot be taken seriously given the level of planning enforcement history by the applicant.

- The applicant has inflicted damage on the environment in contravention of numerous EU Directives and Irish planning law.
- Concern that the applicant will be given the responsibility of reinstating the site, given their history of non-compliance with planning permission and unauthorised development.
- It is unethical to permit a perpetrator to profit from their wrong doing.
- The task of reinstating the site should be undertaken by a responsible statutory authority, with the Applicant liable for the expense.
- Given that Meath County Council were the enforcement authority and given that so much unauthorised development was allowed to occur, Meath County Council should be burdened with the responsibility of reinstating the land, albeit paid for by the applicant.

6.3.2. European Law Infringements

- Unauthorised development at this site needed an EIAR and NIS.
- Most of the unauthorised development constitutes an offence after the decision of the European Court of Justice ECJ C-215/06 on the 3rd July 2008.
- Most of the unauthorised development, including the creation of lakes was done after 2012 and the s.261(a) determination process and is in breach of the EIA and Habitats Directives EIA (85/337/EEC) codified by DIRECTIVE 2011/92/EU and Habitats: Directive 92/43/EEC.
- The unauthorised quarry (both works and use) should have been assessed in accordance with Section 34(12) of the Planning and Development Act 2000 (as amended) which requires that 'A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that of an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more of the following was carried out –
 - a. an environmental impact assessment,
 - b. a determination as to whether an environmental impact assessment is required, or

c. an appropriate assessment.’

- The application does not comply with Section 34(12) (a) and (c) of the Planning and Development Act 2000 (as amended) and the Planning Authority should have invalidated the application.
- The proposed development should be subject to Stage 1 Screening for Appropriate Assessment under the Habitats Directive for the existing unauthorised development on the site.
- The Appellant draws the Bord’s attention to the case of Kelly v. An Bord Pleanála [2014] IEHC 400. This had the effect of transposing the European Court of Justice case C-258/11 Sweetman v. An Bord Pleanála into Irish national law and established the standard for Appropriate Assessment at paragraph 67 requiring ‘complete, precise and definitive findings and conclusions which the Board considers capable of removing all reasonable scientific doubt as to the effects of the proposed development’.
- Additional case law prohibits the use of mitigation measures in screening out Appropriate Assessment.
- It is clear that an offence against the EU Habitats Directive exists.
- Recent judgment of the Supreme Court on the 3rd July 2020: in AN TAISCE, PETER SWEETMAN & Others v. AN BORD PLEANÁLA and Others [9/19, 42/19 and 43/19], Mr. Justice William M. McKechnie stated that the public should have an input at the earlier s.177 (c) stage and specifically cited the Aarhus Convention. It was also stated that where substitute consent is applied for, that the exceptionality test must be applied, otherwise the system is open to abuse. The exceptionality test cannot apply to the facts of the subject application in that the breaches were intentional and deliberate.
- The applicant has avoided financial conditions which would have been incurred if they had sought permission for the unauthorised quarrying.
- While it is unlikely the applicant would have been granted planning permission for the development which took place, the applicant now seeks to profit from the backfilling of the illegal development which they created. This is highly unethical if not illegal.

6.3.3. Validation

- This application is essentially for the retention of the pre-existing unauthorised development.
- The Planning Authority should have been precluded from validating the subject application on the basis that an EIA and NIA were required after the 3rd July 2008.
- The applicant should be directed towards Section 177C of the Planning and Development Act 2000 (as amended), Leave to Apply for Substitute Consent.
- An EIA offence exists, as retention permission is required. The applicant cannot bypass this requirement and apply to backfill illegally created voids, which are major EU infringements.
- It is *ultra vires* the jurisdiction of the Planning Authority to consider or grant planning consent given the foregoing.

6.3.4. Misleading aspects of the Application

- Section 18 of the planning application form requires that the planning history of the site be outlined.
- The application fails to state that there is unauthorised development on the site.
- With the question '*Are you aware of previous uses of the site e.g. dumping or quarrying?*', the applicant ticked the 'No' box. The applicant aggressively quarried the site and created dangerous open water bodies.
- The application should have been invalidated.
- Section 21 of the application form shows that the application was allegedly published in the 'Irish Star' on the 24th January 2020.
- There is no reference to the notice being published in either the Meath Chronicle or the Leinster Leader. Both of these papers are local to the area and given that the quarry straddles the border of two counties, the application should have been published in both of these newspapers.
- The Irish Star does not have a wide readership. It is unlikely that the few people who purchase the Irish Star would have any interest in quarrying activities.

- The applicant is actively attempting to conceal the publication of this application, by publishing it in a newspaper with a very low circulation in the local area and does so only as a box ticking exercise.
- This is an attempt to avoid public participation and an unethical practice which is entirely against the spirit of the law.

6.3.5. **Time**

- Only a small part of the site was pre-64 development.
- Meath County Council served an enforcement notice on the applicant dated the 29th April 2015 under Ref. 15/077. This was at a time when there was no lake present.
- Despite the enforcement notice, the applicant continued to operate and eventually created a very dangerous enormous lake without planning permission.
- The applicant fails to state that there was a subsequent enforcement notice issued in April 2015, which resulted in Meath County Council pursuing the applicant in the courts.
- The omission of this information from the application is a reflection of both the applicant and the consultants who prepared the application.
- The planning officer's treatment of enforcement in the assessment was poor and fleeting. The referred to enforcement file UD15/077 should have been investigated, given the level of unauthorised development and the potential issues with re. European sites, EIA and NIA.

6.3.6. **Time**

- There is no reference in either the non-technical summary or the grant of planning permission about a proposed timeframe. This should have been raised by the Planning Authority.
- This raises issues regarding annual tonnage, which may trigger significant further licensing requirements.

6.3.7. **Volumatic Assessment**

- The appellant is unable to find a topographical survey of the site.
- There should be a detailed survey outlining volumetric quantities of material extracted from lakes, etc. This should have been done by an independent specialist contractor.
- The appellant does not accept that the figure would be below 200,000 tonnes.
- The appellant is of opinion that many multiples of this would be required to reinstate this site.
- The appellant understands that the Waste Facility Permit Regulations mandates that anything over 200,000 tonnes in total or 25,000 tonnes annually would require specific licensing.
- This is an attempt to avoid triggering further consent requirements.
- Given the applicant's planning history with unauthorised development, the appellant has grave concerns accepting these figures.

6.3.8. **Topsoil**

- The appellant queries the source of the topsoil to be imported and notes that topsoil is a rare commodity.

6.3.9. **Potential Waste Concerns**

- The applicant fails to state where the material will come from.
- This is hugely important as the applicant has generated massive amounts of problematic waste product in the form of silt on other sites containing unauthorised developments; specifically in their Clonard facility. The appellant understands that Kildare County Council is currently investigating unauthorised development at this site.
- Much of the material that was illegally quarried from the subject site was transported to the Clonard facility where it was processed. The same thing happened at another site at Anascannon, Co. Westmeath where the applicant engaged in the removal of large quantities of material from beneath the water table. Westmeath County Council issued warning letters to the applicant with this regard.

All this material was hauled back to the site at Clonard and stockpiled. This adds enormously to the waste product which Keegan Quarries has generated. The appellant is unable to find any reference to this in the current application and fears that it is the applicant's intention to ship this waste product to the Newcastle site.

- The Appellant raises concerns that this application is nothing more than an application to facilitate the disposal of waste material from other unauthorised sites.
- The applicant frequently refers to the Section 261A process of 2012 and to a substitute consent application. The applicant fails to allude to the fact that they engaged in wholesale unauthorised development on the site after this date and that an enforcement notice had to be served on them.
- None of the enforcement proceedings issued by Meath County Council is referred to in the subject application.

6.3.10. Water Hazard

- The Non-Technical Summary refers to the large water bodies as a water hazard. The applicants created this hazard.
- With regard site security, for most of the last decade people could freely enter the site from the banks of the Royal Canal and roam around the site.

6.3.11. Unauthorised Development

- The applicant's statement that the pit is an authorised 'pre 64' pit is not true.
- Only a part of the pit was a pre-64 pit.
- The appellant understands that this was a small borrow pit created by horses and carts at the time of the building of the Royal Canal and there was no breach of the water table.
- The unauthorised development culminated in a planning enforcement notice issued on the 29th April 2015, where Meath County Council informed Keegan Quarries Limited that 'the unauthorised development consists of the extraction of sands and gravels' and to 'cease all quarrying activity on site on lands outside those lands highlighted in blue on attached Enforcement Map UD 15/077 by the 1st May 2015 at 17.00 hours' and to 'Carry out restoration works on excavated areas

outside those lands highlighted in Blue on attached enforcement map UD15/077' within 1 Month from date of Notice.

- Reference made to an inspector' s report, dated the 29th July 2015 which stated that 'It is my opinion that extraction of sands and grovels has continued to date on lands outside those that have been the subject of the conditions imposed under ABP Ref No17.QC.2101. Condition 2 states 'No quarrying / excavation shall be permitted outside the entire area outlined in blue on site map WS43 submitted to the planning authority on the 27th April 2005 unless a separate grant of planning permission has been obtained'
- The applicant has continued to work the site after being served with an enforcement notice and failed to accept that it was in fact an unauthorised development.
- List provided of Inspectors Reports / Enforcement Notices relating to the site.
- The applicant has engaged in significant unauthorised development and disregarded all planning obligations and in so doing contravened EU Law.
- There is no provision in any government policy document which enables planning, environmental or EU law to be overridden.
- There was little or no benefit to the rural economy from this development.
- The appellant understands that importation of waste is a very lucrative business.
- Under no circumstances should a quarry that was created illegally be now permitted to benefit from its illegal action with the importation of material.
- To permit anyone to benefit from an illegal action is against the most basic of legal principles.
- The applicant states that 'there are no agricultural, horticultural or commercial forestry activities taking place on the subject lands'. The applicant fails to state that these were formerly agricultural lands which they have rendered useless.

6.3.12. **Waterways Ireland**

- Keegan Quarries have caused problems with Waterways Ireland.

- In 2010, Keegan Quarries were rapidly removing sand and gravel from this site and encroached very close to the banks of the Royal Canal. Waterways Ireland became very concerned, and their solicitors wrote to Keegan Quarries about this matter. Details of solicitor's letters dated 11th October 2010 and 1st December 2010 provided.

6.3.13. Planners Report

- The reports from statutory authorities all fail to note the appalling compliance record of Keegan Quarries. It is doubtful that they were aware of the issues which Waterways Ireland encountered with the applicant.
- The Council's Heritage Officer fails to state that the adjoining Royal Canal is a Heritage site.
- The River Blackwater flows alongside the site and flows into the River Boyne SAC.
- The applicant cannot be trusted to only import inert material and would require constant supervision.
- Given the authorities reliance on self-policing, this would not work with this applicant.
- The applicant's past record is such that the applicant cannot be trusted to adhere to planning conditions.
- The enforcement authorities have been ineffectual in fulfilling their enforcement function.
- The applicant has created large amounts of very dense silt, which is practically impermeable.

6.3.14. Enforcement

- There have been hugely problematic compliance issues on the site over the past twenty years.
- The appellant outlines a list of enforcement notices and unauthorised development relating to Keegan Quarries Limited at other sites.

- Excerpts provided from High Court Judgment of Justice Michael White in the case of Fowler v Keegan Quarries Ltd [2016 IEHC 602, 2012 463 MCA].
- Case references provided.

6.3.15. **Financial / Safety**

- No rates or financial conditions are applied to unauthorised development.
- The operator is non-compliant with financial obligations at other sites.
- From information obtained through FOI, the appellant estimates that the applicant owes in the region of c.€500,000 on the Trammon quarry, which has been operating without planning permission since August 5th, 2018.
- Unauthorised development doesn't attract financial conditions by virtue of the fact that they do not have planning consent and therefore no conditions and associated financial obligations.
- Given that other permitted quarry operators may be paying the rates imposed on them, the fact that so many Keegan operations have been operating as unauthorised developments means that they have avoided paying their fair share, which gives them a unique competitive advantage. Therefore, it is inappropriate that further grants of planning would issue to such an applicant.
- The Road Safety Association (RSA) has in the past prosecuted Keegan Quarries. Details of two such prosecutions provided.

6.3.16. **Misleading Application**

- Details provided of issues which arose at the quarry site at Trammon, Rathmolyon in Co. Meath.
- Further grants of planning permission to any company within the Keegan Group would be contrary to proper planning and sustainable development and contrary to natural justice and would set an undesirable precedent.

6.3.17. **Unauthorised Felling of Trees**

- Keegan Quarries illegally felled 69 mature trees at a site in Clegarrow/ Aghar in Co. Meath. File ref. AIF 19/08.

- The matter was investigated by the Planning Authority who confirmed that 69 trees had been illegally felled. Legal proceedings issued and Keegan Quarries Ltd were fined €2,500 + costs at the District Court in 2009. Further details provided on the appeal and non-compliance with an undertaking to replant trees.

6.3.18. **Societal Impacts**

- The developer flagrantly engaged in unauthorised developments, which have in themselves generated copious amounts of professional and administrative work that even led the appellant to Geneva where they successfully pleaded the illegality of an extension of duration application without any public consent. Amending legislation is currently being enacted on this issue.

6.3.19. **Archaeology**

- The developer chose to challenge a Protection Order by the National Monuments Service by way of Judicial Review.
- Two significant burial grounds had been identified on land which the applicant was seeking to quarry at Trammon. The lands have been subsequently ploughed and tilled since.

6.3.20. **Planning Authority's role**

- It is a shameful indictment on the statutory authorities that this was firstly allowed to happen and secondly by continuing to grant planning consents to regularise matters after the event.
- The Planning Authority have enabled the operator to avoid any financial conditions in planning grants by adopting this course of action.
- It is essential that the statutory authorities refuse all future planning consents to any company within the Keegan Group.
- This application should be refused as the development is not compliant with EU law and therefore Irish law.
- This quarry for the most part is unauthorised development.
- Breaches of the water table were systematic and wholesale.

- Enforcement notices were largely ignored and challenged all the while extraction continued beneath the water table.

6.4. Appeal by Tommy Donnegan

- The appellant is a neighbouring landowner and former landowner of the quarried site.
- The task of reinstating the land should be undertaken by a responsible statutory authority.
- The applicant should be responsible for the cost of reinstating the site.
- The applicant was pursued by Waterways Ireland in 2010 in relation to excavations in close proximity to the Royal Canal.
- Only a small portion of the site was pre-64.
- The appellant queries how Meath County Council could entrust the applicant with reinstating the site, given the poor history of non-compliance with planning by the applicant.
- Much of what was quarried never had planning consent.
- An enforcement notice was issued in April 2015 under Ref. No. 15/077. The matter was heard at Trim Circuit Court in February 2019 under Ref 018/00123.
- Concern expressed that there may be issues regarding European sites and infringements of European Law.
- Given there was so much unauthorised development, the application should have been invalidated.
- It would be unethical for the applicant to benefit from their illegal actions. i.e. operating a quarry without planning permission and creating a massive lake.
- To grant permission for such development would create an undesirable precedent.
- The proposed wheel wash close to the quarry entrance would create issues for the appellant by reason that trucks coming out of the quarry would cause the roadway to be mucky and create dust in summer months. The ideal place for any such wash would be near the road.

- The applicant has a history of poor compliance and operating developments without the benefit of planning permission. Further details provided.
- A practice of act first and attempt to regularise later appears to have been adopted by the applicant.
- Section 35 of the Planning and Development Act 2000 (as amended) provides for 'refusal of planning permission for past failures to comply'. On this basis the application should be refused permission and the Local Authority invested with the responsibility of reinstating it.

6.5. Applicant Response

The applicant did not respond to the grounds of appeal by the 2 no. appellants.

6.6. Planning Authority Response

The Planning Authority confirms that it has no further comment to make in relation to this appeal.

6.7. Observations

None

6.8. Further Responses

- 6.8.1. Further to the third party appeal by Eco Advocacy, the appellant Tommy Donnegan submitted a response, responding to and reiterating some of the issues raised in the appeal made by Eco Advocacy. The appellant Tommy Donnegan also elaborates on the distance of the proposed wheel wash from the main road and its consequences of bringing dust and dirt onto the main road. No new material issues arise.

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 as follows;

- Procedural Issues
- Principle of Development
- Traffic and Road Safety
- Financial Contributions / Financial Security
- Environmental Impact Assessment
- 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. Procedural Issues

7.1.1. Enforcement / Legal Issues & the Role of the Planning Authority

7.1.2. Issues raised in the grounds of appeal relating to enforcement / legal issues include, inter alia, the following:

- The applicant has a history of planning enforcement, litigation and non-compliance with planning permission at the subject site and other quarry sites in Counties Meath, Kildare and Westmeath.
- Unauthorised development has been carried out on the subject site which has been subject to enforcement proceedings by Meath County Council.
- The applicant has been subject to enforcement proceedings at other quarries regarding unauthorised quarrying and/or importation of sand and gravel, hours of operation, breaches of planning permission and environmental damage.
- Legal proceedings against the applicant proceeded to the High Court in 2016.

- Legal proceedings were initiated in 2010 by Waterways Ireland against the applicant due to quarrying operations encroaching close to the Royal Canal.
- Legal proceedings against the applicant proceeded to the District Court for the felling of trees at another site in Co. Meath in 2009.

7.1.3. I note from the Planning Authority report there is an active enforcement file on the site under P.A. Ref. UD15/077, which relates to unauthorised development and that enforcement proceedings are on-going. No further details on this enforcement file were provided by the Planning Authority. The EIAR submitted makes no reference to this enforcement file and the alleged unauthorised development thereunder. The appellant Eco Advocacy provides details that an enforcement notice was issued on the 29th April 2015 requiring Keegan Quarries Limited to 'cease all quarrying activity on site on lands outside those lands highlighted in blue on attached Enforcement Map UD 15/077 by 1st May 2015 at 17.00 hours' and to 'carry out restoration works on excavated areas outside those lands highlighted in Blue on attached enforcement map UD15/077 within 1 Month from date of Notice'.

7.1.4. I acknowledge the issues raised by the appellants with regards alleged unauthorised development, enforcement proceedings, litigation, breaches of planning permission and environmental damage caused by the applicant, as set out in greater detail in Section 6.0 above. Notwithstanding this, I consider that any unauthorised development at the subject site and other sites should be dealt with by enforcement proceedings, which is a function of the Local Authority. Concerns raised regarding the role of the Planning Authority and lack thereof is a function of the Planning Regulator and/or Ombudsman, as appropriate.

7.1.5. Validation Issues - Substitute Consent

7.1.6. The appellant Eco Advocacy objects to the proposed development on the grounds, inter alia, that;

- The proposed development comprises retention of an existing unauthorised development.
- The Planning Authority was ultra vires and should have invalidated the application on the grounds that the applicant should have sought substitute consent, under Section 177 of the Planning and Development Act 2000 (as amended).

- An EIA offence exists as retention permission is required.
 - The Planning Authority was ultra vires in granting permission for the proposed development.
- 7.1.7. The proposed development, as described in the public notice, provides for, inter alia, the following:
- Use of existing stockpiles for site restoration,
 - Importation of inert excavation spoil comprising natural materials of clay, silt, sand, gravel or stone for the purposes of restoration of a previously extracted area.
 - All other ancillary buildings, plant and facilities for the restoration, and all ancillary site works.
- 7.1.8. The applicant details in the EIAR submitted that the restoration of the site is required as part of the Section 261 and Section 261A permissions.
- 7.1.9. The quarry at the subject was registered as required under Section 261 of the Planning & Development Act 2000 under P.A. Ref. QY54 / ABP Ref. QC2101 and subsequent decisions by the Board thereunder, as detailed in Section 4.0 above. Substitute consent permissions were granted to applicant by the Board under ABP Ref. SU0074 and ABP Ref. SH0131, as detailed under in Section 4.0 above also. Alleged unauthorised development is being dealt with by way of enforcement proceedings under P.A. Ref. UD15/077, as detailed above. The applicant states in the EIAR that extraction at the site has ceased since January 2019. I found no evidence of extraction and / or importation of materials at the site during site inspection.
- 7.1.10. With regard the issue of whether the proposed development comprises substitute consent, as put forward by the appellant Eco Advocacy, I refer the Board to ABP Ref. 303182-18 (quashed by the High Court) and subsequent ABP Ref. 306996-20 whereby the Board concluded, inter alia, that the proposed development would comprise the restoration of the quarry and would not require substitute consent. Having regard to these precedent decisions by the Board and given that (i) no future quarrying is proposed, (ii) that all extraction at the site has ceased and (iii) that the proposed development seeks to restore the former sand and gravel pit in accordance with the Conditions of its Section 261 and Section 261(A) permissions, I am satisfied that the nature of the proposed development does not require substitute consent.

7.1.11. Other Validation Issues

- 7.1.12. The appellant Eco Advocacy objects to the proposed development on the grounds that the applicant failed to detail the enforcement history on the application form and detail the use of the site for quarrying. Furthermore, the appellant objects to the proposal on the grounds that it was advertised in the Irish Star newspaper and not the Meath Chronicle or the Leinster Leader.
- 7.1.13. It is my view that the details provided in the application form is a validation issue which is the function of the Planning Authority. I am satisfied that the omissions did not prevent concerned parties from making representations to the Council on the proposed development. The third-party appellants have made a valid planning appeal to An Bord Pleanála and the issues raised in this appeal are addressed hereunder.
- 7.1.14. The Applicant has fully complied with Articles 18(2) of the Planning and Development Regulations 2001 (as amended) which requires notice of the proposed development published in a newspaper, including national newspapers, considered by the Planning Authority to have a sufficiently large circulation in its functional area. As detailed on both the Meath and Kildare County Council's website, 'The Star' newspaper is an approved newspaper for notices in all areas of the respective county.
- 7.1.15. On this basis, I recommend that these grounds of appeal should not be upheld.

7.2. **Principle of Development**

- 7.2.1. The proposed development is described in the public notice as the;
- a) Use of existing stockpiles for site restoration,
 - b) Importation of inert excavation spoil comprising natural materials of clay, silt, sand, gravel or stone for the purposes of restoration of a previously extracted area (QY/54) to restore the site to a beneficial agricultural and ecological after-use (5.85 hectares)
 - c) Temporary Portacabin Offices and Staff Facilities (100 sq.m.)
 - d) Wheel Wash and weighbridge (134 m²)
 - e) Site entrance and access road
 - f) Lockable access gate at the pit entrance

g) All other ancillary buildings, plant and facilities for the restoration, and all ancillary site works.

7.2.2. The public notice states that the application relates to a restoration development for the purpose of an activity requiring a Waste Permit, to be issued by the Meath County Council.

7.2.3. The Environmental Impact Assessment Report submitted, prepared by Tobin Consulting Engineers, provides greater detail on the nature, scale and extent of the proposed development, summarised as follows;

- The overall development area is 5.85 hectares.
- A total of 200,000 tonnes of material will be imported into the site as infill, over a five year period (Section 14.3).
- A maximum of 50,000 tonnes of material will be imported into the site per annum.
- The principal elements of the scheme include three main phases.
- Phase A includes the use of existing stockpiles to backfill and restore the worked-out void created by previous extraction of sand and gravel.
- A total of 40,000 m³ of material from the stockpiles will be used to infill the void area under Phase A.
- The stockpiles are located on the eastern and northern boundary.
- The stockpiles will be pushed into the void, thereby displacing existing water in the void.
- The water displaced will subsequently pass through the proposed settlement pond.
- Any suspended solids will settle out in the lagoon located to the west of the site. Water from the settlement lagoon will percolate back to ground through the permeable sand and gravel deposits.
- Following the filling of the void, Phase B and Phase C will commence.
- Phases B and C include the importation of natural materials, i.e. inert soil, stones and/or topsoil excavated will be used to restore the site to agricultural end use.

- As part of phase B and C, it is intended that 100,000 m³ of inert excavation material will be imported to restore the site, which will then be topsoiled and regenerated with grass seed (Section 2.2).
- The proposed restoration will comply with the conditions imposed under Section 261 and Section 261A under P.A. Ref. QY/54.
- The infill material will be sourced from local construction projects in the surrounding area.
- The reclamation of the pit will result in the infilling of a large, exposed void and the restoration of the disturbed landscape to its original pre-extraction condition, with emplacement of soil cover to protect the underlying groundwater.
- The proposed restoration will remove a large, flooded void / water hazard on the site.
- Provision of dedicated areas for flora and fauna along the River Blackwater.
- Retention of an area for Sand Martins, a habitat created by the previous development.
- Landscape enhancement measures.
- The placement soils will be seeded and return to use as agricultural grassland.
- The site boundaries will be fenced and the area for biodiversity demarcated.
- A double hedgerow will be planted along boundary fence to prevent trespassing.
- The following machinery will be used to restore the site:
 - 1 Bulldozer;
 - 1 no. 20 tonne tracked excavator;
 - 1 no. Mobile generator
 - 1 no. bunded diesel tank; and
 - 1 no. Tractor for top soiling of the site.
- No permanent fuel tanks will be utilised on the site to minimise the potential for leaks and limit the potential for security issues on the site.

- The wash-water from the vehicle/wheelwash bay will be recycled through an in-built water recycling system. This will be occasionally topped up with fresh water from the onsite water pond or from the existing borehole.
- A sprinkler system along the main access road will ensure all material is dampened prior to exiting the site.
- All plant and equipment used within the application area is of a mobile nature and will be removed following restoration.
- The hours of operation of the proposed development are 0800-1800 hrs Monday-Friday and 0800-1400 Saturday. The pit will not operate on Sundays and Public Holidays unless warranted by exceptional circumstances and agreed in advance with the Local Authority.
- A security gate will be installed at the entrance to the pit to prevent unauthorised entrance to the site.
- A portaloo will be used on site.
- There is no proposed surface water or waste-water discharges for the development with all wastewaters tankered off-site.

7.2.4. The Planning Authority in its assessment concluded that the proposed development would not adversely impact the visual or residential amenity of the surrounding area and would be in accordance with the Meath County Development Plan 2013-2019, subject to conditions.

7.2.5. The applicant states in the public notice and the EIAR that a waste permit will be sought from Meath County Council for the restoration of the site, in accordance with the Waste Management (Facility permit and registration) Regulations 2007, as amended. 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, WM OBJ 7 and WM OBJ 13 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.

- 7.2.6. The restoration of the majority of the site to agricultural land use would be consistent with Core Principle 8 of the Meath County Development Plan which seeks to support agricultural-related development and Strategic Objective RUR Dev S07 which seeks 'To support the continuing viability of agriculture'. The proposal would accord with Policy RD POL 12: which seeks 'To facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution' and Policy RD POL 26 which requires that 'where land filling is proposed, inert material is the preferred method'. The restoration of the site would be consistent with Section 9.2 of the National Planning Framework which commits to adopting the principles of the circular economy to enable more sustainable planning and land use management of our natural resources and assets. Furthermore, the proposal would be consistent with National Policy Objective 56 of the NPF which seeks to 'sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society'.

7.3. Traffic and Road Safety

- 7.3.1. The appellant Tommy Donnegan expresses concern that the proposed wheel wash close to the quarry entrance would create issues for the appellant by reason that trucks coming out of the quarry would lead to dust and dirt on the roadway in summer months. Tommy Donnegan is a neighbouring landowner and has shared vehicular access at the main entrance to the site from the R148. The appellant suggests that the ideal place for the wheelwash would be near the main entrance to the site from the R148.
- 7.3.2. With regard the proposed wheelwash and proposed vehicular access, the applicant states the following in the EIAR submitted;
- A mobile garric wheel wash will be provided at the entrance to the site during operations to remove dirt and debris from trucks prior to joining the local road network in order to minimise public nuisance.
 - The wheelwash is set back from the entrance, further removing the potential for mud/silt on the road.

- All HGV vehicles exiting the site will be required to divert through the wheelwash, located adjacent to the administration area.
- This will ensure that dust emissions are not generated from the tyres of vehicles exiting the pit.
- It will also ensure they do not carry excess soil and material onto the public road network.
- The provision of hardstanding from the entrance to the wheelwash.
- This infrastructure will ensure that vehicles do not cause soiling of roads.
- Water used in the wheelwash will be recycled and reused in the wheelwash.
- A water bowser will be in operation along the main access road to ensure all material is dampened prior to exiting the location.
- Road cleaning will be undertaken during phases B and C.
- All deposited soils and materials will be compacted to prevent windblown dust from occurring.
- Dust monitoring will be carried out on a monthly basis at the site and the records retained as part of the EMS system in place at the site.
- Sightlines at the entrance will be maintained by hedge trimming such that a 160m visibility splay will be achieved in each direction.

7.3.3. The proposed wheelwash and weighbridge is located within the main section of the site, close to the access road. I noted during site inspection that the surface treatment of the existing access road comprises compacted gravel and is characterised with several large, flooded potholes on approach to / egress from the site. The day of site inspection was fine and dry. Given that the land on either side of the access road at the main vehicular entrance to the site from the R148 is not within the applicant's ownership, I do not consider the applicant has the legal interest to relocate the proposed wheelwash to this location, as suggested by the appellant. I consider however, the applicant has proposed sufficient mitigation measures to prevent vehicles soiling the R148 public road and the access road, including the provision of hardstanding from the main entrance to the wheelwash, road cleaning measures and dust monitoring and prevention measures. In response to the Further Information

submitted, the Local Authority's Transportation Section raised no objections to the proposed development subject to a standard condition requiring measures to be put in place to maintain sightlines at the entrance to the site. I consider that subject to a Condition requiring the submission of a Traffic Management Plan for the written agreement of the Planning Authority, including the mitigation measures outlined in the Environmental Impact Assessment Report, the proposed development would not adversely impact road and traffic safety.

7.4. Financial Contributions / Financial Security

- 7.4.1. Meath County Council has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended) and the Meath County Council Development Contribution Scheme 2016 -2021 (as amended) refers. The Planning Authority has not imposed a Condition on the grant of permission requiring the payment of development contributions under the Scheme. I have reviewed the categories of development liable for contributions payable in respect of public infrastructure and facilities, as set out in Section 7 of the Scheme and note that there is no prescribed category for the proposed development i.e. importation of inert material to a quarry site. The only category which could apply to the proposed development is the category described as 'Other'. This category is defined under footnote 8 of Section 7 as 'development not coming within any of the foregoing categories e.g. energy storage facilities' and requires a Contribution of €15,000 per hectare. It is my view that the description of this category is unclear, ambiguous and open to interpretation. Given the nature and scale of the proposed development which seeks to restore the original topography of the site by removing existing spoil heaps on site and using the material to infill the pit, it is my view that the category of 'Other' should not apply to the proposed development for the consideration of development contribution liability in this instance. Given the very good condition of the surrounding road network, notably the R148 providing direct access to the site, I do not consider a special contribution under Section 48(2) (c) of the Planning and Development Act 2000 in respect of public infrastructure and facilities which would benefit the proposed development are warranted in this instance.

7.5. Environmental Impact Assessment

- 7.5.1. This application was submitted after the 1st September 2018, the date that Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment was transposed into Irish legislation as part of the provisions of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (S.I. No. 296 of 2018). These Regulations transpose the requirements of the EIA Directive into planning law, providing a clear definition of EIA, further clarity regarding the process and the need to identify, describe and assess the direct and indirect significant effects of the project on specified environmental factors. The Minister for Housing, Planning and Local Government has published updated 'Guidelines for Planning Authorities and An Bord Pleanála on carrying out environmental impact assessments (EIA)', replacing the 2013 Guidelines. The new legislation did not make any changes to Annex I or II of Directive 2011/92/EU, which identifies projects for the purposes of EIA. Therefore, Schedule 5 of the Planning and Development Regulations 2001 (as amended), for the purposes of EIA, still applies.
- 7.5.2. The proposed development provides for the importation of 200,000 tonnes of uncontaminated natural soils, sub-soils, stone and rock into a stated area of 5.85 Ha. The stated infill intake will be a maximum of 50,000 tonne of material per annum over a 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.
- 7.5.3. 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.*
- 7.5.4. Given that the proposed development involves an annual intake of more than 25,000 tonnes of soil and stone (waste) per annum over a 5 year period, the proposal is above the threshold of development set out under Schedule 5, Part 2, 11(b) of the

Regulations. Thus, there is a mandatory requirement for the planning application to be accompanied by an Environmental Impact Assessment Report. The applicant has submitted an Environmental Impact Assessment Report (EIAR), prepared by Tobin Consulting Engineers.

7.5.5. **Compliance with Legislation**

7.5.6. The EIAR addresses the development across three volumes including Volume I: Non-Technical Summary; Volume II: Environmental Impact Assessment; and Volume III: Appendices. Volume II of the EIAR contains the main text body and is divided into a number of chapters. Chapters 1 and 2 include an overall Introduction and Description of the site and the proposed development. Chapters 3 to 15 set out an examination of the effects of the proposal on the environment under the following headings: (3) Population and Human Health, (4) Policy, Planning and Development Context, (5) Biodiversity (Ecology), (6) Land, Soils and Geology, (7) Water, (8) Climate, (9) Air Quality, (10) Noise and Vibration, (11) Landscape and Visual, (12) Land, (13) Cultural & Archaeological Heritage, (14) Traffic and (15) Interaction of the foregoing / in combination effects. Each chapter describes the receiving environment, potential effects from the development, and an assessment of the impact and the mitigation measures. Volume III: Appendices includes all supporting documentation and references, referred to in the EIA text body in Volume II.

7.5.7. I am satisfied that the EIAR has been prepared by competent experts, is complete and of acceptable quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2001 (as amended).

7.5.8. **Environmental Impact Assessment**

7.5.9. In this section of my assessment, noting the Board's role as the competent authority, I consider the direct and indirect significant effects of the development against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

a) population and human health;

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

7.5.10. My assessment examines the significant effects on the above factors following the structure of the submitted EIAR, as detailed directly below.

7.5.11. Chapter 1 provides an introduction to the EIAR and includes information on the principal elements of the scheme, site location, company background, environmental policy, consultation and scoping, procedures and the structure of the EIAR as well as contributors to the EIAR.

7.5.12. **Receiving Environment and Proposed Development**

7.5.13. Chapter 2 describes the receiving environment and proposed development, and includes a description of the existing site location, a do-nothing scenario, project need, reasonable alternatives, working hours, site security arrangements, employment, traffic control, working methods, material inspection, testing, fuel storage, sewerage and waste water treatment, waste water management, water supply, solid waste management, site management, decommissioning and vulnerability of the project to risks of major accidents and/or disasters.

7.5.14. I would agree with the EIAR that the project is not of a type which would be vulnerable to risk of a major accident and/or disaster that might have a significant adverse effect on the environment. I note that potential for accidents on site are always a risk on projects such as that proposed, but such risks are governed by a strict legislative regime outside of the planning and EIA process. Accidents which would potentially impact on the environment are dealt with throughout my assessment, particularly under EIA considerations and it is relevant to also note that the activity would be subject to a licencing regime by the EPA. In relation to alternatives, it is stated that the existing pit is being restored using imported inert soils in accordance with conditions imposed under Section 261 and Section 261(A) (6)(a)(i) of the Planning and Development Act 2000 i.e. P.A. Reg. Ref QY/54 and as such it was not considered relevant in this case to identify and appraise the merits of alternative sites for the

proposed restoration. In relation to the do-nothing or baseline scenario, it is stated that if the proposed works do not proceed, the site will not be restored and that a restoration plan was approved as part of the previous Section 261(A) process. The proposed development will allow for the restoration of the site in a phased basis and bring the site back to a productive end use.

7.5.15. Population and Human Health

7.5.16. Chapter 3 examines the impact of the proposed development on population and human health, focusing on population, employment, tourism and amenities. It references impacts on population and human health arising from traffic. I am satisfied that the proposed development would have no material or significant impact on population and human health. It would arguably bring positive impacts to the local and regional economy in terms of local employment as a result of the proposed works.

7.5.17. Policy, Planning and Development Context

7.5.18. Chapter 4 sets out policy, planning and development context and includes an outline of the site planning history, national guidelines and planning and development context with reference to regional plans, the National Planning Framework, Meath County Development Plan 2013-2019 and the draft County Development Plan.

7.5.19. Biodiversity (Ecology)

7.5.20. Chapter 5 addresses Biodiversity (Ecology). The dominant habitat feature within the application site is wet grassland. Other habitats include treelines, re-colonising bare ground, grassy verges and ponds among other habitats on site. Key ecological receptors noted within the site, outside of the restoration area are treelines and hedgerows, lowland rivers and wet grassland.

7.5.21. Lowland rivers are identified as a key ecological receptor in the surrounding area which provide habitats for freshwater macrophytes, fish and macroinvertebrates. It is stated that these areas will be undisturbed by the proposed development and that all works will take place at least 65m away from the River Blackwater which borders the western boundary of the site. Excavation works and ecological enhancement will take place to build a lagoon with natural flood protection such as reeds to enhance the absorption of the sand/gravel substrate. Water will be reused and recycled within the

proposed development. Water quality protection measures are detailed in Chapter 7, addressed further below.

- 7.5.22. The north and north-eastern boundaries of the site are bound by a tall (c. 5m high) hedgerow of good quality and biodiversity. The hedgerows and treelines present at the site are identified as a key ecological receptor of Local Importance (Moderate to Higher Value). It is stated that all hedgerows and treelines on site will be undisturbed by the proposed development.
- 7.5.23. It is stated in the EIAR that it is proposed develop the restoration area as grassland with aquatic and fringing wetland habitat, as a result of reinstatement activities. This restoration will take place to the east of the site where the wet grassland field and the riparian habitat meet. Both of these habitats will be undisturbed by the proposed development and the creation of new aquatic and terrestrial habitats in the area will enhance the site's ability to support local wildlife populations.
- 7.5.24. A riparian habitat extends along the western boundary where the site borders the Blackwater River. This area is not maintained, and the subsequent overgrowth provides good habitat for mammals and amphibians. Evidence of Otter were present on the riverbanks and field signs (scat) for badger were found in the area between the site and river (outside of the application boundary). It is stated in the EIAR that all hedgerow and trees will be undisturbed by the proposed development.
- 7.5.25. An examination of the website of the National Biodiversity Data Centre (NBDC) show no records for the presence of any protected plant species from within a 10km grid square (N74) of the proposed development. Evidence of Badger (*Meles meles*), Otter (*Lutra lutra*) and a fox (*Vulpes vulpes*) carcus were recorded during field survey. It is stated that the ponds within the site add to the biodiversity of the area with limited species associated with these habitats, with the exception of the western pond.
- 7.5.26. Japanese Knotweed (*Fallopia japonica*) was recorded on site during the field visit to the west of the flooded pit. This is listed as an invasive species on the Third Schedule of the 2016 Habitat Regulations. It is an offence to plant, disperse, allow or cause to disperse, grow any plant listed in Part 1 of the Third Schedule of the Regulations. It is stated in the EIAR that Japanese Knotweed on site is managed under the guidance of a suitably qualified specialist and with reference to an invasive species management

plan for the works. The management and control of this invasive species should be dealt with by way of Condition in the event of a grant of permission.

7.5.27. The EIAR notes that the proposed construction works could give rise to the potential for increased mobilisation of silt and suspended solids via surface water run-off. It is stated that no surface water runoff to the River Blackwater will occur whereby surface water protective measures will be designed for the site prior to the commencement of works. The report states that the potential for significant impacts affecting water quality and aquatic ecological receptors are therefore evaluated as being low and imperceptible in the local context.

7.5.28. It is stated that no significant adverse ecological impacts are evident from works to date within the quarry and it is not anticipated that there will be any adverse impacts from the proposed development. A landscape plan (Drawing No.10804-2015) has been submitted detailing, inter alia, landscape management and a planting schedule.

7.5.29. Sand Martin nests were recorded on the sand and gravel pit area, which I observed during site inspection. It is stated that no direct disturbance will occur as a result of the restoration and the bank in which the nests have been dug will be undisturbed by the works. Mitigation is proposed to avoid the disturbance of breeding bird habitat during the nesting season.

7.5.30. Mitigation measures re. Habitats and Flora include;

- Maintained hedgerows will be widened and allowed to grow to their optimum height to provide further screening to the site.
- If any more invasive species are identified on site, the developer will consult with the relevant authorities before undertaking any action.
- Prevention measures including cordoning off the invasive species, limiting movement of people and / or machinery on site, regular walkovers by staff and ensuring anyone undertaking control measures is suitably qualified.

7.5.31. Mitigation measures re. Protected Fauna include;

- Breeding bird habitats (e.g. hedgerows and treelines) will not be removed.
- Retain the bank in which the Sand Martins are nesting.
- Works will be delayed until after the 31st of August because Sand Martin are present and the presence of Common Frog in water bodies.

- If any protected species or their resting places (e.g. bat roosts or badger setts) are discovered within the site boundary during works, works within the area will be suspended and a qualified ecologist contacted immediately to liaise with the NPWS and potential requirements for derogation licenses to avoid contravention of legislation which protects such species and their dwellings.
- The retention of the western pond for aquatic species.

7.5.32. Having regard to the above, I am of the opinion that adequate measures are proposed to avoid key ecological receptors and subject to the proposed mitigation measures, potential effects are of low magnitude in the temporary to short-term and therefore insignificant. The proposed biodiversity enhancement measures will protect biodiversity area along the adjoining River Blackwater, aquatic species in the western pond and bird habitats, notably the nesting bank of the Sand Martins. I conclude that there are no habitats or species whose conservation requires refusal of planning permission in this case and furthermore that the impacts are proportional and acceptable.

7.5.33. **Land, Soils and Geology**

7.5.34. Chapter 6 of the EIAR examines land, soils and geology. The dominant soil type within the site is described as shallow well drained mineral soil and along the River Blackwater soils are described as Alluvial soils (A). It is stated that the existing stockpiles comprise of inert material free from anthropogenic material. Subsoil within the site is described as till chiefly derived from Limestones. There is an area of Alluvial soils to the east of the site along the course of the River Blackwater. Bedrock geology is described as Carboniferous era, Dark limestone & shale ('Calp').

7.5.35. As part of phase B and phase C, it is proposed that 100,000 m³ of inert excavation material will be imported to restore the site, which will then be topsoiled and regenerated with grass seed. It is stated that this material will be sourced from local construction projects in the surrounding area. Potential effects are stated to include material being carried on to the local roads to the Pit and localised contamination of the ground as a result of fuel spillages from plant operating on site. It is also stated that there is potential for a slight negative effect on soil due to erosion of

inappropriately stored excavated materials. Mitigation measures are set out and include;

- The site will be operated responsibly and in accordance with an established Environmental Management System.
- Best practice measures will be implemented to ensure that surface water and groundwater in the area does not become contaminated by pollutants.
- Extensive surface water mitigation measures will ensure the management of silt on site and prevent offsite discharge.
- An emergency response kit will be kept on site to prevent any leaks of petroleum based products from reaching the water table.
- There are no proposed or existing fuel tanks on site.
- Surface water runoff will be managed on site, reducing the potential for runoff with elevated suspended solids entering local surface water channels.
- There is no proposed direct discharge from the site.
- A mobile Garris wheelwash will mitigate against the potential for vehicles exiting the site to carry materials onto the local road network.

7.5.36. It is stated that there will be no requirement for dewatering as a result of the proposed works and, therefore, there is no potential for groundwater levels in the area to be directly impacted by the proposed activities at this location.

7.5.37. Having regard to the above, I am satisfied that there will be no further significant disturbance to soils and geology within the site and conclude that the impacts on soils and geology would not be significant. I concur that the application aims to address the restoration of the site and improve the overall environment with restoration to a productive end use.

7.5.38. **Water**

7.5.39. Chapter 7 of the EIAR assesses the potential impact of the proposed development on the water environment within and surrounding the quarry. The chapter describes the hydrological setting of the site with reference to surface water features and regional drainage, flooding, assessment of hydrometric data, surface water abstractions and

surface water quality, which are summarised below. Potential effects and mitigation measures are detailed also

7.5.40. Surface Water Features and Regional Drainage

- The site is located within the Boyne and Blackwater Catchment.
- The nearest surface water features include:
 - River Blackwater – which flows along the western boundary, in a north-westerly direction where it joins with the River Deel and River Boyne, 11km downstream of the site.
 - Royal Canal – which flows 0.2km to the south of the pit
- The Royal Canal is located above the pit and is not in hydrological connectivity with the site.
- Within the quarry, there are standing water areas.
- The permeable gravel on site quickly absorbs precipitation, which percolates downward to the water table. Permeability based on the onsite slug tests are $>1 \times 10^{-4}$ m/s.
- Water that passes through the settlement ponds will dissipate back to ground.

7.5.41. Flooding

- The site is not located in Flood Zone A (Highest Flood Risk) or Flood Zone B (Moderate Flood Risk), as identified in 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities and Technical Appendices' in November 2009'.
- The site is located within Flood Zone C (Low Flood Risk).
- The site is currently subject to pluvial flooding due to the presence of the sand and gravel pit void on site. This will be removed as part of the restoration works
- The western pond will be retained on site.

7.5.42. Surface Water Abstractions

- There are currently no known surface water abstractions from surface features either upstream or downstream of the site.

7.5.43. Surface Water Quality

- The EPA conducts an ongoing monitoring programme of water quality in the Boyne RBD.
- The 2 o. nearest monitoring stations are located 4km upgradient of the site boundary (Station No. RS07B020100 at Johnstown Br) and 6km downgradient of the site (Station No. RS07B020300 at Longwood Ballymulvey Road).
- According to the EPA River Water Quality data, the quality of surface water upstream of Newcastle Pit is described as 'Moderate' upgradient on the River Blackwater with no change in the water quality towards Longwood.
- The water quality on site contains significantly less nitrates, ammonium and ortho-phosphate than the River Blackwater.

7.5.44. Surface Water

- Precipitation landing within the site boundary infiltrates the soil surface directly.
- Conductivity measurements in September, November and December 2019 were relatively low (average of 360 uS/cm) which indicates the pond is predominantly surface water.
- As the gravel has been abstracted, the throughflow of water in the ground is limited in the main pond on site.
- The western pond had a higher conductivity values (540 uS/cm) which may indicate a higher groundwater component.
- Results from groundwater samples on site indicted total ammonia concentrations in the onsite pond concentrations are significantly (0.01 mg/l) lower than the River Blackwater.
- Results from water samples on site indicted ortho-phosphate concentrations in the on-site pond are significantly lower than the River Blackwater (<0.025 mg/l).
- There are no proposed surface water or groundwater abstractions or discharges from the proposed development.
- The EIAR concludes that the proposed development will not impact the abundance and quality of the River Blackwater.

7.5.45. *Aquifer Potential and Characteristics*

- Reference to the National Aquifer Map prepared by the GSI (www.gsi.ie) indicates that the Bedrock Aquifer underlying and surrounding Newcastle Pit is classified as a Locally Important Aquifer, which is Moderately Productive (Lm).
- The gravel subsoil deposits are not classified as a locally or regional important aquifer.

7.5.46. *EPA/GSI Source Protection Zones*

- According to the GSI/EPA source protection zone map (www.epa.ie), there are no source protection zones within or in the immediate area surrounding Newcastle Pit or the proposed development.
- The nearest identified source protection area is located 3.5km to the east of the site in Enfield.

7.5.47. *Groundwater Vulnerability*

- The groundwater vulnerability within the site is assigned a rating of high vulnerability.
- Surrounding areas are described as high to low vulnerability due to the presence of overlying sand and gravel and alluvial deposits respectively.

7.5.48. *Potential Effects*

7.5.49. Stated potential impacts that may occur as a result of the proposed development include;

- Due to the short restoration period, the site is not suitable for a standard septic tank and percolation area.
- The proposed sealed tank is shown on Dwg. No. 10804-2008.
- The movement of vehicles within the site represents a potential risk, by means of leakages or spillages to ground.
- Sedimentation of natural watercourses which can impact on fisheries potential.
- The infilling will displace the water from pond A to pond B during the infilling phase.

7.5.50. Mitigation Measures

- There is no proposed discharge to surface waters (Section 7.5).
- The solution to maintaining low suspended solids is preventing silt/clay from entering the surface water at source.
- Preventative measures include the use of settlement ponds, which ensures that input suspended solids concentrations are minimised at source.
- Surface water runoff from the application area that does not infiltrate to ground is directed to settlement ponds (Section 7.5).
- Any build-up of silt levels at the settlement ponds will be removed.
- The infilling will displace the water from pond A to pond B during the infilling phase (Section 7.6).
- Water will settle out in pond B before passing to the proposed settlement pond to the west of the site. Water from the settlement pond will infiltrate back to ground in the existing soak pit (as stated in Section 7.4).
- Water from the settlement pond will infiltrate back to ground in the existing soak pit.
- All HGV vehicles exiting the site will be required to divert through a wheelwash located adjacent to the administration area. This infrastructure ensures that vehicles do not cause soiling of roads.
- Water used in the wheelwash will be recycled and reused in the wheelwash.
- Potentially polluting materials are contained within the application area.
- Spill kits will be retained on site to ensure that all spillages or leakages are dealt with immediately and staff will be trained in their proper use.
- Water used for dust suppression within the site will be sourced from the surface water pond.
- As a result of the water hazard concerns, it is proposed to backfill the void in a phased basis.
- An access track will be progressively filled through the center of the site to divide up the site. The area will then be filled from the edge of the pond.

- Monitoring measures will include an inspection and maintenance plan for the on-site drainage system which will be prepared in advance of commencement of any works.
- Regular inspections of all drainage systems will be undertaken and ensure there is no build-up of standing water in parts of the systems where it is not intended.

7.5.51. The planning application includes site layout drawings (nos.10804-2004 to 10804-2009) which indicates the intended area for infilling. The drawings submitted do not specifically label/identify Pond A or Pond B as referred to in the EIAR. On the day of my site inspection, I noted two distinctive bodies of water (ponds) within the appeal site. The larger pond, which is proposed to be infilled, is located on the eastern side of the main section of the site and a smaller pond located on the narrower western section of the site. The proposed surface water settlement ponds are located on land between Ponds A and B. Having regard to the mitigation measures detailed in the EIAR, I note an anomaly whereby it is stated that i) the infilling will displace the water from pond A to pond B during the infilling phase (Section 7.6), ii) surface water runoff from the infill area that does not infiltrate to ground is directed to the settlement ponds (Section 7.5) and iii) water will settle out in pond B before passing to the proposed settlement pond to the west of the site and water from the settlement pond will infiltrate back to ground in the existing soak pit (Section 7.4). This may be a typographical error as I note in the Non-Technical Summary it is states that 'The stockpiles will be pushed into the void, thereby displacing existing water in the void. The water displaced will subsequently pass through the proposed settlement pond. Any suspended solids will settle out in the lagoon located to the west of the site. Water from the settlement lagoon will percolate back to ground through the permeable sand and gravel deposits. Phase A will remove the flooded void from the site. The settlement lagoons will remain in place for phase B and Phase C. The lagoons will be regularly inspected and cleaned as required'. Furthermore it is stated in the Further Information response that 'Following treatment in the settlement ponds, it is proposed to allow the water dissipate through the remaining natural sands and gravels on site, which provides additional filtration as it dissipates back to ground' and in the Risk Assessment it is stated that 'water is controlled and passes through settlement pond prior to dissipation to ground'. While there is a degree of uncertainty around assumed typographical error, I am satisfied that the weight of evidence presented indicates that the displaced water from the

infilled void will pass through the settlement ponds prior to dissipation to ground. I note both the Local Authority's Flood Risk Section and Heritage Officer outlined no objections to the proposed development. The Scientific Officer of the Local Authority outlined no objections to the proposal subject to a Condition requiring that no surface water discharge from the site to local water courses from the settlement ponds. The Water Services Section outlined no objections to the proposed development subject to standard conditions. Notwithstanding the absence of objection to the proposed development from the aforementioned Sections within the Local Authority, and in the interest of certainty and protection of the environment, I consider it appropriate that in the event of a grant of permission, a Condition should be imposed requiring the applicant / developer to submit for the written agreement of the Planning Authority, prior to commencement of development, a drainage management plan. This plan should incorporate a monitoring programme relating to the control and management of water on the site. The plan should provide for the monitoring of ground and surface water quality, levels and discharges on the site and for ongoing sampling of the River Blackwater upstream and downstream of any discharge and ongoing monitoring of the capacity of the settlement lagoons. It is my view that such Condition would not constitute a mitigation measure and would provide clarity and certainty on drainage management serving the proposed development.

7.5.52. Apart from the above issues, I am satisfied that with the adoption of best practice and mitigation measures proposed by the applicant, and subject to a planning condition requiring the above, the proposed development would have no material or significant impacts on the surface water hydrology or groundwater/hydrogeology environment.

7.5.53. **Climate**

7.5.54. Climate is addressed in Chapter 8 of the EIAR. I would agree with the stated potential effects that the site is not a significant industrial generator of greenhouse gases and that the nature and scale of the proposed works would not adversely affect climate change and the potential effect on climate during the infill phase would be imperceptible. Stated mitigation measure include managing all staff and contractors to ensure that machinery used on site is properly maintained and is switched off when not in use to avoid unnecessary dust and exhaust emissions from site traffic, and that

the site and all plant and equipment on site will be operated according to Best Available Technique (BAT) Guidelines.

7.5.55. **Air Quality**

7.5.56. Chapter 9 assesses the potential effects on Air Quality from dust deposition arising from the proposed infill works at the subject site. It is proposed to restore the original topography of the site by removing existing spoil heaps on site and using the material to infill the pit. This will be carried out in Phase A. Phases B and C include the importation of natural materials, i.e. inert soil, stones and/or topsoil excavated to restore the site to agricultural end use. Stated potential effects will include some dust and exhaust emissions from construction activities during the proposed infilling works. It is stated that these effects will be temporary in duration and would not likely to give rise to significant impacts following the implementation of mitigation measures. Dust or pollutants generated from the proposed works will typically arise from movement of construction vehicles, movement and placement of stock material and wind generated dust from stockpiles and exposed unconsolidated soils.

7.5.57. Mitigation measures are outlined and include the following;

- All stockpiles will be conditioned with water to minimise dust;
- The provision of on-site speed limits (max 10mph) will prevent unnecessary generation of fugitive dust emissions;
- Minimal drop heights when loading trucks will be enforced;
- Heavy Goods Vehicles (HGV's) exiting the site will be diverted through a wheelwash.
- The provision of hardstanding to the surface of the access road from the main entrance to the wheelwash.
- A water bowser will be in operation along the main access road to ensure all material is dampened prior to exiting the location.
- Road cleaning will be undertaken during Phase B and C.
- All deposited soils and materials will be compacted to prevent windblown dust from occurring; and

- Dust monitoring will be carried out on a monthly basis at the site and the records retained as part of the EMS system in place at the site.

7.5.58. Concerns raised by the appellant Tommy Donnegan regarding potential dust and dirt along the road network serving the site are addressed in Section 7.3 above. I am satisfied that the proposed development would have no material or significant impacts on air quality and climate.

7.5.59. **Noise and Vibration**

7.5.60. Chapter 10 of the EIAR assesses potential Noise and Vibration impacts. A noise survey was undertaken at the closest noise sensitive locations to the pit, to establish baseline noise levels of the quarry which was not operational during the survey. Predictive noise calculations associated with the operation of the quarry permitted under Ref. QY/54 were undertaken at the nearest noise sensitive locations and compared against the relevant criteria. Stated potential effects that could occur as a result of works within the site include transport of materials to the application area and noise as a result of transfer of raw material for restoration. It is stated that noise generation at the site will be non-continuous, limited to the hours of operation and lifetime of the facility. Additionally, there will be no changes in concentration of noise levels from traffic movements given the limited volume of HGV site traffic. Stated operational noise levels associated with the proposed development are set as absolute noise levels in line with EPA guidance for industrial and quarrying activities and in line with previous operational noise limits set by An Bord Pleanála for quarrying activity at the site as follows;

Daytime (08:00hrs to 20:00hrs): 55dB LAeq,(1 hour)

Night-time (20:00hrs to 08:00hrs): 45dB LAeq, (1 hour)

7.5.61. Stated mitigation measure include the following;

- Regular maintenance of items of plant to ensure that they are operating efficiently.
- Only one bulldozer will be required for levelling out of incoming material.
- All items of machinery will be turned off when not in use.
- The turn-over time for deliveries to the site will be managed in order to keep this time to a minimum;

- Maintenance of trucks and site vehicles so that they are not excessively noisy.
- Items of plant and equipment used at the site will comply with standards outlined in 'European Communities (Construction Plant and Equipment) (Permissible Noise Levels) Regulations, 1996;
- Internal haul roads are designed so as to have as low a gradient as possible so as to minimise excessive revving of vehicle engines travelling on-site,
- Avoid unnecessary revving of engines and switch off equipment when not required.
- Locate equipment away from noise sensitive receivers as much as possible within the constraints of the site.
- The Royal Canal embankment which is between 7 and 12m high will act as screening berm along the southern boundary of the site.
- Temporary noise barriers, where practicable and necessary, to provide acoustic screening.
- No unnecessary sounding of horns whilst on site.
- Investigation and recording of any noise complaints.

7.5.62. Subject to the adoption of noise control measures committed to as detailed above and ensuring operational times are controlled, I am satisfied that the proposed development would have no material or significant noise or vibration impacts.

7.5.63. **Landscape and Visual Impact**

7.5.64. Chapter 12 examines Landscape and Visual impacts. According to the Landscape Character Assessment of County Meath, the site is situated within the Landscape Character Types LCT Lowland Landscapes, LCA 6 Central Lowlands and LTC Royal Canal LCA 14. These are designated a High Landscape Value, of Regional Importance and Medium Sensitivity. The stated main landscape impact arising due to the proposed restoration would be the change in landform within the former extraction area. The other landscape impact would include the removal of small areas of existing vegetation such as scrub and grassy verges located in the entrance and stockpiles of the application site area. It is stated that there would be an imperceptible to slight

beneficial landscape effect on the landscape resources within the study area due to the restoration of the former quarry.

7.5.65. In terms of public views of the site, these are restricted by the substantial screening already in place around the boundary of the site including dense hedgerows, mature trees and embankments. Designated views and prospects in the Meath County Development Plan are all outside the study area. Stated mitigation measures include;

- Creating and planting screening berms, embankments and maintaining boundary hedgerows, trees and woodland.
- Proposed planting as shown in the Restoration Plan /Planting Plan which aims to screen parts of the former quarry for the duration of restoration and on completion of works, particularly in relation to views of the existing pit faces from locations to the southwest.
- Reinstate the central area to agricultural land with trees on the berms.

7.5.66. Having regard to the above, I concur with the EIAR that the restoration of the former quarry will have a slightly beneficial (positive) effect on the landscape and would have no impact on any views into and across the site. The proposed development would be consistent with policy RD POL 26 which seeks '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'.

7.5.67. **Land**

7.5.68. Chapter 12 assesses the potential cumulative impact of the proposed development with the existing pre-1964 development, QY/54 and adjacent lands located within the ownership boundary. A description is given of the receiving environment / baseline description with reference to site description, land use, topography, likely future receiving environment and a do-nothing scenario. Stated potential effects on land include the construction of buildings and surface water attenuation lagoons within the site and the change in use from sand and gravel extraction back to agricultural land. Given the scale and nature of the proposed development comprising the restoration of the quarry, mitigation measures are stated as restrictive. These will include;

- Retention of all existing perimeter planting and re-generating vegetation where possible.
- Disturbance of existing vegetation will be minimised where possible and proposed planting will help integrate the proposed development into the current land use.
- The main long-term mitigation measure will be the staged topsoil and grassing of the area.
- A double row of hawthorn and other hedge species will be planted to provide additional stock proofing and prevent unauthorised access to the former pit.
- The boundaries of the site will be fenced to prevent entry into the site.

7.5.69. It is my view that the proposed restoration works will have a long-term beneficial effect on the land use at the site and bring the site into productive agricultural use.

7.5.70. Cultural & Archaeological Heritage

7.5.71. Chapter 13 of the EIAR examines Archaeology and Cultural Heritage. There are no Recorded Monuments within the application site. The nearest Recorded Monument (ME048-016) is a tower house located 1 km to the east of the site. There are no designated Architectural Conservation Areas (ACAs), protected structures or structures listed in the National Inventory of Architectural Heritage (NIAH) proximate to the appeal site. The closest Protected Structure are the Blackwater Aquaduct (RPS B03-07) and Kilmore Bridge (RPS B03-16) which are situated 0.2km and 0.8km respectively to the southwest of the site. There would be no direct impacts on the known architectural or cultural heritage of the area as a result of the proposed development. Impacts on as yet undiscovered archaeology can be dealt with by standard mitigation, including archaeological monitoring of any topsoil or subsoil stripping, and in the event of the discovery of any archaeological finds or remains, the DHLGH would be notified and allowance made for full archaeological excavation in consultation with the Department. I conclude that the proposed development would not negatively impact on the Archaeology and Cultural Heritage of the area.

7.5.72. Traffic

7.5.73. Chapter 14 presents a traffic assessment of the proposed development. The main objectives of this report are:

- To consider the levels of traffic currently using the R148 (including traffic generated by other operations),
- Establish future year traffic as a result of TII growth rates,
- Determine the volume of traffic resulting from the proposed development, both in terms of haulage traffic and staff traffic, and
- Quantify the impact of the proposed development on traffic at this location in the years when the development is taking place, including the cumulative impact.

7.5.74. Existing Conditions are described. Phase B and Phase C includes the importation of natural materials onto the site. It is stated that traffic will only be generated to the site during phases B and C. In terms of traffic a maximum of 50,000 tonnes of material will enter the site per annum and a total of 200,000 tonnes over a 5 year lifetime.

7.5.75. With regards visibility at the entrance to the site, it is stated that current visibility to the left and right from the existing site access is adequate for an 80kmph speed limit section of road. Sightlines are in excess of 160m x 3m setback. The EIAR states that vegetation between the trees and the road edge and alignment can impact slightly on visibility at times of seasonal growth. I can concur with this whereby during site inspection I found sightlines were impacted slightly by seasonal overgrowth of the roadside hedging to the right when exiting. Notwithstanding this, the report considers that HGVs have an elevated driver position and will typically be able to sight over this vegetation. The report notes that routine maintenance of the verge to the right of the access shall be undertaken when the site is operational. This can be dealt with by way of Condition in the event of a grant of permission.

7.5.76. Table 14.1 of the EIAR details the proposed average HGV departures from the quarry with 50,000 tonnes of material arriving per annum, resulting in 2,604 arrivals per year, 52 arrivals per week and 10.4 arrivals per day (subject to stated assumptions). In addition to the Heavy Goods Vehicles, light vehicles to/from the pit due to staff and visitors would be on average 3 light vehicles arriving on site per day with a corresponding 3 departures (i.e. 6 movements). Table 14.1 of the EIAR details proposed development trip generation for AM and PM peak hour.

7.5.77. The EIAR states that the majority of material to the site will travel along the R148 from the east of the site where the main source material is generated. The trucks will turn

left into the facility and thereby a traffic island is not required. The haul route along the R148 from Enfield is 3.5km in length with a 80 km/h speed limit. The road is approx. 9.0 m wide with a hard shoulder on both sides of the road. The overall pavement condition of the haul route is rated as 'very good'.

7.5.78. Traffic flow data on the R148, obtained for a full 24hr period, on Wednesday 14th February 2019, using the permanent TII Automatic Traffic Counter (ATC) installed in Ardnamullen is provided. Average traffic volumes are shown on Figure 14-3. The full record of traffic movements from the counter is presented in Appendix 14.1

7.5.79. Potential Effects are stated as follows;

- The proposed facility will import a total of 50,000 tonnes of material per annum, over a 4 to 5 year period.
- The permitted traffic volume granted in accordance with permission for the pit (QY/54) was 80,000 tonnes per annum.
- Deliveries of material to the facility will typically be made using 20 tonne articulated lorries.
- In terms of traffic volumes generated by the proposed operations, the additional volume of 50,000 tonnes import per annum would equate to 10 HGV arrivals and departures per working day, based on a 250 day per annum operation.
- The volume of traffic anticipated to be generated by the proposed development during the AM and PM hours are shown in Table 14.3 of the EIAR.

7.5.80. Stated Mitigation Measures include the following:

- Data of the volumes of HGVs using the weighbridge can be provided to the Local Authority to confirm that the actual volumes of HGV traffic are reasonably in line with the figures in the EIAR.
- Warning signage on the R148 either side of the existing entrance, alerting drivers to the presence of the site entrance and to the presence of slow-moving vehicles accessing the site.
- Parking areas are provided within the site area to accommodate both HGVs and light vehicles;

- A wheel wash will be supplied at the entrance to the site during operations to remove dirt and debris from trucks prior to joining the local road network in order to minimise public nuisance.
- The wheelwash is set back from the entrance further removing the potential for mud/silt on the road.
- Sightlines at the entrance will be maintained by hedge trimming such that a 160m visibility splay will be achieved in each direction.

7.5.81. I note that in response to the Further Information submitted, the Transportation Section of the Local Authority raised no objection to the proposed development subject to a standard condition requiring the maintenance of sightlines at the entrance to the site. Concerns raised by the appellant Tommy Donnegan regarding the maintenance of dust and dirt on the serving road network are addressed in Section 7.3 above. Having regard to the above, I am satisfied that, subject to Conditions, the proposed development would not adversely impact on road safety and would not create a traffic hazard.

7.5.82. Interaction of the Foregoing / In-Combination Effects

7.5.83. Chapter 15 sets out the potential for interaction between impacts of the different environmental aspects and in-combination effects. The assessment of cumulative impacts associated with the development considered other developments identified as likely to be in operation at the same time, including the following:

- Timahoe North Solar Farm
- Canal Greenway – Maynooth to Westmeath Border
- North Kildare Wind Farm.
- Kisaran Concrete – Rathcore
- Potential housing development in Enfield and the South Meath Area.
- Enfield Local Area Plan
- Eastern Regional Spatial and Economic Strategy

7.5.84. I concur with the report that most of the projects are removed from the development and will not interact with the site environment. I consider the level of cumulative impact

on the environment would be low. An assessment is given of inter-relationships with regards each chapter in the EIAR. I am satisfied that the EIAR has satisfactorily addressed interactions. I consider the proposed development would not result in significant adverse impacts in terms of interaction of individual environmental factors. Each section of the EIAR adequately sets out proposed mitigation measures with information on potential residual effects and their significance.

7.5.85. Reasoned Conclusion on Significant Effects

7.5.86. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submission from the Planning Authority and prescribed bodies in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Potential negative effects on the receiving soil and water environment, including the adjoining River Blackwater, as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the groundwater or surface water environments and discharging to the River Blackwater thereafter during the infilling works and activities. The impacts would be mitigated by adherence to best practice, active surface water management ensuring surface water is contained on site, operating above the water table, provision of a 65m buffer area between the River Blackwater and the works, where no infilling or such works would take place, and the incorporation of established pollution and sediment control measures.
- Positive slight impacts on the landscape and visual environment in the long term, once the infilling works are complete and the land is returned to agricultural use. No mitigation is required.
- Positive significant impacts on population and human health would arise during the works/operational phase as a result of local employment for the works period and contributing to orderly management of waste in the region. No mitigation is required.

7.5.87. The proposed development is not likely to have any unacceptable direct or indirect adverse effects on the environment.

7.6. Appropriate Assessment

7.6.1. Introduction

7.6.2. Article 6(3) of Directive 92/43/EEC (Habitats Directive) requires that any plan or project not directly connected with or necessary to the management of a European site(s), but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site(s) in view of the site(s) conservation objectives. The Habitats Directive has been transposed into Irish law by the Planning and Development Act 2000, as amended, and the European Union (Birds and Natural Habitats) Regulations 2011-2015. In accordance with these requirements and noting the Board's role as the competent authority who must be satisfied that the proposal would not adversely affect the integrity of the European site(s), this section of my report assesses if the project is directly connected with or necessary to the management of European Site(s) or in view of best scientific knowledge, if the project, individually or in combination with other plans or projects, is likely to have a significant effect on any European Site(s), in view of the site(s) conservation objectives, and if a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement (NIS) is required.

7.6.3. Appropriate Assessment – Stage 1 Screening

7.6.4. In relation to Appropriate Assessment (AA) Stage 1 screening, the issue to be addressed is whether the project is likely to have a significant effect, either individually or in combination with other plans and projects on European sites in view of the sites' conservation objectives. A description of the proposed development is set out in Section 2 of this report. The application included an AA Screening report.

7.6.5. The AA screening report identifies six European sites within 15km of the application site, as follows;

- River Boyne and River Blackwater SAC (Site Code; 002299) - 6.2km away as the crow flies or 11.4km downstream.
- River Boyne and Blackwater SPA (Site Code: 004232) - - 6.2km away as the crow flies or 11.4km downstream.

- Mount Hervey Bog (Site Code 002342) - 11.4km away.
- The Long Derries, Edenderry SAC (Site Code: 000925) - 13.8km away
- Ballynafagh Lake SAC (Site Code: 000391) – 14 km away.
- Ballynafagh Bog SAC (Site Code: 000391) - 14.7km away.

7.6.6. Their locations are presented on Figure 3-1 of the AA Screening report. I would agree with the Report that of these protected sites, the sites considered 'relevant', based on a source-receptor-pathway relationship are the River Boyne and River Blackwater SAC and SPA. There is potential for hydrological links between the appeal site and both the River Boyne and River Blackwater SAC and SPA via the adjoining River Blackwater. This river flows for approximately 11.4km before entering River Boyne and River Blackwater SAC and SPA. There is no 'pathway' for effect with the other European sites within the Zone of Influence and/or other European sites beyond the Zone of Influence.

7.6.7. **River Boyne and River Blackwater SAC**

7.6.8. The River Boyne and River Blackwater SAC (Site Code 002299) qualifying interests include Annex I habitats (Alkaline fens, alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*). The site is also selected for three species listed in Annex II (Salmon, Otter and River Lamprey). The general conservation objective associated with the SAC is 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.

7.6.9. **River Boyne and River Blackwater SPA**

7.6.10. The River Boyne and River Blackwater SPA (Site Code 004232) qualifying interests include Annex II bird species Kingfisher. The general conservation objective associated with the SPA is to maintain or restore the favourable conservation condition of the bird species listed (Kingfisher) as Special Conservation Interests for this SPA.

7.6.11. **Stage 1 Screening Assessment**

7.6.12. A description of the proposed works is set out in the applicant's screening assessment. I also refer the Board to the project description set out in Section 2 of my report above.

7.6.13. The development would not entail any land take or works within any European site and therefore there are no direct effects on any such site.

7.6.14. There is potential for indirect effects on European sites as a result of the proposed development via the surface water pathway. The Screening report identifies that the elements of the proposed development that may give rise to potential effects to European sites are as follows:

Construction Phase

- Release of sediments and pollutants into the surface water system during rainfall events.
- Movement of vehicles and machinery associated with construction works and the potential for spillages of oils, fuels or other pollutants which could be transported to the surface water system during rainfall events;
- Flooding of the site and the release of increased volumes of pollutants, particularly suspended solids into the Blackwater [Longwood] River system.
- Disturbance to fauna species (e.g. through noise or increased human presence) resulting in the displacement of affected species from breeding/resting places or supporting habitat.
- Accidental mortality of wildlife.

7.6.15. The Screening Report identifies that these potential impacts are associated with the construction phase and that once the pit is infilled, the new land will be allowed to regenerate naturally. The report concludes that there are no negative impacts predicted beyond the construction (infill) phase of the proposed development.

7.6.16. I am of the opinion that no likely significant effects on any European site will occur during the construction / infill phase of the proposed development, given the nature and scale of the proposed development, the lack of any instream works, and the distance downstream to the closest European site. Best practice methodologies would be employed, including implementing pollution controls. Subject to Condition, surface water would be actively managed, contained and recycled on site and no significant effects on the River Boyne and Blackwater SAC and SPA having regard to the sites' conservation objectives would arise as a result of surface-water run-off.

7.6.17. While not referenced in the AA screening report, I note that it is stated in the EIAR (Chapter 7) that there are no proposed surface water or groundwater abstractions or discharges from the proposed development, that there will be no impact on the abundance and quality of the River Blackwater and there will be no direct impacts on the groundwater table as a result of the proposed works. Subject to Condition, there will be no potential for groundwater levels in the area to be directly impacted by the proposed activities at this location, as stated in the Environmental Impact Assessment Report (Section 6.5). No works will take place within 65m of the River Blackwater, as stated in the EIAR.

7.6.18. Impacts from the introduction and/or spread of non-native invasive species should not arise due to the proposal for management and verification procedures which would manage soils imported to the site. Noise from construction and working activities would not be excessive and would be controlled. Annex II species especially the otter are sensitive to human disturbance, though given the environment where quarrying activities previously took place and the nature of the development now proposed, I am satisfied that potential disturbance arising from the activity would not be excessive during infilling and would cease thereafter.

7.6.19. **Stage 1 - Screening Conclusion**

7.6.20. 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 scale of the proposed development, as set out in planning application documentation and the pattern of development in the area;
- The current excavated state of the site in a former sand and gravel quarry;
- The relevant provisions of the Meath County Development Plan 2013 – 2019 and the National Planning Framework;
- The Environmental Impact Assessment report and information in support of the application and also the licencing regime under which the operational phase of the facility would be regulated;
- The contents of the appeals, the observation and the responses to the appeals;
- The report and recommendations of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to the proper planning and sustainable development, appropriate assessment and environmental impact assessment;

it is concluded that subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment, including water quality, would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety and convenience. The restoration of the existing quarry void to its former ground level would improve the visual and landscape characteristics in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The permission shall apply for a period of five years from the date of commencement. 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>(b) A maximum of 200,000 tonnes of inert waste material shall be imported into the site and the permission shall be completed within a period of five years from the date of commencement of operations. Following the expiration of this period, the importation of inert waste 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>(c) A maximum of 50,000 tonnes of material shall be accepted per annum at the site.</p> <p>(d) No development shall commence prior to issuance of an Environmental Protection Agency Waste Licence.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>All the environmental and construction mitigation and monitoring measures, set out in the Environmental Impact Assessment Report, shall be implemented in full in accordance with the timelines set out, except as may</p>

	<p>otherwise be required in any Waste Licence issued by the Environmental Protection Agency in respect of the proposed development or as may otherwise be required in order to comply with the following conditions. In this regard, prior to the commencement of the development, such mitigation and monitoring measures shall be set out as a written schedule including committed timelines, and the schedule shall be submitted to, and agreed in writing with, the planning authority.</p> <p>Reason: In the interest of clarity and to mitigate the environmental effects of the proposed development.</p>
4.	<p>(a) All ecological avoidance measures shall be implemented in full and carried out in accordance with best ecological practice in consultation with statutory agencies (if necessary).</p> <p>(b) An ecologist shall be appointed to advise on any works such that they will be carried out in accordance with best practice guidance and all mitigation measures will be undertaken and to liaise and report to statutory bodies as required. The measures shall have regard to an ecological survey carried out prior to the commencement of the development in order to update baseline information of badger and bat species.</p> <p>(c) A site-specific plan for the prevention of importation of invasive alien species onto the site shall be prepared and implemented throughout the carrying out of the development.</p> <p>(d) A report on the implementation of ecological measures shall be submitted to the planning authority upon first operation of the development.</p> <p>Reason: To adequately protect the biodiversity of the area.</p>
5.	<p>No development shall take place within 65m of the River Blackwater, as stated in the Environmental Impact Assessment Report, and no inert material shall be deposited in this area.</p> <p>Reason: In order to protect the adjoining River Blackwater.</p>

6.	<p>The developer shall manage drainage in accordance with a drainage management plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall incorporate a monitoring programme relating to control and management of water on the site. The plan shall provide for the monitoring of ground and surface water quality, levels and discharges on the site and for ongoing sampling of the River Blackwater upstream and downstream of any discharge and ongoing monitoring of the capacity of the settlement lagoons.</p> <p>Reason: In order to protect water quality.</p>
7.	<p>(a) Prior to commencement of the development, drawings shall be submitted to, and agreed in writing with, the Planning Authority which shall detail existing and proposed ground levels, water table levels, the provision of the 65 metre buffer zone between the works area and the edge of the River Blackwater, longitudinal and cross-section drawings and proposed locations of infilling operations which shall remain above the water table.</p> <p>(b) The developer shall submit on an annual basis, over the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including topographical survey drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.</p> <p>Reason: To ensure the satisfactory restoration of the site and to facilitate control of the development by the planning authority.</p>
8.	<p>No topsoil, subsoils or sands and gravel shall be removed from the site, with any topsoil stripped from the site being stored in an appropriate manner and used in the site restoration.</p> <p>Reason: In the interest of development control.</p>
9.	<p>Measures to ensure the secure fencing of the remaining quarry void and appropriate boundary treatment of the site shall be submitted to, and agreed</p>

	<p>in writing with, the planning authority and implemented, prior to commencement of operations.</p> <p>Reason: In the interest of safety and visual amenity.</p>
10.	<p>The importation of soil and recovery of construction and demolition waste and operation of associated machinery shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays, between the hours of 0800 and 1400 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>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority the following:</p> <p>(a) A traffic management plan for the operations of the proposed development.</p> <p>(b) Measures to be put in place to maintain and achieve the required sightlines at the entrance to the site.</p> <p>(c) Details of the proposed hardstanding from the main entrance to the site at the R148 to the wheelwash, as stated in the Environmental Impact Assessment Report.</p> <p>(d) Details of road signage warning the public of the entrance and of proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to re-commencement of development at the site.</p> <p>Reason: In the interest of traffic management and road safety and to protect the amenities of the area.</p>

12.	<p>The imported material to be deposited on the land shall comprise inert soil and topsoil only and shall be levelled, contoured and seeded upon the completion of the works in phases 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>
13.	<p>During infilling operations/restoration, the site shall be screened in accordance with a scheme of screening measures and boundary treatment, details of which shall include all planting proposed on existing and proposed screen berms, details of the ongoing care and management of such planting, as well as details of an adequate barrier to prevent unrestricted access to the site from adjacent lands, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual and rural amenity.</p>
14.	<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) Employ a qualified archaeologist to monitor all groundworks associated with the development at locations where topsoil and subsoil have not been previously quarried out;</p> <p>(b) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (including preservation in situ or excavation) and should facilitate the archaeologist in recording any material found.</p>

	<p>(c) The Planning Authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.</p> <p>Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
15.	<p>The applicant shall maintain a Complaints Register to record any complaints regarding, but not limited to, noise, odour, dust, traffic or any other environmental nuisance. The Complaints Register shall include details of the complaint and measures taken to address the complaint and to prevent repetition of the complaint.</p> <p>Reason: In the interest of development control.</p>
16.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory completion of the site restoration, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory restoration of the site in the interest of visual amenity.</p>

Brendan Coyne
 Planning Inspector

28th July 2021