



An
Bord
Pleanála

Inspector's Report

ABP-310113-21

Development

To fill land with inert waste for the purpose of land reclamation. A Natura Impact Statement (NIS) has been submitted with this application.

Location

Nantinan, Killorglin, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

20323

Applicant(s)

Ger Naughton and Sons Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant permission with conditions

Type of Appeal

Third Party

Appellant(s)

Patrick Heslin.

Observer(s)

None.

Date of Site Inspection

13th August 2021.

Inspector

Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site 1.48 hectares located within the townland of Nantinan, Killorglin Co Kerry. The site is within a rural area circa 3km south of Milltown Village and 5km northeast of Killorglin in Co Kerry. The surrounding land uses are largely agricultural, although there is a reasonably high density of unserviced one-off rural housing, many of relatively recent construction.
- 1.2. There is an existing inert landfill facility operated by the current applicant adjacent to the north of the site. The nearest residential dwelling is immediately adjacent to the northwest of the site and there are four existing dwellings on the opposite side of the road to the south of the site. A piggery is located within 300m to the east of the site.
- 1.3. The appeal site is roughly rectangular in shape fronts onto local road to the east and south. It is low lying and poorly drained. It was previously used as grazing land however has been abandoned for a number of years resulting in scrub encroachment and natural regeneration of vegetation. A mosaic of habitat types are identified on the site including wet grassland, wet willow alder ash woodland, dense bracken, dry siliceous heath. Field boundaries comprise hedgerows scrub and treelines. An overgrown drainage ditch flows in a northern direction along the western boundary. There are power lines on the boundary and traversing the appeal site.

2.0 Proposed Development

- 2.1. The proposal as set out in public notices involves permission to fill the land with inert waste along with associated site works for the purpose of land reclamation. The development is a development related to an activity requiring an application for a waste permit. A Natura Impact Statement is submitted. Application details indicate that the purpose of the proposal is to improve the agricultural characteristics of the land by importation of soils and sub soils. The lifespan of the facility is stated to be 3-5 years in six phases progressing from north to south.
- 2.2. The application is accompanied by a number of enclosures outlining the nature of the proposed development including:

Natura Impact Statement by southern scientific services Ltd.

Letter by Crowley Consultants, Agri Advice and Engineering,.

Architectural Impact Assessment including Test Excavation by Margaret McCarthy
Archaeological Consultant

EIA Screening Report by Southern Scientific Services Ltd.

- 2.3 Following the issuing of a request for additional information it was clarified that it is intended that there will be approximately 40,000 tonnes (26,667m³) of material transported to the site. An average of 7 loads per day are envisaged with maximum of 12 loads per day assuming 300 days operational per annum. The facility is to operated 08:00 – 18:00 Monday to Saturday and closed on Sunday. A clarification of additional information response reduced the proposed level of material to be imported was reduced to approximately 32,000 tonnes (20,000m³). The list of inert materials to be imported includes soil and stone (170504) concrete (170101) Bricks (170102) Tile and Ceramics (170103) Mixture of concrete bricks tiles and ceramics (170107) Dredging Spoil (170506) and Track Ballast. (170508).
- 2.3. Environmental mitigation measures include the provision of a 10m buffer zone and silt fence adjacent to the stream along the western boundary. Sediment ponds will be constructed during enabling works and prior to acceptance of any material on site. The shape volume and position of the sediment ponds will vary during the operational phase. The sediment ponds will discharge to the ground. Shallow open drains are to be created at ground level during operational phase to ensure that surface water reaches the sediment ponds and these will be removed on completion. The applicant does not intend to import any waste into the proposed new inert waste facility until the existing landfill is decommissioned.

3.0 Planning Authority Decision

3.1. Decision rural

- 3.1.1 By order dated 6th April 2021 Kerry County Council issued notification of the decision to grant permission and 5 conditions were attached as follows:

Condition 1. Development in accordance with plans and particulars. Permission is granted only for phases 2 to 6 (inclusive) of the development as shown on Drawing No 19-159 (Title Phase Restoration Map) Date: March 2020. Phase 1 shall be omitted.

Condition 2. Development Contribution €4,833.43.

Condition 3. Inert Waste restricted to the following list of Waste Codes: 170504, 170101, 170102, 170103, 170107, 170506, 170508. The total quantity of waste accepted at the facility shall not exceed **25,000 tonnes**. Within 3 months of the date of permission the applicant shall submit for approval by the planning Authority revised drawings (both plan and section drawings) reflecting the reduced footprint of the approved area (Phases 2 to 6) and the overall reduced approved tonnage (25,000 tonnes)

Environmental Mitigation measures to be fully implemented.

Condition 4. The existing waste facility granted under Planning Register Reference Number 15215 shall be filled prior to commencement of this development.

Condition 5. No surface water runoff to the public road. Adequate measures to prevent material being deposited on the public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Executive Planner's initial report notes EIA Screening report and question of Schedule 4 Part 2 Class 13 of the Planning and Development Regulations 2001-2019 relating to changes extensions, development and testing where in the context of the existing facility to the north 15/215 if an extension were to result in increase in size greater than 25% or an amount equal to 50% of the appropriate threshold per annum and EIA would be required.

A request for further information was recommended to include:

Details of waste codes type and respective quantities for each expressed in both weight and volume.

Clarification of quantity of imported materials.

Anticipated maximum daily traffic movements, details of operation, details of existing and proposed site drainage, management, and mitigation in respect of potential sedimentation.

Entrance details and a demonstration of sightlines.

Revised drawings were requested showing an appropriate buffer (minimum 5m) and berms in the vicinity of existing watercourses and adjacent dwellinghouses. Details of waste acceptance procedures.

A statement of consistency with the Southern Region Waste Management Plan.

Invitation to address the third-party submission raising concerns in relation to neighbouring residential property.

A second report sought clarification of additional information and noted concerns raised by the Environment Section regarding risk of slippage. An increased buffer to the stream and adjacent dwellings and reduced footprint was recommended.

Final Planner's report recommends permission subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 County Archaeologist notes that there are no recorded monument in proximity to the development and that the archaeological report indicates that no archaeological features or strata were encountered during testing. No further mitigation required.

3.2.2.2 Environment Section – Initial report sought further information relating to details of waste codes, types, quantities, quantity of material to be imported, details of traffic movements, operation, and site drainage system. An appropriate buffer to stream and dwellings to be provided. Waste acceptance procedures to be detailed and a statement of consistency with objectives of the southern region waste management plan. Second report following submission of additional information sought a reduced footprint and depth of fill. Final Environment report indicates no objection to proposed phases 2-6 however phase 1 should be refused to ensure adequate buffer in the vicinity of the nearest dwellinghouse and achieve a reduction in the overall maximum tonnage of 25.000 tonnes.

3.2.2.3 Biodiversity Officer's initial report concurred that further information required. It was noted that the habitat map of the site recorded several semi-natural habitats. "Wet woodland" would be classed as "wetlands" under amendments to Article 5 of the Planning and Development Regulations. The area to be affected is 0.14 hectare and is therefore below the mandatory threshold of 2ha for EIA. Remaining habitats on the site would not be classed wetlands. Further information required to enable completion of Appropriate Assessment of potential impact on Castlemaine Harbour cSAC. Second report concurred with recommendation of Environment Section regarding buffer zones. In relation to possible in combination effects with the existing waste facility to the north (15215) a condition of any permission should ensure that the existing facility is completed pending operation of the proposed fill site. Final report concludes that no adverse effects on the European Site Castlemaine Harbour SAC are considered likely. Mitigation as proposed and as requested to be conditioned by the Environment Section will ensure no impacts on water quality that could have adverse effect on the qualifying interest of Castlemaine Harbour cSAC located downstream of the development.

3.3. Prescribed Bodies

- 3.3.1 HSE Environmental Health Service recommends that the proposal comply with all legal limits as appropriate and all necessary control measures during construction and operational stages using best available technology. Following clarification of additional information submission indicates no further observation.
- 3.3.2 Inland Fisheries Ireland requires that there will be no direct impact on surface waters as a result of the development. From the site location map cross sections indicate that the infill area will extend to the drainage system along the western perimeter of the site which is unsatisfactory. A buffer minimum 5m to be retained from the toe of the embankment to the watercourse. Embankment to be formed and fenced off prior to commencement. Existing vegetation along waters to be retained. No emissions of a polluting nature to any water and adequate silt controls. All mitigation measures to be put in place prior to commencement of site works. Provisions should be included whereby the operator maintains a register of site assessment and silt control measures.

3.4. Third Party Observations

- 3.4.1 Submission from Patrick Heslin, Drumgowna, Mowhill Co Leitrim outlines concerns regarding impact on dwellinghouse to the rear occupied by observer's elderly uncle. Concerns relate to flooding of access road to dwelling, health and safety hazards. Second submission following clarification of further information notes concern that the applicant has failed to address serious concerns outlined in initial submission despite further information request to address these issues. The resulting house surrounded by landfill is of significant concern with regard to health and safety and residential amenity.
- 3.4.2 Submission by Michael Doyle, Corobally, Kilorglin Co Kerry resident of the adjacent dwelling to the northwest indicates no objection to the proposal.

4.0 Planning History

06/3820 Refusal of permission for two dwellings with individual treatment units shared percolation area and permission for new entrance with access road and associated site works.

06/666 Refusal of outline permission for 3 dwellinghouses individual treatment units and shared percolation area. New entrance access road and associated site works.

Site to the north

15/215 Permission granted 25/6/2015 to fill lands (Site area 2ha infill area 1.6i hectares) with inert waste along with ancillary site works. I note from review of history documentation on line [ePlan - Online Planning Details](#) on Kerry County Council website that southern section of the site had been previously filled with inert material from 2006-2009.

Condition 5 required a minimum 15m buffer zone along the watercourse to the north. This area to be fenced and vegetation retained.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Kerry County Development Plan 2015-2021 refers.

The site is located in an area zoned 'Rural General'.

Relevant policies and standards of the Kerry County Development Plan 2015-2021 include:

- Section 4.8.1 relates to Agriculture, which it is stated is the second largest employer in the County. It is an objective of the Council to support the sustainable development and diversification of the agricultural sector.
- Section 7.4 relates to Waste Management. The Council seeks to ensure the provision of the highest standards of waste management and to prevent and control water, air and noise pollution.
- NE-22 Protect rivers, streams and other watercourses including those outside Protected Areas and maintain them where possible in an open state capable of providing suitable habitat for fauna and flora and to work with other agencies, as appropriate, to prevent the spread of invasive species in or along the county's aquatic habitats by implementing biosecurity measures, where appropriate.
- NE-32 Encourage and facilitate the retention and creation of features of local biodiversity value, ecological corridors and networks that connect areas of high conservation value such as woodlands, hedgerows, earth banks, watercourses, and wetlands
- NE-36 Maintain and improve aquatic riparian zones along watercourses, free from inappropriate development. Proposals which may have a significant impact on the riparian zone / habitat will only be considered favourably if they can be justified on wider sustainability grounds and where no viable alternative exists.

5.2. Natural Heritage Designations

5.2.1 The site is not within a designated area. The Castlemaine Harbour SAC (Site Code 000343) lies within 1.8km to the south. The Castlemaine Harbour SPA (Site Code 004029) is within 3.4km to the west.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Patrick Heslin, Drumgowna, Mowhill Co Leitrim. Grounds of appeal are summarised as follows:

- Concerns arise regarding location of dwelling occupied by the appellant's elderly uncle between two landfills.
- Flooding of laneway access road has not been adequately addressed.
- No consideration has been given to the impact on residential amenity and health and safety.
- When works were carried out to the laneway the resident was required to pay towards same.
- In the period March 25th to April 18th 2021 a total of 900 loads of waste was brought for storage to the existing landfill with entry from private entrance on uncle's laneway. This considered to be in breach of due process.
- Board is requested to reverse the decision and refuse permission.

6.2. Applicant Response

6.2.1 The response submission by Reeks Consulting Engineers on behalf of the applicant is summarised as follows:

- Note that road improvements were carried out to the access road to the adjacent dwelling (in excess of the access road to the fill site) as a concession.

- Refute allegation that material transported to the adjacent site between March 26th and 25th April. Records are submitted to Kerry County Council under the conditions of the permit and show yearly tonnage drawn into the site has not exceeded yearly maximum of 25,000 tonnes. This site has not yet reached its full capacity.
- Applicant has operated the adjacent fill site in accordance with his planning and permit conditions. There have been no third-party complaints about this site in the entire duration of its existence over 5 years.
- Letter prepared and signed by Mr Michael Doyle uncle of the appellant indicates support for the application.
- The letter refutes the assertion that laneway was flooded and impassable and notes that the applicant renovated the laneway in excess of that required to access the landfill and at any cost to Mr Doyle.
- Laneway is also a right of way to a third party who has not expressed a grievance in respect of the stated access lane.
- No objection to planning permission.
- Letter expresses displeasure at the lodgement of the appeal.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Access and Traffic
- Residential Amenity and other Issues
- EIA Screening

- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The proposed development involves the importation of c. 32,000 tonnes of inert waste material including soil and stone, concrete, bricks, tiles and ceramics mixtures of concrete bricks tile and ceramics, dredging spoil and track ballast for the purposes of land reclamation. Source(s) of the infill materials has not been indicated. The lands are to be filled to a height of up to 3m, and, on completion, are to be used for agricultural purposes.
- 7.1.2. Apart from general policies encouraging re-use and recycling and appropriate treatment, the Waste Management Plan for the Southern Region does not provide specific policies of relevance to the type of development proposed. The Kerry County Council 2015-2021 County Development Plan has a number of waste specific objectives (Chapter 7), although none relate specifically to this type of inert landfill. In general terms the Council seeks to ensure the provision of the highest standards of waste management and to prevent and control water, air and noise pollution. I also note that Section 4.8.1 of the Plan recognises the importance of agriculture as a component of County Kerry's economy.
- 7.1.3. On the basis of the stated policies and objectives, the proposed development description, and my inspection, I am satisfied that the development will provide a benefit to the land, would not be contrary to any policies or objectives of the current Kerry County Development Plan and is acceptable in principle.
- 7.1.4. The type of waste and the quantity proposed to be disposed of on the site would be class 5 / class 6 and subject to the Waste Management (Facility Permit and Registration) Regulations 2007 as amended.

7.2. Access and Traffic

- 7.2.1. The grounds of appeal outline concerns with regard to the impacts of the previously permitted inert infill facility (permitted under 15/215) on the access road shared by the established dwelling of the appellant's uncle. The appeal cites particular concerns with regard to flooding and health and safety issues and the submission is

critical of the quality of remedial works carried out to the shared access road. Setting out an alternative picture I have also noted the submission of the resident of the adjacent dwelling indicating satisfaction with all works carried out and refuting the grounds of appeal. The appellant also alleges that excess material has been imported onto the existing fill site over the period March April 2021 pending the determination of the current appeal and alleges breaches of due process and the existing permit. These allegations are denied by the first party. I note that many of the issues raised in the appeal are not strictly relevant to the current appeal site and issues of compliance are not matters for the Board, therefore I consider that it is appropriate to consider the proposed development on its own merit.

- 7.2.2. The appeal site abuts a straight section of local road. The proposed development entails the importation of inert material to allow for the raising of the 1.48 hectare site and its use for agricultural purposes. 32,000 tonnes (20,000m³) of inert material is proposed to be imported over a 3-5 year period. An average of 7 loads per day are envisaged with maximum of 12 loads per day (assuming 300 days operational per annum). As outlined the existing infill site is to be completed prior to operation of the proposed site.
- 7.2.3. A new independent vehicular entrance is proposed to serve the development and sightlines of 160m are readily achievable in both directions. Standard mitigation measures to prevent run off spillage to the public road will be employed including the use of a road sweeper.
- 7.2.4. I consider that the additional traffic arising from the proposed development would not be significant in the context of the site and I note that it would be limited in duration. Subject to the mitigation measures as outlined I am satisfied that the proposed development would not create an unacceptable traffic hazard or unacceptable inconvenience to other road users.

7.3. Impact on Residential Amenity and Other Issues

- 7.3.1. On the question of negative impact on residential amenity I note that the grounds of appeal express concern regarding an ongoing impact on the adjacent dwelling arising from location between two landfill sites. I also note the submission of the affected resident indicating no objection and general satisfaction with all aspects of

the proposal. I do consider that the potential for negative residential amenity impacts arises particularly with regard to traffic, noise, dust and other nuisance. I have noted that it is proposed that the existing landfill operation will be completed prior to commencement of infill operations on the proposed site and I consider that this would be appropriate. I consider that subject to provision of an adequate buffer area and retention of site vegetation the potential for negative amenity impacts can be suitably mitigated.

- 7.3.2. As regards environmental impacts the site is low lying and poorly drained and is not within an area designated as being of ecological sensitivity. Given the location of the site in an area characterised by similar lands and habitats and the mitigation measures to be incorporated including a buffer zone to the land drains, and retention of established field boundaries I consider that the impacts on the ecology of the site and the wider area would be acceptable. I note in relation to impact on European sites the appropriate assessment in section 7.5 below.
- 7.3.3. The question of control of materials to be disposed of within the site is a matter for control and surveillance under the Waste Facility Permit which will be required for the site.
- 7.3.4. As regards the quantity of fill to be deposited on the site I note that the decision of the local authority based on recommendation of the Environment Section was to cap the total quantity of waste to be accepted at the site at 25,000 tonnes. The decision also limited fill area to proposed phases 2 to 6. Both recommendations were based on concerns both with regard to the impact on adjacent established residential amenity and the potential instability issues arising from depth of fill. I note that none of the appeal documents and in particular the first party response referred to these limitations and therefore it is assumed that there is no concern in relation to this issue. I would tend to concur that an increased buffer to established dwellings and reduced depth of fill would be appropriate. I note that as the proposed entrance and access road are located within proposed phase 1 area a revision to the condition is necessary.

7.4. Environmental Impact Assessment Screening

- 7.4.1. An Environmental Impact Assessment Screening report was submitted with the application and includes the information required under Schedule 7A of the Planning and Development Regulations, 2001, as amended.
- 7.4.2. The proposed development is for the reclamation of land with a stated area of 1.48 hectares for agricultural purposes. The reclamation will entail the importation of 32,000 tonnes of inert material over a period of 3-5 years.
- 7.4.3. The development subject of this application falls within the class of development described in 11(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising of installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule. The proposed development (intake of 8,000-13,000 tonnes per annum) is short of this threshold.
- 7.4.4. The development also needs to be considered in the context of Class 1(c) of Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. EIA is mandatory in respect of development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected. Wetland is defined in the Planning and Development Regulations 2011 as “natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water”. I note that as outlined in report of Kerry County Council’s Biodiversity Officer, the habitat type “wet woodland” would be classed as wetlands however as this habitat type is only a small portion of the overall appeal site area of 0.14ha the development is sub threshold.
- 7.4.5. On the question of Class 13(a) of schedule 5 in reference to “extensions, development and testing” it is noted that the proposal will not commence pending completion of the existing fill site and therefore the proposal is an extension rather an independent development.
- 7.4.6. In consideration of the characteristics of the proposed development the materials to be disposed of within the site comprise of inert materials including soil and stone, concrete, bricks, tiles and ceramics, dredging spoil and track ballast.
- 7.4.7. The proposed development is not significant in terms of size and design entailing a site of 1.48 hectares and is located within a rural area. The site is low lying and

poorly drained marginal agricultural land. The works are intended to allow for the beneficial use of the land for agricultural purposes.

- 7.4.8. The proposed reclamation works will not result in any significant loss of natural resources or local biodiversity. Boundary hedgerows and the open drain on the site are to be maintained save for the provision of entrance and provision for a 10m buffer zone to the open drain along the western boundary is indicated. Lands in the vicinity are comparable in character generally flat marginal agricultural land. No significant volumes of waste will be generated by the proposed development.
- 7.4.9. As regards pollution silt fences are proposed to be installed to protect against accidental spillage/pollution to surface water. Having regard to the scale and duration of works and noting best practice environmental measures and controls the works are unlikely to result in pollution or nuisance of a scale to cause a significant effect on the human or natural environment or that would require an EIA.
- 7.4.10. As regards the location of the proposed development the site is not within or adjacent to any European Site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive and the proposed mitigation measures included within the NIS are considered to adequately address any significant likely effects that would require to be addressed in an EIAR
- 7.4.11. The site is not within an area designated as being of visual sensitivity or of high amenity value. There are no recorded archaeological or cultural heritage features within the site. The nearest recorded archaeological monument is over 100m to the southeast namely a ringfort (KE057-038) and a standing stone pair (KE057-037). Test excavation of the site under license involving five mechanically excavated trenches did not reveal any features of archaeological merit. No additional mitigation was deemed necessary.
- 7.4.12. As regards proximity to residential dwellings noise and vehicular movement would be comparable to that generated at other construction sites and would be temporary in duration.
- 7.4.13. There is no risk of major accidents or risks to human health.
- 7.4.14. As regards cumulative and in-combination impacts the existing landfill to the north has been taken into account. No overlap is proposed and cumulative impacts are not considered significant.

7.4.15. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not lead to a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. This conclusion is consistent with the information provided in the applicant's EIA Screening Report.

Therefore having regard to: -

- nature and scale of the proposed development, which is below the threshold in respect Class 11(b) and Class 1(c) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not, therefore, required.

7.5. Appropriate Assessment

Compliance with Articles 6(3) of the EU Habitats Directive

- 7.5.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.5.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site 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 in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and, therefore, is subject to the provisions of Article 6(3).
- 7.5.3. The application is accompanied by a Natura Impact Statement (NIS) prepared by Southern Scientific Services Ltd. It contains a description of the proposed development, the project site and the surrounding area. It contains a Stage 1 Screening Assessment in Section 3. It outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for the sites and their conservation objectives, it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European sites and their conservation objectives.
- 7.5.4. Having reviewed the documents and further submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects on European sites.

Need for Stage 1 AA Screening

- 7.5.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is

examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Development

- 7.5.6. The applicant provides a description of the project in Section 3 of the NIS. The development is also summarised in Section 2 of this Report. In summary the proposed development entails the importation of c.32,000 tonnes (20,000m³) of inert materials and land reclamation for agricultural purposes. The inert material will consist of soil and stone, concrete, bricks tiles and ceramics, dredging spoil and track ballast. Source of the infill materials is not detailed. The initial phase will involve the removal of top soil over the area to be filled. The filling of the site will commence in the northernmost section of the site and continue southwards. The fill will be up to 3m in depth. When the desired fill depth has been reached, topsoil will be spread and then reseeded for reinstatement to Agricultural use.
- 7.5.7. The site comprises of a low lying field with wet grassland and other vegetation. The field boundaries are delineated by hedgerows and treelines with an open drain running along the western boundary.
- 7.5.8. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Run off of silt, sediment and hydrocarbons during filling of land which could impact on downstream water quality.

Submissions and Observations

- 7.5.9 The submission of Inland Fisheries Ireland raises concerns regarding the proximity of fill to the stream along the western boundary and potential for emissions of polluting matter to the watercourse.

European Sites

- 7.5.10 The development site is not located in or immediately adjacent to a European site. In determining the extent of potential effects of the development the source-pathway-receptor model of impact was used.

A summary of European Sites that occur within 15km within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European Site has been identified, these sites are examined in more detail.

Table 1. Summary Table of European sites within a possible zone of influence of the proposed development.

European Site	List of Qualifying Interest / Special Conservation Interest	Distance from proposed development (Km)	Connections (Source, Pathway, Receptor)	Considered further in Screening Y /N
Castemaine Harbour SAC 000343	1095 Sea lamprey <i>Petromyzon marinus</i> 1099 River lamprey <i>Lampetra fluviatilis</i> 1106 Atlantic salmon (<i>Salmo salar</i>) (only in fresh water) 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1220 Perennial vegetation of stony banks 1310 <i>Salicornia</i> and other annuals colonizing mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) 1355 Otter <i>Lutra lutra</i> 1395 Petalwort <i>Petalophyllum ralfsii</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes") 2130 * Fixed coastal dunes with herbaceous vegetation ("grey dunes") 2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salix arenariae</i>) 2190 Humid dune slacks 91E0 * Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)	C1.8km south	Y Site is hydrologically connected to the SAC via the drain on the western boundary which discharges to the Kealbrogeen Stream a tributary of the Laune	Yes
Slieve Mish Mountains SAC	6985 Killarney Fern <i>Vandenboschia speciosa</i>	8.2km north	N	No

002185	<p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>7130 Blanket bogs (* if active bog)</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p>		In view of the separation distance and lack of hydrologically connection	
Killarney National Park , Macgillicuddy's Reeks and Caragh River Catchment SAC	<p>1024 Kerry Slug <i>Geomalacus maculosus</i></p> <p>1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i></p> <p>1065 Marsh Fritillary <i>Euphydryas aurinia</i></p> <p>1095 Sea Lamprey <i>Petromyzon marinus</i></p> <p>1096 Brook Lamprey <i>Lampetra planeri</i></p> <p>1099 River Lamprey <i>Lampetra fluviatilis</i></p> <p>1106 Salmon <i>Salmo salar</i></p> <p>1303 Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i></p> <p>1355 Otter <i>Lutra</i></p> <p>1421 Killarney Fern <i>Trichomanes speciosum</i></p> <p>1833 Slender Naiad <i>Najas flexilis</i></p> <p>3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></p> <p>3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation</p> <p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>5046 Killarney Shad <i>Alosa fallax killarnensis</i></p> <p>5130 <i>Juniperus communis</i> formations on heaths or calcareous grasslands</p> <p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)</p> <p>7130 Blanket bogs (* if active bog)</p>	8.5km south	No In view of the separation distance and lack of hydrologically connection	No

	<p>7150 Depressions on peat substrates of the Rhynchosporion</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p>91J0 Taxus baccata woods of the British Isles*</p>			
<p>Lough Yganavan and Lough Nambrackdarrig SAC</p> <p>000370</p>	<p>1024 Kerry Slug Geomalacus maculosus</p> <p>2150 Atlantic decalcified fixed dunes (Calluno-Ulicetea)*</p> <p>3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)</p>	10.7km west	<p>No</p> <p>In view of the separation distance and lack of hydrologically connection</p>	No
<p>Tralee Bay and Magharees Peninsula West to Cloghane SAC</p> <p>002070</p>	<p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1150 Coastal lagoons</p> <p>1160 Large shallow inlets and bays</p> <p>1170 Reefs</p> <p>1210 Annual vegetation of drift lines</p> <p>1220 Perennial vegetation of stony banks</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima)</p> <p>1355 Otter Lutra</p> <p>1395 Petalwort Petalophyllum ralfsii</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>2170 Dunes with Salix repens ssp. Argentea (Salix arenariae)</p> <p>2190 Humid dune slacks</p>	14.5km north	<p>No</p> <p>In view of the separation distance and lack of hydrologically connection</p>	No

	<p>6410 Molina meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)</p> <p>91E0 Alluvial forests with <i>Ammis glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>			
<p>Castlemaine Harbour SPA</p> <p>004029</p>	<p>A001 Red-throated Diver <i>Gavia stellata</i> wintering</p> <p>A017 Cormorant <i>Phalacrocorax carbo</i> wintering</p> <p>A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> wintering</p> <p>A050 Wigeon <i>Anas penelope</i> wintering</p> <p>A053 Mallard <i>Anas platyrhynchos</i> wintering</p> <p>A054 Pintail <i>Anas acuta</i> wintering</p> <p>A062 Scaup <i>Aythya marila</i> wintering</p> <p>A065 Common Scoter <i>Melanitta nigra</i> wintering</p> <p>A130 Oystercatcher <i>Haematopus ostralegus</i> wintering</p> <p>A137 Ringed Plover <i>Charadrius hiaticula</i> wintering</p> <p>A144 Sanderling <i>Calidris alba</i> wintering</p> <p>A157 Bar-tailed Godwit <i>Limosa lapponica</i> wintering</p> <p>A162 Redshank <i>Tringa totanus</i> wintering</p> <p>A164 Greenshank <i>Tringa nebularia</i> wintering</p> <p>A169 Turnstone <i>Arenaria interpres</i> wintering</p> <p>A346 Chough <i>Pyrrhocorax pyrrhocorax</i> non-breeding A999 Wetlands & Waterbirds</p>	3.4km west	<p>Yes</p> <p>Site is hydrologically connected to the SPA via the drain on the western boundary which discharges to the Kealbrogeen Stream a tributary of the Laune</p>	Yes
<p>Killarney National Park SPA</p> <p>004038</p>	<p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p>	9.8km southeast	<p>No</p> <p>Site does not support the conservation interests and based on separation distance site is screened out</p>	No

Tralee Bay Complex SPA 004188	A038 Whooper Swan <i>Cygnus</i> A046 Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A050 Wigeon <i>Anas penelope</i> A052 Teal <i>Anas crecca</i> A053 Mallard <i>Anas platyrhynchos</i> A054 Pintail <i>Anas acuta</i> A062 Scaup <i>Aythya marila</i> A130 Oystercatcher <i>Haematopus ostralegus</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A140 Golden Plover <i>Pluvialis apricaria</i> A141 Grey Plover <i>Pluvialis squatarola</i> A142 Lapwing <i>Vanellus vanellus</i> A144 Sanderling <i>Calidris alba</i> A149 Dunlin <i>Calidris alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A160 Curlew <i>Numenius arquata</i> A162 Redshank <i>Tringa totanus</i> A169 Turnstone <i>Arenaria interpres</i> A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> A182 Common Gull <i>Larus canus</i> A999 Wetlands	14.5km north	No Site does not support the conservation interests and based on separation distance site is screened out	No
---	---	--------------	--	----

Identification of likely effects.

7.5.11 The site is within 1.8km (5.4km hydrological distance) of the Castlemaine Harbour SAC (Site Code 000343) and Castlemaine Harbour SPA Site Code 0040029. As the site is outside the European Site there is no potential for direct impacts on habitats or qualifying interests. Taking into consideration the drainage ditch along the western boundary of the site which drains to the Drommin West Stream north of the site and flows east to the Kealbrogeen Stream which subsequently flows south and is a tributary of the River Laune which discharges to Castlemaine Harbour the potential for indirect impacts in the event of a pollution event at construction and/or operational phase. Indirect impacts through the loss of silt sediment or other pollutants during infilling activities give rise to the potential for impact on aquatic habitats and species in the catchment area. Hydrocarbon pollution from machinery

or fuel spillages also give rise to effects on the qualifying interests. Indirect impacts may also occur through changes in the local hydrological regime.

- 7.5.12 Having regard to the hydrological connection there is the possibility that surface water runoff containing silt or contaminants could reach the Castlemaine Harbour SAC and Castlemaine Harbour SPA and have effects on the qualifying interests of these sites. The potential for effects on the qualifying interests of this Natura 2000 site cannot, therefore, be screened out and Stage II Appropriate Assessment is required.

Mitigation Measures

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

Screening Determination

- 7.5.13 The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site no. 00343 and site no 004029 in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

The Natura Impact Statement

- 7.5.14 The NIS examines and assesses potential adverse effects of the proposed development on two designated European Sites namely the Castlemaine Harbour SAC and Castlemaine Harbour SPA.
- 7.5.15 The NIS is stated as having been informed by best practice guidance for such assessments, a desktop and literature study, including Kerry County Council, NPWS and National Biodiversity Data Centre databases, OSI Aerial Photography and mapping, the synopses, Natura 2000 Data Forms and conservation objectives, and habitat and species surveys.

- 7.5.16 Section 4 of the NIS contains an assessment of the potential impacts of the proposed development on the identified European Site and in combination effects with Section 4.6 setting out a series of mitigation measures.
- 7.5.17 The NIS concluded that subject to implementation of all mitigation measures outlined there will be no significant effects to the integrity of the designated sites.
- 7.5.18 Having reviewed the NIS, all supporting documentation and additional submissions, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the above mentioned European sites alone, or in combination with other plans and projects.

Appropriate Assessment of Implications of the Proposed Development.

- 7.5.19 The following is an assessment of the implications of the project on the relevant conservation objectives of the European sites using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed. I have relied on the following guidance:
- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin
 - EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
 - EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

Relevant European sites:

- 7.5.20 The site is adjacent to the Drommin West Stream which flows to the Kealbriogeen Stream a tributary of the Laune River which discharges to Castlemaine Harbour. Castlemaine Harbour SAC and Castlemaine Harbour SPA are located approximately 5.4km downstream of the site and these are the two sites subject to Appropriate Assessment.

7.5.21 A description of the sites, their qualifying interests and conservation objectives including any relevant attributes and targets are set out in the NIS and as summarised in Table 1 above. I have also examined the Natura 2000 data form and the conservation objectives supporting documents for the site available through the NPWS website (www.npws.ie).

Aspects of the Proposed Development

7.5.22 The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include the release of sediment and other pollutants to surface water during the raising of the lands as the site is hydrologically linked to the SAC and SPA via drainage ditches running along the western site boundaries. Changes in the hydrological regime also need to be considered.

Castlemaine Harbour SAC

7.5.23 The Castlemaine Harbour SAC is of major ecological importance for its range of coastal habitats and species. The infilling of the appeal site will not result in any direct habitat loss. The main aspects of the proposed development that could adversely affect the conservation objectives of the European Site include: impacts to water quality and aquatic habitats and species in the catchment area through elevated silt sediment and other pollutants occurring via surface water runoff during infilling activities. Indirect impacts may also occur through changes in the hydrological regime.

7.5.24 The specific conservation objectives for the SAC which seek to achieve the overall aim of the Habitats Directive to maintain or restore the favourable conservation status of habitats and species of community interest have been reviewed. Based on reviews of distribution maps and data the potential habitats and species which may be indirectly impacted by the proposed development include Estuaries, Mudflats and sandflats not covered by seawater at low tide, salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*. Species which could potentially impacted include sea lamprey salmon and otter.

7.5.25 Section 4 of the NIS details mitigation measures to be employed. The mitigation measures include:

- Maintenance of a buffer to the drain along the western boundary. I note that by way of clarification of further information, the extent of the buffer proposed was increased to 10m.
- Installation of perimeter sediment controls including use of a berm using materials such as soil or rocks found on site.
- Field boundaries to be retained.
- On site bunded storage, containment booms.
- Best Practice site management

Integrity test.

7.5.26 Following the AA and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Castlemaine Harbour SAC in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Castlemaine Harbour SPA

7.5.27 The Castlemaine Harbour SPA is a highly important ornithological site with one species Light Bellied Brent Goose occurring in numbers of international importance. In addition, it supports nationally important populations of a further 15 species. The main aspects of the proposed development that could adversely affect the conservation objectives of the European Site include: impacts to water quality and aquatic habitats and species in the catchment area through elevated silt sediment and other pollutants occurring via surface water runoff during infilling activities. Indirect impacts may also occur through changes in the hydrological regime. The qualifying features of conservation interest potentially impacts are identified as Wetlands and Waterbirds, Cormorant Mallard, Scaup, Oystercatcher, Ringed Plover, Sanderling, Bar-tailed godwit, redshank, greenshank and turnstone.

7.5.28 Section 4 of the NIS details mitigation measures to be employed. The mitigation measures include:

- Maintenance of a buffer to the drain along the western boundary. I note that by way of clarification of further information, the extent of the buffer proposed was increased to 10m.
- Installation of perimeter sediment controls including use of a berm using materials such as soil or rocks found on site.
- Field boundaries to be retained.
- On site bunded storage, containment booms.
- Best Practice site Management

Integrity test.

7.5.27 Following the AA and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Castlemaine Harbour SPA in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.5.29 The conservation objectives, targets and attributes as relevant and the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects plans, programmes and existing and proposed developments were considered. I do not consider that there are any specific in-combination effects that arise from other plans or projects. Regard is had to the Kerry County Development Plan and planning applications in the vicinity.

7.5.30 This complete assessment allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

7.5.31 Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Castlemaine Harbour SAC and Castlemaine Harbour SPA in view of the conservation objectives of this sites. This conclusion has been based on a

complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Conclusion:

- 7.5.32 The proposed development to fill land with inert waste at Nantinan Killorglin Co Kerry has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 7.5.33 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Castlemaine Harbour SAC (site code 000343) and Castlemaine Harbour SPA (Site Code 004029). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.
- 7.5.34 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, or any other European site, in view of the site's Conservation Objectives.
- 7.5.35 This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.
- 7.5.36 This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
 - No reasonable scientific doubt as to the absence of adverse effects on the Castlemaine Harbour SAC (site code 000343) and Castlemaine Harbour SPA (Site Code 004029).

8 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9 Reasons and Considerations

Having regard to the policies and provisions of the Kerry County Development plan 2015, which seek to support the sustainable development of agriculture and the nature and scale of the development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development, which seeks to reclaim lands for agricultural use, would not seriously injure the amenities of the area, would not be likely to have significant effects on the environment, or the ecology of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Environmental Impact Assessment

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

- nature and scale of the proposed development, which is below the threshold in respect of 11(b) and 1(c) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that Castlemaine Harbour SAC (site code 000343) and Castlemaine Harbour SPA (Site Code 004029) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European Sites in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's Conservation Objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of September 2021 and the 22nd day of January 2021, 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.

Reason: In the interest of clarity.

2. All of the environmental and construction mitigation measures, as set out in the EIA Screening Report and the Natura Impact Statement received by the planning authority on the 6th April 2021 as amended by the details submitted on the 23rd day of September 2021 and 22nd January 2021, shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

3. The proposed development shall be amended as follows:

- (a) The total quantity of waste accepted at the facility shall not exceed 25,000 tonnes and shall be focussed within phases 2-6 of the site.

Revised drawings (Site Layout plan and Site Section drawings) showing compliance with these requirements shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

4. A 10m buffer zone shall be provided to the western and southern boundaries of the site.

All trees and hedgerows on the boundaries of the site shall be retained and maintained with the exception of those necessary to breach to provide for the proposed entrance.

Protective fencing /berms shall be instated prior to commencement of infilling operations.

Reason: To prevent water pollution and in the interest of residential and environmental amenity.

5. (a) Prior to commencement of development, a system of advanced warning signs shall be erected along the public road in the vicinity of the site which shall be agreed in writing with the planning authority.

(b) The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

- 6 The final use of the lands after the completion of the importation of materials shall be for agricultural purposes only.

Reason: In the interest of clarity.

- 7 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Bríd Maxwell
Planning Inspector

28th January 2022