



An
Bord
Pleanála

Inspector's Report ABP 310502-21

Development	Importation of 345,000 tonnes of uncontaminated soil and stone as a non-waste by-product over a five year period to improve 12 hectares of agricultural lands.
Location	Downestown, Duleek, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	LB/201327
Applicant(s)	Litchford Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Michael Quinn and Bernard Cullen
Observer(s)	Geological Survey Ireland.
Date of Site Inspection	05 th January 2022
Inspector	Brendan Coyne

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1.0 Site Location and Description

1.1.1. The site is located on the eastern side of the Downestown Road (L5609), in the townland of Downestown, c. 2.5 km to the north-west of Duleek in Co. Meath and c. 9.0 km south-west of Drogheda in Co. Louth. The stated area of the site is 12.8 ha. The main section of the site is broadly triangular in shape and is accessed via an existing gated vehicular entrance and laneway c. 225m long. The surface treatment of the laneway is compacted gravel / soil with a grassed centre line. A vehicular entrance is located on both sides of the site entrance, serving residential dwellings and agricultural buildings on adjoining lands. The main section of the site comprises agricultural grassland and its boundaries are defined with native hedgerow and trees. To the south-west of the site there is a cluster of old farm buildings and an area of tall trees. The topography of the site varies from 58.5m OD at the centre of the site to 52m OD at the northern corner of the site. The site is dissected by the access lane, with the southern section notably higher than the northern section and of better quality with grassed ground cover. The northern section is of poorer quality ground cover and contains a section of stockpiled materials along the northern side of the access lane, in the centre of the site. A drainage ditch runs along the south-eastern boundary and adjacent outside the north-western boundary. The site is bound to the north, east and west by grassed farmland and bordered to the east by the Roadstone Duleek Quarry. The surrounding area is largely agricultural, characterised with agricultural buildings and one-off houses. The closest residential dwellings are located on land on both sides of the access lane serving the site. An 80kmph speed limit applies to the L5609 serving the site. The Regional Road R150 is located c. 1.3km directly to the south and a railway line and over-bridge is located c. 300m to the south-east along the L5609.

2.0 Proposed Development

2.1.1. **Application as lodged to the Planning Authority on the 23/09/2020**

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

- The importation of 230,000 m³ (345,000 tonnes) of Article 27 (as defined by European Communities Waste Directive Regulations 2011) uncontaminated soil and stone as a non-waste by-product over a five year period to improve 12 hectares of agricultural lands where:

- The further use of the stone is certain and will be used to recontour and improve the agricultural lands;
- The soil and stone can be used directly without further processing.
- The soil and stone will be an integral part of a production process i.e. soil will be excavated, moved to facilitate site development in accordance with Article 27 by a material producer or with the expressed written consent of a material producer and will be notifiable to the EPA as a by - product prior to its use on lands.
- The proposed further use of the soil and stone fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

2.1.3. The application is accompanied by the following:

- Environmental Impact Assessment Report (EIAR).
- Appropriate Assessment (AA) Screening Report.
- Transportation Assessment Report.

2.2. Further Information submitted on the 08/03/2021 includes;

- Further Information Response Report – Doyle Kent Planning Partnership Ltd.
- Ted Nealon Environmental Consultant report re. ground and surface water drainage (addressing Further Information request Item Nos. 1, 2 and 3).
- NRB Consulting Engineers Report – re. Transportation (addressing Further Information request Item No. 4).
- Donal J. Power Consulting Engineer Ltd. report - re. the access lane (addressing Further Information request Item No. 5).

2.2.1. This was deemed Significant Further Information by the Planning Authority and the applicant was requested to re-advertise the proposal. A copy of the revised public notice was submitted to the Planning Authority on the 25/03/2021.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Meath County Council GRANTED permission for the proposed development subject to 23 no. Conditions. Noted Conditions are summarised as follows:

- C.2 Prior to commencement of works, the applicant shall provide and maintain sightlines of 160m to the nearside road edge, as per FI Dwg 2A Rev2 submitted.
- C. 3 Permission is for a 5 year period only. A maximum of 20 loads per day shall be imported to the site.
- C. 4 The quantity of material to be imported shall not be greater than 345,000 tonnes in total.
- C. 6 The applicant shall ensure that upon completion of each phase of the importation of soil and stone that it is capped with an appropriate layer of topsoil and seeded for return to agricultural use.
- C.7 The applicant is required in year one to carry out topographical surveys every six months and in year two to carry out a topographical survey every four months. These surveys shall be submitted to the Planning Authority as they are carried out.
- C.8 The permit holder shall provide and maintain at the facility a weighbridge as a method of recording all waste tonnage transported to the facility. Records of same to be stored on site and made available for inspection at any reasonable time.
- C.12 All mitigation measures as outlined in the EIAR shall be implemented in full to the satisfaction of the planning Authority.
- C.13 The applicant shall provide and maintain a waste inspection area and a waste quarantine area at the facility. The waste inspection area and waste quarantine area shall be clearly identified and segregated from each other.

- C.14 The main entrance gate to the facility shall be locked and secured at the end of each day of operation and the permit holder shall ensure that adequate precautions are taken to prevent unauthorised access to the facility.
- C.15 All refueling shall take place in a designated refueling area at least 30 meters from water courses.
- C.16 All hydrocarbons, chemicals, oils etc. shall be stored in a dedicated bunded area at least 30 meters from water courses and capable of storing 110% of the container/ tank capacity.
- C.17 Prior to commencement, submit details of the proposed wheel wash including details of water supply, water storage, recycling of water, method of disposal of resultant wastewater and settlement material to the Planning Authority for written agreement.

3.2. Planning Authority Reports

3.2.1. First Report (16/11/2020)

- The proposed development is acceptable in principle and broadly in compliance with Policy RD POL 26 of the Meath County Development Plan.
- With regards the Environmental Impact Assessment Report submitted;
 - The applicant should be invited to examine other reasonable alternatives to the proposed development and not just solely locational alternatives, i.e. project design, technology, size and scale.
 - Issues raised by the Transportation Department should be addressed by way of request for further information.
 - The applicant has adequately appraised and evaluated the potential impacts of the proposed development on existing biodiversity.
 - Subject to the implementation of mitigation measures to avoid pollution, the impacts of the proposed development would not be significant and are therefore acceptable.

- Further to reports received from the Environmental Health Service and Geological Survey Ireland, the applicant should be requested to address issues raised in these reports with regards groundwater vulnerability.
- Further to the report received from the HSE - Environmental Health Officer, the applicant should be requested to address issues raised with regards surface water drainage.
- The proposed development by reason of the surrounding topography would not have a negative impact on protected views.
- The site is located in an area of moderate landscape sensitivity and high landscape character value, in the central lowlands landscape character area.
- The applicant has adequately appraised and evaluated the issue of landscape and visual impact.
- The assessment of archaeological and cultural heritage is acceptable.
- In terms of cumulative impacts, the applicant has identified traffic, transportation and dust. No other cumulative impacts are identified.
- There are concerns regarding potential negative impacts to the existing and future residential amenities of existing dwellings on either side of the access laneway. It is considered that the improvement of the access lane in addition to other mitigation measures proposed would alleviate such concerns. The applicant should be requested to address this by way of further information.
- With regards screening for Appropriate Assessment, the Planning Authority concludes that the proposed development (entire project), itself or in combination with other plants and developments in the vicinity, would not be likely to have a significant effect on European Sites and that a Stage Two Appropriate Assessment (Natura Impact Statement) it's not required in this instance.

3.2.2. Further information was requested on the 16/11/2020 requiring the following:

1. Examine other reasonable alternatives for the proposed development as per the Guidelines for Planning Authorities and An Bord Pleanála and carrying out Environmental Impact Assessment (2018) .
2. Present a revised and detailed proposal addressing concerns raised by the Environmental Health Service and Geological Survey of Ireland with regards groundwater vulnerability.
3. Present a revised and detailed proposal addressing the concerns of the Environmental Health Service with regards surface water drainage.
4. Present a revised proposal providing unobstructed sightlines of 160 meters to the nearside road edge from a setback of 3.0 meters. Where works are required to achieve unobstructed sightlines on lands outside the ownership of the applicant, submit written consent from the landowner and amend the site red line boundary accordingly.

Also, indicate willingness or otherwise to pay a special levy of 28,875 euros as a contribution towards the cost of the improvement works that would be required as a result of the damage that would be caused to the local road network by the traffic generated by the development.

5. Submit revised proposals which include, for example, revised boundary treatments / noise barriers / revised surface treatments for the access lane serving the site.
6. Indicate willingness, or otherwise, to accept a condition requiring an Article 27 Declaration to be made for every new source site (economic operator) that by-product is being sourced prior to its use on the site and clearly indicate their proposed methodologies to comply with the terms of such condition.

3.2.3. Second Report (18/05/2021)

- Significant Further Information received on the 25/03/2021.
- The applicant has suitably justified the proposed development and examined reasonable alternatives.

- The applicant's response addressing groundwater vulnerability is acceptable.
- The applicant presents a comprehensive response addressing groundwater testing carried out, clarification as to the type of material to be imported and an examination of water supply to local residences (piped public water supply), reference to relevant EPA guidance documents and commentary as to the vulnerability rating of the aquifer which the applicant argues will be improved as a result of the proposed development, by reason that it would result in a greater increased thickness of overburden with the importation of clean uncontaminated soil.
- The applicant has submitted a comprehensive response addressing the concerns of the Transportation Department.
- Subject to conditions, the proposed development is acceptable on traffic grounds.
- In the event of a grant of permission, final surfacing arrangements for the proposed access road into the site shall be agreed with the Planning Authority prior to commencement of any other work on site.
- The applicant has indicated a willingness to accept a condition in the event of a grant of permission requiring an Article 27 Declaration be made for every new source site (economic operator) that by-product is being sourced prior to its use on the site.
- The Planning Authority concludes that the proposed development is in accordance with the Meath County Development Plan 2013-2019 and subject to compliance with conditions would not negatively impact on the visual or residential amenities of the area.

3.2.4. **Other Technical Reports – Internal**

Transportation Section - 2nd report in response to Significant Further Information submitted:

- The applicant was requested to demonstrate sightlines of 160 meters to the near side edge of the road in both directions.

- The applicant has submitted a revised site layout plan demonstrating sightlines of 160 meters to the near side edge of the road from a setback of 3.0 meters looking north and 2.2 meters looking south.
- The applicant submits that the vehicles used for the proposed development will have the drivers sitting closer to the front of the vehicle than a car and therefore the 2.2 meter set back would be suitable.
- A site visit has shown that acceptable sightlines are available from the entrance.
- The Transportation Section has no objection to the proposed development subject to conditions requiring (i) the applicant to provide and maintain sightlines of 160 meters to the nearside edge of the road as per the further information drawing submitted and (ii) that the applicant be conditioned to pay a special contribution of €28,875 as a contribution towards the cost of the improvement works that would be required as a result of the damage that will be caused to the local road network by the traffic generated by the development.

Water Services Department - 2nd Report

- No objection subject to conditions including (i) prior to commencement, submit for agreement details of the proposed wheel wash to include details of water supply, water storage, recycling of water, method of disposal of resultant wastewater and any settlement material.
- No deposits shall be placed within 5 metres of a watercourse.

Environment Department

- No objection subject to conditions.

Environment Department – Flooding Section

- No objections.

3.2.5. Prescribed Bodies

Geological Survey Ireland - 2nd report in response to Significant Further Information submitted:

- The Geological Survey Ireland acknowledge and have reviewed the significant additional information submitted in relation to groundwater wells and springs (from

Nealon Environmental Services Ltd.) and the consideration of groundwater vulnerability in the context of the importation of uncontaminated soil and stone under Article 27 of the European Communities (Waste Directive) Regulations 2011.

- No further additional comment to make.

Irish Water

- No objection subject to conditions.

4.0 Planning History

P.A. Ref. SA60246 Permission granted in July 2006 to Denis Lenihan to amend Condition No. 2 of P.A. Ref. SA50039. Permission sought to extend the expiration period for the transportation and depositing of soil for the purpose of land reclamation, granted under SA50039 for an additional 12 months until the 29th August 2007 (Waste Permit Reg. No. WMP 2003/33).

P.A. Ref. SA50039 Permission granted in July 2005 to Denis Lenihan for the transportation and depositing of soil for the purpose of land reclamation.

5.0 Policy and Context

5.1. Development Plan

Meath County Development Plan 2021-2027 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned 'RA - Rural Area' which seeks 'To protect and promote in a balanced way, the development of agriculture, forestry and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'.

Landscape Character Area: As indicated in Appendix 5 of the Development Plan, the site is located in Landscape Character Areas 6 - Central Lowlands which is of High Landscape value and moderate sensitivity.

Flood Risk: The site is not located in a Flood Risk Zone, as identified on the OPW CFRAM Flood Maps and the Meath County Council County Development Plan SFRA 2021-27.

Adjoining lands to the south-west of the site are located within a Flood Risk Zone A where such zones are defined as areas with a High Probability of Flooding, as recorded on the Development Plan SFRA 2019-25. This flood risk zone is not recorded on the OPW CFRAM Flood Maps.

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

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.

INF POL 61 To facilitate the implementation of National Waste Legislation, National and Regional Waste Management Policy and the circular economy.

INF OBJ 54 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 (as amended).

INF OBJ 59 To seek to ensure, in cooperation with relevant authorities, that waste management facilities are appropriately managed and monitored according to best practice to maximise efficiencies to protect human health and the natural environment.

INF OBJ 60 To promote and facilitate high-quality sustainable waste recovery and disposal infrastructure/technology including composting (anaerobic digester) plants for managing organic solid waste, at appropriate locations, with the County subject to the protection of the amenities of the surrounding environment including European Sites, and in keeping with the EU waste hierarchy.

ED POL 19 To support and facilitate sustainable agriculture, agri-food, horticulture, forestry, renewable energy and other rural enterprises at suitable locations in the County.

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.

RUR DEV SO 8 To support and protect the existing economic base and seek to diversify the economy through both inward investment and the promotion of agriculture, forestry and tourism- related industries in rural areas.

RUR DEV SO 9 To ensure that plans and projects associated with rural development will be subject to an Appropriate Assessment Screening and those plans or projects which could, either individually or in-combination with other plans and projects, have a significant effect on a Natura 2000 site (or sites) undergo a full Appropriate Assessment.

RUR DEV SO 10 To promote rural economic development by recognising the need to advance the long term sustainable social and environmental development of rural areas and encouraging economic diversification and facilitating growth of rural enterprises.

5.2. Other Relevant Government Guidelines

National Planning Framework – Project Ireland 2040.

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

5.3. Natural Heritage Designations

- 5.3.1. The site is located c. 1.1 km to the north-east of the Thomastown Bog proposed NHA (Site Code: 001593) and c. 1km to the north-west of the Duleek Commons proposed NHA (Site Code: 001578).
- 5.3.2. The closest designated Natura 2000 European Site is the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299) located c. 2.4km to the north-west of the site.

- 5.3.3. The River Nanny Shore & Estuary SPA (Site Code 004158) is located c. 12km to the east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Michael Quinn and Bernard Cullen, who reside along the Downestown Road (L5609). Michael Quinn indicates that he resides at a dwelling located on land adjoining the laneway serving the site. The main grounds of appeal are summarised under the headings below;

6.1.1. Condition of the Land

- Most of the land on the 12 hectare site is top quality and in grass.
- Approx. 25% of the site is non-productive and was used as a dump for building material (cement blocks etc.), plastic silage covers and other waste from 2005 – 2008.
- The tonnage of material required to improve the land is overstated. Therefore, the volume and frequency of trucks importing material onto the site should be greatly reduced.
- The remaining land on the site was cut to make silage.
- Aerial photo of part of the landholding submitted.

6.1.2. Traffic and Road Safety Concerns

- The Planning Authority's grant of permission allows 20 no. loads per day to be imported onto the site. This would result in 40 no. truck movements per day, passing residences along the road every 13 minutes.
- The increase in truck movements along the road would pose a serious threat to the road safety of residents along the road.
- The L5609 road passes through the Steeples Housing Estate alongside Downestown Manor Housing Estate and 3 clusters of houses (6-9 houses in each) on both sides of the road.

- The railway bridge on the Downestown Road, which is 410cm wide, would become more dangerous. Two trucks could not pass each other under this bridge.
- A new 120 bed nursing / retirement home is currently being built in Duleek along the L5609 road, which will greatly increase the volume of traffic when it is completed.
- A new housing development on the western of the Downestown Road is to be built opposite the Steeples Estate in Duleek. Pedestrian access to this estate will be off the Downestown Road. The increase in traffic along the road will make crossing the road very dangerous.
- The speed limit along the Downestown Road is 60kph increasing to 80kph where the nursing home is to be built.
- The increase in the volume of traffic along the Downestown Road would increase danger and impact road safety to residents along the road.

6.1.3. **Depreciation of Value of Property**

- The proposed development would negatively affect the value of all properties along the Downestown Road by reason of noise and pollution impacts arising from the volume of trucks using the road.

6.1.4. **Impact on Residential Amenity**

- The appellant Michael Quinn's dwelling is located 4 metres from the access laneway serving the site.
- The appellant's wife works nights every second week as a health care assistant in Beaumont Hospital. Truck passing along the lane would adversely impact their residential amenity to such an extent that they would have to move house.

6.1.5. **Unauthorised Development**

- A survey should be carried out of rubbish and concrete rubble dumped illegally on the site.

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

- Aerial photograph of the site and the appellant Michael Quinn's house adjoining the laneway.
- Photographs of the access laneway to the site, the appellant Michael Quinn's house adjoining the laneway and the nearby railway bridge along the Downestown Road.

6.2. Applicant Response

The response received from Doyle Kent Planning Partnership Ltd. representing the Applicant, is addressed under the headings below;

6.2.1. The Site and Context of The Proposed Development

- The site (12 ha) is part of an established farm and is accessed via a dedicated access lane to the farmland.
- This is a rural area served by a county road L5609-0 which serves agricultural landholdings, farm holdings, rural housing and urban generated housing.
- The site is c. 2.6 km west of Duleek and 9.0 km south – west of Drogheda.
- There is a dwelling with large sheds on the southern side of the access lane, which has direct access onto the L5609.
- The proposed development comprises the transportation and depositing of soil and stone for the purpose of land reclamation and improvement for agricultural purposes in order to complete works previously permitted by Meath County Council under P.A. Refs. SA60246 & SA50039.
- The previous work involved the importation of inert soil and stone waste.
- Works ceased at the end August 2007, leaving the project unfinished due to the national economic downturn.
- It is estimated that some 177,000 tonnes of material were previously imported and used to recontour and improve these agricultural lands.
- The proposed development provides for the completion of these earlier works and comprises the importation of inert soil and stone by-products onto these farmlands to recontour and improve the land for agricultural purposes.

6.2.2. Condition of the Land

- The Nealon Environmental Services report submitted confirms that the site has been surveyed in order to provide an accurate measurement of the land involved.
- The report confirms the thickness of material required to complete the development and the measurements to calculate the amount of fill necessary to bring ground levels to the same height as the existing improved area.
- As some of the lands were already improved by the importation of construction and demolition waste under previous waste permits, there is no intention to place materials on these lands.
- The proposed development provides for the completion of the restoration of the lands.
- The Nealon Environmental Services report accepts that a small quantity of waste materials, principally concrete, imported under the previous permits has been stockpiled on the land. However, this material does not form part of the subject application.
- The existing waste material on the site can be broken up and used in upgrading the surface of the access road or removed in its entirety from the site prior to commencement of development. The applicant would accept a condition in this regard if the Board are minded to grant permission for the proposed development.
- The Appellant strongly refutes the assertion that the area proposed to be improved under the subject application has been used as a dump. Meath County Council never raised any issue in relation to unauthorised development at the site.
- In relation to the aerial photographs submitted with the appeal, the appellant does not consider it appropriate to attempt to calculate the volumes of land and the material required for land improvements from these oblique images.

6.2.3. Traffic Issues

- The Board is referred to the report from NRB Consulting Engineers which addresses the concerns raised in relation to road safety and the capacity of the road network.

- NRB undertook a comprehensive assessment of both the road capacity and road safety issues in the original Transportation Assessment and in the subsequent response to the Request for Further Information.
- The Traffic Assessment submitted confirms that the L5609 is a good quality local public road, which carries current and predicted traffic volumes that are way below its carrying capacity and that the proposed development would generate very low volumes of traffic, estimated at 2 trucks per hour one-way, being equivalent to 5 car equivalents per hour.
- The NRB report establishes that there is no issue in relation to the capacity of the local road network to accommodate the proposed development.

6.2.4. **Safety**

- As set out in the NRB report, the addition of 40 truck movements daily to a quiet local rural public road would very unlikely result in any deterioration in traffic safety conditions.
- The NRB report notes that in terms of traffic safety and the use of an established access, there are 3 key safety determinants for consideration, as follows;
 - Historic Safety Trends - there are no record whatsoever of any accidents in proximity to the site.
 - Access Sightline Available - a full standard sightline is achievable at the site entrance.
 - Stopping Sight Distance on the L5609 approach to the access – the NRB report demonstrates that there is clear and unobstructed stopping sight distance for vehicles on the L5609 on the eastern and western bound approaches to the site access.
- The NRB report demonstrates that the proposed development would not result in a deterioration in traffic safety conditions.

6.2.5. **Value of Local Property**

- The site is located in a rural area with intensive agriculture interspersed with rural housing, farm holdings and urban generated one-off housing.

- The Board is referred to the details submitted with the planning application including the details in relation to noise issues and the erection of timber fence barriers along the laneway for the duration of the permission (5 years), volume of truck movements as set out in the NRB Traffic Assessment, Response to FI report and Response to the third party appeal.
- NRB undertook a comprehensive assessment of both road capacity and road safety issues and determine that the construction & operation of the landfill operation would have no adverse implications for the capacity or road safety of the local road network.

6.2.6. **Pollution**

- No waste is proposed to be used for the land improvement.
- Art. 27 inert soil and stone, pre-approved by the Environmental Protection Agency, will be utilised.
- Conditions were attached to the grant of planning permission providing environmental controls to ensure that dust and noise are not an issue for local residents, as set out in Condition Nos. 1, 6 and 17 of the Planning Authority's decision.
- Meath County Council did not raise any issues in relation to unauthorised development on the site or initiate any enforcement proceedings.

6.2.7. Appendices lodged with the applicant's response include the following;

- Nealon Environmental Services Report.
- NRB Consulting Engineers Transportation Assessment Report (submission issue).

6.3. **Planning Authority Response**

The Planning Authority's response is as follows;

- The Planning Authority is satisfied that all relevant planning considerations outlined in the grounds of appeal were considered in the course of its assessment of the planning application, as detailed in the Planning Officer’s report.
- The proposed development is considered to be consistent with the proper planning and sustainable development of the area and permission should therefore be granted.
- With regard the issue of traffic safety, the Board should note the comments and recommendations of the Transportation Department reports.
- No objections were raised by the Transportation Department to the proposed development, subject to conditions.
- The Board should note the relevant planning conditions attached to the notification of decision to grant planning permission.
- In relation to a perceived devaluation in property value, the appellant has not provided any supporting information in this regard. In the absence of any definitive independent supporting information to the contrary, it is considered that the appellant has not demonstrated a devaluation in property values and in such a circumstance the Board may therefore decide to disregard this element of the appeal.
- The Planning Authority requests An Bord Pleanála to uphold the decision to grant permission for the proposed development.

6.4. Observations

6.4.1. Geological Survey Ireland Response

6.4.2. No further comment or observations to make.

7.0 Planning Assessment

7.1.1. 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;

- The Principle of the Proposed Development,
- Traffic and Road Safety Issues,
- Impact on Residential Amenity,
- Depreciation of Value of Local Property,

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

7.2. The Principle of the Proposed Development

7.2.1. The appellants object to the proposed development on the grounds that most of the land on the site is of high quality, under grass and that the tonnage of material required to improve the land is overstated. On this basis, the appellants consider that the volume and frequency of trucks importing material onto the site should be significantly reduced.

7.2.2. The applicant contests these grounds of appeal, as detailed in Section 6.2.1 above. In summary, the applicant contends the following;

- The area of land to be improved has been surveyed, and accurate measurement is provided, detailing the thickness of material required to complete the development and the amount of fill necessary to bring the ground levels to the same height as the existing infilled area.
- Some of the land was previously improved with the importation of construction and demolition waste under a waste permit which is now expired. Material to be imported will not be placed on these lands.
- The proposed development provides for the completion of the restoration of the lands.

- While a small quantity of waste material, principally concrete, was imported under the previous permits and stockpiled on the land, this material does not form part of the current application. This waste material can be broken up and used to upgrade the surface of the access road or removed in its entirety from the site prior to commencement of development.
- The area proposed to be improved has not been used as a dump and the land has never been the subject of enforcement proceedings by the Council.

7.2.3. The Planning Authority, in its assessment, consider the proposed development broadly complies with Policy RD Pol 26 of the Development Plan which seeks 'to ensure that all existing workings shall be rehabilitated to suitable land uses....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'.

7.2.4. The Planning Authority's first report referred to the Environmental Impact Assessment Report (EIAR) submitted and the section 'Need for the Development and Alternatives'. In its assessment, the Planning Authority noted that potential alternatives were not referenced in the EIAR. Further information was sought with this regard. The further information response submitted addressing this issue detailed the following;

- The site comprises agricultural land of which the southern section, c. 50% of the area, was improved under previous permission, which included a waste permit.
- The area of land previously improved was raised using imported inert soil and stone, which improved drainage and allowed for the placement of subsoil and topsoil layers above the fill material.
- As found further to site inspection on the 22nd Feb. 2021, the northern part of the site, which is the area subject to the current application, is generally waterlogged and of poor agricultural condition, supporting the need for the proposed development.
- The variation in height between the improved and unimproved areas means that it is difficult to farm these lands as one unit.
- Any alternative design which does not include raising the entire site to a similar level was discarded, eliminating other alternatives of size and scale.

- Section 4.2 of the EIAR report sets out possible alternatives, including selecting the site due to its unfinished nature, the poor agricultural quality of the proposed development site and the elimination of the 'do nothing' alternative, as the farmer wishes to use the land for agricultural purposes. This meant that consideration of alternative locations was discarded at an early stage in the selection process.
- Another alternative considered but ultimately discarded was to import inert waste soil and stone to improve the site and complete the development. However, with the current national and EU emphasis on the development of a circular economy, the use of materials including by-products and the minimisation of waste production, it is considered that the use of Article 27 by-products comprising clean soil and stone which has been subject to the classification process established by the EPA is the most appropriate choice and, therefore, the other alternatives were discarded.

7.2.5. In consideration of the further information submitted, the Planning Authority considered that the applicant presented a comprehensive response and was deemed acceptable. The Planning Authority considered that the applicant suitably justified the proposed development and examined reasonable alternatives.

7.2.6. As stated in the Environmental Impact Assessment Report, the applicant Litchford Ltd. is a construction and design company based in Rathfarnham, County Dublin. The landowner is Mrs Margaret Linehan who, along with her family, farms the subject lands and additional farmland.

7.2.7. The proposed development comprises the importation of 345,000 tonnes (230,000m³) of uncontaminated soil and stone over a five year period to improve c. 12 hectares of agricultural land. The material to be imported is described in the public notice as a non-waste by-product, as defined under Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011, where

- The further use of the stone is certain and will be used to recontour and improve the agricultural lands;
- The soil and stone can be used directly without further processing;
- The soil and stone will be an integral part of a production process i.e. soil will be excavated, moved to facilitate site development in accordance with Article 27 by a

material producer or with the expressed written consent of a material producer and will be notifiable to the EPA as a by-product prior to its use on the lands.

- The proposed further use of the soil and stone fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

7.2.8. The applicant states that the proposed development relates to the completion of land improvement works at the subject site, which was previously permitted under P.A. Refs. SA60246 & SA50039. The applicant estimates that c. 85,000 m³ of material was previously imported and used for recovery on the site during the earlier uncompleted development. The applicant states that the development was not completed due to the economic downturn in 2007 and that a Waste Facility Permit (WMP 2003/33) authorised the importation of soil and stone for the improvement works but this has now lapsed. The applicant states that the proposed importation of c. 230,000m³ of Article 27 uncontaminated soil and stone by-product under the subject application will complete the recontouring of the land and facilitate land improvement work on the subject site.

7.2.9. As detailed in the EIAR, the classification of soil and stone as by-products from the construction and development industry requires notification and registration of that material as a by-product with the EPA prior to its use on the lands, in accordance with Article 27 of European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011. Article 27 allows an “economic operator” to decide, under certain circumstances, that a material is a by-product and not a waste. Decisions made by economic operators under Article 27 must be notified to the Environmental Protection Agency, whereunder the Agency is required to maintain a register of notified decisions. Guidance for such classification is contained within the EPA’s ‘Guidance on Soil and Stone By-Products in the Context of Article 27 of the European Communities (Waste Directive) Regulations 2011’, published in June 2019. The guidance calls for all notifications to ensure each and all by-product conditions are met, namely:

- Further use of the soil and stone is certain;
- The soil and stone can be used directly without any further processing other than normal industrial practice;

- The soil and stone are produced as an integral part of a production process; and,
- Further use is lawful in that the soil and stone fulfil all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health.

7.2.10. The public notice of the proposed development sets out how the material to be imported will meet these conditions, as detailed in Section 7.2.7 above. The applicant states that it is proposed to source the soil and stone material from construction sites in surrounding counties, including Meath, Dublin, Louth, Kildare and Wicklow. The stated proposed end-use is agricultural. The applicant details in the EIAR (non-technical summary) that all Article 27 material to be accepted at the site will have the required EPA templates, Material Producer's Declaration, Declaration of Soil and Stone Suitability - Civil, and Declaration of Soil and Stone Suitability – Environmental, completed and registered with the EPA prior to acceptance onto the lands.

7.2.11. Having regard to the above, I am satisfied that the material to be imported onto the subject lands will comprise non-waste by-product, as defined under Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011 whereunder such activity requires notification and registration with the EPA prior to its acceptance onto the lands. Given that the proposed works seek to complete land improvement works previously permitted under P.A. Refs. SA60246 & SA50039 and the stated end-use is agricultural, I consider that the proposed development is acceptable in principle, in accordance with the 'RA - Rural Area' zoning objective of the area whereunder the use class 'agriculture' is a permitted use.

7.2.12. Notwithstanding the above, I refer the Board to the Executive Summary in the EIAR which states that "a Waste Facility Permit will be applied for a portion of the land to provide for the acceptance of c. 10,000m³ of inert soil & stone waste to remediate the land". Furthermore, Section 11.9 of the EIAR states that "Surface water monitoring will be carried out in accordance with any requirements of the planning permission or the Waste Facility Permit". Given that this Waste Facility Permit was not referred to in the public notice or detailed in other documentation submitted with the application and appeal, and did not form part of the assessment of the Planning Authority, I consider it reasonable to conclude that this may be a typographical error and should not form

part of the assessment of the proposed development. However, in order to ensure clarity in the event of a grant of permission, I recommend that a Condition be imposed requiring that all soil and stone imported onto the site comprise non-waste by-product, in accordance with Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011 and that no development shall commence prior to registration with the EPA of the material to be imported onto the lands, in accordance with Article 27.

7.2.13. Further to the above, I also refer the Board to an anomaly between the Site Plan and Section Drawings submitted showing the raising of ground levels on both the northern and southern sections of the site (as detailed on Section Lines 1, 2 and 3) and the further information response from Nealon Environmental Services Ltd. which states that only the northern section of the site is the subject of the proposed development. As detailed on Section Line 3, it is evident that the raised ground levels on the site's southern section would be only c. 1m in depth. Given the nature of the proposed uncontaminated soil and stone as a non-waste by-product to be imported, I consider this anomaly not significant to warrant refusal of permission. Such raising of lands on the southern section would enable the completion of the development as previously permitted under P.A. Refs. SA60246 and SA50039, and its alignment with the finished profile across the full extent of the land to be improved, as outlined in blue on the Site Layout Plan submitted.

7.2.14. In conclusion, I consider the proposed development acceptable in principle, in accordance with the area's 'RA - Rural Area' zoning objective, subject to compliance with relevant policies and objectives of the Development Plan and relevant government guidelines and legislation, which are addressed further below. The proposed development would be consistent with policy RD POL 12 of the Development Plan, which seeks (inter alia) to protect and promote in a balanced way, the development of agriculture and policy RUR DEV SO 7, which seeks to support the continuing viability of agriculture. Furthermore, the completion of land improvement works at the subject site would be consistent with Section 9.2 of the National Planning Framework, which commits to adopting the circular economy principles to enable more sustainable planning and land use management of our natural resources and assets. Therefore, I recommend the proposed development should not be refused permission on these grounds of appeal.

7.3. Traffic and Road Safety Issues

- 7.3.1. The appellants object to the proposed development on the grounds that the increase in truck movements along the L5609 Downestown Road would pose a serious threat to the road safety of residents along the road. The appellants detail residential development in the vicinity, which would be impacted by the increase in truck traffic along the road. The applicant contests these grounds of appeal, as detailed in Section 6.2.2 above.
- 7.3.2. The Planning Authority, in its first report (16/11/2020), noted the concerns raised in the Council's Transportation Planning Section report and sought further information requiring the applicant to submit a revised proposal providing unobstructed sightlines of 160 meters to the near side road edge from a setback of 3.0 meters at the entrance to the site, and that where works are required to achieve unobstructed sightlines on lands outside the ownership of the applicant, to submit written consent from the land owner and amend the site red line boundary accordingly. The Planning Authority also raised concerns that the proposal would have the potential to adversely impact the residential amenity of the 2 no. residential dwellings located on either side of the access road leading to the site.
- 7.3.3. The significant further information submitted on the 08th March 2021 included, inter alia, a Traffic and Transportation Report from NRB Consulting Engineers Ltd. detailing sightlines at the entrance to the site and revised plans and report from Donal Power & Associates Engineers Ltd. detailing the provision of 3m high timber noise barriers along a portion of the southern-eastern ditch of the access lane along the boundary shared with a neighbouring dwelling. This was deemed acceptable to the Planning Authority and the Council's Transportation Section, subject to conditions.
- 7.3.4. Regarding the appellant's concerns of the increase in truck movements along the L5609, the applicant submitted a Transportation Assessment Report, prepared by NRB Consulting Engineers Ltd. The report addresses the proposed development with reference to existing conditions, traffic generation assignment, distribution and traffic impact with regard to junction capacity, site access and the bridge along the L5609. The report details that a comprehensive classified Automated Tube Count (ATC, volume and speed survey) of the existing local public road was carried out during the weekday AM and PM peak hours in 2019 during normal school term and that these

ATC surveys formed the basis of the study. The analysis includes the effects of the existing traffic on the local road network and assesses the impact of the proposal during traditional peak commuter peaks periods, in accordance with TII Traffic & Transportation Assessment Guidelines. In summary, the Transportation Assessment confirms that the road network and proposed vehicular access junction arrangement is more than adequate to accommodate the worst-case traffic associated with the facility. The assessment also confirms that the operation of the facility will have a negligible and unnoticeable impact upon the operation of the surrounding road network. Key details outlined in the report are summarised under the headings below;

7.3.5. Existing Conditions

- A review of the Road Safety Authority (RSA) online collision database indicates that there are no significant accidents on the stretch of road network at the site. Extracts from RSA online record of traffic collisions provided.
- The L5609 is a single carriageway road, approx. 5.5m to 6m in width with grass verges and bound by hedgerows.
- The L5609 is generally in good condition and is subject to an 80kph speed limit along the site frontage.
- Examination of the Speed Survey Results (included as Appendix B) confirms that the 85%ile or design speed is consistent with the posted speed limit. It carries a weekday AM peak hour 2-way flow of approx. 37 Passenger Car Units (PCUs) and a weekday PM peak hour 2-Way flow of approx. 40 PCUs, which can be considered as very lightly trafficked.
- The L5609 meets the Regional Road (R150) approx. 1km south of the laneway in the form of a simple priority T-Junction. This junction operates well, without any capacity issues arising. RSA Accident Statistics demonstrate that there is no traffic safety concern associated with this junction.
- The L5609 local road intersects with a historic arch railway over-bridge 300m south of the site access. There are vehicular height-advisory & some alignment related geometric restrictions in place at the long-established bridge.
- The bridge has a height advisory in place that prevents the passage of vehicles in excess of 3.5m in height. This is clearly illustrated by way of advisory and statutory

signage. This does not appear to represent any impairment or impediment to the historic and safe passage of traffic along the road.

- The subject application site had a waste permit and associated planning permission previously.
- The site was operated successfully up to 2008 under the previous planning permission.

7.3.6. Trip Generation, Assignment & Distribution

- Total Truck Movements anticipated over 5 year period - 24,000 No. trips.
- Operating for Robust Calculation Purposes - 260 Days Per Year - 1,300 Days.
- Estimated Total No. Truck Movements (One-Way) Per Day - 19 Trucks/Day.
- Estimated Equivalent Worst-Case Truck Movements (One Way) Per Hour - 2 Trucks/Hr.
- Estimated Equivalent Worst-Case PCUs (Car Equivalents) (One Way) Per Hour 5 PCUs/Hr (one car equivalent arriving every 10 minutes).
- The traffic generated by the proposed development will have a negligible and unnoticeable impact upon traffic conditions locally with 5 car equivalents (or 2 truck movements per hour being unnoticeable).
- The TII-approved software package 'Junctions 9' PICADY' (Priority Intersection Capacity and Delay) software package confirms the adequate capacity of the priority controlled access junction from the laneway onto the local road to accommodate the traffic generated by the proposed development.
- The results of the modelling show that the access junction will have more than adequate capacity to accommodate the worst-case traffic associated with the fill operations.
- The Ratio of Flow to Capacity (RFC's) are well below the theoretical optimum capacity of 0.85, and no queuing is anticipated.
- Safe and appropriate sightlines of 160m for an 85kph design speed, measured at a 3m setback (as per TII Design Standards), are available at the site access junction with the Local Road.

- There is a clear height of 3.5m available beneath the railway bridge along the L5609.
- Typical 3-Axle and 4-Axle Standard Volvo Lorry are 3.245m high and 3.380m high, respectively. These are sufficiently-low profiles to fit underneath the existing bridge structure where a height restriction of 3.5m is in place. Diagrams demonstrating same provided.
- There is inadequate width for 2 vehicles to pass directly beneath the bridge structure. An informal driver-courtesy chicane system operates without any traffic progression or traffic safety issues arising.
- In the case of the proposed development, with an increase of 2 trucks per hour (and with a base background traffic volumes of less than 40 PCUs 2-Way) it is considered very unlikely that 2 on-coming trucks or 2 oncoming vehicles will intersect at the specific bridge location. However, in the event that they do, the same courtesy/yield arrangement as exists will apply, and this is not considered to represent a significant traffic safety or traffic progression concern.
- Operators will not use vehicles that are unable to pass under the bridge. This arrangement operated successfully under the previous planning when the site was active (up to 2008).

7.3.7. Appendixes attached include, inter alia, ATC traffic survey/speed data details/output, traffic surveys, trip distribution and network traffic flow diagrams (with and without the proposed development) and Junction 9 PiCADY Output Capacity Modelling Results,

7.3.8. Having reviewed the Transportation Assessment Report, I am satisfied that the impact of the proposed development has been adequately modelled and assessed, based on comprehensive traffic volume and speed surveys. The report demonstrates that the local road network has the capacity to accommodate the increase in truck traffic likely to result from the proposed development and that such an increase in traffic movement would not have a significant impact on established local traffic conditions. The report confirms that the site access junction has the capacity to accommodate the worst-case traffic associated with the proposed development and that the railway bridge further to the south along the L5609 can accommodate typical 3 and 4 axle trucks. There is no evidence to demonstrate that the increase in traffic likely to result from the proposed development (worst case truck movements (One Way) Per Hour - 2 Trucks/Hr.) would

significantly impact residential dwellings along the L5609 Downestown Road and surrounding area.

- 7.3.9. With regards to sightlines at the entrance to the site, the NRB Consulting Engineers Ltd. further information response report submitted sets out that a sightline of 3m x 160m (or more) is achievable to the right-hand side (RHS) at the access and a sightline of 2.2m x 160m is achievable to the left-hand side (LHS) at the access, i.e. a set-back or X distance of 2.2m (impeded by a nearby telegraph pole). The report puts forward that this sightline meets the requirements of the TII Guidance DNAGEO-030360, with an allowable relaxation on the X Distance to the less important left-hand side. I note that in response to the Further Information submitted, the Transportation Section of the Local Authority did not object to the proposed development subject to a Condition requiring the applicant to provide and maintain sightlines of 160 metres to the nearside road edge as per the drawing submitted by way of Further Information (Dwg 2A Rev 2).
- 7.3.10. The NRA document 'Design Manual for Roads and Bridges' (DMRB), requires a sightline 'X' minimum setback of 2.4m from the edge of the public road and requires a 'Y' sightline distance of 160m for a road design speed of 85kph. The site is located on the eastern side of a local rural road which is subject to an 80km/h speed limit. Having regard to the sightlines provided, i.e. 3m x 160m (or more) to the right-hand side and 2.2m x 160m to the left-hand side at the site entrance and given the low volumes of traffic using the road, I am satisfied that the sightlines provided at the entrance to the site generally accords with the Geometric Design Features for Single Carriageway Roads (standards) as set out in Section 7 of the NRA 'Design Manual for Roads and Bridges'.
- 7.3.11. With regards to the ground treatment of the access road leading to the main section of the site, the report from Donal J. Power & Associates Consulting Engineers details that the current hardcore surface of the access lane is deemed satisfactory for the proposed usage as it performs well when employed for agricultural purposes and associated large machinery and also performed adequately when previously employed for haulage vehicles. Notwithstanding this and further to site inspection, I have concerns that the current surface of the access lane is not of sufficient standard to accommodate the volume of truck traffic generated from the proposed development over the five year period, stated as 24,000 total truck movements. However, I consider

this issue can be dealt with by way of Condition in the event of a grant of permission, requiring the applicant to submit for the written agreement of the Planning Authority details providing hardstanding from the main entrance to the site to the proposed wheel wash on the site. Such measures would ensure that dust emissions are not generated from the tyres of vehicles exiting the site and that trucks do not carry excess soil and material onto the public road network.

7.4. Impact on Residential Amenity

7.4.1. The appellant Michael Quinn objects to the proposed development on the grounds that his house is located 4 metres from the access laneway leading to the main section of the site and that trucks passing their house would adversely impact their residential amenity to such an extent that they would have to move house. Michael Quinn notes that his wife works nights every second week as a health care assistant in Beaumont Hospital.

7.4.2. The Planning Authority, in its first planning report expressed concern that the proposal would have the potential to adversely impact the residential amenity of the 2 no. dwellings located on either side of the access road. Further Information was sought with this regard. The Significant Further Information response provided, inter alia, a report and revised drawings from Donal J. Power Consulting Engineer Ltd. detailing the erection of a temporary 3m high timber noise barrier, positioned along a portion of the south eastern ditch of the access lane along the boundary shared with the neighbouring dwelling. The report submitted details the following:

- The noise barrier will provide enhanced noise reduction to the dwelling at this location and provide screening between the users of the lane and the occupants of the dwelling.
- There is a second private lane running parallel between the existing access lane for the proposed development and the neighbouring property. As such there are 3 mature ditches between vehicles accessing the proposed development and the neighbouring property in question.
- The noise barrier will be erected in accordance with the relevant NRA Guidance Document and will be dismantled upon satisfactory completion of the land improvement works.

- There is another dwelling to the north-east of the lane, which is located c. 20m from the proposed access lane. Due to its remote proximity to the access lane, it is deemed that any increased noise levels will be below acceptable norms.
- As per the NRB traffic report submitted, there will be extremely low average truck movements which will not typically exceed 2 per hour.
- Speeds on the access lane would also be maintained below 5 to 10 km/hour which will further reduce noise generation. This speed limit will be a requirement of vehicles accessing the lane, which by its nature would not be able to accommodate greater speeds regardless.
- When used for similar purposes, the site was previously not deemed to impact adversely the occupants of the properties adjoining the lane. No formal complaints or objections were received during its operation or on foot of the current application.

7.4.3. The proposed sound barrier would extend for a length of 100.7m along the south-eastern boundary of the access road, opposite the neighbouring dwelling on the adjoining site to the south. Having regard to (i) the length and 3m height of the proposed sound barrier, which will be constructed in accordance with the NRA's 'Good Practice Guidance for the Treatment of Noise during the Planning of National Road Schemes' (2014), (ii) the low volumes of truck traffic resulting from the proposed development i.e. 19 Trucks/Day or 2 Trucks/Hr and (iii) the daytime hours of operation of the proposed development, it is my view that the volume of truck traffic generated by the proposed development would not adversely impact the residential amenity of neighbouring dwellings on adjoining lands.

7.5. Depreciation of Value of Local Property

7.5.1. The appellants object to the proposed development on the grounds that it would negatively affect the value of all properties along the Downstown Road (L5609) by reason of noise and pollution impacts arising from the volume of trucks using the road. Given the low volumes of truck traffic resulting from the proposed development i.e. 19 Trucks per Day or 2 Trucks per Hr, it is my view that the proposed development would not adversely impact the residential amenity of dwellings along the L5609 Downstown Road. I acknowledge the concerns raised in the grounds of appeal in

respect the devaluation of property along the Downestown Road. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

8.0 Environmental Impact Assessment

8.1. Introduction

8.1.1. 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)' (2018), 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.

8.1.2. The proposed development comprises the transportation and deposition of 345,000 tonnes (230,000 m³) of uncontaminated soil and stone over a five year period to improve 12 hectares of agricultural land. It is stated in the EIAR that such works will complete works previously permitted under P.A. Refs. SA60246 & SA50039, which involved the importation of inert soil and stone waste and which ceased in August 2007, leaving the project unfinished due to the then national economic downturn. The applicant estimates that c. 320,000m³ of material was previously imported and used to recontour and improve the agricultural land. The material to be imported under the subject appeal is described in the public notice as a non-waste by-product in accordance with Article 27 of the European Communities (Waste Directive)

Regulations 2011, S.I. No. 126 of 2011, whereby Article 27 allows an 'economic operator' to decide, under certain circumstances, that a material is a by-product and not waste. Decisions made by economic operators under Article 27 must be notified to the Environmental Protection Agency, and the Agency is required to maintain a register of notified decisions.

- 8.1.3. The applicant details in the EIAR how, following initial discussions with Meath County Council, the applicant agreed with the planning authority that an EIAR should accompany the application, on the basis of the volume of material proposed. On this basis, an EIAR has been submitted with the application.
- 8.1.4. Schedule 5 Part 1 of the Planning and Development Regulations 2001 (as amended) sets out projects which require EIA if the stated threshold set thereunder has been met or exceeded or where no thresholds are set. The proposed development does not fall within a category of development set out in Schedule 5 Part 1 of the Planning and Development Regulations 2001 (as amended).
- 8.1.5. Schedule 5 Part 2 projects meeting or exceeding national thresholds set out thereunder, or where no thresholds are set, require EIA. Sub-threshold projects in Schedule 5 Part 2 require screening for EIA, except in cases where the likelihood of significant effects can be readily excluded. The proposed development as described in the statutory notice i.e. the importation of 345,000 tonnes (230,000 m³) of uncontaminated soil and stone as a non-waste by-product, as defined under Article 27 of the European Communities (Waste Directive) Regulations 2011, for the recontouring and improvement of agricultural land does not fall within a category of development set out in Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended).
- 8.1.6. With this regard, I refer the Board to Section 1 (c) of Part 2, Schedule 5 of the Regulations, which refers to '*Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected*'. The site is not a designated wetland, and thereby the proposed development does not comprise the carrying out of drainage and/or reclamation of wetlands within this category of development.
- 8.1.7. Further to this, I refer the Board to Schedule 5, Part 2, 11(b) of the Planning and Development Regulations 2001 (as amended), which refers to '*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 importation of 345,000 tonnes (230,000m³) of uncontaminated soil and stone over a five year period onto the subject lands is described in the public notice as a non-waste by-product, as defined under Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011. As such the proposed development does not comprise the disposal of waste within this category of development.

8.1.8. I also refer the Board to Article 102 of the Planning and Development Regulations 2001 (as amended), which requires that '*Where a planning application for sub-threshold development is accompanied by an EIAR, the application shall be dealt with as if the EIAR had been submitted in accordance with section 172(1) of the Act*'. Given that the proposed development does not comprise a category of development within Schedule 5, Part 1 and Part 2 of the Planning and Development Regulations 2001 (as amended), it is my view that the proposed development does not comprise a sub-threshold development, as prescribed under Article 102 of the Regulations.

8.1.9. In consideration of the above, it is evident that Environmental Impact Assessment is not required. Notwithstanding this, having regard to (i) the criteria set out in Schedule 7 of the Regulations, albeit criteria for determining whether development listed in Part 2 of Schedule 5 should be subject to an environmental impact assessment and (ii) that an Environmental Impact Assessment Report has been submitted with the application, it is my view that that there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development. Further to this, I also refer the Board to Section 3.1 of the European Commission's "Environmental Impact Assessment of Projects: Guidance on Screening, 2017", which states that;

"although Member States are allowed a measure of discretion in establishing the criteria and/or thresholds that are applicable, this discretion does have limits. These limits are to be found in the obligation set out in Article 2(1) of the EIA Directive that states that Projects likely, by virtue, inter alia, of their nature, size or location, to have significant effects on the environment are to be subject to an impact assessment (C-72/95, Kraaijeveld and Others, paragraph 50; C-2/07, Abraham and Others, paragraph 37; C-75/08 Mellor, paragraph 50; C-

427/07, Commission v. Ireland, paragraph 41). For further guidance regarding thresholds and criteria, see Part B of this document (Step 2)".

8.1.10. On this basis, and for the benefit of the Board, I have carried out an Environmental Impact Assessment of proposed development hereunder.

8.2. Compliance with legislation

8.2.1. 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 proposed development. Chapter 3 sets out relevant planning policy and plans, waste policy and legislation, the relevance of the proposed development to these policies and reference to the EU Habitats and Birds Directives. Chapter 4 describes alternatives and the need for the proposed development with assessment of the 'do nothing' scenario and the chosen option. Chapters 5 to 15 set out an examination of the effects of the proposal on the environment under the following headings: (5) Population and Human Health, (6) Air Quality & Climate, (7) Traffic and Transport, (8) Noise and Vibration, (9) Biodiversity, (10) Land, Soil, Geology and Hydrogeology, (11) Surface Water, (12) Landscape and Visual Impact, (13) Archaeology and Cultural Heritage, (14) Material Assets, (15) Interaction and Cumulative Effects and (16) Risk Assessment, Each chapter describes the receiving environment, potential impacts from the development, mitigation measures and an assessment of the potential impacts from the proposed development and mitigation measures. Volume III: Appendices includes all supporting documentation and references, referred to in the EIA text body in Volume II.

8.2.2. 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).

8.3. Environmental Impact Assessment

8.3.1. 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 proposed 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).

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

8.3.3. Chapter 1 provides an introduction to the EIAR and includes an outline of the proposed development, the planning and waste facility permit history of the site, environmental policy, the methodology and structure of the EIAR, cumulative assessment as well as contributors to the EIAR.

8.4. Receiving Environment and Proposed Development

8.4.1. Chapter 2 describes the receiving environment and proposed development and includes a description of the existing site location, principal elements of the proposed development, project need, working hours, environmental controls, proposed infrastructural development and time to complete, environmental monitoring, description of natural resources used, regulatory control, decommissioning and health and safety.

8.4.2. The principal elements of the proposed development comprise the importation of 345,000 tonnes (230,000 m³) of soil and stone to the site to complete works previously commenced in order to improve the lands for agricultural purposes. Stated elements of the construction phase of the proposed development include;

- Installation and planting of the perimeter berm.

- Any required improvements to the access lane,
 - Installation of a wheel-cleaner and access barrier,
 - Installation of any required advance warning signs on the public road,
- 8.4.3. The proposed hours of operation are 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays for the acceptance of soil and stone material. There will be no works on Sundays or Bank Holidays.
- 8.4.4. The proposed environmental controls include the installation of a berm along the perimeter of the site adjacent to periphery drainage channels to ensure that extreme rainfall events during the placing of the imported soil and stone would not result in excessive run-off of sediment into those channels. The installation of a wheel cleaner will ensure that mud and dust are not trafficked onto the public road. It is proposed to seed completed areas as quickly as possible to ensure any dust emissions in dry weather are minimised. Material acceptance and recording procedures will be developed by the applicant for the proper control and recording of all materials accepted at the development site.
- 8.4.5. Natural resources used during the construction phase will include diesel fuel for construction machinery, steel for the access barrier and wheel cleaner and concrete for the aforementioned. Natural resources to be consumed during the operation phase will include diesel fuel for the on-site plant.
- 8.4.6. Decommissioning measures to be implemented when the development is complete in five years will include the removal of any advance warning signs on the public road and the removal of the wheel-cleaning facility.
- 8.4.7. I am satisfied that the EIAR adequately describes the receiving environment and proposed development and the nature and extent of associated proposed activities. Construction and operational management of the development are adequately described, as are proposed environmental control and decommissioning measures to be implemented when the development is completed in five years. Stated environmental controls adequately seek to protect the environment with regards sediment run-off, dust and dirt. The immediate receiving environment is not a sensitive site which has the potential to be significantly affected by the proposed development.

8.5. Policy and Legislation

- 8.5.1. Chapter 3 sets out EU and Irish planning, environmental and waste management policies, legislation and plans which are relevant to the proposed development. Planning policy and context refers to the 'National Development Plan 2018 – 2027', the Regional Planning Guidelines for the Greater Dublin Area 2010 – 2022, the then operative Meath County Development Plan 2013 – 2019 and draft County Development Plan, since adopted on the 22nd September, 2021 and in effect since the 3rd November, 2021.

8.6. Alternatives and Need for the Proposed Development

- 8.6.1. Chapter 4 provides a description of the reasonable alternatives that have been examined by the applicant which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment, as required by the Directive.
- 8.6.2. With regards to 'alternative locations', the Applicant describes how the development has commenced under previous authorisations, which have now expired and that the intention of the proposed development is to improve the lands. On this basis, the Applicant puts forward that it is not possible to consider alternative locations. With regards to the 'do-nothing alternative', the applicant describes how if the proposed development does not go ahead, the lands will remain in an incomplete state, and the necessary improvements for agricultural use will not occur. Having examined the potential alternatives, the applicant decided that the most viable option with the least likely environmental effects and most benefit was to improve the lands using uncontaminated soil and stone from excavation works, a production residue in accordance with the Guidance on Soil and Stone By-Products in the context of Article 27 of the European Communities 9 (Waste Directive) Regulations 2011. A statement is submitted from an agricultural advisor, Mr Cyril Darcy, B.Agr. Sc. who examined the lands and agrees that the land would benefit from improvement and supports the proposed development.
- 8.6.3. I am satisfied that the EIAR adequately addresses reasonable alternatives and lack thereof, and that the consideration of alternative sites is not relevant in this instance. The proposed development is site-specific, seeking the completion of land

improvement works at the subject lands. I am satisfied that the stated chosen option seeks to improve the land for agricultural purposes.

8.7. Population and Human Health

8.7.1. Chapter 5 examines the impact of the proposed development on population and human health, focusing on population, employment, amenity and tourism. It references impacts on population and human health arising from an increase in traffic movements of HGV's to and from the site. Potential impacts may also arise from dust, of which dust minimisation measures are proposed. I am satisfied that the proposed development would have no material or significant impact on population and human health. The proposed development poses no health and safety risk to the general public as public access to the site is prevented. All work taking place during the construction and operational phases of the proposed development would occur according to relevant health and safety regulations.

8.8. Air Quality and Climate

8.8.1. Chapter 6 assesses the potential effects on air quality and climate from dust generated by proposed development and vehicle emissions from traffic. Regarding dust, stated possible impacts from the proposed development include an increase in dust within the site's environs. However, the report identifies that the effects arising from the increase in traffic volumes at the proposed development would not be significant.

8.8.2. Mitigation measures are outlined and include the following;

- All vehicles will be serviced and maintained in accordance with the manufacturer's guidance to prevent unnecessary exhaust emissions.
- During the operational phase, dust suppression equipment, i.e. a mobile douser, will be available on the site and will be used in the event that excessive dry weather periods result in the generation of significant quantities of dust.

8.8.3. Concerns raised by the appellants with regards to the increase in traffic volumes generated by the proposed development are noted. I am satisfied that the proposed development would have no material or significant impacts on air quality and climate.

The proposed mitigation measures adequately address the potential impacts of the proposed development.

8.9. Traffic and Transport

- 8.9.1. Chapter 7 refers to a Transportation Assessment included in Appendix A of the EIAR, which addresses traffic and transportation issues arising from the proposed development.
- 8.9.2. Existing conditions are described, including the L5609 local road serving the site, surrounding road network and detail of the arch railway over-bridge located c. 300m to the south of the site access.
- 8.9.3. Trip generation calculations, assignment & distribution are detailed. Table 7.1 details traffic generation calculations based on proposed fill rates whereby 24,000 no. total truck movements are anticipated over a 5 year period which equates to 19 truck movements per day (one-way), operating for calculations purposes 260 days per year. Estimated worst case truck movements per hour (one-way) would amount to 2 truck movements per hour.
- 8.9.4. Having regard to the capacity of the local road network, safety at the site entrance (including sightlines, advisory signage and forward stopping distance) and traffic growth rates based on TII travel demand projections, the report identifies that the levels of traffic generated by the fill operations of the proposed development will have a negligible and unnoticeable impact upon traffic conditions locally. TII-approved software package 'Junctions 9' PICADY' (Priority Intersection Capacity and Delay) software was used to assess and confirm the adequate capacity of the priority controlled access junction from the laneway onto the Local Road to accommodate the proposed development. Results of the Junctions 9 PiCADY modelling show that the access junction will have more than adequate capacity to accommodate the worst-case traffic associated with the fill operations and that no queuing is anticipated at the access junction. Sightlines of 160m for an 85kph design speed, measured at a 3m setback (as per TII Design Standards), are available at the site access junction with the Local Road. Typical 3-Axle and 4-Axle Standard Volvo Lorries travelling to and from the site (with heights of 3.245m high and 3.380m respectively) are sufficiently-low profile to traverse underneath the existing railway bridge structure, located c. 300m

to the south of the site access, where a height restriction of 3.5m is in place. Existing courtesy/yield arrangements will apply in the event that 2 on-coming trucks or 2 on-coming vehicles intersect at the bridge location.

- 8.9.5. 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 160m sightlines at the entrance to the site, as per the FI drawing submitted. Concerns raised by the appellants with regards the increase in truck movements and risk to road safety are noted. With regard to the above, I am satisfied that, subject to conditions, the proposed development would not significantly impact the traffic in the locality, and the local road network has the capacity for the traffic generated by the proposed development. The proposed development would not endanger public safety by reason of traffic hazard. This issue is dealt with in greater detail in Section 7.3 above.

8.10. Noise and Vibration

- 8.10.1. Chapter 8 of the EIAR assesses potential noise and vibration impacts. Potential impacts identified include noise from truck vehicles travelling to and from the site and the placement of soil and stone on the land using mechanical equipment. The report identifies that noise will be similar to existing noise from ongoing farm operations and, as such, would not unduly impact the local receiving noise environment, residential properties in the vicinity or human health. Cumulative noise impacts are stated as minor when taking into consideration existing farm noise impacts and impacts from the adjacent Roadstone quarry. Proposed noise management measures to be implemented include adherence to operational hours, a ban on idling of vehicle engines and no breaking of stone or other material. The proposed hours of operation are 08.00 to 18.00 Monday to Friday and 08.00 to 14.00 on Saturdays for the acceptance of soil and stone material. It is stated that there will be no works on Sundays or Bank Holidays.
- 8.10.2. The proposal provides for the erection of a temporary 3m high timber noise barrier, positioned along a c.100m portion of the southern side of the access lane along the boundary shared with a neighbouring dwelling, as detailed in Section 7.4 above. This noise barrier will be erected in accordance with the NRA's 'Good Practice Guidance for the Treatment of Noise during the Planning of National Road Schemes' (2014), in

order to provide enhanced noise reduction to the dwelling at this location from truck traffic.

- 8.10.3. 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 impact. There are no impacts identified impact in terms of vibrations.

8.11. Biodiversity

- 8.11.1. Chapter 9 addresses Biodiversity. Designated nature conservation areas and European Sites in the vicinity are identified which include the Thomastown bog pNHA (site code: 1593), Duleek Commons pNHA (site code: 1578), the River Nanny Shore & Estuary SPA (Site Code 004158) and the River Boyne and River Blackwater SAC and SPA. The site is identified as comprising open areas of improved agricultural grassland with an unmanaged belt, with external boundaries composed of native hedgerows. To the southeast there is a cluster of old farm buildings close to tall trees. Drainage ditches accompanying hedgerows are not considered suitable for salmonid fish due to their small size and the presence of culverts downstream.
- 8.11.2. Further to site inspection on the 6th of December 2019 (by OPENFIELD Ecological Services), a description is provided of the site with regards flora and fauna. The survey found that there are no plants growing on the site which are protected or threatened and that there are no habitats that are listed under Annex I of the Habitats Directive or habitats which are generally associated with species listed in Annex II. There are no plant species that are listed as alien invasive under Schedule 3 of SI No. 477.
- 8.11.3. With regards fauna, the survey found that there is no suitable habitat on the lands for otters by reason that drainage ditches are small and sub-optimal for this species and that there was no evidence of badger activity, and no sett was present. The report notes that the old farm buildings and old trees on the site have the potential for bat roosting but that a dedicated bat survey was not carried out due to the timing of the study as bats are not active during winter months. It is noted, however that the proposed development would not interfere with the buildings on the site and there will be no loss of hedgerow or tree line habitats.

8.11.4. No other protected species were detected on the site or examples of habitats listed on Annex I of the Habitats Directive or records of rare or protected plants. The survey found that there are no alien invasive species as listed under Schedule 3 of SI No. 477 of 2011.

8.11.5. The EIAR details the potential impacts and anticipated effects of the proposed development on flora and fauna. During the construction phase, the proposed works will involve the removal of habitats, including scrub and dry meadow. Given that there will be no loss of hedgerow or treeline habitats and that no works or interference with the buildings on the site are planned, the anticipated effect is considered to be slight. The proposal also has the potential for direct disturbance of species during land clearance, which could affect nesting birds as well as small mammals but is dependent upon the timing of works. The report notes that under the Wildlife Act, the removal of vegetation is prohibited between March and August. Other potential impacts during the construction phase include pollution of watercourses through the ingress of silt, oils and other toxic substances. The report notes that the drainage ditches on the site are not of significant fisheries value. However, they lead to the River Nanny, which is of salmonid status. The report highlights how silt, in particular, can clog spawning gravels downstream and, at high concentrations, directly affect the gills of fish. The report identifies how the proposed development will include extensive land clearance works, which would likely result in sediment runoff, considered a potentially significant effect.

8.11.6. Potential impacts likely to occur during the operation phase in the absence of mitigation include the following;

- Pollution of water from surface water run-off. However, the report details that the lands are to be seeded for animal grazing on a phased basis and that once a permanent grass sward has become established, no impacts to surface water run-off will occur.
- Disturbance to species from increased human activity (noise, movement of machinery etc.). The report, however highlights that the species/habitats present on this site are not considered sensitive to disturbance from noise or general human activity and that the lands (and surrounding land) are in agricultural use

with already a degree of human disturbance associated with machinery and human activity. Thereby, the effects from this source are considered neutral.

- Impacts to protected areas. There is a pathway to protected areas in the estuary of the River Nanny (the Nanny Estuary and Shore SPA). The screening report for Appropriate Assessment submitted with the application concludes that negative effects to Natura 2000 areas are not likely to arise. There is no pathway to the Thomastown Bog pNHA, and so effects to this area cannot occur. Surface water pathways lead through the Duleek Commons pNHA, which is important for its wetland habitats. The report identifies that there are no effects which could arise from the proposed development which could affect this pNHA.
- The risk of spreading alien invasive species is low by reason that the donor site and material to be imported will be inspected and signed off by a suitably qualified person.

8.11.7. Stated mitigation measures during the construction phase include that removal of scrub vegetation will not take place from March to August inclusive, as per the Wildlife Act. During the construction phase, the report states that pollution prevention measures will be monitored. Mitigation measures addressing potential impacts to watercourses/drainage ditches on the site and adjacent sites are addressed in Section 8.1.58 below, under the heading Surface Water. These measures include the development of a berm along the perimeter of the area to be infilled, in advance of the main development. The report details that these berms will be immediately seeded and provide a barrier against sediment run-off in the case of an extreme rainfall event, preventing sediment run-off into peripheral drainage channels.

8.11.8. 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. There are no habitats or species whose conservation requires refusal of planning permission in this case, and furthermore, the impacts are proportional and acceptable. I am satisfied that the proposed development would not have direct or indirect significant effects on biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC.

8.12. Land, Soil, Geology and Hydrogeology

- 8.12.1. Chapter 10 of the EIAR examines land, soils and geology. The dominant soil type within the site is described as loamy drift, derived from calcareous parent materials. Subsoil maps indicate that the depth of subsoil may be less than 2 meters or absent in places. It is stated that the site is primarily underlain by Carboniferous pale grey limestone of the Mullaghfin Formation.
- 8.12.2. With regards ground water, the report states that no groundwater extraction wells present within the site. The report identifies that the aquifer vulnerability, i.e. the risk to groundwater, is classified as Extreme as the thickness of the overburden, i.e. the existing soils, falls within the category 0 – 3.0m at the site. The report, however details that provision of an increased soil cover over the underlying bedrock would not only improve the land for agricultural purposes but also provide additional protection for the groundwater.
- 8.12.3. With regards potential impacts, the report states that no excavations are proposed during the development and that the thickness of topsoil and subsoils will be increased and the quality of the topsoil improved by the importation and use of soils and stone. This will have the additional benefit of improving the groundwater protection in the area as the thickness of the overburden increases. In the absence of likely impacts, no mitigation measures are proposed.
- 8.12.4. Having regard to the above, I am satisfied that the proposed development would not significantly impact on land, soil, geology and hydrology. I concur with the report that the likely impacts are positive and would enhance the protection of the groundwater.

8.13. Surface Water

- 8.13.1. Chapter 11 of the EIAR assesses the potential impact of the proposed development on surface waters. The report identifies that there are no significant bodies of open or running water through the site, although drainage ditches follow field boundaries to the east and west. The drainage ditch to the west is identified by the Environmental Protection Agency (EPA) as the Longford Stream, where surface drainage pathways ultimately enter the River Nanny to the south. The sites field boundary drainage ditches receive runoff from the land subject to the proposed development.

- 8.13.2. The River Nanny flows c. 2.5km south-east of the site and to the south of Duleek Town. The report identifies how recent monitoring of the Nanny Estuary shows 'moderate' status under the Water Framework Directive (WFD) reporting period 2013-18, indicating slight levels of pollution. Along its freshwater portions the River Nanny has been assessed as 'moderate' in its upper regions, deteriorating to 'poor' downstream of Duleek.
- 8.13.3. With regards identification of impacts, sediment run-off is identified as a potential impact due to the deposition of significant quantities of soil on the lands. The report notes that without appropriate mitigation measures and in the event of an extreme rainfall event, significant quantities of sediment could be washed into the peripheral drainage channels. The report states that this risk is short-lived and will be resolved in the medium term by the seeding of the improved lands.
- 8.13.4. Proposed mitigation measures during operation include the development of a berm along the perimeter of the area to be infilled, in advance of the main development. The report states that these berms will be immediately seeded and will provide a barrier against sediment run-off in the case of an event as described above. The report notes that there is no record of flooding at the site.
- 8.13.5. With regards to monitoring, the report states that daily inspections will be carried out of the peripheral drains to ensure no significant runoff of sediment is occurring.
- 8.13.6. I note that the Council's Water Services Planning Report outlined no objections to the proposed development subject to conditions requiring the applicant to submit for agreement details of the proposed wheel wash to include details of water supply, water storage, recycling of water, method of disposal of resultant wastewater and any settlement material and that no deposits be placed within 5 meters of water courses. I am satisfied that the requirements of such Condition and the development of the proposed berm along the perimeter of the lands to be infilled, as detailed on the drawings submitted, would ensure that the proposed development would not result in any significant negative impact to surface waters.

8.14. Landscape and Visual Impact

- 8.14.1. Chapter 12 examines Landscape and Visual impacts. The report identifies that the area is rural in nature with an operational Roadstone quarry to the northeast and that

there are no high amenity areas close to the site, and no sensitive views were identified.

- 8.14.2. Existing hedges and tree lines will be preserved. The report identifies that the impact on views from surrounding areas will be slight and temporary in duration. Mitigation measures include early seeding of the land which will mitigate against any negative impacts on views.
- 8.14.3. Having regard to the above, it is my view that the completion of the development as previously permitted under P.A. Ref. SA60246 & SA50039 would have a slightly beneficial (positive) effect on the landscape and would not impact any views into and across the site.

8.15. Archaeology and Cultural Heritage

- 8.15.1. Chapter 13 of the EIAR examines Archaeology and Cultural Heritage. The report states that there are no national monuments or sites of archaeological interest within 500m of the proposed development. On this basis, the report considers there is no potential for direct or indirect impacts from the proposed development on recorded features of archaeological or architectural heritage.
- 8.15.2. There are no Recorded Monuments within the application site. I note that the nearest Recorded Monument (ME027-057) is a 'habitation site' located c. 230 m to the east of the site within the adjoining Roadstone quarry. There are no designated Protected Structures or structures listed in the National Inventory of Architectural Heritage (NIAH) proximate to the appeal site. It is my view that 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 way of condition (in the event of a grant of permission) requiring 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, therefore, that the proposed development would not negatively impact on the archaeology and cultural heritage of the area.

8.16. Material Assets

- 8.16.1. Chapter 13 of the EIAR examines the potential impacts of the proposed development in terms of material assets. The report states that the proposed development will not have any negative interaction with agricultural activities in the surrounding hinterland and would not alter the local road network. Furthermore, the report states that as the proposed development would take place within the boundaries of the landholding, there would be no material change of use of the lands or any impact on the use at adjacent lands. The proposal would not place increased demand on the water supply from public mains or on the electricity supply in the area.
- 8.16.2. Having regard to the above, and in consideration of the nature, context and location of the proposed development, it is my view that the proposal would not significantly impact material assets including built infrastructure, water supply and electricity supply.

8.17. Interaction & Cumulative Effects

- 8.17.1. Chapter 15 sets out the cumulative and interrelated significant effects of the proposed development and considers expected effects deriving from the proposal. The report notes that interdependencies were dealt with in relevant sections of the EIAR, e.g. the increase in traffic movement would likely result in an increase in airborne pollutants, which was dealt with in the 'Air Quality and Climate' section of the EIAR, rather than the 'Traffic and Transport' section, or both. The assessment of interactions found the following;
- Population and Human Health / Traffic and Transport - impact of traffic and transport would not be significant and would be of similar nature to that currently experienced in the area. Impacts on humans were not found. Levels of noise would be similar to existing agricultural practices. Proposed mitigation measures would be sufficient to ensure sensitive receptors are not impacted.
 - Air Quality and Climate / Traffic and Transport - there would be no significant impacts on air quality during the construction and operational phases of the proposed development as a result of the increased traffic movements. Dust mitigation measures are proposed in the event that weather conditions require them.

- Traffic and Transport / Noise and Vibration - no impacts identified impact in terms of noise and vibrations as a result of the increased traffic movements.
- Noise and Vibration / Biodiversity - no likely significant impact identified on biodiversity, including from noise or vibration sources.
- Land, Soil, Geology and Hydrogeology / Surface Water - surface water runoff from the land would be controlled by the creation of berms, which would not impact on the land.

No significant cumulative impacts were identified.

8.17.2. Having regard to the above, I am satisfied that the EIAR has satisfactorily addressed interactions between impacts on different environmental factors. 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. It is my view that the level of cumulative impact on the environment would be low.

8.18. Reasoned Conclusion on Significant Effects

8.18.1. 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, I consider that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Potential pollution of watercourses/ditches on the site through the ingress of silt, sediment run-off, oils and other toxic substances during the construction/infill phase and in an extreme rainfall event. While the drainage ditches on the site are not of significant fisheries value, they do lead to the River Nanny, which is of salmonid status. Silt, in particular, can clog spawning gravels downstream which, at high concentrations, could directly affect the gills of fish. The impacts would be mitigated by the proposed berm along the perimeter of the area to be infilled in advance of the infill development. This berm would be immediately seeded and provide a barrier against sediment run-off in the case of an extreme rainfall event

into peripheral drainage channels. Other mitigation measures include the seeding of infilled land for animal grazing, preventing surface water run-off.

- The potential for direct disturbance of species during land clearance due to the removal of habitats including scrub and dry meadow which could affect nesting birds as well as small mammals. Impacts would be mitigated through the timing of works and compliance with the Wildlife Act, which prohibits the removal of vegetation between March and August.
- Impact on population and human health arising from roads and traffic issues as well as dust and noise. Impacts would be mitigated through dust minimisation measures, restricted hours of operation and construction, road safety measures and the erection of timber noise barriers along the access lane adjacent to residential property.
- Positive impacts on land, soil, geology and hydrogeology, once the infilling works are complete and the land is returned to agricultural use include an increase in the thickness of topsoils and subsoils and the importation of soils and stone would improve the quality of the topsoil. This would have the additional benefit of improving the groundwater protection in the area as the thickness of the overburden increases. No mitigation measures are required.

8.18.2. In conclusion, having regard to the above identified direct and indirect effects of the proposed development on the environment, I am satisfied that the proposed project, subject to the implementation of the mitigation measures as described in the EIAR, would not have any unacceptable direct or indirect impacts on the environment.

9.0 Appropriate Assessment

9.1.1. The site is not located within any designated Natura 2000 European site. The closest European sites are the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 002299) located c. 2.4km to the north-west of the site and the River Nanny Shore & Estuary SPA (Site Code: 004158) located c. 12km to the east of the site.

9.1.2. The applicant has submitted a Screening Report for Appropriate Assessment of the proposed development, prepared by Pádraic Fogarty (MSc MIEMA) of OPENFIELD

Ecological Services. The report analyses the potential impacts and effects of the proposed development on the special conservation interests of the River Nanny Shore & Estuary SPA, which is considered the only Natura 2000 area that falls within the zone of influence of the proposed development by reason of surface water run-off from the site which creates a hydrological pathway to the SPA. The report notes that there is no pathway from the site to the River Boyne and River Blackwater SAC and SPA, which lies within separate hydrological catchments.

- 9.1.3. The report evaluates the significance of potential impacts and effects of the proposed development, in view of the Natura 2000 sites conservation objectives of the River Nanny Shore and Estuary SPA. The report concludes that significant effects are not likely to arise, either alone or in combination with other plans or projects, to the Natura 2000 network and that this assessment was made in the absence of any mitigation measures.
- 9.1.4. The Planning Authority in its Appropriate Assessment of the proposed development concludes that the proposed development, by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on Natura 2000 European sites and that a Stage 2 Appropriate Assessment (Natura Impact Statement) is not required in this instance.
- 9.1.5. Having reviewed the documentation available to me, I am overall satisfied that there is adequate information available in respect of baseline conditions to clearly identify the potential impacts on any European site and I am satisfied that the information before me is sufficient to allow for screening for appropriate assessment of the proposed development.

9.2. **Stage 1 Screening**

- 9.2.1. The proposed development is for the importation of 230,000 m³ (345,000 tonnes) of Article 27 (as defined by European Communities Waste Directive Regulations 2011) uncontaminated soil and stone as a non-waste by-product over a five year period to improve 12 hectares of agricultural lands. The proposed end-use is agricultural. Proposed works also include the installation of a vehicle wheel-cleaner and access barrier, the erection of a 3m high timber noise barrier fence along a portion of the laneway for the duration of the permission and the creation of a berm along the

perimeter of the site adjacent to periphery drainage channels to ensure that extreme rainfall events during the placing of the imported soil and stone would not result in excessive run-off of sediment into those channels.

- 9.2.2. The main section of the site is greenfield, which falls broadly from south-east to both south-west and north. Boundaries consist of trees and hedges with drainage ditches following field boundaries to the east and west.
- 9.2.3. The habitats on the site comprise agricultural grassland, hedgerow and trees. There are no habitats that are examples of those listed in Annex I of the Habitats Directive which are suitable for species listed on Annex II of that Directive.
- 9.2.4. To the southwest of the site, there is a cluster of old farm buildings close to a tall tree line which has the potential for bat roosting. The Screening report states that a dedicated bat survey was not carried out due to the timing of the study as bats are not active during winter months. However, it is noted that the proposed development would not interfere with the buildings on the site, and there will be no loss of hedgerow or tree line habitats.
- 9.2.5. The material to be imported to the site is stated as comprising inert materials, i.e. soil, stone and rock, defined as by-products arising from the construction industry and classified under Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011. There is no source of wastewater from the proposed development.
- 9.2.6. The site itself is not within or adjoining any European site. I note the following European sites are examined in the submitted Screening Statement:

Table 1:

Name of Site	Conservation Objectives	Qualifying Interests/Special Conservation Interests	Distance
River Boyne and River Blackwater SPA	To maintain or restore the favourable conservation condition of the bird species listed as Special	Kingfisher (<i>Alcedo atthis</i>)	c. 2.4km to the north-west of the site.

(Site Code: 004232)	Conservation Interests for this SPA.		
River Boyne and River Blackwater SAC (Site Code: 002299)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	Alkaline fens Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) Atlantic Salmon - <i>Salmo salar</i> River Lamprey - <i>Lampetra fluviatilis</i> Otter - <i>Lutra lutra</i>	c. 2.4km to the north-west of the site.
River Nanny Shore & Estuary SPA (Site Code 004158)	To ensure that waterbird populations and their wetland habitats are maintained at, or restored to, favourable conservation condition.	Oystercatcher Ringed Plover Golden Plover Knot Sanderling Herring Gull Wetland and Waterbirds	c. 12km to the east of the site.

9.2.16. With regard to direct impacts, the application site is not located adjacent or within a European site, therefore there is no risk of habitat loss, fragmentation or any other direct impacts. I am satisfied having regard to the nature and scale of the proposed development, the separation distance of 12km from the River Nanny Shore & Estuary SPA (as the crow flies) and the intervening uses, that no Appropriate Assessment issues arise in relation to this European site.

9.2.17. In the absence of direct source – pathway – receptor linkage to the River Boyne and River Blackwater SAC and SPA located c. 2.4km to the north-west of the site, I am

satisfied that no Appropriate Assessment issues arise in relation to these European sites.

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

9.3. **Stage 1 – Screening Conclusion**

9.3.1. Having regard to the nature and scale of the proposed development on 'RA - Rural Area' 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.

10.0 **Recommendation**

10.1. 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.

11.0 **Reasons and Consideration**

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

12.0 Conditions

1.	<p>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 08th day of March 2021 and the 25th day of March 2021 and by the further plans and particulars received by An Bord Pleanála on the 14th day of June 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.</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 of operations. Following the expiration of this period, the importation of material to the site and operations 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 345,000 tonnes (230,000 m³) of soil and stone 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.</p> <p>(c) All uncontaminated soil and stone imported onto the site shall comprise non-waste by-product, in accordance with Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011.</p> <p>(d) No development shall commence prior to registration with the Environmental Protection Agency of the material to be imported onto the lands, in accordance with Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>All the environmental mitigation and monitoring measures set out in the Environmental Impact Assessment Report (EIAR) shall be implemented in</p>

	<p>full in accordance with the timelines set out, except as may otherwise be required in any Authorisation 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 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>The imported material to be deposited on the land shall be levelled, contoured and seeded upon the completion of the works and protected until established.</p> <p>Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity</p>
5.	<p>Prior to commencement of development, details regarding the origin/source of the proposed 345,000 tonnes of uncontaminated soil and stone to be imported onto the site shall be submitted for the written agreement of the planning authority.</p> <p>Reason: To regulate the development, in the interest of the proper planning and sustainable development of the area.</p>
6.	<p>Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. Drainage details shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.</p> <p>Reason: In the interest of environmental protection and public health.</p>
7.	<p>(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, longitudinal and cross-section drawings and proposed locations of infilling operations.</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>Details of the berms around the perimeter of the area to be infilled shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of clarity and in order to protect receiving drainage water courses.</p>
9.	<p>(i) Prior to commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted for the written agreement of the planning authority.</p> <p>(ii) All works on the site shall be carried out strictly in accordance with the mitigation measures specified in the Construction Environmental Management Plan (CEMP).</p> <p>(iii) No development shall be commenced on the site until part (i) of this condition is complied with.</p> <p>Reason: In the interest of environmental protection.</p>
10.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p>

	<p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
11.	<p>The importation of soil and stone and the operation of associated machinery shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays, between the hours of 0800 and 1300 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>
12.	<p>Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority details providing hardstanding from the main entrance to the site at the L5609 to the wheelwash within the main section of the site.</p> <p>Reason: In the interest of traffic safety and to protect the amenities of the area.</p>
13.	<p>Details of road signage including advance warning notices and proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of traffic safety.</p>
14.	<p>During the construction phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed-</p>

	<p>(a) an L_{Ar,T} value of 55 dB(A) between the hours of 0800 and 1800 from Mondays to Fridays, between the hours of 0800 and 1300 on Saturdays (excluding public holidays).</p> <p>(b) an L_{Aeq, T} value of 45 dB(A) at any other time.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
15.	<p>During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, the commencement date and the frequency of monitoring results.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
16.	<p>All trees and hedgerows on the boundaries of the site shall be retained and maintained. Retained trees and hedgerows shall be protected from damage during construction and infill development works.</p> <p>Reason: To protect trees and planting during the construction and infill period, in the interest of visual amenity and biodiversity.</p>
17.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
18.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning</p>

<p>and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Brendan Coyne
Planning Inspector

07th March 2022