



An
Bord
Pleanála

Inspector's Report

ABP-312031-21

Development	Restoration of a 6.1 hectare abandoned sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone. A Natura Impact Statement will be submitted to the planning authority with the application.
Location	Tinnaclash, Hacketstown, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	21334
Applicant(s)	Smith Groundworks and Civil Engineering Works Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Smith Groundworks and Civil Engineering Works Ltd.
Observer(s)	None

Date of Site Inspection

1st November 2022

Inspector

Una O'Neill

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	7
3.3. Prescribed Bodies	8
3.4. Third Party Observations	9
4.0 Planning History.....	9
5.0 Policy Context.....	11
5.1. National Guidance.....	11
5.2. Carlow County Development Plan 2022-2028	11
5.3. Natural Heritage Designations	13
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	14
7.0 Assessment.....	15
7.1. Introduction	15
7.2. Principle of the proposed development/development plan policy.....	16
7.3. Environmental Status of the Site	18
7.4. Surface Water Management	21
7.5. Landscape and visual impact and adjoining amenity	24
7.7. EIA Screening	26
8.0 Appropriate Assessment.....	28

9.0 Recommendation..... 39

10.0 Reasons and Considerations 39

11.0 Conditions 40

1.0 Site Location and Description

- 1.1. The subject site, 6.17 ha in area, is located in the rural townland of Tinnaclash, Hacketstown in Co. Carlow, proximate to the border with Co. Wicklow. The site lies circa 1.4km south of Kiltegan Village, Co. Wicklow and circa 4.3km to the north-west of Hacketstown, Co. Carlow. The landscape in the area is characterised by rolling agricultural lands where the lands are in between 150-260m OD elevation band. The Wicklow Mountains lie 8km to east.
- 1.2. Access to the site is from the R747. There is an existing agricultural gated entrance, which is setback from the road by circa 40m. There are two detached dwellings to the south of the entrance, which back onto the western site boundary. There is a dwelling and farmyard complex circa 40 metres from the northern site boundary.
- 1.3. The site is a disused sand and gravel quarry and comprises dug out areas relating to two quarry pits, within a larger rectangular field under grass. The wider un-touched field is used for grazing animals. The quarry area itself has a number of stockpiles of soil within it and waterlogged areas, with berms around the edges. The subject site remains in the same condition as described under the history application ABP-305059-19, which was determined on 13th July 2020.

2.0 Proposed Development

- 2.1. Permission is sought for
 - (1) the restoration of a 6.1ha abandoned sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone.
 - (2) Temporary ancillary development including (a) 1 no. site office; (b) 1 no. portable toilet; (c) 1 no. wheelwash and (d) improvement works to the site entrance, access gates and access road and internal access tracks.
- 2.2. A Natura Impact Statement and EIA Screening is submitted with the application.
- 2.3. Fill material will be imported and will be partially derived from the existing overburdens on the site, which amount to c. 95,000 tonnes. It is stated in the submitted documentation that it is proposed to import an additional 75,000 tonnes of fill material (inert soil and stone) over a 5 year period, with a maximum of 15,000

tonnes to be accepted each year. A Waste Facility Permit (WFP) is required and it is stated that an application for a WFP will be submitted to Carlow County Council following a grant of permission being issued. It is stated that fill material is likely to be sourced from construction sites where the applicant is working, including North Wicklow, Carlow and Kildare. The lands will be returned to agricultural grassland use at the end of the development.

- 2.4. Access to the site will remain as is from the regional road, with removal of a bank of roadside hedgerow to the north to achieve sightlines.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED by Carlow County Council on 28th October 2021 for the following reasons:

1. The site of the proposed development was the subject of an assessment under Section 261A of the Planning and Development Act 2000 (as amended), on foot of which a 4(a) notice was issued to the quarry owners(s)/operator(s) on the basis that the quarry constituted unauthorised development. The 4(a) notification was based on a determination by the Planning Authority under Section 261A that (1) development carried out on the site after 01/02/90 (EIA Directive) would have required EIA, but no such EIA was carried out, and (2) development carried out on the site after 26/02/97 (Habitats Directive) would have required Appropriate Assessment (AA) but no such AA was carried out. The decision to issue a 4(a) notice was also based on findings that (a) there was no evidence of quarrying works which would provide a Pre-1964 Authorisation and (b) a search of the Planning Register in Carlow County Council revealed that planning permission for a quarry development was never obtained on the lands. For these reasons, the underlying quarry development comprising the site on which the proposed development would take place is not authorised and the proposed development would therefore represent works to unauthorised development. Having regard to the foregoing including the existing

unauthorised development on the site which would have required both an Environmental Impact Assessment and Appropriate Assessment, it is considered by the Planning Authority that to permit the proposed development would set an undesirable precedent and would not be appropriate having regard to the proper planning and sustainable development of the area.

2. On the basis of the submitted application documentation, it is considered that the proposed surface water management system for the site including silt trap design is not adequate for the type of contamination which would be likely in the facility and would require a redesign to remove fine clay material which would likely be present during storm conditions. In addition, the proposed swale design, as proposed, would not be adequate for storm conditions. Having regard to same, it is considered that to permit the proposed development would present a risk of pollution to groundwater and surface water, which would be prejudicial to the environment and to public health and would therefore not be in accordance with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority, with refusal recommended for two reasons. I note the following is stated within the report:

- Notwithstanding previous Board Order which noted proposed development could be assessed on its own merits, PA retains the view that the previous quarry activity at the site was unauthorised, required EIA and AA, and permission was never obtained. The proposed restoration works would represent works to land where there is an existing unauthorised quarry development.

3.2.2. Other Technical Reports

Senior Engineer, Environment: Silt traps, a petrol interceptor and a soakaway are proposed. Grant is recommended subject to conditions, including the following - surface water to be diverted to a new soakaway within the curtilage of the site boundary; soakaways to be designed in accordance with BRE Digest 365; surface

water system to be installed as per submitted surface water design report and in accordance with SUDS manuals C145 and C753.

Senior Executive Engineer, Environment:

- Given proximity of sensitive noise receptors, a detailed noise impact assessment is required;
- Submitted mitigation measures in relation to dust are adequate;
- In Hydrogeological Report, groundwater sampling shows generally good quality but there are exceedances of Iron, Manganese; Aluminium, Nitrates and Chloride.
- The surface water and groundwater management system proposes two silt traps and a swale in advance of the soakhole, which is not considered adequate and a revised design is required which will remove fine clay material which will be present in storm conditions. The proposed swale will not be adequate for storm conditions. A revised proposal should be submitted to incorporate a lagoon settlement.
- Further information requested in relation to NIS - Sections on surface water management, Invasive Species Control and a CEMP are requested and NIS revised accordingly.
- FI in relation to other design issues.
- Request for Schedule 7A information to be submitted.

Roads Section: No objection subject to conditions in relation to signage and maintenance of roads.

Water Services/Irish Water: No objection. No impact on Irish Water Assets. Area not served by Irish Water.

3.3. Prescribed Bodies

Irish Water: No impact on Irish Water assets. Area is not serviced by Irish Water.

Geological Survey Ireland:

- Notes the submitted EIAR report and Hydrogeological Report make use of datasets relating to Geoheritage, Groundwater Wells and Springs, Groundwater Aquifer, Vulnerability, Bedrock and Quaternary Sediments.

- Report notes that Groundwater Resources Aquifer Data Viewer indicates a 'locally important aquifer – bedrock which is moderately productive only in local zones' underlies the inactive quarry site. The Groundwater Vulnerability map indicates 'High' groundwater vulnerability with the area covered. Groundwater-surface water interaction that might occur would be greater in these areas.
- GSI would appreciate a copy of reports detailing the logs of the three boreholes already drilled and any site investigations.

3.4. Third Party Observations

One submission from **Wild Irish Defence, c/o Peter Sweetman & Associates**. The issues raised are summarised as follows:

- Planning merits to be assessment in accordance with P&D Act 2000 (as amended).
- PA required to form and record a view as to the environmental impacts of the development, considering the EIA Report (EIAR) if furnished, the views of the public and applying its own expertise or to screen the development for EIA.
- PA has responsibilities under the Habitats Directive.
- The development must be assessed for compliance with the Water Framework Directive.
- The development is within the zone of influence of the Slaney River Valley SAC.

4.0 Planning History

Site Area the Same as Current Application:

ABP-305059-19 (PA Reg Ref 18444) – Permission REFUSED (13.07.20) for restoration of a sand and gravel quarry to agricultural grassland, by backfilling, using imported inert soil and stone.

Reasons for Refusal:

Having regard to the previous use of the site for quarrying and to the absence of information submitted with the application and appeal regarding the existing

environmental status of the subject site, and the consequent potential implications for design measures related to the implementation of the proposed development, the Board is not satisfied that the proposed development would not pose a risk of environmental pollution and would not be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A note with the Board Order states the following:

In deciding not to accept the Inspector's recommendation to grant permission, the Board agreed with the Inspector that the proposed development could be assessed on its merits, notwithstanding the previous quarrying use on site. However, the Board concluded that the information submitted with the application and the appeal was insufficient to provide a comprehensive assessment of the existing environmental status of the subject site and on this basis it could not be certain that the proposed development would not pose a risk of environmental pollution and, therefore, be prejudicial to public health.

Site of Current Application, plus lands to the East:

PA Reg Ref 17222 – Permission REFUSED in 2018 for development comprising the phased filling and re-contouring of two existing dormant sand/gravel pits (contained within the same landholding) with inert soil and stone which will be partly imported and partly derived from the existing piles of overburden surrounding each pit.

Permission was refused for four reasons, namely unauthorised nature of the quarry; insufficient information in relation to AA; site adjoins and is partly within an identified flood risk area; and lack of clarity in relation to drainage, suspended solids and settlement ponds.

Site 100m to Southeast of Application Site:

PA reg ref 0273 – Permission GRANTED to James Malin for a sand and gravel pit and associated site works.

PA Reg Ref 16/250 – Permission GRANTED to Smith Groundworks and Civil Engineering Ltd in 2017 for proposed infilling and re-contouring of (A). An existing dormant sand/gravel pit and (B). A depression within an existing agricultural field.

The original quarry at this location was a permitted quarry. It is stated in the submitted documentation that the infilling of this quarry is currently underway.

Application Site:

261-QY/2 – Under quarry registration process and Section 261(5)(a) of the Planning and Development Act 2000, PA issued notice requiring a planning application and EIS for the quarry to be submitted by 27.09.06. This was not submitted.

261A – Q/Y2 – Site assessed under Section 261A of the Planning and Development Act 2000. A Section 4(a) notice was served stating intention to issue Enforcement Notice, following conclusion that quarry was not pre-64 and there was no permission for the quarry, and the development would have required EIA and AA. Owner applied for review to ABP, but application declared invalid on 15.02.13.

It is stated in the submitted documentation, that quarrying at the site ceased in 2009.

5.0 Policy Context

5.1. National Guidance

5.1.1. Quarries and Ancillary Activities Guidelines for Planning Authorities, DOEHLG, 2004.

5.2. Carlow County Development Plan 2022-2028

- Chapter 6, Infrastructure and Environmental Management
- Chapter 14 Rural Development –
 - Section 14.4.1 Agriculture – Policies: AG.P1 Support agricultural development and encourage the continuation of agriculture as a contributory means of maintaining population in the rural area.
 - Section 14.16 .1 Aggregates – Stone, Sand and Gravel: It is stated that the operation of quarries can give rise to land-use conflicts and environmental issues which require to be mitigated and controlled through the planning system... The Council's considerations on quarrying matters will have regard

to “Quarries and Ancillary Activities”, Section 28 Guidelines issued in 2004. The detailed matters which will be taken into consideration in the assessment of planning applications for extractive and processing developments are set out in Chapter 16, Development Management Standards.

- Chapter 16, Development Management Standards
 - Section 16.16.3 Extractive Industries:... The restoration of disused pits and quarries to productive agricultural use will be encouraged where appropriate having regard to all appropriate environmental considerations. Other possible post closure uses may be considered such as recreational facilities and natural habitat areas.
 - Section 16.16.4 Land Reclamation: The Council recognises in certain circumstances the need for land reclamation for the improvement of agricultural purposes. Any proposal for land reclamation developments will be required to include the following information:
 - A rationale and justification for the improvement of agricultural land;
 - Quantities of materials in tonnes having regard to Mandatory EIA Thresholds;
 - The relationship of the site with any European Sites and sites of ecological importance. The development shall not create any adverse effect on the integrity of the conservation objectives of any European Sites or protected species;
 - Potential impact on species protected under EU or national legislation, outside of protected sites;
 - Details of potential impacts on groundwater and surface waters;
 - Visual impact – cross-sections of existing and proposed ground levels. The development shall not interfere with the character of the surrounding landscape;
 - Details of the type and quantity of material to be imported. Only clean, inert material will be allowed;

- A traffic management plan including haulage routes and daily/weekly truck movements;
- Details of how noise, dust and emissions will be managed;
- Residential amenity – an assessment shall be carried out on the potential impact of the development on any residential properties in the vicinity of the lands; and
- A phasing programme for the duration of the works.

Any development will be required to have the requisite waste authorisation in place in accordance with the stipulations of the Waste Management Act 1996 or any subsequent updated guidance or legislation.

5.3. **Natural Heritage Designations**

The River Slaney Valley Special Area of Conservation (Site Code: 000078), is located approximately 967m to the north-west of the application site.

Douglas River, a tributary of the River Slaney, is circa 295m to the north of the application site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The first party appeal is summarised as follows:

- Revised drawings and updated environmental reports submitted to address issues raised by the Council including:
 - A revised silt trap design
 - A revised proposal to incorporate a settlement lagoon
 - An updated Hydrogeological Report to clarify groundwater depths, identify the site's geological domain and resultant trigger levels as per Guidance document on Waste Acceptance Criteria at Authorised Soil Recovery Facilities (EPA, 2020)

- Details on the geotextile surrounding the soakhole
- Detailed design of the oil interceptor
- Revised EIAR and NIS Screening Reports to take account of changes to the surface water management system on foot of this appeal submission
- The Board previously refused permission on one reason in relation to inadequate information on the existing environmental status of the site. The Board accepted that the development could be assessed on its merits, notwithstanding the previous quarrying use on the site. The PA has failed to take account of the Boards determination and recommended refusal on the basis that the quarry constituted unauthorised development.
- There has been no quarrying on the site since 2009. Quarry activity is extinguished. No unauthorised use or activity is in place. The proposal will visually enhance the area and restore the land to agricultural use.
- Hydrogeological Report shows presence of low permeability subsoil underlying the sand, which offers natural protection to underlying bedrock aquifer from proposed backfilling activities on the site.
- Groundwater samples from 3 monitoring wells on site indicate the groundwater quality is generally good.
- Mitigation proposed for continued protection of groundwater and surface water within the site and the vicinity, including use of berms to the east, infiltration blankets, silt trap, and proposed soakaway design area. A settlement lagoon is also now proposed to further remove fine clay material which would likely be present during storm conditions.
- Works proposed are not for quarrying but for land reclamation and restoration for agricultural use. The proposal does not seek to consolidate an unauthorised use.

6.2. Planning Authority Response

- Notwithstanding the content of the appeal, the position of the PA remains the same.

- In relation to refusal no. 1, previous quarry on site was unauthorised and required both EIA and AA. Hayes v ABP (2018) IEHC 338 requires past impacts of any development to be assessed in any S. 34 application. Substitute consent required for previous quarry use before restoration works can be considered.
- In relation to refusal no. 2, the PA is not satisfied that the proposed silt trap would be adequate to remove fine clay materials, which would be likely during storm conditions. The surface water management system in the planning application to the planning authority represented a risk to both ground water and surface water in the area.

7.0 Assessment

7.1. Introduction

7.1.1. The proposed development is for the restoration of a now disused sand and gravel pit, through the filling of the area with existing piles of overburden on the site and importation of fill (inert soil and stones) from other sites. The application was lodged with Carlow County Council (CCC) on 3rd September 2021 and the first party appeal to the PA decision to refuse permission was received by ABP on 24th November 2021. The application to CCC was accompanied by a number of documents, including the following:

- Planning Report by HRA, August 2021
- Environmental Report by Enviroguide Consulting, July 2021
- EIA Screening Report, July 2021
- Natura Impact Statement, April 2021
- Hydrogeological Report, by Parkmore Environmental Services, December 2020
- Traffic Management Report
- Facility Plan, July 2021
- Report on Disposal of Surface Water, May 2021

7.1.2. The grounds of appeal as submitted by HRA Planning on behalf of the first party, states that a number of revised drawings and updated environmental reports are now submitted in response to issues raised by the Council and to take account of changes to the surface water management system on foot of this appeal submission.

The revised reports submitted are as follows:

- EIA Screening, November 2021
- Appropriate Assessment Screening Report, 2021
- Natura Impact Statement, November 2021
- Design of Settlement Lagoon, Parkmore Environmental Services Ltd.
- Revised silt trap design to remove fine clay material.
- Hydrogeological Report, November 2021 [updated to clarify groundwater depths and to identify the site's geological domain and resultant trigger levels as per guidance document on Waste Acceptance Criteria at Authorised Soil Recovery Facilities (EPA, 2020)].
- Details of the geotextile surrounding the soakhole.
- A detailed design of the oil interceptor.

7.2. Principle of the proposed development/development plan policy

7.2.1. The site is located in an unzoned rural area. The site was previously an unauthorised sand and gravel pit (as determined by the PA under S261 of the Act, and not successfully disputed in accordance with procedures by the owner), which is stated to have ceased operation in 2009. I observed upon site inspection that quarrying has ceased for a considerable period. The proposal seeks to infill the land with imported waste/inert soil and stone from other sites and return the ground levels to its previous state, with land at the end of the five-year filling timeline to be returned to agricultural use. It is stated in the applicant's documents that a Waste Facility Permit is required and will be sought post decision.

7.2.2. Planning permission was refused by the PA and ABP for the same development on this site in 2020. The PA previously refused permission for two reasons, one of which related to works being proposed were to an unauthorised development, which

would have required EIA and AA, and the other reason was in relation to surface water management. The Board refused permission on the basis of the lack of information on the current environmental status of the site and potential implications for design measures proposed and potential for pollution. I note the Board in its Direction stated the Board was of the view that the proposed development could be assessed on its merits, notwithstanding the previous quarrying use on site. Nothing has changed on the site since that application was refused.

- 7.2.3. The PA maintain their position in the refusal to this application that the development proposed is to an unauthorised development which would have required EIA and AA. I acknowledge the concerns of the PA that an EIA or AA of the quarry use was never undertaken and note that the PA see the solution to this issue being addressed by way of substitute consent, quoting the legal case *Hayes v ABP*, which was also quoted in the previous PA refusal on this site. The PA state under the planning history section of their report that, under reg ref 261A – Q/Y2, the site was assessed under Section 261A of the Planning and Development Act 2000 and a Section 4(a) notice was served stating intention to issue Enforcement Notice, following conclusion that quarry was not pre-64 and there was no permission for the quarry, and the development would have required EIA and AA. The owner applied for review to ABP, but the application was declared invalid on 15.02.13. While the documentation associated with the Section 261 process is not on the file, I note the applicant states no enforcement notice was issued and it would appear a request was not made that the applicant apply for substitute consent. This is not disputed in the PA reports submitted.
- 7.2.4. The applicant in this application and to address the previous ABP refusal reason has elaborated on the existing environmental status of the site with the submission of a Hydrogeological Report, as well as the Environmental Report. The applicant argues the proposed development does not seek to consolidate unauthorised development as it seeks to restore the quarry and it is not a continuation of quarrying activities or proposing quarrying activities.
- 7.2.5. As suggested by the PA in their report, the application for substitute consent may have allowed for a remedial environmental impact assessment report and/or remedial Natura Impact Statement to have been undertaken to address remediation works. However, it is not clear to me from the information on file that the PA formally

requested the applicant to apply for substitute consent to ABP. Enforcement is a matter for the PA and not the Board. I note the applicant is not seeking to retrospectively regularise the previous quarry development or continue quarrying. The proposed activity/development is for infilling of land and is not for a quarrying activity. The current application is accompanied by a NIS and was subject to screening for EIA and these matters are fully addressed elsewhere in this report. In relation to PA concerns that the past environmental impacts can only be assessed by way of substitute consent, I note that the existing environmental condition of the lands (which has been influenced by the past quarrying of the site) is elaborated upon in the submitted Environmental Report and Hydrogeological Report and the proposed environmental implications of the development now proposed are addressed against the existing baseline context. It is not apparent to me that the proposed development is seeking to circumvent EIA or AA requirements. Furthermore, I note the Board determined in the previous application for the same development on this site that the application should be assessed on its own merits, notwithstanding the previous unauthorised use on the site, and I am therefore proceeding with my assessment on that basis. Should the Board determine that this is no longer the correct procedure, it is open to the Board to consider this issue further.

- 7.2.6. The infilling of the existing closed quarry, which following completion allows the land to return to agricultural use, would be a positive development and in keeping with the objectives of the operative development plan. Section 16.16.3 of the Carlow County Development Plan 2022-2023 relates to Extractive Industries, and while this section is directed mainly at new authorised quarries, I note the following is stated: ‘The restoration of disused pits and quarries to productive agricultural use will be encouraged where appropriate having regard to all appropriate environmental considerations...’. I consider that the principle of the proposed development is acceptable and consider further hereunder environmental considerations in relation to the potential effects of the development.

7.3. **Environmental Status of the Site**

- 7.3.1. The documentation submitted with the application includes an Environmental Report, with revised/updated documents included in the appeal to address PA concerns

raised, including an updated Hydrological Report, as well as an updated EIA Screening and updated NIS. The Hydrological Report is stated by the applicant to have been undertaken for this application in response to the previous ABP refusal on the site.

- 7.3.2. The Environmental Report details the methodology relating to the proposed development, and includes an analysis of potential environmental impacts relating to: biodiversity, noise, dust, surface water and groundwater (elaborated upon in the Hydrogeological Report), Invasive Species potential (screening of soil imports required), traffic, screening for AA (full screening document and NIS submitted and assessed separately), landscape and visual impact, and associated mitigation measures are proposed, where relevant.
- 7.3.3. The PA Engineer Report (dated 17.09.22) requests further information, noting that a detailed biodiversity assessment is not required given the worked out nature of the quarry; in relation to noise, a detailed noise assessment is requested; no issues are raised in relation to the proposed mitigation for dust; the silt trap design and proposed swale are considered inadequate and a revised proposal incorporating a settlement lagoon is requested; and an Invasive Species Management Plan is requested to be submitted.
- 7.3.4. While the Environmental Report considers biodiversity in the context of AA and not the current biodiversity value of the site, I agree with the PA Engineer Report that this is not required given the worked out nature of the site. I note the current physical status of the site due to past activities means there has in the past been a loss of sand and gravel resources from this site and loss of agricultural land, however, I consider such losses in the context of widely available agricultural land in the area and having regard to the primary function of the quarrying activities was to harness use of natural resources which in themselves lead to benefits to the construction industries, did not result in significant negative impacts on soil and resources. I note in terms of habitat, the land was agricultural in nature, similar to the remainder of the existing field the quarry sits within, and while the change to quarrying presented a change of habitat, no significant ecological habitat destruction has been recorded and the site's restoration to agricultural use as part of the proposed development will have a positive impact on the biodiversity value of the land. In terms of the issue raised in relation to the lack of a detailed noise assessment, I consider the buffer

zone proximate to the two neighbouring dwellings, the proposed block wall, the berm to the north, and mitigation measures relating to best practice operations during construction (as set out in Section 4.2.2 of the Environmental Report), are sufficient to address the issue of noise which would arise from this development and I do not consider a further noise assessment in this instance is warranted. Having regard to the nature and scale of the development, I do not consider the proposal will result in significant adverse noise impacts on the neighbouring dwellings to the west and north or on neighbouring farm lands. In relation to invasive species, none are identified on the site and therefore a management plan is not warranted. Mitigation measures proposed to ensure invasive species are not accidentally transported onto the site are sufficient. I consider further hereunder the proposed surface water management proposals.

- 7.3.5. The Hydrogeological Report was amended/updated as part of the appeal documentation to address questions raised by the PA Engineer as part of the assessment of the application by the PA. The report sets out the characteristics of the hydrological regime, the site geological domain, and soil trigger levels having regard to the document 'Guidance on Waste Acceptance Criteria at Authorised Recovery Facilities' (EPA, 2020). Soil trigger levels are maximum concentrations and/or trigger levels for relevant contaminants in soil and stone proposed to be accepted from non-greenfield sources. GSI data indicates the site has a groundwater vulnerability of high, and the underlying bedrock is classified as a locally important bedrock aquifer which is moderately productive only in local zones. Under the Water Framework Directive, the site is within the Ballyglass Groundwater Body which is assessed as having 'good' status, with its risk status under review. Three boreholes were drilled to a depth of 16m below ground level and all boreholes were completed as monitoring wells. Groundwater samples were taken for analysis and the Hydrogeological Report states 'Overall water quality is good, with the majority of parameters complying with both the Drinking Water Standards and the EU Environmental Objectives for Groundwater'. As noted by the PA Engineer, the report highlights presence of Iron, Manganese, and Aluminium levels exceeding standards in borehole MW1 and MW3. The report states this is typical in bedrock aquifers with slow flowing groundwater or where there has been organic pollution. Borehole MW3 has elevated levels of Nitrate and Chloride which the report states could indicate that

groundwater is impacted by land spreading of organic waste on agricultural grassland or from sewage wastewater discharges from nearby dwellings. I note the increased levels of certain chemicals in the ground water is not indicated to be as a result of past quarrying activities on the site nor are they indicated as being something which the proposed development would impact on. The report concludes that backfilling of the dormant pit in an orderly manner will result in little or no impact on the underlying bedrock aquifer or the nearby river drainage network. It is stated that the shallow pond on site should be backfilled using existing stockpiles of sandy spoil which originated in the dormant pit. Any stormwater must be properly managed on site with no runoff allowed to discharge directly to the surface water network down gradient of the site. I assess under Section 7.4 hereunder the proposed surface water management system, including the now proposed lagoon settlement proposals.

- 7.3.6. Overall, the existing environmental status of the site is indicated to be good, as detailed in the submitted Hydrogeological Report. I note the status of groundwater is indicative of the lack of significant impacts of past development on the existing environment. No significant negative impacts on land, soils and geological environmental factors are known to have occurred based on the information I have reviewed within the Hydrogeological Report and Environmental Report, and no predicted significant environmental impacts are likely as a result of the proposed development, as indicated in the Environmental Report, EIA Screening Report and NIS (discussed separately elsewhere in this report). I assess hereunder surface water management proposals.

7.4. Surface Water Management

- 7.4.1. The PA's second reason for refusal of this application refers to the matter of surface water drainage. It stated that on the basis of documentation submitted with the application that it was considered that the proposed surface water management system for the site including silt trap design is not adequate for the type of contamination which would be likely in the facility and would require a redesign to remove fine clay material which would likely be present during storm conditions. In addition the reason for refusal states the proposed swale design would not be adequate for storm conditions and overall to permit the proposed development would

present a risk of pollution to groundwater and surface water, which would be prejudicial to the environment and to public health.

- 7.4.2. The first party has responded to this reason for refusal in the submitted documentation, stating it has responded to all concerns raised in the report from the Environment Section of the PA, including in the appeal documentation provision for a settlement lagoon to accommodate surface water run-off from the entire site, which is stated to provide for an additional layer of surface water protection with unwanted solid matter removed from the water through a process of sedimentation.
- 7.4.3. I note the PA has submitted a report to ABP on the appeal of the first party, however, it is not clear to me, based on the wording of the report, whether the PA has considered the additional appeal documentation as it relates to surface water and which now includes provision for a settlement lagoon, as well as addressing other concerns raised in the PA Engineer's Report, dated 17th September 2021. There is no commentary on the proposed lagoon or further information requested by the PA Engineer in the submitted report from the PA.
- 7.4.4. I have examined all documentation on file, including the assessment of the current environmental status of the site as set out in the Hydrogeological Report and the additional surface water management measures proposed as part of the appeal documentation.
- 7.4.5. The site is within the Slaney and Wexford Harbour Water Framework Directive Catchment, the Derreen_SC_010 sub-catchment and the Douglas (Kiltegan) WFD River Sub Basin. There are no river waterbodies within the site. An unnamed tributary of the River Douglas is located 263m to the east and downgradient of the site. This stream flows into the River Douglas, 350m to the northeast of the site. The River Douglas has a 2013-2018 WFD status of Moderate and it is At Risk of not achieving its WFD status objectives (EPA 2021). The River Douglas continues a further 1.3km until it flows into the Slaney River Valley SAC at Kiltegan Bridge, at which point the river is recorded as having a Q Value of 3-4, Moderate Status (EPA 2021).
- 7.4.6. The submitted Hydrogeological Report states that pre-quarrying ground levels were at approx. 150m above ordnance datum (AOD) and the floor of the quarry has been worked down to approx. 4m below the natural ground level, with the ground floor

elevation approx. 146-147mAOD. There is no direct hydrological link between the site and the stream or river to the east and northwest, ie the River Douglas and its tributary. The site is within the groundwater waterbody of Ballyglass, which has a WFD status of Good and the risk status is stated to be under review. Upon site inspection I noted a ponded area within the quarry. This was investigated within the submitted report which states the pond likely presents perched water on top of the low permeability marl subsoil beneath. The ground investigations noted the depth to bedrock beneath the floor of the quarry is 4.5m and 6m below ground level. Ground conditions comprise silty sand to a max depth of 4m, overlying low permeability marl to a max depth of 6m, overlying granite bedrock to max depth of 16m below ground level. Analysis of groundwater samples indicated groundwater quality is generally good.

- 7.4.7. It is not proposed to connect or allow for any surface water within the site to connect to the existing stream to the east. The surface water management approach is to maintain surface water discharges within the site for discharge to ground via infiltration blankets. Surface Water Management measures include the use of berms at the boundaries, installation of infiltration blankets, use of a soakaway, use of a settlement lagoon system (as proposed within the appeal documentation), use of a silt trap, and use of a hydrocarbon interceptor trap. In addition, the report states ‘the presence of low permeability subsoil underlying the sand offers natural protection to the underlying bedrock aquifer from proposed backfilling activities at the site.
- 7.4.8. Having regard to all details on the file, I consider that the measures set out in the application and the appeal, which include a settlement lagoon, would satisfactorily address the issues raised by the PA in relation to surface water management. Details of silt control measures include the proposed mitigation measures will ensure that the proposed development would not give rise to an unacceptable risk of water pollution and sedimentation due to run-off from soils and other material. Overall, the submitted Hydrogeological Report demonstrates surface water can be managed within the site and groundwater will be unaffected. I am satisfied that the proposed development will not have a significant negative impact on the environment.

7.5. Landscape and visual impact and adjoining amenity

- 7.5.1. The site lies within the River Slaney East Rolling Farmland landscape character area. There are no protected views or prospects in the vicinity of the site.
- 7.5.2. A detailed phasing plan for the proposed restoration has been submitted indicating the proposed infilling and re-contouring of the site. I am satisfied that while views of the infilling operations would be evident in the immediate local area, the proposed infilling of the lands is over a relatively short period of time and the ultimate finish which will return the lands to agricultural use, is in keeping with the site context and surrounding land use. The proposed infilling of the site would not in my opinion result in any undue adverse visual or landscape impacts.
- 7.5.3. In relation to impact upon residential amenity, the site is immediately adjacent to two detached dwellings. These dwellings are located on lands which are elevated above the appeal site. The proposed access is located circa 13m to the north of the closest dwelling. It is projected that 3 - 4 no. of trucks a day would be accessing the site. Construction mitigation measures are proposed to protect neighbouring properties from visual as well as noise impact, including the provision for a 2m high block wall along the western shared boundary, provision of a 10m exclusion zone comprising a 2m high berm with planting. Best practice construction methods in terms of dust control, use of wheel wash facilities etc are also proposed. While the proposed development would involve some noise and disturbance to the neighbouring properties, the proposed development would involve relatively low average daily traffic movements, for a limited time period and the beneficial reclamation of land for agricultural purposes would be of significant benefit. The proposal will also improve the existing visual aspect of this site from neighbouring properties.

7.6. Traffic impact

- 7.6.1. A Traffic Management Report (dated July 2021) has been submitted with the application, as well as an Environmental Report and a Facility Management Plan. The site is served by an existing entrance off the R747 which comprises an agricultural gate. Access to the site will be via the existing entrance, with the entrance proposed to be set back by 14m to facilitate trucks pulling in and parking off the road for entrance via gates to the facility. To achieve required sightlines, it is

proposed to remove the existing roadside hedgerow to the north of the entrance, with the agreement of the landowner.

- 7.6.2. The proposed development involves the importation of a maximum of 15,000 tonnes per annum to the site over a period of five years, which equates to an average of 50 trucks per week (25 to the site and 25 from the site) or 4-5 trucks per week, with the report stating truck movements on a daily basis would be every 1.5-2 hours. Cumulative traffic movements from another permitted infilling development in the area have been considered, resulting in assumption of 6-8 truck movements on this road per day.
- 7.6.3. The Environmental Report identifies the haul route to and from the site from Kildare via the M9, from North Wicklow via the N81, and from Carlow via the N80. It is proposed to erect road safety signage for a distance of 300m to the north and south of the entrance and additional measures are proposed to ensure no impact on road drainage, no surface water to enter or exit the site, with the necessary gullies and soakaways to be provided, and the road at the entrance is to be protected with additional macadam on the surface to be agreed with the area engineer.
- 7.6.4. A haulage road is proposed through the site to a dedicated waste inspection and quarantine area, with a wheel wash facility proposed to maintain the road free from soiled material. A road suction sweeper is proposed to be used during wet periods.
- 7.6.5. The Planning Authority's District Engineer's report indicates no objection to the proposal, subject to conditions in relation to road signage, entrance works, maintenance of the R747 clean and free of debris, use of wheel cleaners, provision of an emergency call out number, etc.
- 7.6.6. Having reviewed all the information on file and associated drawings, I am satisfied that the predicted low volume of traffic can be accommodated on the existing road network, including potential of cumulative traffic from a separate development in the area, and the mitigation measures proposed including the setting back of the vehicular entrance, proposals to install road safety signage and best practice procedures in terms of cleaning of the surrounding road network, would ensure that the proposed development will not endanger public safety by reason of traffic hazard.

7.7. EIA Screening

- 7.7.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIAR. Part 1, Schedule 5 outlines classes of development that require EIAR and Part 2, Schedule 5 outlines classes of developments that require EIAR but are subject to thresholds. The application is for an activity to which Article 11(b) of Part 11 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) applies:
- 11(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.
- 7.7.2. The proposed development overall involves the importation of 75,000 tonnes of fill material as well as use of 95,000 tonnes of existing overburden, over a 5 year period with the ground proposed to be used for agriculture at the end of the development. It is proposed to import 15,000 tonnes of material a year. The proposal therefore does not exceed the threshold of 25,000 tonnes annual deposit rate specified in the class.
- 7.7.3. The PA undertook an EIA Screening Determination for subthreshold development and concluded that the applicant needs to provide information under Schedule 7A of the Planning and Development Regulations 2001 (as amended) in order to complete the screening determination.
- 7.7.4. The application is accompanied by an EIA Screening Report, which includes assessment against Schedule 7 criteria. I undertake here a preliminary examination of whether the proposed subthreshold development would be likely to have significant effects on the environment. In undertaking this preliminary examination, I have had regard to the nature of the development, size of the development and the location of the development, as well as having full regard to all information on the file.
- 7.7.5. In terms of the nature of the development, the proposal is for the infilling of land, using imported inert material, as well as some soil overburden already on the site. The overall site size is 6.17ha, with the area to be filled 4.2ha in area. The existing base environment is a closed sand and gravel quarry site. The proposed development will not give rise to significant use of natural resources given the objective is to fill the site with inert material. There will be limited production of waste,

with inert waste from other construction sites being used to fill this site. Given the nature of the development, it is unlikely that waste will result in a significant environmental impact. In terms of pollutants, nuisance, or a risk of accidents, the screening report submitted considers issues of nuisance, dust and noise during construction. A number of mitigation measures are proposed, including, use of spill kits; noise and dust monitoring programmes; construction of a 1.8m high blockwork boundary wall to the west to the rear of the two existing dwellings at this location; and consideration of lighting. It is unlikely that potential pollutants will result in a significant environmental impact.

- 7.7.6. The screening report submitted considers the absorption capacity of the existing environment with regard to geological nature of the site, watercourses, surrounding landscape and consideration of European sites. In terms of groundwater, the submitted Hydrogeological report submitted indicates the existing ground water to be of a 'good' status and a number of mitigation measures are proposed to ensure this is maintained, including no connection of surface water arising from the site to an existing stream c. 263m to the east of the development or to any existing surface water network, and measures to protect groundwater.
- 7.7.7. The closest watercourse to the site is located approximately 226m to the east. The stream is connected to the Douglas River which is hydrologically linked to the Slaney River Valley SAC (000781). The issues arising from the potential to impact on a European site can be adequately assessed under the requirements of the EU Habitats Directive (AA) and there are no other environmental receptors that may be subject to significant effects.
- 7.7.8. The land is not identified as a sensitive landscape. The site is not located within a flood risk zone and the proposal will not increase the risk of flooding within the site or of neighbouring sites. The subject lands are not proximate to any Seveso/COMAH designated sites. The size of the site is not significant in the context of the surrounding agricultural landscape. Cumulative impacts of other developments in the area, including quarries, have been considered by the applicant and no significant effects identified. The PA agrees in their EIA Screening that cumulative impacts are not a concern.

7.7.9. Having undertaken a preliminary examination, I am of the opinion that there is no real likelihood of significant effects of the development on the environment and EIA is not required. I am satisfied that the submitted EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. I consider a requirement for Schedule 7A information, as recommended by the PA, is not warranted.

8.0 **Appropriate Assessment**

8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site

8.2. **Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development, which comprises the infilling of a former sand and gravel quarry to agricultural grassland, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. **Screening the need for Appropriate Assessment**

- 8.3.1. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered stage 1 of the appropriate assessment process i.e. screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment (AA) carried out.
- 8.3.2. The applicant has submitted an Appropriate Assessment Screening Report, dated November 2021, by Enviroguide Consulting.
- 8.3.3. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible Zone of Influence of the development. The screening is supported by a Hydrogeological Report and desktop study.
- 8.3.4. The applicants AA Screening Report concluded that:
- ‘...on the basis of objective information, the possibility may be excluded that the proposed development will have a significant effect on any Natura 2000 sites designated under the Habitats or Birds Directive listed below: Holdenstown Bog SAC (001757), Wicklow Mountains SAC (002122), Wicklow Mountains SPA (004040). However, upon examination, analysis and evaluation of the relevant information including, in particular, the nature of the proposed development and the likelihood of significant effects on any Nature 2000 sites, in addition to considering possible in-combination effects, and applying the precautionary principle, it is concluded by the authors of this report that, on the basis of objective information, the possibility may not be excluded that the proposed development will have a significant effect on....Slaney River Valley SAC (000718). Accordingly this Natura 2000 site has been assessed further as part of the Natura Impact Statement which has been prepared for the proposed development and is included with this application’.
- 8.3.5. Having reviewed the documents, and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant

effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment - Test of Likely Significant Effects

- 8.3.6. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.3.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief Description of the Development

- 8.3.8. The proposed development comprises the infilling and recontouring of 4.12ha of land within inert soil and stone for the restoration of a former sand and gravel quarry to agricultural grassland. The development, including construction and operational phases, is described in Section 3.2 of the submitted AA Screening Report.
- 8.3.9. There are no rivers/streams/water features on the site. An unnamed tributary of the River Douglas is located 263m to the east and downgradient of the site. This stream flows into the River Douglas, 350m to the northeast of the site and continues a further 1.3km until it flows into the Slaney River Valley SAC at Kiltegan Bridge.

European Sites

- 8.3.10. A potential zone of influence has been established having regard to the location of a European site, the Qualifying Interests (QIs) of the site and their potential mobility outside that European site, the source-pathway-receptor model and potential environment effects of the proposed project.
- 8.3.11. Three SACs and one SPAs are considered as potentially within the zone of influence of the site.

Table 1 Screening Summary Matrix:

Name	QIs	Distance to Site	Potential Pathways

<p>Slaney River Valley SAC (000781)</p> <p><u>Conservation Objective:</u></p> <p>To restore and/or maintain the favourable conservation status of each QI which is defined by a list of attributes and targets (see NPWS website).</p>	<p>Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaite Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Phoca vitulina (Harbour Seal) [1365] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] * Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>	<p>1km</p>	<p>Potential for indirect hydrological link between site and River Douglas via surface water or groundwater. An unnamed tributary of the River Douglas is c. 263m to the east of the site and 1.3km from here the River Douglas feeds into the Slaney River Valley SAC.</p>
<p>Holdenstown Bog SAC (001757)</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable</p>	<p>[7140] Transition mires and quaking bogs</p>	<p>6.2km</p>	<p>None. No hydrological link. The separation distances involved is sufficient to exclude the possibility of significant effects from</p>

<p>conservation condition of Transition mires and quaking bogs in Holdenstown Bog SAC, which is defined by a list of attributes and targets (see NPWS website).</p>			<p>noise, dust, pollutants, and/or vibrations.</p>
<p>Wicklow Mountains SAC (002122) <u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>	<p>[3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>[3160] Natural dystrophic lakes and ponds</p> <p>[4010] Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>[4030] European dry heaths</p> <p>[4060] Alpine and Boreal heaths</p> <p>[6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i></p> <p>[6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>[7130] Blanket bogs (* if active bog)</p> <p>[8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> <p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>[1355] <i>Lutra lutra</i> (Otter)</p>	<p>7.6km</p>	<p>None. There are no hydrological connections. The site is not considered suitable for otter. The separation distances involved is sufficient to exclude the possibility of significant effects from noise, dust, pollutants, and/or vibrations.</p>

<p>Wicklow Mountains SPA (004040)</p> <p><u>Conservation Objective:</u> to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	<p>[A098] Merlin <i>Falco columbarius</i></p> <p>[A103] Peregrine <i>Falco peregrinus</i></p>	<p>9.7km</p>	<p>None. The habitat of the site is not suitable for either bird species. Merlin typically nest in conifer plantations and Peregrine falcon nest mainly on cliffs.</p>

Identification of Likely Significant Effects

- 8.3.12. In relation to Holdenstown Bog SAC, and the Wicklow Mountains SAC and SPA, noting the separation distances involved and absence of any hydrological connection between these European sites and the application site, no complete source-pathway-receptor chain could be identified, therefore I would agree with the submitted AA Screening Report that these European sites can be screened out.
- 8.3.13. In relation to the Slaney River Valley SAC, there is no direct link, given there are no existing streams/rivers/surface water drains connecting the site to the stream to the east, however, an indirect link is possible via surface water and/or groundwater flows. An unnamed tributary of the River Douglas is located 263m east of the site, which flows into the River Douglas c. 350m northeast of the site and flows for a further 1.3km until it reaches the Slaney River Valley SAC at Kiltegan Bridge. Groundwater flows are in the direction of the River Douglas.
- 8.3.14. In-combination effects have been considered having regard to developments in the area. A similar development has been permitted (ref 16250) to the south of the site, which also uses the R747 for access and therefore traffic will be further increased and may give rise to pollution and noise.
- 8.3.15. Having regard to the information available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle, and sensitivities of the ecological receptors, I can confirm that the

only European Site relevant to include for the purposes of screening for the possibility of significant effects is the Slaney River Valley SAC (000781).

8.4. Screening Determination

- 8.4.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 000781 (Slaney River Valley SAC), in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.
- 8.4.2. I confirm that the site screened in for appropriate assessment is the site included in the NIS prepared by the project proponent.
- 8.4.3. The possibility of significant effects on other European sites has been excluded on the basis of scale of the works proposed, separation distance and lack of substantive ecological linkages between the proposed works and European sites.
- 8.4.4. In reaching the conclusion of the screening assessment, no account was taken of measures intended to avoid or reduce the potentially harmful effects of the project on any European Site.

8.5. The Natura Impact Statement

- 8.5.1. The application is accompanied by an Natura Impact Statement (NIS), dated November 2021, which examines and assesses the potential adverse effects of the proposed development on European Site Slaney River Valley SAC (000781).
- 8.5.2. The NIS was informed by a desk top study of the site and site survey, including information on the Water Framework Directive from the EPA and use of GSI datasets, and the submitted Hydrogeological Report.
- 8.5.3. The applicant's NIS was prepared in line with current best practice guidance and provides a description of the development as set out in Section 3 of the submitted NIS.
- 8.5.4. The NIS under Section 6 identifies and assesses possible direct, indirect and in-combination effects of the proposed development on the Slaney River Valley SAC.

Details of mitigation measures are set out in Section 8 of the NIS. Mitigation and monitoring will be managed by the appointed contractor.

8.5.5. The applicant's NIS concluded:

'...The Appropriate Assessment investigated the potential direct and indirect impacts of the proposed works, both during Construction and Operation on the integrity and qualifying interests of the above Natura 2000 site alone and in combination with other plans and projects, taking into account the site's structure, function and conservation objectives.

Where potentially significant impacts were identified, a range of mitigation and avoidance measures have been suggested to offset them....Ensuring the avoidance and mitigation measures are implemented as proposed, the proposed development will not have a significant adverse impact on the above Natura 2000 site.

As a result of the complete, precise and definitive findings of this NIS, it has been concluded, beyond reasonable scientific doubt that the proposed development will have no adverse effects on the qualifying interests, special conservation interests, and on the integrity and extent of Slaney River Valley SAC (00718). Accordingly, the proposed development will not adversely affect the integrity of any relevant Natura 2000 site.'

8.5.6. Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European site Slaney River Valley SAC (000781), alone or in combination with other plans and projects.

8.6. Appropriate Assessment of implications of the proposed development

8.6.1. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.6.2. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment

of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

Site Subject to Appropriate Assessment

- 8.6.3. The Slaney River Valley SAC (000781) is subject to Appropriate Assessment. A description of Slaney River Valley SAC and its Conservation Objectives and Qualifying Interests are set out in the NIS and outlined in table 1 above as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Aspects of the Proposed Development

- 8.6.4. The construction phase of the development is described as works relating to the construction of a boundary wall, a site office, portable toilet, improvement to site access gates, access road and internal tracks, and installation of the surface water management system. The operational phase works are described as the importation of inert soil and stone.
- 8.6.5. The main aspects of the proposed development that could adversely affect the conservation objectives of the European Site assessed include:
- Construction and/or operation related pollution events on water quality of the SAC via surface water and/or groundwater.
 - Construction and/or operation related pollution events via surface water on population density of faunal species within the SAC and/or disturbance/displacement of species.
- 8.6.6. There is no potential for direct impacts on the Slaney River Valley SAC i.e. no displacement of species, or the permanent removal of habitat supporting qualifying interest and ecological features of the designated site, as the site is not located within or directly adjacent this SAC.
- 8.6.7. Potential indirect impacts on the qualifying interests of the Slaney River Valley SAC have been considered in terms of surface water run-off and groundwater run-off during the construction and operation phases. Table 2 of the submitted NIS

considers the potential impacts of the proposed development on each qualifying interest of Slaney River Valley SAC. Potential significant impacts are identified in relation to: [3260] Water Courses of Plain to Montane Level with Ranunculus fluitans and Callitriche-Batrachion vegetation; [1-20] Freshwater Pearl Mussel; [1095] Sea Lamprey; [1096] Brook Lamprey; [1099] River Lamprey; [11103] Twaite Shad; [11106] Atlantic Salmon; and [1355] Otter.

- 8.6.8. Mitigation measures are proposed in Section 8 of the submitted NIS.
- 8.6.9. In combination effects with other plans and projects on this European site in view of the site's conservation objectives are considered in Section 6.3 and traffic is identified as a potential issue, however due to the capacity and condition of the existing roads and the predicted overall low level of traffic generated by this development and the neighbouring development to the south, there are no anticipated public safety issues or traffic flow obstructions.

Mitigation

- 8.6.10. A number of construction and operational phase mitigation measures have been proposed to address potential indirect impacts from surface water and groundwater run-off during construction and operation, in addition to measures relating to the noise and dust.
- 8.6.11. Mitigation in relation surface water and groundwater protection measures are set out in Section 8.1.2 and the following summarises some of the measures:
- 150mm twin wall corripipe land drain to run parallel along the boundary of the main haul road
 - Wheelwash fitted with silt buster to discharge to a soakaway
 - Silt trap manhole to be placed after the silt buster to trap excess silt
 - Settlement lagoon installed to allow settlement of suspended solids in advance of any discharge to the hydrocarbon interceptor trap and subsequent discharge to ground via the proposed infiltration blanket. Settlement lagoon to be lined with a blanket tencate terran and will contain a baffle wall to allow settlement of suspended material in the first half of the pond.
 - Annual maintenance programme for the infiltration system to be implemented.

- Oil interceptors to be provided in advance of all infiltration systems.
- Additional silt trap to be placed before the soakaway to prevent any potential clogging of the soakaway with silt. To be monitored and cleaned out at regular intervals.
- A soakaway will be located at the end of the management train, covered with a geotextile membrane, and filled with stone with a 30% void ratio.
- A 1m high x 3m wide berm to remain in place at the northern and eastern side of the site to assist in directing surface water run-off to the surface water silt traps on site.
- Appropriate location and design for fuel and chemical storage and refuelling areas.

8.6.12. Mitigation relating to Disturbance/Noise: Best practice noise reduction/control protocols will be followed during the construction and operational phases, including use of low noise plant, siting of plant away from sensitive receptors, use of alternative reversing alarm systems on plant machinery, monitoring of typical levels of noise during critical periods and at sensitive locations.

- 10m wide buffer on the western boundary, including 1.8m high block work wall, planting of native hedges and trees, and permanent 2m high berm.
- Buffer along the northern boundary, with native hedges and trees and a temporary 2m high berm for the duration of the infilling works.
- Noise monitoring will be required as part of any Waste Facility Permit.

8.6.13. Mitigation relating to Dust: Dust control measures, including wheel wash facilities, covering of trucks with tarpaulin, water bowser etc to be put in place, in addition to dust monitoring which will be required as part of any Waste Facility Permit.

8.6.14. Overall, I consider that the proposed mitigation measures, are clearly described, and precise, and definitive conclusions can be reached in terms of adverse effects on the integrity of European sites based on the mitigation measures submitted. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short, medium and longer term.

Appropriate Assessment Conclusion

8.6.15. The proposed residential development at Tinnaclash, Hacketstown, Co. Carlow has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.6.16. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European Site No. 00718 (Slaney River Valley SAC). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

8.6.17. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 00718 (Slaney River Valley SAC), or any other European site, in view of the sites Conservation Objectives.

8.6.18. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of Slaney River Valley SAC.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Slaney River Valley SAC.

9.0 Recommendation

9.1. It is recommended that permission is granted.

10.0 Reasons and Considerations

Having regard to the provisions of Carlow County Development Plan 2022-2028, which seeks to support the continuing viability of agriculture and to promote agricultural related industries in rural areas and to facilitate waste treatment facilities, it is considered that, subject to compliance with the conditions set out below, the

proposed development would not have unacceptable impacts on the environment, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development or as otherwise stipulated by conditions hereunder, 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>Mitigation and monitoring measures outlined in the plans and particulars, including in the NIS (November 2021) and Hydrogeological Report (November 2021) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>The developer shall submit annually to the planning authority for the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.</p> <p>Reason: In order to facilitate monitoring and control of the development by the planning authority.</p>
4.	<p>A maximum of 75,000 tonnes of material shall be imported into the site within the lifetime of this grant of permission.</p>

	<p>Reason: To limit traffic impacts in the interests of road safety and residential amenity.</p>
5.	<p>Only clean, uncontaminated soil and stones shall be imported into the site.</p> <p>Reason: In the interest of amenity.</p>
6.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> (a) Details of all native planting proposed on existing and proposed screen berms and details of ongoing care and management of such planting. (b) A detailed landscape plan, which shall include details of all native planting, hedging and boundary treatment to be undertaken on completion of backfilling. (c) Details of entrance barrier/gate to the site. (d) Any clearance of vegetation from the development site shall only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season. <p>Reason: In the interest of visual amenity and to safeguard the amenities of the area.</p>
7.	
8.	<p>Detailed design of the settlement lagoon, silt traps, soakaways and all other surface management measures shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

10.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>
11.	<p>The detailed design of the entrance, signage and any works to the public road network shall be submitted to and agreed in writing with the planning authority prior to commencement of development. All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p>Reason: In the interests of public safety and amenity.</p>
12.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and 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 order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

<p>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>
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Una O'Neill
Senior Planning Inspector

1st December 2022