Inspector's Report

ABP-312543-22

Development	Open a Quarry
Location	Garrans, Stradbally, Co. Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	210605
Applicant	Pat Booth
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Pat Booth
Observers	Adrian Guinan & Mary Jo Costello Sean & Anne Hardy Joe Costello John Gormley John George Anthony Coss Peter & Ann Walsh Kemmis David Little Louise & Paul Conroy
Date of Site Inspection	12th July 2023
Inspector	Dolores McCague

Contents

1.0 Site Location and Description

1.1.1. The site is located at Garrans, Stradbally, Co. Laois, c2km north-east of Stradbally, c 11km east of Portlaoise and c 11km north-west of Athy. The site fronts the L-7939, a secondary local road, which links the R428 to the east ('Strategic Regional Road') Stradbally to Athy; and the R427 which is to the west, and which runs from the R425 north of Ballyroan to the R417 north of Athy. There are two stretches of site frontage to the local road, between which there is a dwelling. The site extends in depth from the road and runs to the rear of the dwelling. It is not prominent in the landscape. The site is hummocky, with an elevation ranging between 67m and 80m AOD. Rising slightly inside the road boundary at the western end, there is a slope downwards towards the north and north-eastern boundary.

1.1.2. The location is a quiet rural area where the predominant use is agriculture. The land is of good arable quality; which was growing grain on the date of inspection. The site is 480m east of Garrans Cross Roads where the L7939 intersects with the R427. A number of residences are scattered along both the local road and the regional roads. South of the local road, the River Stradbally (part of the R Barrow and R Nore SAC) flows in a south-west to north-east direction to join the River Barrow at the Laois / Kildare border south east of Vicarstown. Part of the site drains north east to the River Stradbally via an un-named drain which flows along the north of the site; and part drains south to the Stradbally river.

1.1.3. The site is given as 12.84ha.

2.0 Proposed Development

2.1.1. The proposed development involves the opening of a quarry and the carrying on of quarry activities within the site of c. 12.84ha, for the extraction and processing of sand and gravel; on-site processing of the material to include extraction, washing, sizing, screening and stockpiling; with intermittent crushing of oversized aggregate material; dispatch of the processed materials off-site on Heavy Goods Vehicles (HGV's). The development will involve the installation of a wheel wash, refuelling area, oil interceptors, sludge settlement ponds and storm water attenuation/sediment and settlement ponds; and the development of 3 no. lay-bys on the local road L7939, a new site entrance and internal site access road. Landscaping works will include a

planted berm running next to the site entrance and southern boundary of the site. The development will also involve provision of site office, welfare facilities and all ancillary development infrastructure and final restoration of the site.

2.1.2. The operational phase of extraction constitutes stripping soil, generating bunds and stockpile storage areas and then extraction, washing, and screening of the sand and gravel. This will require a material crushing and screening area, a material aggregate washing area (which will stay in place for the duration of the works), a wheel wash and weighbridge. Sludge settlement and surface water collection ponds will also be constructed. A site entrance and internal access road will be provided. There will be a site office with welfare facilities.

2.1.3. An Environmental Impact Assessment Report and Natura Impact Statement have been submitted to the planning authority with the planning application.

2.1.4. The extraction of approx. 1.22m tonnes will take place over 20 years: 61,000 tonnes per annum, 200 tonnes per day, involving 15 heavy goods vehicles arriving and exiting daily.

2.1.5. There will be 4 phases – phase 1 north western part of the site, phase 2 south western part, phase 3 central part and phase 4 north eastern part. Contours to be lowered from 72.919 to 69.19, with no extraction below groundwater.

2.1.6. Proposed working hours are 07.00 to 20.00 Mon – Fri and 08.00 to 18.00 Saturday.

2.1.7. Restoration will involve grading and sloping – utilising dried silt from the settlement ponds and stripped topsoil.

2.1.8. Crushing of oversized material, larger than 20mm, will be carried out about once every three months.

2.1.9. Water abstraction will be c 9m^3 per day, at an average extraction rate of 200 tonnes per day (sand and gravel), to 27m^3 per day at extraction rate of 350 tonnes per day. Total wash water 234-407m^3 per day.

2.1.10. A buffer area in the northern section of the site i.e. surrounding the 4 ponds and refuelling area, will not be stripped or excavated during the lifetime of the proposed project.

2.1.11. Excavation will extend to 1m above the estimated highest groundwater level across the extraction area (71.79m) with a climate change uncertainty allowance of 10%.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority (PA) decided to refuse planning permission for 4 reasons:

1 Having regard to the scale, nature and extent of the proposed development, the PA is not satisfied on the basis of the submitted Environmental Impact Assessment Report, that appropriate or adequate consideration has been given to the assessment of all possible alternatives to the proposed development. In the absence of such information, the PA is unable to assess the impact of the proposed development on the environment and is therefore unable to carry out a full Environmental Impact Assessment of the proposed development. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

2 Having regard to the scale, nature and extent of the proposed development, the PA is not satisfied on the basis of the submitted Natura Impact Statement (as amended) that the proposed development, by itself and in combination with other plans and projects, would not adversely affect the integrity of the River Barrow and River Nore SAC (002162), in light of the conservation objectives and qualifying interests of this European site. It is therefore considered that the proposed development would contravene the objectives of the Laois County Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

3 There is significant uncertainty as to the likely effectiveness of the mitigation measures proposed to address the impacts of the development on badgers, which are protected under the provisions of the Wildlife Acts 1976 to 2018. In the absence of appropriate mitigation measures, it is therefore considered that the proposed development would contravene the objectives of the Laois County Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

4 It has not been demonstrated to the satisfaction of the PA that the proposed development, in particular the location of the wheel wash and the internal access road, would not negatively impact on the amenities of nearby residential occupiers. It

is therefore considered that the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, contrary to the proper planning and sustainable development of the area.

3.1.2. The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The first planning report, 20th January 2021, recommending a further information request, which issued, includes:

- Observer – inaccurate maps – no permission for two laybys on our land.
- Noise – impact on nearby houses to be clarified.
- Ballykilcavan Bridge 630m to the east, is a protected structure (ref RPH 599). The local road, prior to its junction with the R428, crosses that bridge. It is stated that access will be via the R427.
- AA Freshwater Pearl Mussel – should not have been screened out.
- Noting site investigation studies:
    - 2003 ground investigation report by Land Surveying Services – four trial pits to approximately 3m, summarised in section 7.4.4 of the EIAR.
    - 2018 preliminary Hydrogeological Report by Tynan Environmental.
    - 2019 Results of Site Investigations and Groundwater Monitoring by Tynan Environmental.
- It is noted that pond 4 will serve as an attenuation pond for the 'dirty surface water interceptor drains', and also the discharge from the 'refuelling bay hydrocarbon interceptor'. It is also noted that there is a proposed discharge of waters from Pond 4 to an area towards the existing drain on the Northern Boundary, therefore a potential discharge to groundwaters. The discharge of trade effluent to waters (either surface water or groundwater) requires a discharge license under Section 4 of the Water Pollution Acts 1977, as amended. Requesting applicant to:

a) identify clearly all waters from the proposed development which will feed into Pond 4 (as shown on Drawing 14.312.120);

b) submit all the appropriate information necessary to determine if the discharge from Pond 4 or any area of the proposed development is a Trade Effluent, as defined under the Water Pollution Acts 1977, as amended.

- Site sections are inconsistent, in particular, Drawing no. 14.312.109 Rev. Pl01.

3.2.3. Other Technical Reports

3.2.4. Area Engineer, 7th January 2021, conditions:

- Drawing for agreement showing advance warning signs.
- Photographic joint road condition survey of the L7930-0 from its junction with the R427 to junction with the R428.
- Contribute to cost of strengthening of the L7930-0 from its junction with the R427 (west) to the site entrance.
- Annual contribution of €25,000 towards upkeep of road and verges.
- Maximum of 15 truck journeys per day to exit the facility.
- Applicant to provide, for the review of the Area Engineer, details of its management plan for noise, dust and dirt on the road network in advance of the facility becoming operational.
- Access and egress for trucks may be from the R427 (Vicarstown Road) only; a weight limit will shortly be imposed on Garrans Bridge (Kilcavan Br) over the Stradbally River.
- The drainage system as designed shall be installed and operational before extraction commences.

3.2.5. Roads Design, 11th January 2021:

- The proposed access road shall have an asphalt surface, drainage details to be submitted.

- Show achievable sightlines, 3m from road edge, from an eye height of 1.05m to an object height of 1.15m, x 90m.
- How is the proposal that 'there will be no access, turning towards or coming from the R428 and Ballykilcavan Bridge direction' (sec 2.4 of the EIAR), to be implemented.
- Submit a stage 1&2 road safety audit which addresses the traffic flow onto the regional road R427.
- Submit details of how they will maintain the L7939-0 roadway during the life span of this development and the up-keep of the junction of the L7939-0 with the R427.
- No material to be deposited on the roadway – address measures.
- Submit directional and warning signage details.
- Confirm that a bridge survey has been carried out in the surrounding area.

3.2.6. Environment, 14th Jan 2021 – drawing 14.312.120 indicates that pond 4 will serve as an attenuation pond for 'dirty surface water interceptor drains' and also for the discharge from the 'refuelling bay hydrocarbon interceptor'. There is a proposed discharge from pond 4 to an area towards the existing drain on the northern boundary, therefore there is a potential discharge to groundwaters. Discharge of trade effluent requires a license. Requesting that the applicant:

- Identify clearly all waters from the proposed development which will feed into pond 4.
- Submit all the appropriate information necessary to determine if the discharge from pond 4 or any area of the proposed development is a trade effluent as defined under the Water Pollution Acts 1977 as amended.

3.2.7. Waste Management 14th January 2021, recommending further information:

- Submit a waste management plan.
- Submit details of how the development will be properly secured outside of normal operating hours such that illegal fly-tipping and disposal of waste does not occur.

3.2.8. Water Services, 14 Jan 2021 – no comment.

3.2.9. SEHO, HSE, 12 Jan 2021:

- Comments in relation to the EIAR.
- Re. protection of ground and surface waters – no emission of foul water to surface or ground water. Controls outlined on page 97 of the EIAR are adequate.
- Consultation has not been adequate.
- Assessment of noise impact is not adequate – weekends and weekdays are not distinguished; tonal and impulsive noise is not adequately considered; and the assessment did not discuss the context of the predicted noise.

3.3. Prescribed Bodies

3.3.1. DAU, Department of Tourism, Arts, Gaeltacht, Sports and Media, 29th December 2020 – archaeological assessment; 50m buffer zone for badgers; re restoration: rather than the return to agricultural grassland, native woodland should be considered.

The EIAR relies on ongoing surveying and eventual application for a licence from the NPWS to remove one of the setts, if it is still active when quarrying begins in Phase 4, to ensure that badgers are protected during the course of this development. Badgers and their setts are protected under the provisions of the Wildlife Acts 1976 to 2018. It is an offence to intentionally kill or injure or to wilfully interfere with or destroy the breeding site or resting place of a protected wild animal. The mitigation provided is insufficient to ensure the protection of badgers and it is recommended that further mitigation is required to safeguard these setts. In addition to the proposed mitigation suitably sized buffer zones are required to be established around these setts, to ensure that badgers are not disturbed. The buffer zones sizes should take into account the types of activity which will take place close to setts and must be based on best practice guidance and scientific evidence. Recent evidence suggests that buffer zones should be at least 50m at a minimum for development requiring the use of heavy machinery and must extend to 150m should such operations take place during the breeding season (December to June) (reference given). Such zones should be provided on the basis that they cease to have effect should a licence to disturb the sett be granted by NPWS in the future.

3.4. Further Information

3.4.1. A further information request, issued 20th January 2021, on 36 points:

1) Sections submitted are not sufficiently clear, revised sections including the proposed safety berm, existing/proposed boundary treatment, fencing, existing neighbouring dwellings, existing drain, proposed buildings, machinery, balancing ponds. The revised sections shall also demonstrate the relationship between the proposed berms and the dwelling house that is closest to the application site.
2) The drain on the northern side of the site is not clearly shown on the submitted planning application drawings – full set of revised plans required. A 60m wide buffer is proposed, show its full extent, and the extent of all other buffer zones (badger setts, tree root zone protection etc); show proposed locations of stockpiles.
3) Drawings of site office etc.
4) Layout and cross sections of balancing and settlement ponds.
5) Cross section of drain at northern boundary.
6) Lighting details.
7) How the development will be secured outside of normal operating hours.
8) EIAR a) alternatives; b) contributing experts; c) HSE concerns – scoping,
9) Detailed programme of works by month.
10) Traffic and transport – one day monitoring is insufficient – additional monitoring and forecasting.
11) The proposed access road shall have an asphalt surface, drainage details to be submitted.
12) Revise proposed entrance. Show achievable sightlines, 3m from road edge for a distance of 90m. Annotated photographic survey.
13) Re. the proposal (sec 2.4 of the EIAR) that ‘there will be no access, turning towards or coming from the R428 and Ballykilcavan Bridge direction’; show how it is to be implemented.

14) Submit a) a stage 1&2 road safety audit which addresses the traffic flow onto the regional road R427; b) details of how you will maintain the L7939-0 roadway during the life span of this development c) re. the up-keep of the junction of the L7939-0 with the R427; and d) details to prevent material from being deposited on the roadway.

15) Submit plan and details for directional and warning signage.

16) Carry out a bridge survey within the surrounding area and provide a full report detailing the findings and any proposed mitigation measures.

17) Re. passing bays: photographs, plans and letters of consent.

18) Noise and vibration – how was vibration scoped out.

19) HSE concerns in relation to the EIAR - assessment of noise impact is not adequate – weekends and weekdays are not distinguished; tonal and impulsive noise is not adequately considered; and the assessment did not discuss the context of the predicted noise per BS4142.

20) Soils and Geology – the proposed depth of extraction has not been given adequate consideration.

21) Site investigations were carried out – 2003 ground investigation report by Land Surveying Services – 4 trial pits to approx. 3m, summary in 7.4.4 of the EIAR; 2018 preliminary Hydrogeological report by Tynan Environmental; 2019 results of site investigations and Groundwater Monitoring by Tynan Environmental. Submit these reports.

22) Hydrological & Hydrogeological – drawing 14.312.120 pond 4 will serve as an attenuation for dirty surface water interceptor drains and also for the discharge from the ‘refuelling bay hydrocarbon interceptor’. There is a discharge from pond 4 to an area towards the existing drain on the northern boundary and potential discharge to groundwaters. Discharge of trade effluent requires a license. – submit details.

23) Air Quality and Climate – methodology for assessment unclear; EIAr has not distinguished between different weather events.

24) Concers regarding the location of the wheel wash and the internal access road and proximity to residential property; submit proposals.

25) Landscape & Visual – restoration plan – to be planted with native woodland.

26) Biodiversity – Bat survey. Bird survey.

27) Drain habitat, not identified on figure 11.8; revise.

28) Landscape plans are small and difficult to read. It is not clear which trees will be removed and which will be protected. Details required: listed a) to e).

29) DAU – re. badgers: a) to c).

30) Population and Human Health - human health requires to be considered.

31) Re. employment – the number of employees; 2, seems low. Detail duties.

32) Cultural heritage – archaeological monuments and protected structures within study area – map to be provided.

33) Material Assets – detail impact on surrounding agricultural businesses and or animals, including mitigation.

34) AA - Freshwater Pearl Mussel should not have been screened out; b) re. hydrology & hydrogeology; c) cumulative impacts in the wider area; d) 60m buffer and settlement and balancing ponds within the buffer area.

35) Revise the Environmental Management Plan to account for any changes arising.

36) Respond to third party submissions.

3.5. Further Information Response

3.5.1. A response to the FI request was received 16 Sept 2021, including:

3.5.2. Letter from Rowan Engineering Consultants, with an itemised response, corresponding to the itemised request.

3.5.3. Since purchasing the land at Garrans, Patrick Booth and his family business purchased the available aggregates close to its production facility in south Co. Laois as potential alternative locations. These sites were investigated, and planning applications made to use them as quarries. In 2005, Booth Concrete applied for planning permission for a sand pit at Fermoyle but was refused permission due to the proximity to a public water scheme. In 2017 they applied for an extension to an

existing registered quarry at Attanagh, Co Laois again only to be refused, as it was right beside the River Nore. Therefore the most suitable site remains at Garrans. In general the processed sand and gravels from the site will be transported directly to building sites in north Co Laois and to Booth Concrete's readymix plant located at Clonminham Industrial Estate, Portlaoise.

3.5.4. Notification of unanswered FI request issued 20 September 2021.

3.5.5. Response received, 15 October 2021, and publication of notices, 26 October 2021.

3.6. Further Reports

3.7. Planning Report

3.7.1. The second planning report, 13th December 2021, recommending refusal, which issued, includes:

3.7.2. Re. DAU submission – a revised landscape restoration masterplan has been provided within Appendix B. A large part of the overall proposal is to manage fields as 'traditional hay meadow to be seeded from locally sourced seed and appropriate for grazing'. The Department have advised that managing land as traditional hay meadow is complex and that there is insufficient detail in the Landscape Plan to ensure that this management option is successful and provides optimum habitat for biodiversity, particularly the population of Yellowhammer noted in the Bird Survey in Appendix 1, a red listed species within the Birds of Conservation Concern in Ireland assessment. Therefore the Department have submitted that a Traditional Hay Meadow Management Plan be submitted by way of clarification of FI.

3.7.3. In relation to bats – the mammal survey states that a small number of trees with roost potential were identified on the perimeter of the site. There was no clear evidence of bat occupancy within the trees examined. Bat activity was noted over the fields and along hedgerow and treelines around the perimeter of the site and along the road. The proposal would give rise to potential impacts on bats: loss of roost sites, death or injury during tree felling and clearance, loss of feeding and interruption to commuting. The mammal survey therefore proposes a number of mitigation measures to address these concerns:

Examination of trees earmarked for removal for presence of bats,

Provision of bat boxes,

Management of lighting.

3.7.4. In relation to birds – the mammal survey states that a number of bird species were noted including Yellowhammer. The proposal would give rise to potential impacts on birds: death or injury during tree felling and clearance, loss of nest sites, loss of feeding. The mammal survey therefore proposes a number of mitigation measures to address these concerns:

Avoidance of hedgerow clearance and tree felling during the bird nesting season.

Planting.

3.7.5. The matter pertaining to the accuracy of the landholding map (item a) iii) has not been adequately addressed. It is noted that the applicant has included documents related to the sale of the land within the response. The advert for the auction (2005) refers to 63ac. Ie. 25ha. However it is not clear if the applicant purchased the entirety of the land. The current application proposed a site of 12.84ha. This is the only land outlined in blue. The response refers to recently purchased land on the eastern side of the application site. The size of this land is not clear and it is not shown in the applicants landholding map. The applicant's response to item no. 33 states that this land is not considered to provide a better alternative to the site as it is further away from Garrans Cross and that would require traffic to travel further along the local road to the R427 junction. This statement is not considered to represent a comparison of the environmental effects of this option.

3.7.6. The updates provided within the NIS are acknowledged, however it is considered that a detailed evaluation has not been provided with respect to potential cumulative effects, i.e. potential direct, indirect and cumulative effects, taking account of the different stages of existing and proposed development including construction, operation, and decommissioning where relevant.

3.7.7. The proposal remains for the proposed settlement and balancing ponds within 60m of the drain to the north of the site. The NIS contends that these are not considered to be quarrying activities and have been designed and planned specifically not to impact the hydrological regime. The relevant mitigation measure in Table 5.1 of the

NIS states ‘the drain and its banks are protected by the retention of a minimum width of 60m wide buffer zone of the natural vegetation, in which no quarrying or related activities such as extraction and processing will occur’; mitigation ref. no. M2.

3.7.8. The acceptability of the proposal hinges on a review of the various environmental impacts and whether or not these impacts can be addressed by way of appropriate mitigation measures.

3.7.9. The applicant has not given appropriate consideration to all of the possible alternatives to the proposed development.

3.7.10. Concerns relating to the impact of the proposed location of the wheel wash and the internal access road on neighbouring residential amenity have not been adequately addressed.

3.7.11. Concerns relating to the impact on badgers, which are protected under the provisions of the Wildlife Acts 1976 to 2018, have not been adequately addressed.

3.7.12. The Natura Impact Statement (as revised) is deficient with respect to its evaluation of potential cumulative impacts.

3.7.13. Due to legislative time constraints it is not possible to clarify the applicant’s response during the course of this application and a decision must be made.

3.8. Prescribed Bodies

3.8.1. IFI, 22nd October 2021 – Stradbally Laois 030 surface waterbody, moderate status and at risk of not meeting good status. Conditions:

- Any watercourses bordering the site must be maintained in their original state, their bankside vegetation preserved and the existing alignment, profile and gradient of the watercourse left unaltered. Buffer zones should be clearly marked in advance of works commencing to preserve their integrity.

- Surface waters discharging from the site should be monitored for the following parameters: BOD, COD, total Suspended Solids, total Ammonia, Orthophosphate, Nitrate and pH. Chemical monitoring should also be undertaken of the Stradbally River both upstream and downstream of the confluence with the tributary discharging from the site. Chemical monitoring should take place quarterly and should commence as soon as ground preparations commence on the site.

- In addition, monitoring of biological water quality should occur annually during the summer months at a point on the Stradbally River downstream of the potential discharges from the quarry. This should be analysed according to the EPA's Q-rating scheme. Records of chemical and biological monitoring should be kept and made available to authorised persons as defined under the Local Government (Water Pollution) Acts.

- No run-off of fuels, oils, concrete or from stockpiles of materials or general run-off from the site. The storage, management and conveyance of materials on site must not permit any deleterious matter to reach adjacent surface water systems either directly or indirectly.

- Settlement ponds should be de-sludged regularly to ensure that the capacity and retention time in the ponds is retained at an optimum. SuDS principles should be incorporated into surface water management plans to attenuate any run-off of suspended solids or other deleterious matter.

- Any fuels, etc stored in bunds. Temporary diesel or petrol driven pumps sited within bunded units. Appropriately sized spill kits on site at all times. Empty containers disposed of in accordance with requirements of Waste Management Act, 1996.

- Maintenance, cleaning, refuelling and repair work must not take place within 50m of the nearest aquatic zone. Material stockpiles should be sited outside the exclusion zone specified in the applicant's documents (60m) and be battened back to a maximum angle of 45 degrees. Ground removal works should be suspended during periods of heavy rainfall or prolonged wet weather.

- Biosecurity protocols to manage invasive alien species should they occur on the site.

- A responsible person to be nominated to oversee environmental monitoring.

3.9. Third Party Observations

3.9.1. Third party observations on the file have been read and noted. Issues raised are included in observations on the appeal.

4.0 Planning History

04/1327 – modify 2 existing cottages for use as outhouses and construct dormer style dwelling.

95/495 – open gravel pit – no decision.

Referred to in the application:

To the north west, registered under Stradbally Quarries Ltd – QY05/74/1.

5.0 Policy Context

5.1. Development Plan

5.1.1. Laois County Development Plan 2021 – 2027, is the operative plan. Relevant provisions include:

RL 14 Support in principle the expansion of the aggregates and concrete products industry which offers opportunity for employment and economic development generally subject to environmental, traffic and planning considerations and ensure that any plan or project associated with extractive industry is subject to Appropriate Assessment screening, in compliance with the Habitats Directive and subsequent assessment as required, applicants for planning permission shall have regard to the GSI-ICF Quarrying Guidelines;

RL 15 To secure the long-term supply of value-added products (such as concrete products and asphalt, which are often, but not always, produced in conjunction with aggregate extraction;

RL 16 To support the necessary role of the extractive industries in the delivery of building materials for infrastructural and other development and to recognize the need to develop extractive industries for the benefit of society and the economy;

RL 17 Support in principle the processing of minerals to produce cement, bitumen or other products in the vicinity of the source of the aggregate, where the transport network is suitable to reduce trip generation;

RL 18 Protect rural amenities, natural archaeological and natural heritage, visual amenities, eco-systems, conservation areas, landscape and scenic views from

adverse impacts of agricultural practices and development particularly in high amenity areas and ensure that it is appropriate in nature and scale, and ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required. Integrate into the landscape, including the minimal use of signage.

5.2. Natural Heritage Designations

5.2.1. The closest Natura site is the River Barrow and R Nore SAC (site code 002162), c 200m to the south and east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal against the decision to refuse permission has been made by Tom Phillips and Associates in association with Rowan Engineering Consultants and Jason Redmond & Associates Consulting Engineers. The grounds include:

- In response to reason no 1 – assessment of 'all possible alternatives'.
    - The planning officer has misunderstood the requirements in relation to the consideration of alternatives. The Guidelines for Planning Authorities and An Bord Pleanála on carrying out EIA (2018) at paragraph 4.12 refers to a description of the reasonable alternatives studied by the developer…, not 'all possible alternatives'. The purpose of the alternatives section is to demonstrate that, as part of the preparation of the design of the project, proper alternatives were considered to ensure that the environmental impacts of the project are minimised. This has been done; 4.13 of the guidelines is quoted. The guidance clearly highlights that some projects may be site specific so the consideration of alternative sites may not be relevant, as in the case of quarries. The 21/694 application has been designed and proposed specifically and exclusively to service the aggregate demand at the Ballymullen Plant. It does not include for the provision of a wash plant. The proposed development is needed to service Booth Concrete's customers and provide bulk sand and gravels as well as providing raw materials to their

ready-mix plant in Portlaoise town. It is being developed in tandem with 21/694 and to suggest it as alternative is unreasonable.

- Re. stock of materials at existing quarry sites – the suggestion that the PA needs to consider the proposed quarry in light of the overall status of materials available in all quarries in Co Laois, is well outside the remit of the Council. Numerous sources, noted in the further information response, state that aggregates are in short supply. The supply locations of aggregates to the Booth Concrete Ballymullen Facility are set out as primarily coming from Offaly, Kilkenny and Tipperary. The need for the proposed development is evident without auditing all stocks of all their competitors. The planning system does not and should not be involved in influencing competition. The stock levels available in competing quarries is not relevant. Even if available, they are not available to Booth Concrete, and are not 'a reasonable alternative'.
- Accuracy of the landholding map – the applicant has purchased lands adjacent to the proposed quarry. These lands were acquired post the preparation and lodgement of the application. They are not an alternative to the proposed development. It is not a viable alternative on the basis of traffic impacts.
- Alternative restoration plan – the DAU's request for the submission of a Traditional Hay Meadow Management Plan could have been dealt with by condition. There is no difficulty in attaching a condition.
- This reason is without foundation and should be dismissed.

- In response to reason no 2:
  - This is based on an inaccurate assessment of the NIS – relating to cumulative impacts and one specific mitigation measure. Per the planner's report the level of assessment and detail sought is unreasonable and unnecessary. Re Eirgrid project, there is no need to individually consider every project within the zone of influence of the proposed development in a NIS, only those that have the potential to act in combination. No significant other projects were considered to act in combination other than those mentioned in the NIS. The

surface water mitigation measures proposed are best in class and will ensure that the proposed development has no impact on European Sites or their qualifying interests. There is no potential for the development to act in combination, particularly if the development itself is having no effect. The NIS concludes beyond reasonable scientific doubt that the proposed development will not have any adverse effects on the integrity of the River Barrow and River Nore SAC (002162).

- In response to reason no 3:
  - Notwithstanding the fact that the offsets from the identified badger setts, required by the DAU, were abnormal, this reason for refusal could easily have been addressed by way of an appropriately worded condition to provide the necessary offsets according to an updated badger survey.
  - The planning officer formed the view that all 4 potential badger setts would require 50m and 150m offsets. This is incorrect. Only proven active badger setts would require the 50m offset, with the main or breeding sett requiring the 150m offset. 'X3' was deemed not likely to be a badger sett. 'X1' and 'X2' were the only likely badger setts in use. Based on DAU advice the only offsets required are 50m to locations 'X1' and 'X2'. A revised badger report is appended.
  - Setts as marked on site layout:

    'X1' occasional use badger sett.

    'X2' occasional use badger sett.

    'X3' rabbit burrow not badger sett.

    'X4 'rabbit burrow not badger sett.

    'X5' active/main sett (newly identified as of January 2022).
  - The report notes that the existing recommendations that have been acceptable to NPWS to date are a 30m restriction on any heavy machinery around an active sett. The 50m and 150m recommended offsets were taken from an article published in 'In Practice' (March 2019), a professional body publication of The Chartered Institute of Ecology and Environmental Management. Taking into consideration the additional survey data from

January 2022, it is clear that the original offsets proposed as part of the FI response are more than adequate (30m from 'X1' and 'X2'). Notwithstanding it is now recommended a 50m zone is retained around all setts; and a 150m zone is maintained throughout the breeding season (January to June) from the active sett / potentially a main sett. The 150m exclusion zone may be reduced if it were to be established that the sett does not serve as a breeding sett. This would require that it can be demonstrated that there is no breeding within the sett in the winter of 2021-2022 and the following winter of 2022-2023. Where there is doubt, the sett should be considered a breeding sett as a precaution. The layout of the proposed quarry has been amended as part of this appeal to illustrate the effect of these new mitigation measures. 50m diameter exclusion zones around setts 'X1' and 'X2' are proposed to be fenced off. The washing and screening plant, the location of the intermittent contract crushing area, the refuelling bay, portable toilet and shed have been relocated to the area adjacent to settlement pond 4. A new badger sett at 'X5' has been plotted with the corresponding 50m and 150m offsets.

The reason for refusal relating to the likely impact of the proposed development on badgers is without foundation.

- In response to reason no 4:
    - Further information item 24 was responded to by moving the wheelwash a further 50m from the nearest residence and committing to surface the access road from the entrance to the wheelwash. The wheelwash is a bath type installation and does not result in any significant noise by comparison with the grate and spray style wheel washes. No significant noise is expected. Surfacing the road is one of the best mitigation measures to minimise dust and noise. The surfaced section of the road is after the wheel wash and any water and debris falling from washed wheels will flow back into the wheel wash, given the falls on the site. A mobile bowser will be used during dry periods. The existing residence is in excess of 70m from the access road, separated by a significant area of woodland. There is 'limited' to 'no likelihood' of concern in relation to dust emissions. A dust gauge monitor will be used. The applicant has amended the design of the access road, which is further offset from the boundary and flanked on both sides by a 3m high grassed

bund. Although not specifically required, these amendments will further mitigate any potential dust or noise impacts. The access road is in a cutting for a significant part of the length, which further mitigates impact.

Attached are:

- Updated Noise Impact Assessment Statement.
- Hydrology and Hydrogeology Clarification Statement.
- Addendum to NIS.

6.1.2. Updated Noise Impact Assessment Statement includes:

- No impact from changes.

6.1.3. The Hydrology and Hydrogeology Clarification Statement, includes:

The proposed water management system is a robust, best in class design, weighted in favour of conservation of water and avoidance of impact by good design, followed by mitigation of potential impacts of operation, and mitigation in the unlikely event of accident; allowance for climate change uncertainty has been incorporated.

The system comprises two elements: a mobile material processing system incorporating water treatment and water recycling, and a surface water run-off collection. No foul waste is discharged at the site.

The material processing system is a closed loop system. The washing plant achieves 80% recycling. Sludge is sent to a sludge settlement pond, from which attenuated water is recycled back into the washing plant. Processed material is sent to a stockpile dewatering system, which collects water draining from the material and recycles it back into the washing plant.

The surface water management system commences with separated interception and collection of clean surface water drainage from un-stripped areas, re-vegetated areas and roofs; and of dirty surface water from exposed soils and working areas where pollution entrainment may occur. This minimises the risk of entrainment of pollutants in surface water run-off and is a flexible one which is modified according to the site extraction phase. Drainage is to a settlement pond, to attenuate pollutants and store water. Drainage from the mobile refuelling area passes through a hydrocarbon interceptor (HI) before the pond. Water is recycled back into the mobile

washing plant. The balance of stored water is discharged via a 'HI' and level spreader onto the vegetated area north of the ponds which drains naturally towards the man made drain, 20m to the north at the site boundary. This runs east for 0.6km to join the unnamed tributary of the Stradbally river to the north-east. This tributary discharges to Stradbally River, 0.65km further downstream, total 1.25km. The ponds are designed with a 10% margin for safety. In the very unlikely event of an un-controlled accidental spillage from a pond, flow velocity will be low due to the topography, resulting in entrainment of pollutants in the vegetation which surrounds the ponds. Significant amounts of water are unlikely to attain the man-made drain where intermittent seasonal flow occurs, with imperceptible residual risk.

Re. mitigation 'M2' the '60m wide buffer zone' – this is not meant to imply a sterilised area in which no activity occurs, since ponds 1 – 4 are intentionally located within it. The primary purpose of this mitigation measure is to protect the existing man-made drain by removing the risk of damage by operational quarry traffic. Additional benefits of the presence of a vegetated area are its small contribution to the suite of mitigation measures which reduce the risk of impact from accidental spillage from a pond. A revised wording of the mitigation measure is given.

It is further proposed to place silt fences around the drain head and length during pond construction and any subsequent maintenance works.

6.1.4. The Addendum to NIS includes:

- Changes are outlined.
- Following mitigation the proposed development does not have the potential to significantly affect the conservation objectives of the Natura sites and the integrity of these sites as a whole.
- The NIS for the Eirgrid project, 7km from the site at the nearest point, concludes that, should the proposed mitigation measures be adhered to, the ecological integrity of the European sites identified will not be adversely affected. All relevant areas for that project are hydrologically upstream.

6.1.5. EIAR Addendum.

- Changes are:

- Relocation of the intermittent crushing stockpile, washing and screening plant that includes extraction, washing, sizing, screening and stockpiling; from the north western corner, to the north central area of the site.
- Relocation of the new shed, refuelling bay and hydrocarbon interceptors from the north western corner to the north eastern boundary.
- Relocation of the site wheel wash bath, and rerouting and widening, at a reduced ground level, of the Haul Access Road, along the perimeter of the residential land, and additional vegetation berms to be planted on both sides of the tarmacked road and the road widened locally for the operation phases.

- Noise and vibration - the farm outbuildings 200m east of the site are known not to be occupied, and owned by the applicant, and will therefore remain vacant for the duration of the project.

- Air Quality and Climate - The dwelling to the east of the site is not occupied and owned by the applicant, and will therefore not be occupied for the duration of the project.

- Badgers – report by Brian Keeley – there is one badger social group availing of the proposed quarry lands and the former quarry behind it. The badgers are present in the area to the north of the proposed quarry lands in addition to foraging and commuting through the woodland. Badgers are active within the site but are entering the site from outside. It is most probable that the badgers feeding and commuting through the site are resident in the sett to the north-western corner (north of the site – 'X5'). A badger recorded on the camera at the sett in the embankment was most probably commuting and foraging from this sett. An annotated aerial photograph showing activity in January 2022 is provided.

- Updated mitigation – there is a badger sett (sett 'X1') located within the phase 4 area. A 50m buffer zone for extraction activities will be retained around this and all setts. Extraction activities will not commence in this area of the site for a number of years. If upon review, this sett is still active, badgers will be excluded from the sett and any other setts that may be identified and considered vulnerable. Other setts (sett 'X4', 'X5') close to the site may also be indirectly affected by the ground disturbance from the quarrying activities – a 50m buffer zone for extraction activities

will be retained around all setts; a 150m zone is maintained throughout the breeding season (January to June) from the active sett (potentially a main sett); any setts that require to be excluded/removed shall be monitored by a suitably qualified person prior to exclusion, if the sett is shown to be a breeding sett, exclusion shall not be undertaken between January and June.

- Revised buffer zones are shown on drawings.

- Appendix A to the EIAR Addendum is a Badger Survey Report January 2022. It includes:

- Pointing out that badgers can show a huge level of tolerance of noise and vibration in urban areas in particular, it is probable that in rural areas, the toleration of disturbance is lower as there are greater opportunities to move between setts. It is proposed that there are more setts within the surrounding fields associated with the setts noted. Without a long-term study, it is not possible to predict whether the resident badgers could move to alternative setts at times of greatest disturbance. In the absence of such knowledge, it is safest to assume that disturbance would affect the resident badgers and that they could not avoid the impacts. The buffer zones are revised.

6.2. Planning Authority Response

6.2.1. The planning authority have not responded to the grounds of appeal.

6.3. Observations

6.3.1. Observations have been received from:

Adrian Guinan & Mary Jo Costello, who live 350m from the eastern boundary.

Sean & Anne Hardy,

Joe Costello,

John Gormley,

John George, Elizabeth George, Caroline George & Lisa George,

Anthony Coss,

Peter & Ann Walsh Kemmis, represented by Farry Town Planning Ltd. The site adjoins theirs on 3 sides,

David Little,

Louise & Paul Conroy.

6.3.2. Issues raised include:

- Road inadequacy – L7939. Use by walkers. Hazard. Query enforcement of left in / right out.
- Application should include the lay-byes and letters of consent.
- Passing bays do not comply with TIA standards.
- They question that the one-way traffic route can be legally enforced, given that other motorists can travel in both directions.
- Pedestrians and cyclists must be provided for. The traffic survey, carried out in winter, is irrelevant. The Guidelines prioritise walking and cycling. Walkers and cyclists were not factored in.
- Adequate baseline noise monitoring has not been undertaken.
- All residential properties in the vicinity have private wells. Regionally important aquifer, extreme vulnerability.
- Devaluation of property.
- Fly tipping
- Quarry related activity in proximity to stream.
- Air quality not adequately addressed.
- 3-5m high berms will alter the character of the area.
- NH1 and NH 16, and NH 17 – removal of trees and hedgerows.
- Total landholding not declared.
- Unless a developer had formulated a development proposal prior to purchasing land, alternative sites are unlikely to have been considered in any detail. Dr Browne Simons on Planning Law.

Scannell Y Environmental and Land Use Law – it is hard to understand how the decision to prefer the chosen alternative can be properly justified where the reasons for rejecting other alternatives are not adequately explained.

- The EIAR should have considered the effects of the overall project – to 5km distance. AA mitigation measures (M2) to preserve natural vegetation within 60m of the drain – is abandoned.

- The application contains two fundamental errors – the 'do-nothing' scenario is not analysed as an option; and the natura impact statement fails to consider 'in-combination' effects.

- Circular economy - 450 quarries in Ireland 10 times the number in the UK. dampening the new recycled aggregate market.

- Precautionary principle – legal arguments.

- Condition re. noise / disturbance.

- Water supply capacity – Walsh Kemmis request a condition which requires the groundwater level beside their home to be monitored three times a year and a bond of €100,000 to be provided for the provision of an alternative potable water supply, in the event that it no longer provides an adequate supply.

- EIAR 2.2 and 2.6 re restoration. Condition to stipulate that details of the timing and operation of the restoration of phases one, two and three, be agreed with the PA within three months of work starting on a subsequent phase; with a bond of €100,000 to ensure satisfactory completion of phase 4.

7.0 **Assessment**

7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment and environmental impact assessment, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either

on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment.

7.2.2. To facilitate the Board in carrying out this function the applicant has submitted a Natura Impact Statement which includes a Screening Report.

7.3. NIS

NIS Screening Report

7.3.1. An Ecological Impact Assessment was included in Chapter 11 of the EIAR and a report titled Natura Impact Statement which includes an AA Screening Report and a stage two NIS, was submitted as part of the response to the further information request.

7.3.2. The latter report identifies sites with potential for impact and the qualifying interest/special conservation interest species (QI/SCI) for these sites as:

European Site	Site Code	Relevant QI & SCI	Distance
River Barrow and Nore SAC	002162	Estuaries Mudflats and sandflats not covered by seawater at low tide Salicornia and other annuals colonizing mud and sand Atlantic salt meadows Mediterranean salt meadows Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation European dry heaths Hydrophilous tall herb fringe communities of plains	271m south and hydrologically linked downstream distance 1.1km. Potential groundwater connectivity must also be considered.

		and of the montane to alpine levels Petrifying springs with tufa formation Old sessile oak woods with Ilex and Blechnum in British Isles Alluvial forests with Alnus glutinosa and Fraxinus excelsior. Desmoulin's Whorl Snail Freshwater Pearl Mussel[1] White-clawed Crayfish Sea Lamprey Brook Lamprey River Lamprey Allis Shad Twaite Shad Salmon Otter Killarney Fern Nore Pearl Mussel (Margaritifera durrovensis)	
Ballyprior Grassland SAC	002162	Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]	3.8km south and not hydrologically linked

7.3.14. The NIS screens out: Allis Shad, Desmoulin's Whorl Snail, Killarney Fern, Nore Pearl Mussel (Margaritifera durrovensis, Twaite Shad, Sea Lamprey, Atlantic salt meadows, Estuaries, European dry heaths, Mediterranean salt meadows, Mudflats

[1] Freshwater Pearl Mussel - The status of the freshwater pearl mussel (Margaritifera margaritifera) as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species. (The Nore freshwater pearl mussel (Margaritifera durrovensis) remains a qualifying species for this SAC).

and sandflats not covered by seawater at low tide, Old sessile oak woods with Ilex and Blechnum in British Isles, Petrifying springs with tufa formation and Salicornia and other annuals colonizing mud and sand.

7.3.15. The NIS screens in: Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation, Alluvial forests with Alnus glutinosa and Fraxinus excelsior, Brook Lamprey, River Lamprey, Salmon, Otter, White-clawed Crayfish and Freshwater Pearl Mussel.

NIS Stage II AA

7.3.16. Site-specific conservation objectives for River Barrow and Nore SAC have been developed. The site specific conservation objective for each is listed and the potential effects of the proposed development is stated.

7.3.17. Hydrophilous tall herb fringe communities are referred to in table 4.3.

The potential effects are:

Indirect impacts from the collection and usage of surface water run-off from the site on the hydrological regime of the Stradbally River which supports the qualifying interest.

Silt/hydrocarbon run-off from the quarrying activities. These substances would be carried via the man-made drain that connects the site (intermittently) to the Stradbally river;

Changes in the groundwater quality or quantity arising from the abstraction of groundwater to facilitate the development of the quarry.

7.3.18. Water courses of plain to montane levels are referred to in table 4.4.

The potential effects are:

Indirect impacts from the collection and usage of surface water run-off from the site on the hydrological regime of the Stradbally River which supports the qualifying interest.

Silt/hydrocarbon run-off from the quarrying activities. These substances would be carried via the man-made drain that connects the site (intermittently) to the Stradbally river;

Changes in the groundwater quality or quantity arising from the abstraction of groundwater to facilitate the development of the quarry.

7.3.19. Alluvial forests with Alnus glutinosa and Fraxinus excelsior are referred to in table 4.5.

The potential effects are:

Changes in the hydrological regime locally that support the favourable conservation condition of this habitat within the SAC.

Targets are referred to as including -large woods at least 25ha in size and small woods at least 3ha in size. The habitat is much smaller. The woodland habitat does not support the attributes cited in the table. The springs present also potentially indicate that this habitat dues not fully fit the definition of the annex 1 habitat, as the ground here is likely to be permanently waterlogged due to the springs.

Surface flows which result in flooding this area are derived from the catchment upstream and to the east and south east of the Mill bridge.

A detailed site topographic survey indicated that a site area of less than 0.002ha of the subject site may drain to that catchment; considered irrelevantly small. Collecting 70% of surface water run-off from this area for use in the proposed development operations will have no impact on flood flows in the Stradbally River. There is no potential for surface water flows on the proposed development site to impact on flood flows or levels supporting the area of woodland at Mill Bridge.

7.3.20. River Lamprey & Brook Lamprey, are referred to in tables 4.6 & 4.7. The potential effects on these species are stated as due to:

- An increase in the siltation load or changes to the siltation patterns of the Stradbally River due to inadequate siltation control strategies from proposed development. Siltation can create barriers to the migration of lampreys thus preventing them from accessing suitable spawning habitats.

- Eutrophication – both adult and ammocoete life stages of the lamprey are vulnerable to the effects of pollution.

7.3.21. Salmon, are referred to in table 4.8. It states the potential effects on Salmon due to:

- An increase in the siltation load or changes to the siltation patterns of the Stradbally River due to inadequate siltation control strategies from proposed development. Siltation can create barriers for salmon causing them biological stress whilst at the same time smothering potential spawning habitats.

- Eutrophication – the SSCOs define a water quality target of Q4 for this species. Pollution of the Stradbally River with silt, hydrocarbons or other substances will have a negative impact upon salmon; and result in a reduction of habitat availability.

7.3.22. Otter are referred to in table 4.9. The potential impacts considered are:

- A decrease in water quality of the Stradbally River due to pollution from quarrying; this would have an indirect impact by possibly affecting the ecology of the river and the food supply of otter.

7.3.23. For White-clawed Crayfish table 4.10 summarises the SSCOs

Attribute	Measure	Target
Distribution	Occurrence	No reduction from baseline
Population structure: recruitment	Percentage occurrence of juveniles and females with eggs	Juveniles and /or females with eggs in at least 50% of positive samples
Negative indicator species	Occurrence	No alien crayfish species
Disease	Occurrence	No instances of disease
Water quality	EPA Q value	At least Q3-4 at all sites sampled by the EPA
Habitat quality: heterogeneity	Occurrence of positive habitat features	No decline in habitat quality heterogeneity or habitat quality

7.3.24. It states the potential effects on the species White-clawed Crayfish due to:

- An increase in the siltation load or changes to the siltation patterns of the Stradbally River due to inadequate siltation control strategies from proposed development. Siltation can create barriers for crayfish causing them biological stress whilst at the same time smothering potential spawning habitats.

- Eutrophication – the SSOs define a water quality target of Q3-4 for this species. Pollution of the Stradbally River with silt, hydrocarbons or other substances will have a negative impact upon the crayfish.

7.3.25. For Freshwater Pearl Mussel that its status is currently under review.

Margaritifera durrovensis remains a qualifying species for this SAC but it occurs only in the River Nore.

Cumulative Impacts

7.3.26. The potential for such impacts are referenced but none are considered likely to occur.

7.3.27. Mitigation

7.3.28. Listed under section 5, site preparation and quarrying are:

Site preparation and quarrying must be confined to the development site only and should adhere to the plans that have been submitted as part of this NIS.

All quarrying activities on site should follow current best practice guidelines. including the Geological Heritage Guidelines for the Extractive Industry produced by Geological Survey of Ireland and Environmental Management in the Extractive Industry produced by EPA.

Prior to any works commencing on site, site personnel will be made aware of the ecological sensitivity of the site and made familiar with the mitigation measures outlined in the NIS. They will be made familiar with the mitigation measures outlined in the assessment and incorporated into the EMP.

The stripping of vegetation and soil in the quarry will be done on a phased basis. Appropriate locations will be identified for the storage of stripped vegetation and soil for each phase of the quarry. The material will be stored the maximum available distance from the man-made drain and a minimum of 60m from the drain.

Dust mitigation measures will be followed at the site at all times, eg. the dampening of internal haul roads, surface material and stockpiles; the presence of vehicle washing facilities and the vegetation of earthen berms and screening bunds.

It is accepted practice that soil resources are retained on site for restoration purposes once quarrying activities have ceased. All excavated topsoil will be stored appropriately on site and retained for future reinstatement of the quarry, either on a phased basis or at the end of its operational phase. Measures must be taken into minimise sediment generation during the storage of these soils. The exposed surfaces should be minimised and any exposed surfaces will be reinstated or re-vegetated as soon as possible.

It is recommended that were possible, verges of undisturbed habitat will be left around the field margins of the site. This verge must include the root protection zone of trees that are to be retained. This should be fenced off prior to the commencement of quarrying activities. The verge should be managed in accordance with traditional hay meadow practices, ie. cutting in autumn and removing topped grass. The maintenance of this corridor will also allow mammals to continue commuting throughout the site if required.

Table 5.1 lists Hydrological and Hydrogeological Mitigation Measures listed as M1 to M20, are a summary of mitigation measures proposed in chapter 8 ‘Hydrology and Hydrogeology’ of the EIAr. M16 refers to the minimisation of groundwater abstraction. M17 refers to the placement of the abstraction well at the north west corner of the site with the zone contributing groundwater contained within the site boundary, with the exception of c 6m across the northern boundary and not intersecting the area contributing to either of the two domestic house supplies, assumed to abstract a conservative $1m^3$/day.

Measures to protect the quality of surface water and groundwater locally are stated as:

There will be minimal requirement for the storage of chemicals, oils, greases and hydraulic fluids. Where required, these will be stored in bunded compounds, located away from the drain on the northern boundary;

The designated refuelling area will be located in the north western corner of the site. This area will facilitate the refuelling of mobile equipment on the site. There will be no storage of fuel at the site, with refuelling being undertaken with a mobile tanker that

will access the site as needed. The refuelling area will be a concrete hardstanding area with a gully to collect any spillages. The gully will be connected to an oil interceptor.

Stockpile storage areas and the site office are located away from the drain on the northern boundary.

An effective spillage procedure will be incorporated as part of the EMP and all staff wll be properly briefed.

Any waste oils or hydraulic fluids will be collected and stored in appropriate containers and disposed of offsite in an appropriate manner.

All plant and machinery will be regularly maintained and serviced (off site) to minimise the release of hydrocarbons.

Spill kits will be present in all plant machinery.

Oil booms and oil storage pads will be kept on site to deal with any accidental spillages.

Waste oils and hydraulic fluids will be collected in leak-proof containers and removed from site for disposal and recycling.

Quarry restoration measures are stated:

Following the cessation of extraction within each phase, restoration will commence. The land will be graded and sloped to meet existing levels at the site outline edges. The area will be re-seeded with agricultural grass seed mixture, native to the local area. When final restoration has been completed no works will be undertaken and there will be no regular traffic access.

Following restoration to agricultural use all farm activities including land-spreading will be done in accordance with regulations.

The restoration will provide an opportunity for the enhancement of biodiversity locally. The existing hedgerows that were retained will be enhanced with additional planting of native species. The verges will be managed to maximise biodiversity.

7.4. Residual Impacts are set out in section 6 and table 6.1.

7.4.1. Residual Impacts are stated to be neutral and imperceptible.

7.5. Other Reports / Submissions

7.5.1. Adverse affect on the integrity of the River Barrow and River Nore SAC (002162) is given as reason number 2 of the planning authority's refusal decision.

7.6. Appropriate Assessment

7.6.1. I am satisfied the River Barrow and River Nore SAC, are the only Natura sites which could potentially be impacted.

7.6.2. I am satisfied that the qualifying interest/special conservation interest species (QI/SCI) for this site which have been identified as screened in are those which are relevant in relation to Appropriate Assessment and that those screened out in the NIS are not relevant in relation to Appropriate Assessment in this case.

7.7. Potential impact on water quality:

7.7.1. A concern in relation to the proposed development is that it could impact on the water quality in the River Barrow and River Nore wherein many special conservation interest species are dependent on good water quality. Some qualifying interest habitats are also dependent on water quality.

7.7.2. The Stradbally River downstream at Ballykilcavan bridge is rated Q4 good,

7.7.3. White-clawed Crayfish - Map 7 of the River Barrow and River Nore conservation objectives identifies locations upstream and downstream of the Ballykilcavan bridge for White-clawed Crayfish. As described in the NIS, White-clawed Crayfish are sensitive to any increase in the siltation load or changes to the siltation patterns which can smother potential spawning habitats, create barriers, and cause them biological stress. Eutrophication from silt, hydrocarbons or other substances is also of concern for White-clawed Crayfish – which require a water quality of Q3-4.

7.7.4. Brook Lamprey, River Lamprey, Salmon & Otter – these species are also dependent on water quality; Salmon require at least Q4. Otter although less directly dependent on water quality are dependent on fish biomass available, which is in turn dependent on water quality.

7.8. Potential impact on water quantity:

7.8.1. It is of concern that the proposed development could impact on the water quantity in the River Barrow and River Nore wherein many special conservation interest species and qualifying interest habitats are dependent on good water quantity.

7.8.2. The qualifying interest habitat Alluvial forests with Alnus glutinosa and Fraxinus excelsior, occurs close to the site. Changes in the groundwater quantity arising from the abstraction of groundwater to facilitate the development of the quarry is considered as having potential effects.

7.8.3. The potential for impact is discounted in the NIS for reasons including that: that this habitat is much smaller than the 3ha target and therefore shouldn't be a qualifying interest habitat; that the area is impacted by springs; that surface water flows which result in flooding in this area of woodland are derived from and occur in the catchment area upstream and to the east and south east of the Mill Bridge (Kilcavan Bridge); and further that the Stradbally River catchment to the west and south west is greater than 8,500 ha and therefore the contribution of the site area which may drain to that catchment (less than 0.002ha) is irrelevantly small.

7.8.4. The target referred to for the qualifying interest is 'where topographically possible' large woods at least 25ha in size and small woods at least 3ha in size. It is clear from the shape of the SAC boundary that this area has been included within the SAC specifically for this habitat and it's size is not relevant.

7.8.5. The protected site where the Alluvial forests is located, is very close to the subject site, directly across the road and extending east from the eastern corner. The associated land holding, identified as the recently purchased land, is directly opposite the protected site.[2]

7.8.6. Part of the site, that nearest the road and particularly at the south eastern end, falls southwards and the natural drainage of part of the subject site is south towards the river. Part of the groundwater also drains in this direction.

7.8.7. A groundwater divide is indicated on Figure 5 'Groundwater & Hydrogeology Site and Environs' in Volume 3 of the EIAR. This shows only the south-eastern corner of the site draining southwards. The dividing line runs very close to the Stradbally River to the south. On the contour survey of the site a larger area can be identified falling southwards. The text of the 'Preliminary Hydrogeological Reporting at Garron's Pit, Stradbally, Co Laois', attached as Appendix I to the EIAR, is less definitive on the subject of the groundwater divide than Figure 5. At Section 7 Conclusions it states,

[2] Land-ownership map, Figure 2.3 'aerial photograph of the site and recently purchased land' submitted as further information.

‘directions of the groundwater gradients are likely to be dominated by flow towards the Stradbally river and its tributary, but the exact directions of flow across the site are uncertain’.

7.8.8. It seems likely that the borehole sites, chosen for assessment in the subsequent examination of groundwater, for the subject application, were selected mainly to establish the zone of contribution for the proposed abstraction well. They are concentrated towards the north of the site.

7.8.9. In my opinion existing ground levels indicate a larger area draining southwards and therefore a larger area within which the groundwater is also likely to drain southwards. It is my view that the qualifying interest habitat Alluvial forests with Alnus glutinosa and Fraxinus excelsior is likely to be impacted by the proposed development through a reduction in water quantity.

7.8.10. The potential extent of the sand and gravel deposits in the area is shown in Figure 2 ‘Trial Pit and Disused Quarry Locations’ presented as part of the Preliminary Hydrogeological Reporting at Garron’s Pit, Stradbally, Co Laois, by Tynan Environmental. The deposits extend southwards almost to the bank of the Stradbally River and northwards to beyond its tributary.

7.9. Summary

7.9.1. Having regard to the close proximity of the site to sections of river to which it drains directly, or via the intermittent drain, or via groundwater; and the vulnerability of the groundwater; development of the nature of that proposed must be regarded as imposing a high risk to the achievement of the conservation objectives for the several special conservation interest species relying on high water quality.

7.9.2. The proximity of the site to the section of river to the south, also leaves it vulnerable to airborne dust, notwithstanding the mitigation measures proposed for dust suppression. This has not been considered in the NIS.

7.9.3. There is a risk to the achievement of the conservation objectives for the qualifying interest habitat Alluvial forests from altering surface water and groundwater quantity or patterns to this periodically flooded habitat.

7.9.4. On the basis of the information presented with the application and appeal, the Board cannot conclude that there is no likelihood of adverse impact on the protected site River Barrow and River Nore SAC and this is a reason to refuse permission.

7.10. EIA

7.10.1. An EIAR was submitted with the application. It includes:

7.10.2. **Vol 1 Non-technical Summary**

7.10.3. **Vol 2 Main Report** is presented in sections:

1 Introduction and Approach to EIA

2 Project Description.

3 Consideration of Alternatives

4 Planning Context

5 Traffic & Transport (incl Traffic & Transport Assessment)

6 Noise & Vibration

7 Soils & Geology

8 Hydrology (Flood Risk Assessment) & Hydrogeology

9 Air Quality and Climate

10 Landscape & Visual

11 Biodiversity & the Natura Impact Statement

12 Population and Human Health

13 Cultural Heritage

14 Waste Management & Material Assets

15 Material Assets

16 Cumulative Impacts & Interactions of the Foregoing

Volume 3 Appendices

7.10.4. The EIAR includes a non-technical summary of the information referred to in Article 5 (a) to (d).

7.10.5. No specific difficulties are raised as having been encountered in compiling the required information. The participation of the public has been effective and the

application has been made accessible to the public by hard copy means with adequate timelines afforded for submissions.

7.11. Assessment

7.11.1. Article 3(1) of the EIA Directive, requires that the EIAR identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following factors: (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 and the interaction between the factors referred to in points (a) to (d).

7.11.2. The requirements of Article 3(2) to include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned, relates to 'establishments' and therefore does not arise in this case.

7.11.3. In accordance with Article 5 and Annex IV, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features of the project. It also provides a description of the likely significant effects of the project on the environment and a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment.

7.12. Direct and indirect significant effects

7.12.1. I have carried out an examination of the EIAR and other relevant information presented by the applicant in this case, together with the submissions received during the course of the application and appeal.

7.12.2. I have considered the direct and indirect significant effects of the development against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

a. population and human health;

b. biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;

c. land, soil, water, air and climate;

d. material assets, cultural heritage and the landscape;

e. the interaction between the factors referred to in points (a) to (d).

7.13. Population and Human Health

7.13.1. Population and human health impacts are dealt with in chapter 12, which points out the need in the economy for the proposed development.The proposed project will be designed, operated and decommissioned in accordance with best practice and in line with applicable legislation. Mitigation in relation to air quality, noise, traffic and transport are referred to and listed in tabular form in table 12.4. An Environmental Management Plan has been prepared and will allow for the implementation of appropriate environmental practices and any residual impacts would not be significant.

7.13.2. Impact on residential amenities, noise disturbance, devaluation of property, fly tipping and impact on the enjoyment of use of the road for recreational walking have been raised in observations.

7.13.3. Reason number 4 of the decision refers to negative impact on the amenities of nearby residential property from the proposed development, in particular the location of the wheel wash and the internal access road.

7.13.4. The grounds of appeal responds to this reason, stating that the wheel wash was moved a further 50m from the nearest residence, in response to the further information request; that the road from the entrance to the wheel wash will be surfaced; that in addition to the wheel wash a mobile bowser will be used during dry periods, such as to ensure no dust impact; and that the existing residence is in excess of 70m from the access road and separated by a significant area of woodland. I am satisfied with the mitigation proposed in relation to noise and dust impact on residential amenity.

7.13.5. Fly tipping is raised as a concern by observers. There is some evidence of fly tipping at the roadside edge of the wooded area, of adjoining property, beside the western frontage of the site. Fly tipping would be unlikely to occur within a secured, managed site.

7.13.6. There is little doubt that the nearby residents and those who use this rural road, will be impacted to some extent by the proposed development. The presence of an extraction site in the vicinity, and the associated heavy goods vehicles using the road, would have an adverse impact on any quiet rural area. Nevertheless such activities are a necessary part of the economy and occur in rural areas where deposits exist. This is recognised in the County Development Plan, which seeks to safeguard such deposits because 'related extractive industries and added value production … are essential for the built environment, infrastructure and future economic development.'

7.13.7. I consider that impact on amenities can be satisfactorily mitigated. There is no evidence that the proposed development will devalue property in the vicinity.

7.13.8. In my opinion impact on population and human health should not be a reason to refuse or modify the proposed development.

7.14. Biodiversity

7.14.1. Biodiversity is dealt with in section 11. Biodiversity is also dealt with in the NIS and issues in relation to biodiversity are addressed in response to the request for further information.

7.14.2. The potential impacts on designated sites has been addressed under the heading Appropriate Assessment earlier in this report.

7.14.3. The DAU, Department of Tourism, Arts, Gaeltacht, Sports and Media have raised concerns regarding impact on the Badger. Adverse impact on Badger is given as reason number 3 of the planning authority's refusal decision. Avoidance of impact on Badger is addressed in response to the request for further information.

7.14.4. There are several badger setts within and in the vicinity of the site. Differences regarding the distances which should be maintained from a sett, based on its use and importance, arose between the DAU and the applicant. During the course of the application the applicant's proposals regarding the maintenance of buffer distances from setts was modified. However the planning authority continued to state concerns relating to the impact on badgers, which are protected under the provisions of the Wildlife Acts 1976 to 2018; that they have not been adequately addressed

7.14.5. Appendix L submitted with the response to the request for further information is a Mammal Survey which proposes mitigation for ground mammals:

1) a winter assessment of badgers within the site to determine the status of all badger setts and to allow most appropriate positioning of the following measures:

2) Provide a buffer fence around the badger setts of no less than 30 m. a barrier or fence will be erected and maintained throughout the extraction process.

3) a series of badger underpasses will be constructed along the perimeter of the quarry to allow free movement of badgers; no less than 8 provided by the incorporation of 300mm pipes (twin walled drainage pipes or equivalent) 4m in length that pass under the perimeter fence and re-emerge from the ground on each side.

7.14.6. Impact on badgers is given as refusal reason number 3 of the PAs decision.

7.14.7. A further submission has been made in relation to badgers in the grounds of appeal. It is stated that:

‘X1’ is an occasional use badger sett.

‘X2’ is an occasional use badger sett.

‘X3’ is a rabbit burrow not a badger sett.

‘X4‘ is a rabbit burrow not a badger sett.

‘X5’ is an active/main sett.

7.14.8. In the ‘Environmental Impact Assessment Report Addendum’, submitted with the grounds of appeal, this is elaborated on further:

- No active setts within the site January 2022.
- One badger sett within the site this may be occasionally used. it may serve as an outlier sett.
- There is a sett within the embankment very close to the northern perimeter and badgers commute between this sett and an active sett northwest of this sett. There is one very clear entrance and the possibility of a second entrance in very dense impenetrable scrub; and bedding and latrines at the entrance. The sett is connected by fresh tracks to surrounding woodland, scrub and pasture edge.

- One badger social group avail of the site and the former quarry behind. The badges forage within the site, entering the site from outside.

It is proposed to maintain a 50m zone around all the setts and a 150m zone throughout the breeding season – January to June, from the active sett, potentially a main sett. This is to be reduced if it is established that the sett does not serve as a breeding sett (ie in the winters of 2021-2022 and 2022-2023). The report also acknowledges that badger disturbance may occur.

7.14.9. It should be noted that the buffer zone from setts is an area within which extraction will not take place, not an area within which development will not take place. Refuelling and a shed is shown located within the buffer area and the washing and screening plant immediately adjoining the area.

7.14.10. The maintenance of cordons, and the activities which can take place within those cordons can be conditioned. Therefore, on balance, I consider and that adequate safeguards can be put in place for the badgers within the site and in the vicinity and which use the site. I consider that Badger disturbance should not be a reason to refuse or modify the proposed development.

7.14.11. The bird species Yellowhammer has been identified on the site. This species is red-listed on the Birds of Conservation Concern in Ireland 2020-2026. Strongly associated with cereal cultivation, the current grain crop is suitable for this species but future agricultural use may not be. Mitigation measures are proposed to protect birds and bats which may occur within the site, from the impact of site preparation.

7.14.12. I consider that biodiversity should not be a reason to refuse or modify the proposed development.

7.15. Land, Soil, Water, Air and Climate

7.15.1. Land & Soil

Land & soil are dealt with in section 7 Soils & Geology

7.15.2. The extraction and removal of 1.22 million tonnes of aggregate is stated to be a small adverse long term impact, of moderate significance given that it will be restored for agricultural use.

7.15.3. Exposure of soils and soil stockpiles may result in potential for soil erosion impacts considered long-term, small adverse and slight. An Environmental Management Plan and a Restoration Plan have been prepared.

7.15.4. Extraction will be to a depth of at least 1m above the estimated highest winter groundwater level across the extraction area to which is added a climate change uncertainty allowance of 10% of annual groundwater level variability across the site. Site sections show finished ground levels in the region of 70m compared to invert level of open drain 66.166. The quantity of material to be removed based on the foregoing is 1.22 million tonnes. An earlier study by Land Surveying Services in 2003 submitted with the application, also assumed a 1m overburden and a bottom limit of 66.5m AOD, stream bed level, and estimated a volume of 565,000 cubic metres of material for removal. The larger volume currently proposed, although at a higher extraction level base level, extends over a site area of 12.84ha compared to the 10ha in the 2003 study.

7.15.5. In my opinion impact on land or soil should not be a reason to refuse or modify the proposed development.

7.16. Water

7.16.1. Water is dealt with in section 8 Hydrology (Flood Risk Assessment) & Hydrogeology, which includes:

The gravel aquifer overlies a regionally important karsified aquifer, of moderate vulnerability.

Sand and gravels will not be extracted from below the groundwater table.

Process water will be generated by the washing and screening plant, used to process the extracted sand and gravel.

The water management system on-site will be based on a collection and conveyance system focused on capturing and storing water within the site for use in the washing and screening plant. The collected water will also be used for dust suppression and in the wheel wash.

Four ponds lined with impermeable membrane will be constructed to the north of the site, collected water will be retained within the site through a series of pipes, a water balance pond, pond 1, sludge settlement ponds, ponds 2 & 3 and a storm water

attenuation / sediment settlement pond, pond 4. At least 80% of process water will be recycled within the wash plant, through an integrated water treatment plant. The remaining 20% top-up process water will be provided by:

- Recycled recovered water from sludge settlement ponds,
- Recycled recovered water from the stockpiled sand and gravels,
- Surface water run-off from the storm water pond, and
- Groundwater abstraction from a water supply borehole, located close to the north western boundary.

There will be no discharge of process water from the site. Surface water run-off will be discharged to a drain on the northern boundary, at an approved greenfield rate, in line with existing conditions. There will be no discharge of foul or grey water from sanitary facilities to the surface water or groundwater environment at the site.

Groundwater supply is required as part of the site water requirements. It is stated that the proposed abstraction will have no impacts on the quality or level of water at surrounding group and domestic water supplies; that the zone of contribution relating to the abstraction on-site will not interact with these water supplies and there is no groundwater flow from the site to these water supplies. Climate change has been allowed for. The impacts on surface water and groundwater quality are stated to have imperceptible effects.

The zones of contribution (ZOC 1) for the July maximum of 17m^3/day is defined for a continuous steady state average abstraction rate over a year; over 150% annual average usage. An additional ZOC (ZOC 2) has been delineated for the intermittent maximum July abstraction rate of 35m^3/day for the occasional 350 tonnes/day processing rate. The abstraction will comprise one borehole at the north west boundary of the site; likely depth 10m below ground level to ensure 5m saturated zone, (below average groundwater level). It will penetrate a glacio-fluvial sand and gravel deposit which is estimated to be up to 20m deep in this area. Ground flow to the borehole is from the south south-west, towards the north north-east.

Groundwater gradient, and resultant groundwater flow direction within the site, is towards the north and north-east and is broadly aligned with topographic gradient. This is as expected for sand and gravel bodies. Site groundwater gradient is

estimated to be 0.004. Site groundwater flow direction is also controlled by the presence of discharge zones/ hydraulic controls to the north north-east, at the tributary of the Stradbally river and to the south and east, at the loop of the Stradbally river channel. A groundwater flow divide is estimated to occur c120m to the south of the site boundary along the road. It is oriented in a south west to north east direction and may extend further north east than the estimated groundwater contours indicate. North of this divide, the groundwater flow is north north-eastwards through the site towards the tributary. South and south east of this divide, flow is south eastwards and potentially also southwards towards the Stradbally river. These are shown in figure 5 of Appendix 8.

7.16.2. The estimated groundwater divide has been referred to earlier in this report under the heading appropriate assessment. In my opinion the borehole locations appear to have been mainly chosen to establish the zone of contribution for the proposed abstraction well, as they are concentrated towards the north of the site. Existing ground levels indicate a larger area draining southwards and a larger area within which the groundwater is also likely to drain southwards.

7.16.3. The Q value given in section 8 for Mill Land bridge (Kilcavan Bridge) is for the year 2017, with a stated Q of 3-4, the figure currently given on the EPA web maps for that location, for year 2020, is 4 ‘good’.

7.16.4. It should be noted that the 60m buffer zone from the drain to the north is an area within which extraction will not take place, not an area within which development will not take place. The settlement ponds will be located within this area.

7.16.5. Observers are concerned about the capacity of their nearby water supply well and request that the groundwater level beside their home be monitored three times a year and in case an alternative potable water supply is necessary that a bond be in place. Their concerns appear reasonable, as regards both quality and quantity of their well water supply.

7.16.6. The detailed proposals for the management of process water are noted, nevertheless in the context of the sensitive location, water discharge via groundwater and surface water remains a concern.

7.16.7. The potential for effects on rivers in the area in terms of both water quality and quantity was referred to earlier in this report under the heading appropriate assessment.

7.17. Air and Climate

7.17.1. Air and climate are dealt with mainly in section 9 Air Quality and Climate. Responses to the further information request also bear on this subject.

7.17.2. Dust is a potentially significant impact from quarrying. The grounds of appeal states that surfacing the road is one of the best mitigation measures to minimise dust and noise; that the surfaced section of the road is after the wheel wash and any water and debris falling from washed wheels will flow back into the wheel wash.

7.17.3. Mitigation measures, which are also included in the Environmental Management Plan, are set out in section 9.5 of the EIAR and proposals for a monthly dust monitoring programme is stated in section 9.6 . Levels will not exceed the 350mg/m^2/day standard. It is considered in the EIAR that there will be no significant residual impacts. Achievement of this standard at site boundaries is generally acceptable. As stated earlier in this report under the heading appropriate assessment, the potential for effects on water quality in the Stradbally River was not assessed.

7.17.4. Impacts on climate are stated to be beneficial; by reducing the dependency on facilities elsewhere in County Laois and the distances travelled by their heavy goods vehicles. Observers state that there are 450 quarries in Ireland, 10 times the number in the UK, and that this has the effect of dampening the recycled aggregate market.

7.17.5. This issue is also dealt with under the sub-heading alternatives.

7.18. Material Assets, Cultural Heritage and the Landscape

7.18.1. Material assets are dealt with in section 15 which comprises mainly a table summarising utility provision for the proposed project.

7.18.2. Traffic & Transport is dealt with in section 5. The inadequacy of the road to cater for the proposed development is included among the observers' concerns. They state that it is regularly used by walkers; the passing bays do not comply with TIA standards; the application should include the lay-byes and letters of consent; pedestrians and cyclists must be provided for; the traffic survey, carried out in winter,

is irrelevant; the Guidelines prioritise walking and cycling; and walkers and cyclists were not factored in.

7.18.3. The passing bays are shown to be 2m in depth and to be contained within the roadway, ie. between the fence line and the carriageway. The adequacy of the passing bays was not queried in the PAs reports. The Area Engineer and Roads Design have reported on the application and found it acceptable.

7.18.4. Cultural Heritage is dealt with in section 13. This refers to the archaeological monuments adjacent to the site, including a mass house at Garrans, 60m away. There are a number of protected structures in the vicinity, the most relevant being the road bridge to the east, Ballykilcavan Bridge. It is stated that quarry traffic will travel west only from the entrance. Observers question how this can be enforced. The Area Engineer states that a weight limit will shortly be imposed on Garrans Bridge (Ballykilcavan Br) over the Stradbally River.

7.18.5. Landscape is dealt with in section 10 Landscape & Visual. It is stated that landscape impacts are associated with the change in topography of the site, the removal of hedgerows and changes associated with the presence of plant and equipment on the site. All boundary hedgerows will be protected and remain in place and will nave appropriate maintenance and management. Due to the site location, the intervening undulating topography and screening from vegetation, they conclude that the project will have no visual impact on designated scenic roads and listed viewpoints. Mitigation measures include a landscape plan for the operational period and for site restoration. Observer's concerns include that the 3-5m high berms will alter the character of the area, and they are concerned about the removal of trees and hedgerows.

7.18.6. I am satisfied that adherence to a traffic regime, using the local road to and from the west only, is enforceable.

7.18.7. Potential impact on archaeological features can be mitigated by condition.

7.18.8. The site is not prominent in the landscape and therefore will not have a significant visual impact.

7.18.9. Impact on material assets, cultural heritage and the landscape should not be reasons to refuse or modify the proposed development.

7.19. Interactions are dealt with in section 16.

7.19.1. No significant interactions or cumulative impacts are envisaged.

7.20. Alternatives

7.20.1. Alternatives studied are addressed chapter 3 and further in response to item 8 of the request for further information.

7.20.2. Lack of adequate assessment of alternatives is given as refusal reason number 1.

7.20.3. The grounds of appeal responds to that reason stating the requirement is to give a description of the reasonable alternatives. Also responding to this refusal reason they state that 'the 21/694 application has been designed and proposed specifically and exclusively to service the aggregate demand at the Ballymullen Plant. It does not include for the provision of a wash plant. The proposed development is needed to service Booth Concrete's customers and provide bulk sand and gravels as well as providing raw materials to their ready-mix plant in Portlaoise town. It is being developed in tandem with 21/694 and to suggest it as alternative is unreasonable'.

7.20.4. Responding to this reason the grounds also responds to concerns regarding the accuracy of the landholding map, stating that the applicant purchased lands adjacent to the proposed quarry. These lands were acquired post the preparation and lodgement of the application. They are not an alternative to the proposed development. It is not a viable alternative on the basis of traffic impacts.

7.20.5. This issue was raised by observers to the planning authority. Details sufficient to clarify when these lands were acquired have not been provided. They were not acquired for farming purposes and are likely to be intended for quarrying.

7.20.6. It is also relevant to consider under the heading, what is referred to by observers as, the circular economy. They state that the 450 quarries in Ireland is 10 times the number in the UK, and that the proposed development would have the effect of dampening the new recycled aggregate market.

7.20.7. I note that the location of quarries is determined in the first place by the location of the mineral recourses which are to be exploited. Neither the national guidelines nor the county development plan have positive guidance to direct quarries to particular locations. I accept the argument made in the grounds of appeal that the applicant does not have to consider all possible alternatives, but it is a reasonable expectation

that the development should be set in the context of existing available supply, such that a type of development which involves environmental impact is shown to be necessary. It is also reasonable to expect that more sustainable alternatives which might be available, should outlined and justification given as to why the subject development is necessary in such a context.

7.20.8. The subject development should also be clearly placed within the context of overall plans, by the developer, for the total landholding. This is not addressed in the application or appeal.

7.20.9. I agree with the planning authority's reason for refusal.

8.0 **Recommendation**

8.1. In accordance with the foregoing assessment I recommend that permission is refused for the following reasons and considerations.

9.0 **Reasons and Considerations**

1 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would be likely to adversely affect the integrity of the European site River Barrow and River Nore SAC (002162) in view of the site's Conservation Objectives.'

2 The Board is not satisfied that the details submitted with the application, including the Environmental Impact Assessment Report, give adequate consideration to alternatives available, including existing sources of supply and the substitution of recycled material, or the potential for extension of the proposed use into adjoining lands, in the same ownership. In the absence of such information, the Board is unable to assess the impact of the proposed development on the environment and is therefore unable to carry out a full Environmental Impact Assessment of the proposed development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Planning Inspector

27th July 2023

Appendices

Appendix 1 Photographs

Appendix 2 Laois County Development Plan 2021-2027, extracts.