



An
Bord
Pleanála

Inspector's Report

ABP-312781-22

Development	5-year permission for Re-contouring of agricultural land using imported, inert soil & stones, associated site works.
Location	Hayestown & Carnuff Little, Dean Hill, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	21757
Applicant(s)	Tarstone Road Maintenance Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Mc Grane
Observer(s)	None
Date of Site Inspection	29 th of November 2022
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The site is located approximately 8 km to the east of Navan and 3 km west of the N2, Co. Meath. The surrounding area is rural in character, with agricultural lands and several one-off dwellings in the immediate vicinity of the site.
- 1.2. The site is occupied by Tarstone Road Maintenance Ltd, previously known as Tarstone Tarmacadam Contractors Ltd, a company that provides road construction and maintenance services. The overall site associated with the business at Deanhill comprises an office building with visitor parking to the front close to the roadside boundary and a commercial yard to the rear. There is a controlled gated access to a yard area to the rear. The yard contains structures, machinery, vehicles, raw materials and waste products.
- 1.3. The northern boundary of the 'yard' is defined by a high palisade fence with gated access to lands to the north. The lands to the north of the palisade fence comprise of a hard standing area, some of which has been previously infilled. There were old vehicles and construction / demolition type waste products stored on this area at time of inspection.
- 1.4. To the rear of the commercial site, there are expanse of agricultural lands, the subject of this application. These lands are lower than the existing site, adjoining lands which have been previously filled.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - Permission for re-contouring of agricultural land (c.3.152 ha) using imported inert soil and stones for the benefit of agriculture.
 - Inclusion of a temporary haul road and turning area through the site for the movement and unloading of trucks.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 22 no conditions of which the following are of note:

C2: Recommencement survey of the public road network affected by the proposed development as the L1013 between the N2 and R153.

C3: A post-project survey of the road network affected as the L1013 between the N2 and R153. The applicant shall repair any damage to the road caused because of the proposed land reclamation project.

C4: The haul route shall be limited to the L-1013-0 with access from the N2 to the east and R153 to the west.

C5: The permission shall be for a period of 5 years from the date of the final grant of the order and a maximum of 10 loads per day, imported into the site.

C6: The quantity of material to be imported shall not be greater than 69,998 tonnes of inert soil and stones in total with a maximum annual intake of 14,000 tonnes.

C7: The infilling of the site shall be carried out in accordance with the plans and particulars and the applicant shall ensure that each phase is capped with an appropriate layer of topsoil and seeded after each phase.

C8: Submission of topographical surveys every 6 months in year 1 and every 4 months in year 2.

C10: The applicant shall take adequate preventative measures to ensure no adverse effect on the drainage of the site and watercourses, ditches shall be protected by a 10m buffer.

C11: Dust monitoring shall be undertaken, and the levels shall not exceed 350mg/m²/day over a 30-day composite sample. Monitoring to take place during May and September.

C13: Mitigation measures undertaken as per the Planning & Environmental Report.

C14: Provide and maintain a waste inspection area and a waste quarantine area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following a request for further information as summarised below:

Further Information Request

1. Applicant is requested to address the Boards previous refusal reason in relation to how the proposal adheres to the Strategic Objective RUR DEV SO7.
2. The EIA Screening has not fully assessed the potential cumulative impact of the proposed development together with the existing surrounding development. The applicant is requested to clearly state the nature and quantity of all relevant existing fill material on the adjacent lands to the immediate southeast of the subject site.
3. The applicant is requested to present a comprehensive response to the issues raised in the third-party submission.

Response to Further Information

1. Previous Refusal Reason

The applicant's response to the further information request states that the activity is a recovery activity and not a waste disposal. A recovery facility, as defined in the Waste Framework Directive 2008/98 is an operation that would result in waste being used for a useful purpose. The materials used are uncontaminated soil and stones (17 05 04), suitable for land reclamation.

The lands are currently agricultural but low lying and sloping, reclamation would raise the lands by c. 1.45m and provide a more suitable state.

It is stated that the planning permission before Meath County Council is different from PL17.243044 (Reg Ref NA130633) as the activity is not a disposal activity, only inert soil and stone will be used for the recontouring of the site, no construction or demolition waste will be brought into the site, the proposal will be subject to a waste permit from Meath CoCo and the applicant is happy to accept conditions to monitor the water quality in the culverted stream both upstream and downstream.

2. EIA Screening

Planning permission PA NA70587 (2009) was granted for the temporary land recovery for waste material, the piping of an existing stream and a shed. The Waste Permit was granted by Meath County Council (total fill 66, 517m³).

The cumulative impact of the proposal and the permitted development was assessed. The proposal will not have any impact on the already culverted stream. The proposal will require a Waste Facility Permit will facilitates up to 200,000 tonnes over the lifetime of the site. It is not considered an EIA is required.

3. Third Party Submission

The third-party submission is deemed vexatious.

There is no stream in the area to be filled. The 2008 permissions involved the piping of an existing stream running through the site.

The flood risk assessment confirmed the works will be carried outside any flood area.

The average depth of fill is 1.45m across the application site and the 3rd party submission is flawed.

There is an established permission for the entrance into the site.

There is no intensification of works on the site.

3.2.2. Other Technical Reports

Transportation Department: No objection subject to condition.

3.3. Prescribed Bodies

The PA report notes the proposal was not referred to any prescribed bodies.

3.4. Third Party Observations

One third party submission was received from the appellant and signed by another. The issues raised are similar to the grounds of appeal and refer to:

- absence of the existing stream identification,
- piping of the stream without permission,

- design of unauthorised piping and load capacity of same,
- substantial increase of the grounds level by 2.57m (not 1.145m) and
- the intensification of the existing entrance.

4.0 Planning History

ABP307302-20 (Reg Ref AA19/1746)

Permission granted in 2020 for the retention of tarmacadam across roads and all other associated works. The retention permission relates only to the existing building and services on the site.

RL17.RL3584 (Reg Ref No NA/S51720)

Referral determination in 2018 to state that the storage of raw material by-product and waste is development and is not exempted development.

The Board had regard to the following in its determination:

- a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended; (Class 22 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended);
- c) The planning history of the subject site, and in particular planning permission register reference number NA/40011, planning permission register reference number NA/50503 (An Bord Pleanála reference number PL17.218071), and retention planning permission register reference number NA/130290 (An Bord Pleanála reference number PL17.242496); and
- d) The report of the Inspector, including her inspection of the subject site

PL17.244389 (Reg Ref No AA/140808)

Permission refused in 2015 for the development of a waste recovery facility for a class 7 activity - namely recovery of inert waste arising from construction and demolition activity

1. It is considered that the information submitted during the consideration of the application lacks clarity in relation to operational noise, noise from on-site traffic movements, dust and vibration. There is also lack of information on the designated stockpile area and frequency and volume of throughput of waste material and removal of residual waste. The Board is not satisfied, on the basis of the information provided that the proposed development would not be likely to have significant adverse impacts on the environment and residential amenity of adjoining dwellings. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the planning history of the site and to the nature and layout of the proposed development, including the proximity of elements thereof to adjoining residential property, it is considered that, based on the documentation accompanying this application and appeal, the proposed development would constitute undesirable incremental intensification of the use of the site, effectively changing part of the approved vehicle parking and maintenance/storage shed to a waste recovery working area, with a significant increase in activity, associated noise, dust, vibration and traffic movements near the said residential property. The proposed development would, therefore, seriously injure the residential amenity of adjacent property, would contravene policies ED POL 17 and ED POL 18 of the Meath County Development Plan 2013-2019 and would be contrary to the proper planning and sustainable development of the area

PL17. 243044 (Reg Ref No NA/130633)

Permission refused in 2014 for the temporary land recovery operation for the deposition of soil and stone to improve agricultural lands for the reason stated below:

1. Having regard to the nature of the proposal to dispose of inert waste on fertile agricultural land, it is considered that the proposed development would constitute an inappropriate use of productive land, would constitute unsustainable development, and would be unacceptable in principle. The proposed development would also seriously injure the visual amenities of the area and would set an undesirable precedent for similar such haphazard and

piecemeal development. Furthermore, having regard to the location of a stream running through the subject site, and notwithstanding the previous culverting of that stream, it is considered that the proposed development would give rise to an unacceptable risk of water pollution. It is considered that the proposed development would, therefore, contravene Strategic Objective RUR DEV SO 7 of the planning authority, as set out in the Meath County Development Plan 2013 – 2019, as varied, which seeks ‘to support the continuing viability of agriculture...in the context of sustainable development and the management of environmental resources’, and would be contrary to the proper planning and sustainable development of the area

Note: In deciding not to accept the Inspector’s recommendation to grant permission, the Board considered that the proposal to deposit soil and stone and to recover and store inert construction and demolition waste on fertile agricultural land would be contrary to sustainable land use management and would be unacceptable in principle. The Board also considered that the proposed development would seriously injure the visual amenity of the subject site and would give rise to an unacceptable risk of pollution to the stream running through the subject site

PL17.242496 (Reg Ref NA/130290)

Permission granted in 2014 for the retention of a change of use of land to a commercial yard for the purpose of vehicular parking and temporary storage area.

- Condition number 3: Area of lands submitted in the FI response to the PA to be reinstated to agricultural use during the first planting season following the grant of that planning permission.

PL17.237901 (Reg Ref NA/100801)

Permission refused in 2011 for the construction of a recycling and storage shed.

1. It is considered that the proposed development, by reason of its nature, extent and layout and proximity to residential property would constitute an inappropriate extension not provided for in policy ED POL 19 and would result in a significant increase in traffic movements in and near the site. The

proposed development would, therefore, seriously injure the residential amenity of adjacent and property contravenes the said policies and is contrary to the proper planning and sustainable development of the area

Reg Ref NA70587

Permission granted for temporary land recovery operation to receive waste material on site (soil and stones) wherein soil and stones complying with Class 10 of the 4th Schedule of the Waste Management Act shall be imported and spread on site with a consequential benefit for agriculture activity (area 0.96 ha) The proposal involves the piping of an existing stream running through the site. Permission is also sought of a new stand-alone storage shed (area 301 sqm) including all associated site works.

5.0 Policy Context

5.1. Meath County Development Plan 2021-2027

5.1.1. The Meath County Development Plan 2013-2019 was the statutory plan during the decision making of the application. The new development plan has been adopted since the appeal was received by the Board and is the statutory plan for the determination of this appeal.

5.1.2. Rural Development (Chapter 9)

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

5.2. Natural Heritage Designations

The site is located

- c. 2.6km to the south of the River Boyne and River Blackwater SAC (site code 002299) and SPA (site code 004232) and Boyne Woods Proposed Natural Heritage Area (site code 001592).

- c. 4.9km to the north of the Balrath Woods Proposed Natural Heritage Area (site code 001579).

5.3. EIA Screening

Introduction

5.3.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIAR. Part 1, Schedule 5 outlines classes of development that require EIAR and Part 2, Schedule 5 outlines classes of developments that require EIAR but are subject to thresholds. The application is for an activity to which Part 2, 11 (b) of Schedule 5 applies:

- 11(b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

5.3.2. The proposed development includes the restructuring of 3.152 ha through the infilling from inert soil and stones. It is proposed to import 14,000 tonnes per annum of inert soil and stone over 5 years, which is commensurate with the lifetime of the waste facility permit. It is stated that the quantum of importation of materials will not exceed 25,000 tonnes per annum and is therefore below the mandatory threshold for EIAR.

Schedule 7A Information

- 5.3.3. A Planning and Environmental Report accompanied the application. This report included an Appropriate Assessment (AA) Screening Statement and an Environmental Impact Assessment (EIA) Screening Report. Section 1.1 of the report includes an assessment against Schedule 7A criteria.
- 5.3.4. It is stated the imported stone is uncontaminated and is not a waste disposal activity. The proposal is to allow a subject site to be restored to productive agricultural use. The report notes the site is not located within any landscape of particular interest and therefore the site has an absorption capacity. It is also noted that there are no features of interest on the site, and it is not located in an area of flooding.
- 5.3.5. The EPA mapping data¹ indicates a stream along the north of the field above the subject site, c. 200m. The river flows east and joins the Dollardstown which flows

¹ <https://gis.epa.ie/EPAMaps/>

north into the River Boyne. No river bodies are on the subject site and no surface water connections have been identified.

- 5.3.6. Mitigation measures proposed to prevent any impact on the surrounding area include the maintenance of the site to prevent dust emissions and adherence to the noise controls. A Waste Permit Licence will be submitted to Meath County Council for the proposed development. The applicant notes this can address up to 200, 000 tonnes of waste.
- 5.3.7. I note the information contained within the screening report. I consider there is important information absent from the report. No groundwater assessment has been submitted or detail on the current and proposed agricultural uses. In addition, Section 1.4 of the Planning and Environmental Report states that 14,000 tonnes will represents 875 loads per annum, which equates to c. 4 truckloads per day. Whilst the applicant has stated that this would not be significant, I note the mitigation measures proposed, including noise and dust prevention, are limited in detail and I consider it difficult to assess the likely significant environmental impact on the surrounding area. The impact on the surrounding area is addressed in further detail below in the assessment (Section 7.0).
- 5.3.8. Having regard to the information contained in the screening report I consider there is insufficient information submitted which is necessary to screen out the need for an EIA. Whilst I note the PA report considered the information contained in the screening assessment (which they considered well below the threshold at 56%) I have concerns that the site does not have the absorption capacity to accommodate the quantum of fill proposed. Notwithstanding the quantum of fill proposed, the Board will also note my concerns in relation to the potential impact of the works on the site.
- 5.3.9. Should the Board be minded granting permission, I would consider additional information should be sought in relation to the current and proposed agricultural uses on the site, site specific mitigation measures for the movement and storage of infill material on site, existing and proposed ground conditions, and existing and proposed noise conditions. This information would allow a greater understanding of the environmental impacts from the proposed development, the impacts on the groundwater and the surrounding area.

Cumulative Effects

- 5.3.10. The EIA Directive requires that the cumulative effects of the proposed project with other existing or permitted development is considered when screening for the need to carry out an EIA.
- 5.3.11. Section 1.1 (b) of the Schedule 7A information states the development has been assessed independently of any other site. As part of a further information request, the applicant submitted information of the previously permitted infill development on the site (PA NA70587 (2009)) to state that having regard to the previous and proposed development there would be no cumulative impact and the proposal would not require an EIA. The grounds of appeal consider the screening for subthreshold development must take into consideration previously permitted development and the cumulative impact.
- 5.3.12. Whilst the quantum of previous fill has not been detailed in this application, I note the planners report for history files (PL17.244389 and PL17.243044) both refer to this fill stating that c. 24,000 m³ had already been imported into the site since 2009. Upon site inspection the level difference between the existing site and the agricultural field was noticeable and significant. The proposed development would take the level of the agricultural field in line with that area which has been previously filled.
- 5.3.13. I note the EIA requirements for the disposal of waste refer to an annual intake greater than 25,000 tonnes. In this regard, I note taking into consideration the previous infill, the quantum of annual intake will not be exceeded. In relation to the consideration for the environmental impacts, the Board will not the concerns raised above in relation to the absence of sufficient information in the Schedule 7A criteria, this aside, having regard to the size of the existing fill (c. 25,000 tonnes in total) I do not consider the previous development would be of significant cumulative impact.

Conclusion

- 5.3.14. Having regard to the absence of sufficient information submitted with the application, I cannot fully conclude that the proposed development, in combination with the existing permitted infilled lands, would not have required the submission of an EIA. In coming to this conclusion, I have had regard to the following:

- The information contained in the Schedule 7A;

- The quantum of infill proposed;
- The potential environmental impacts and those mitigation measures.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from a third party in relation to the grant of permission and the issues raised area summarised as follows:

6.1.1. Introduction

- The planning history on the site is listed. There are enforcement proceedings, Section 5 declarations and retention applications.
- The importing of material is from unknown sources, involve enormous energy and have no gain for prime agricultural lands.

6.1.2. Lack of justification for the lands to be filled (Ground No. 1).

- The plans indicate an unscaled sketch which depicts an embankment 4 times the height of the embankment area for filing.
- This exaggerates the gradient of the site's topography.
- There have been no trial pits or logs submitted.
- There is an absence of information on the conditions of the site, hydrological, geotechnical, and scaled maps of the proposed works.
- There is no explanation as to the necessity for the backfilling. There has been a crop from the field for the past year.
- There is a tarmacadam business along the front of the site which is a commercial operation.
- The planner's assessment does not include an assessment of the impact of importing the soil.
- If the soil is predominantly clay, then it will be of no benefit to agricultural use on the site.

6.1.3. Failure to determine the scale of the existing business and its environmental footprint (Ground No. 2).

- The planner does not include an assessment of the impact of transporting annual tonnages to and from the site.
- There is no assessment why the previously backfilled soils have not been put into agricultural use.
- In relation to the cumulative impact, there was no assessment as to the impact from other development in the locality.
- The applicant states that the proposal is being assessed on its own merits. This is not in keeping with Schedule 7 (screening for subthreshold developments).
- The applicant has stated that wetlands need filled, this should engage with Schedule 7 (criteria detailed).
- If it is a wetland, then it has the potential to be hydrologically connected to the Boyne SAC Complex (an important wet habitat).

6.1.4. Ownership and compliance with the Planning and Development Regulations (Ground No. 3),

- The applicant is not the registered owner of the site and has not provided a letter of consent to make an application.
- The rest of the applicant's lands should be outlined in blue as per Article 22. B of the Regulations.
- Land folio maps/ land registry submitted as proof the lands are not registered to the applicant.

6.1.5. Related Applications and Development (Ground No.4)

- The current commercial operation employs 60 staff. The proposal includes 30 vehicle movements per day.
- There are elements of the applicants current site proposed for use in the infill.

- The Board previously refused permission related to a temporary land recovery for the deposition of soil and stone to improve agricultural lands (PL17.243044) as it was an inappropriate use of fertile agricultural lands.
- Under the Waste Framework Directive, the deposition of such material is disposal (dumping) rather than recovery.

6.1.6. The proposed development is contrary to the Waste Framework Directive (as amended 2018) (Ground No. 5)

- Waste Framework Directive 2008 (2008/98/EC) defines waste as any substance which the holder discards or intended to discard.
- The applicant states that the purpose of the fill is to improve fertility although the field has been in production for years (aerial photography submitted).
- The waste directive requires waste to be minimised in the first instance. This cannot be properly considered if there is no information where the waste will come from.

6.1.7. Intensification of use and contravention of the Meath County Development Plan 2021-2027 (Ground No. 6).

- The proposal is incompatible with National Planning Framework policy 52
- The rural polices of the development plan (i.e SO 6, POL 12, POL 13, POL 25, POL 26, PPL 16, POL 18) require the protection of the rural environment and the proposal is a contravention of the development plan.

6.1.8. Prejudice to the Appellant (Ground No 7).

- The appellant has been subject to inappropriate commentary by the consultants and criticised for having environmental considerations.
- The appellant lives nearby and is impacted by the noise dust, vibration, traffic etc.
- The appeal is not vexatious.
- The Board is requested to determine the impact on the culverted stream and condition No. 10 by Meath CoCo in relation to the 10m setback from the stream.

6.1.9. Eastern- Midlands Region Waste Management Plan (Ground No 8).

- The applicant fails to demonstrate compliance with the Regional Plan

6.2. Applicant Response

An environmental consultant has submitted a response to the grounds of appeal. It is requested that the decision to grant permission is upheld. The submission addresses those issues raised in the grounds of appeal and is summarised below:

6.2.1. Overview

- The application was accompanied by an NIS and an EIAR Screening.
- Further Information was requested and responded to which indicated compliance with the policies and objectives of the development plan.
- During the 4-week appeal period the appellant and their agents contacted the applicant and their agents to gain information. There is concern this would be used incorrectly.
- It is considered the appeal is vexatious and surreptitious.

6.2.2. Nature of the application

- The lorries leave the yard at Dean Hill and return. These lorries either bring materials to site or collect materials along the way.
- Materials include Clause 804, Macadam, Asphalt, Piping, Kerbing etc.
- Lorries can return to the yard with soil and stones, therefore creating no additional carbon emissions.
- In 2021, Tarstone Road Maintenance LTD excavated 1,800 tonnes of inert stone from local sites and transported these to Huntstown in Dublin.

6.2.3. Grounds of Appeal No. 1 (Justification for the works and impact on agricultural use of the site)

- The applicant and their agent are not agricultural Consultants/ Advisors and not qualified to ascertain the agricultural benefit to the receiving lands.

- The applicant responded to FI request No.1 to indicate that the proposal complied with Objective RUR DEV SO 7 of the Meath County Development Plan 2013-2019 and can support the viability of agriculture.
- An agronomic comment has been submitted by the applicant's environmental consultant which states that trial holes or boreholes would not provide any additional information for the assessment.
- The agronomic assessment does not contain any assessment of the hydrological or geotechnical conditions as the expert submission is not a hydrologist.
- Some maps are submitted as supporting the agronomic assessment and are not required to be submitted to scale.
- The recontouring of the site will allow for a greater yield output from the field (100%) by better drainage.
- The imported stone and soil will only be a sublayer. The existing soil will be removed, banded and then replaced after the importation of materials
- The site is not a wetland (definition from the Irish Ramsar Wetlands Committee).
- The agricultural productivity is affected as surface water cannot drain effectively due to the contours.
- There is no evidence the cereal crops will not increase productivity or that stone and soil degrade agricultural lands.
- Part of the works are to bring in line the field with a site which has been previously backfilled. Both sites will then be used for agriculture.

6.2.4. Grounds of Appeal No. 2

- The full EIAR screening was undertaken, submitted to the PA and further information was sought.
- Development permitted under Reg Ref NA70587 was successfully completed under a Waste Licence Permit and supervised by Meath CC.

- The proposal is subthreshold and will comply with the EPA “Guidance on Waste Acceptance Criteria at Authorised Soil Recovery Facilities”
- The stream has already been culverted for c. 13 years.
- The site has never been designated a Wetland.

6.2.5. Grounds of Appeal No. 3

- A letter from the managing director and shareholder of Tarstone Road Maintenance Ltd has been submitted to confirm the use of the site and proposed development.

6.2.6. Grounds of Appeal No 4 and 5

- Tarstone Company formally changed its name in 2015 as legally entitled to.
- The proposal will require a Waste Facility Permit by Meath CoCo.

6.2.7. Grounds of Appeal No 6

- The applicant was requested to fully justify the development considering previous refusal as per further information dated 21/12/2021.

6.2.8. Grounds of Appeal No 7

- There are no residential developments near the site
- The traffic is already associated with the business using the local road network and will not change.

6.2.9. Emissions- Monitoring and Control

- Measure implemented to suppress dust includes the use of a lorry wash, maintenance of the site haul road, spraying of roads during periods of dry weather and reduction of vehicle speeds.
- The only source of noise is the machinery noise.
- The stream has already been culverted and the applicants carried out land reclamation under Waste Permit Licence (WFP/MH/08/008/01) in 2009.

6.2.10. Grounds of Appeal No. 8

- The proposal will require a separate Waste Facility Permit by Meath CoCo. As part of this process the proposal is considered compatible with the Eastern- Midlands Waste Management Plan 2015-2021

6.3. **Planning Authority Response**

A response from the PA notes the issues raised by the appellant and considers that all matters have been addressed during the assessment, as detailed in the planning officers' reports. It is requested that the grant of permission is upheld.

6.4. **Observations**

None received.

7.0 **Assessment**

I note those issues raised in the grounds of appeal and consider the main issues to be addressed include:

- Principle of development
- Environmental Impacts
- Impact on Residential Amenity
- Other
- Appropriate Assessment

7.1. **Principle of Development**

Introduction

- 7.1.1. The proposal includes the importation of inert soil and stone over 5 years with up to c. 70,000 tonnes of material over the entire field. The proposal will be undertaken in three phases and include a haul road, within the site, for the movement of infill. The grounds of appeal have concerns in relation to the justification for the proposed development at this location, *inter alia*, the importation of materials for the benefit of agricultural development.

- 7.1.2. The subject site is an agricultural field located to the rear of the applicant's existing tarmacadam business, which consists of an office and rear commercial yard. The yard allows the movement and parking of trucks and includes a large commercial shed. There is open storage of a range of builders' materials throughout the yard.
- 7.1.3. There is a significant amount of planning history on the site. These are associated with the commercial business along the front of the site and the infill of lands to the rear. Permission was recently granted for the retention of a tarmacadam road between the front of the site and the rear, beside the subject site ABP307302-20 (Reg Ref AA19/1746). Aside from this, the most relevant applications relate to two refusals by the Board for similar proposals and an older permission by Meath County Council for the infill of lands beside the subject site in 1987 (Reg Ref NA70587).

Previous refused permissions on the site

- 7.1.4. Permission was refused by the Board for two proposals, similar in nature to the proposed development, PL17.244389 (Reg Ref No AA/140808) and PL17.243044 (Reg Ref NA130633).
- 7.1.5. PL17.244389 (Reg Ref No AA/140808) (dealt with by the Board in 2015) included a proposal for a Waste Recovery Facility for a Class 7 activity - namely recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility not exceeding 10,000 tonnes per annum. The Board considered the principle of the development was unacceptable having regard to the inappropriate use of production land, would seriously injure the visual amenities and would cause an unacceptable risk to water pollution, notwithstanding the proposal to culvert the watercourse. The Board quoted Strategic Objective RUR DEV SO 7 of the county development plan (2013-2019) and I note a similar policy is also contained in the recently adopted county development plan (2021-2027). The relevance of this strategic objective is discussed in detail below although the Board will note the overarching need to continue to support the economic viability of agriculture.
- 7.1.6. The main difference between the proposed development, now before the Board, and the previously refused permission (PL17.244389 (Reg Ref No AA/140808)) relates to the slightly different site area and the quantum of fill proposed (now c. 4,000 tonnes

more infill proposed per annum). Aside from these changes the overall proposal remains extremely similar to this previously refused proposal.

- 7.1.7. PL17.243044 (Reg Ref NA130633) was also refused by the Board for a similar proposal to temporarily fill the lands in 2014. I note the Inspectors report refers to the absence of the quantum of material to be imported into the site. The Board considered the importation of inert material would constitute an inappropriate use of productive land, would constitute an inappropriate use of productive land and would be unacceptable in principle. The impact on a stream running throughout the site was also considered unacceptable, notwithstanding a previously culverted stream on the site.
- 7.1.8. In assessing this proposed development before the Board, the PA requested the applicant to submit additional information detailing the differences between the proposal and that previously refused application. The applicant's response to this request stated that the planning permission before Meath County Council is different from PL17.243044 (Reg Ref NA130633) as the activity is not a disposal activity, only inert soil and stone will be used for the recontouring of the site, no construction or demolition waste will be brought into the site, the proposal will be subject to a waste permit from Meath CoCo and the applicant is happy to accept conditions to monitor the water quality in the culverted stream both upstream and downstream.
- 7.1.9. I note the detail and information contained in both Inspector's Reports for the above previously refused applications and it is clear that the material to be imported was in the most part inert stone and soil, similar to those materials proposed for this infill. There are some minor differences between the proposal now before the Board and the previously refused proposal PL17.243044 (Reg Ref NA130633) in so far as the area was slightly bigger and the quantum of stone was less than c. 4,000 tonnes per year. Aside from these changes, the principle of land reclamation fill remains the same and I consider those issues previously raised by the Board remain the same. These issues are addressed in greater detail below.

Rationale for the proposed development.

- 7.1.10. The grounds of appeal have queried the rationale for the proposed development. In this regard they have queried the need for filling the site and the impact of this infill for agricultural benefit. The applicant's response to the grounds of appeal

acknowledges the current agricultural use on the site although considers the proposed fill will benefit the drainage on the site, therefore the productivity of the field and yield will increase by 100%.

- 7.1.11. Upon site inspection the current agriculture use was noted, and the site appeared to be producing a yield. The documentation in the application refers to the need to increase productivity of the site although no specific quantum, agricultural type etc have been detailed. In the absence of any comparison of the current and/or proposed drainage regime and productivity in the documentation, I am concerned the proposal represents unsustainable land management. I also noted the current use of those lands which have been previously filled along the south of the subject site. These lands are currently not in agricultural use and the surface is partly hard cored. The previous fill on the site have lead to the height differences between the existing site and the subject site.

Conclusion

- 7.1.12. Having regard to substantive concerns in relation to the overall environmental impacts on filling these lands, the current agricultural use of the site and the absence of sufficient information in the application, I consider there is no significant justifiable reason to permit the importation of soil and stone into the site. In coming to this conclusion, I have had regard to the previous history on the site, the Board previous determinations and I believe there have been no substantial changes to national policy or the policies of the development plan which would allow the proposal to be assessed differently.
- 7.1.13. In this regard, I consider the principle of development at this location is unacceptable and represents an unsustainable form of land management.

7.2. Environmental Impacts

Introduction

- 7.2.1. As stated above, a previous similar proposal was refused by the Board, having regard to the potential environmental impacts including noise and dust. The entrance to the site off the main road is within the vicinity of several dwellings and field which is proposed to be filled is c. 200m north of the nearest dwelling. The grounds of appeal are submitted by a resident of a dwelling in the vicinity of the site and has

raised the overall environmental impact of the proposal on the surrounding area. The appellant considers that the proposal, in combination with the current commercial use on the site, will lead to an intensification of works on the site and have a negative impact on the residential properties in the vicinity.

- 7.2.2. The Board will note my EIA Screening assessment above in Section 5.3, in so far as the information submitted which is necessary to comply with the Schedule 7A criteria is considered insufficient to conclude on an EIA screening determination. I have further discussed some of these issues separately below.

Noise and Vibration

- 7.2.3. The applicant has stated that the proposal to infill the lands by 14,000 tonnes represents 875 loads per annum, which equates to c. 4 truckloads per day. The applicant submits that no additional vehicular movements are required as the trucks will be leaving/ returning to the yard as normal. I note condition No. 5 allows up to 10 loads per day, which I am of the opinion is a considerable movement of waste along a local road and within the vicinity of residential properties.
- 7.2.4. The proposal does not include any assessment of the potential impacts on adjoining properties from transporting the stone and soil via the trucks and depositing on the site. Mitigation measures in the screening report refer to the use of wheel wash within the site. The application states that the only noise source is the machinery on site, no further details have been provided.
- 7.2.5. The PA report does not include any specific assessment of the noise and vibration from the proposal although I note Condition No 12 of the permission includes a restriction on noise levels in line with the EPS Environmental Noise Guidance (NG4).
- 7.2.6. I do not consider the applicant has submitted sufficient information on the potential environmental impacts, from noise vibration and dust, to allow for a detailed assessment of the impacts on the surrounding areas and the residential properties in the vicinity of the site. As discussed below the imposition of conditions to control emissions/ activity on any grant of permission which may require a waste licence from the EPA is precluded.

7.2.7. The Board will note similar issues have been raised on the previous applications and having regard to the issues raised above, I consider these issues remain relevant in the determination of the proposed development.

Waste Licensing

7.2.8. The applicant states that the proposed works will require a Waste Facility Permit and that under this permit 200,000 tonnes may be recovered at this facility. The information contained in the Schedule 7A criteria stated that this Waste Facility Permit will be administered by Meath County Council and will only be granted where the applicant can demonstrate that an activity will not lead to any environmental pollution.

7.2.9. The Environmental Protection Agency (EPA) permits the licensing of waste activities and facilities. The application has not been submitted to the EPA for comments although I note the EPA have been consulted on previous applications. The Inspector's Report on both previous similar applications PL17.244389 (Reg Ref No AA/140808) and PL17.243044 (Reg Ref NA130633) that the applicant should liaise with the EPA to determine authorisation for the activity, in accordance with the Waste Management (Facility Permit and Registration) Regulations, (2008 as amended).

7.2.10. The Third Schedule of these waste regulations includes classes of development which may be the subject of a waste facility permit application to a Local Authority. The Class 7 allows the following:

Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility **(excluding land improvement or development)** where—

(a) the annual intake shall not exceed 50,000 tonnes, and

(b) the maximum quantity of residual waste consigned from the facility for collection, onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake

7.2.11. Whilst the quantum of material is less than the 50,000 tonnes permitted, I note the exclusions to apply to the EPA for a license exclude land improvement or development. Section 256 and 257 of the Planning and Development Act 2000,

pertains to controlling emissions from the operation of an activity requiring a 'waste licence or revised licence'. The Board or PA is excluded from attaching conditions for the purpose of controlling emissions. Having regard to the limited information contained in the supporting documentation with the application on the environmental impacts I have concerns that the Board may be limited in their ability to assess the proposal and impose conditions in relation to any necessary mitigation and monitoring on site.

7.2.12. Therefore, it is my opinion that those issues raised by the Inspector in PL17.244389 remain relevant to the determination of this proposal. The Board will note my issues in relation to the principle of development at this location although should the Board be minded granting permission, I recommend that the EPA are invited to comment on the proposal, prior to the any final decision.

Eastern- Midlands Waste Management Plan 2015-2021

7.2.13. The applicant does not consider the applicant can demonstrate compliance with this regional plan. In this regard they have raised concerns that the proposal represents a waste facility rather than recovery. The applicant acknowledges the need for a waste licence for the proposed development.

7.2.14. I note the information contained in this regional waste plan which requires the protection of the environment in conjunction with the appropriate disposal of waste. Policy G3 of this waste plan includes "Ensure there is a consistent approach to the protection of the environment and communities through the authorisation of locations for the treatment of waste". The Board will note my concerns in relation to the above in relation to the absence of environmental considerations and consultation with the EPA regarding a waste licence. In this regard there is insufficient information to appropriately assess the impact on the proposed fill on the subject site and surrounding area.

Conclusion

7.2.15. Having regard to the national, regional, and local guidance on waste it is my opinion that the proposal represents a waste facility. Whilst the applicant has acknowledged that they require a waste licence for the proposal it is not clear from the documentation submitted if the EPA give the permit for this licence.

7.2.16. The Board will note my assessment above which has raised concern in relation to the absence of information of the movement and deposition of the waste material on the site, *inter alia*, dust, noise, and vibration. In this regard, and with the possibility the EPA may be the authorising body for the disposal of waste, the Board is precluded from imposing conditions regulating any emissions from the site. Therefore, I do not consider the inclusion of any conditions could mitigate against any potential impacts.

7.3. Other

7.3.1. Ownership: The ownership of the business is raised in the grounds of appeal. The grounds of appeal do not consider the applicant is the registered owner of the site and has not provided a letter of consent to make an application. In response to the grounds of appeal the applicant has submitted a letter from Tarstone company confirming permission for the planning application.

7.3.2. In terms of legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision. In any case, having regard to the provisions of c. 34 (13) of the Planning and Development Act, 2000 (as amended) any planning decision does not override a civil matter.

7.4. Appropriate Assessment (AA)

7.4.1. The site is located c. 2.6km to the south of the River Boyne and River Blackwater SAC (site code 002299) and SPA (site code 004232). The applicant has submitted an AA screening to state that there are no hydrological connections and there will be no impact on any European Site.

7.4.2. The qualifying interest of the SAC includes the River Lamprey, Salmon, Otter, Alkaline fens and Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*. The qualifying interest of the SPA includes the Kingfisher. The site is currently within agriculture use and there are no hydrological connections between the site and the European Site. No issues arose in relation to the impact on any European Site.

7.4.3. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is

not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be REFUSED for the reasons and considerations outlined below.

9.0 Reasons and Considerations

Having regard to the nature of the proposal to dispose of inert waste on fertile agricultural land, it is considered that the proposed development would constitute an inappropriate use of productive land, would constitute unsustainable development, and would be unacceptable in principle. Furthermore, it is considered the documentation submitted with the application lacks clarity in relation to the environmental impacts from the proposed movement and deposition of materials, *inter alia*, dust, noise and vibration, and the Board is not satisfied, on the basis of the information provided that the proposed development would not be likely to have significant adverse impacts on the environment and residential amenity of adjoining dwellings. It is therefore considered that the proposed development would contravene Strategic Objective RUR DEV SO 7 of the Planning Authority, as set out in the Meath County Development 2021-2027, as varied, which seeks “to support the continuing viability of agriculture...in the context of sustainable development and the management of environmental resources” and would therefore be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Senior Planning Inspector

12th of January 2022