



An
Bord
Pleanála

Inspector's Report ABP 314858-22.

Development	Infilling of land using inert soil and stone and construction and demolition waste. A waste licence is required for the development.
Location	Ballinroche, Crecora, Co. Limerick.
Planning Authority	Limerick City and County Council.
Planning Authority Reg. Ref.	211092.
Applicant	Michael Bagnell.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellants	(1) Michael & Anne O'Neill (2) Michael Duggan (3) Anne & John McCarthy (4) Matt & Theresa Ryan
Observers	Donie Collins
Date of Site Inspection	30/11/2023

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site has an area of 8.76 ha and is located in the townland of Ballinroche, Crecora, Co. Limerick. The site lies circa 4.7km south of the village of Patrickswell and circa 9.5km to the east of Adare. The N20 National Road is situated 2.7km to the west of the site. The N21 National Road is situated 3.5km to the north-west of the site. Crecora village is located circa 1km to the east of the site. Limerick Racecourse is situated 900m to the north of the appeal site.
- 1.2. The River Maigue a tributary of the River Shannon is situated circa 6.2m to the west of the site. The Barnakyle River which is a tributary of the River Maigue flows through Patrickswell its source is located approximately 3km south of Patrickswell and lies circa 1.2km to the west of the site. The landscape in the area is characterised by low lying agricultural lands. There is sporadic one-off housing along the surrounding roads.
- 1.3. Access to the site is from the local road L8002. The site comprises two rectangular sections joined by a strip extending 100m. There is an existing dwelling on site located on the northern section of the site. There is an existing gated entrance which is recessed back from the road by circa 5m. There is a row of detached dwellings to the east of the site.

2.0 Proposed Development

- 2.1. Permission is sought for raising the level of land. The development will consist of the infilling of 0.96 hectares of land using inert soil and stone complying with European Waste Catalogue Code 17 05 04, and Construction and Demolition Waste complying with European Waste Catalogue Code 17 01 07. A waste licence is required for the development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a grant of planning permission subject to 9 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer noted that the proposed development would involve the raising of the land in some areas up to 8m with materials comprising soil and stone. It was highlighted in the report that there is a Recorded Monument within the site. As part of a request for further information on a previous application on site (Reg. Ref. 20/954) an Archaeological Impact Assessment was carried out which included archaeological testing trench. A fulacht fiadh was recorded in one of the trenches. The County Archaeologist requested that the development should avoid the monument and taper the fill once a buffer has been established. In relation to access the site is served by an existing vehicular entrance. There are no proposal for a new vehicular entrance as part of the development. The Roads Department have no objection to the proposed development. A Flood Risk Assessment was submitted PEMP, have reviewed the report and subsequent updated reports and raised no objection in respect of flood risk. In relation to the matter of a waste licence currently there is Certificate of Registration on the site regarding passageway improvements. A grant of permission was recommended.

3.2.2. Other Technical Reports

- 3.2.3. **County Archaeologist** – As part of the previous application an Archaeological Impact Assessment was carried out. A burnt mound was recorded in one of the trenches. The extent of the monument would appear to extend approximately 18-20m into the field from the field boundary. The development should avoid the monument and taper the fill once a suitable buffer has been established by the

archaeologist on site and clearly fenced off. Conditions are required regarding archaeological monitoring and recording.

- 3.2.4. **Environmental Services** – In addition to the granting of planning permission, a Waste Facility Permit or Certification of Registration must be obtained from the Local Authority under the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).
- 3.2.5. **Internal Operations and Maintenance Services** – No comments to make.
- 3.2.6. **Physical Development (PEMP)** – No objections on the grounds of flood risk.
- 3.2.7. **Mid-West National Roads Design Office** – no observations.

3.3. **Prescribed Bodies**

- 3.3.1. **Transport Infrastructure Ireland** – The Mid-West National Roads Design Office reviewed the proposed development at this point in time and confirms that the site no longer falls within the study area.

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 5 no. submissions/observations in relation to the application the issues raised are similar to those set out in the appeals.

4.0 **Planning History**

- 4.1. **Reg. Ref. 20/954** – An application was submitted for the raising of the level of the land. The development will consist of the infilling of 2.27ha of land using inert soil and stone complying with European Waste Catalogue Code 17 05 04, and Construction and Demolition Waste complying with European Waste Catalogue Code 17 01 07. A waste licence is required for the development and includes a new entrance. The application was withdrawn.
- 4.2. **Reg. Ref. 12/192** – Permission was granted for the retention of existing cottage and permission for change of use from cottage to garden storage ancillary to dwelling house (previous planning reference numbers 10/109 & 10/7030). Located on adjacent site.

5.0 Policy Context

5.1. Limerick Development Plan 2022 – 2028

- 5.1.1. The site at Ballinroche, Crecora, Co. Limerick is located in a rural area which is designated as Agricultural Lowlands in the Landscape Character Assessment Map 6.1 of the development plan.
- 5.1.2. LCA 01 Agricultural Lowlands – Description: This is the largest of the Landscape Character Areas in Limerick and comprises almost the entire central plain. This landscape is a farming landscape and is defined by a series of regular field boundaries, often allowed to grow to maturity. This well-developed hedgerow system is one of its main characteristics. In terms of topography, the landscape is generally rather flat with some locally prominent hills and ridges. The pastoral nature of the landscape is reinforced by the presence of farmyards.
- 5.1.3. Specific Objectives – a) Encourage, where housing is permitted, design that reflects existing housing stock, such as the two-storey farmhouses which are a feature in the area. b) Encourage retention of existing landscape features such as hedgerows and trees and their incorporation into landscaping for new developments. c) Discourage development of locally prominent sites. d) Encourage the regular arrangement of turbines with equal spacing in proposed wind farm developments, which take field boundaries into account. e) Encourage development within existing settlements.
- 5.1.4. Chapter 8 refers to Infrastructure
- 5.1.5. Section 8.7 refers to Waste Management
- 5.1.6. Section 8.7.5 refers to Construction and Demolition Waste - Construction related waste accounts for a significant proportion of total landfill waste in Ireland. During construction, measures should be implemented to minimise soil removal (as part of the scheme design process), properly manage construction waste, design with and use smart materials on the principles of the circular economy and encourage off-site prefabrication where feasible. All future developments should seek to minimise waste through reduction, re-use and recycling. Waste management and disposal should be carefully considered as part of the construction process and in the operation of the development when completed.

5.2. Southern Region Waste Management Plan 2015 - 2021

- 5.2.1. Section 11.2 refers to Construction and Demolition (C&D) Waste. It states that soil and stone waste collected within the SR is primarily managed at local authority permitted infill sites with other C&D waste types primarily managed at EPA licensed activities.
- 5.2.2. Section 16.4.4 refers to Recovery – Backfilling
- 5.2.3. Backfilling activities (of inert waste), which meet the recovery definition and are in compliance with Articles 4 and 13 of the WFD, sit on the other recovery tier of the waste hierarchy. Local authorities in the region authorise such activities through the award of WFPs and CoRs.

5.3. Natural Heritage Designations

- 5.3.1. Lower River Shannon SAC (Site Code 002165) lies to the west of the appeal site at the closest point it is located circa 5.9km from the site.
- 5.3.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies to the north-west of the appeal site at the closest point it is located circa 6.9km from the site.
- 5.3.3. Tory Hill SAC (Site Code 000439) lies 2.8km to the south of the appeal site.

5.4. EIA Screening

- 5.4.1. The development would involve the importation of 27,000m³ (approximately between 35,000 – 45,000 tonnes) of inert soil and stone over a period of three years in order to improve the agricultural quality of the appeal site (with the fill area measuring 0.96 hectares). Whilst these works could be held to amount to land remediation, they may also be categorised as a ‘waste’ operation on the basis that the input material is technically ‘waste’ (by way of case precedent, the Board has previously held that material such as soil and stone from construction sites which is imported from outside a landholding for infilling purposes constitutes waste).
- 5.4.2. Therefore, in view of the foregoing, it is necessary to determine whether or not the proposal involves a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended. In this

respect I would advise the Board that Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, prescribes 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule' for the purposes of Part X of the Act.

- 5.4.3. Given that the subject proposal involves the disposal of an average of 40,000 tonnes of material over a period of three years (equating to an average intake rate of approximately 13,333 tonnes per annum), it is below the aforementioned threshold and thus there is no mandatory requirement for the planning application to be accompanied by an Environmental Impact Assessment Report.
- 5.4.4. Accordingly, having regard to the nature, scale and extent of the development proposed, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been submitted by (1) Michael & Anne O'Neill (2) Michael Duggan (3) Anne & John McCarty and (4) Matt & Theresa Ryan.

(1) Michael & Anne O'Neill

- Concern is expressed in relation to the impact the proposed development would have on the residential amenities in the area and devaluation of property.
- Concern is expressed at the level of truck movements which would be generated. Concern is expressed in relation to the level of noise and dust which would be generated.
- No time limit is set on the proposed development.

- Condition no. 3 attached by the Planning Authority referred to the hours of operation. It specified – 8am to 8pm Monday to Friday and 8am to 4pm on Saturdays. It is submitted that these hours of operation are unreasonable given that the site is adjacent to residential properties.
- It is submitted that the proposed development would give rise to a traffic hazard and potential to obstruct other road users given the volume of heavy goods vehicles travelling to and from the site. The proximity of the local National school and Community Sports field is highlighted.
- The decision to grant permission does not place any restrictions on the type of vehicles or the frequency of trips to the site.
- It is noted that the Planning Authority sought this information as part of the further information issued under Reg. Ref. 20/954.
- It is stated that there is a lack of clarity regarding the proposed fill volume and the projected truck volumes in the original application.
- The cover letter submitted with the application (Reg. Ref. 21/1092) describes the types and frequency of vehicles to be used for depositing infill as follows:
 - Types of vehicles to deposit on site – trucks
 - Frequency of trips – average 5 trucks a day
 - Volume of fill – between 7 and 20 tonnes each truck
 - Timeline for proposed filling – 3 years
- The decision to grant permission does not place any restrictions on the type of vehicles or frequency of trips to the site.
- It is submitted that there appears to be a discrepancy between the volume of fill being proposed and the average frequency of truck trips projected.
- They submit that the proposed volume of fill would be unlikely to be achieved within the 3 year timeline projected for the proposed filling.
- It is submitted that regard has not been given to the potential effects of the proposed development taking into consideration the sensitivity of the hydrogeological regime and ground water sensitivity of the location and the

potential for adverse effects on the water supply to surrounding residential properties.

- The EPA groundwater vulnerability data confirms that the site is located within an area classified as having a 'high' groundwater vulnerability. Concern is expressed for the potential of groundwater pollution arising from contaminant substances generated from the deposit of waste materials.
- It is submitted that there is potential for the leaching of waste materials to groundwater in part due to the occurrence of groundwater flooding.
- Section 3.2.1.5 of the Flood Risk Assessment submitted by the applicant identifies that the site appears to be located within an area mapped to be at risk from groundwater flooding and references the flooding that takes place in the fields to the east of the proposed development during winter months.
- It is submitted that the proposed development is contrary to the settlement Development Objective of the Limerick County Development Plan. Crecora is defined as a Tier 6 settlement in the Limerick County Development Plan. It is considered that the proposed development is situated within the settlement and by virtue of the nature and scale and form of the proposed development and the HGV traffic which would be generated, and the on-site operations associated with a waste disposal facility that it would adversely affect the local village character.
- It is considered that it would materially contravene the provisions of the development plan specifically SS02 which refers to Design of Development within tiers 2-6. It states that it is an objective of Limerick City and County Council that "The design, layout and character of new development shall relate to the local character and heritage of existing towns and villages and shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness of the settlement.
- The appellants submit that the grant of permission would therefore be contrary to the proper planning and sustainable development of the area and they respectfully request that the Board refuse permission for the proposed development.

(2) Michael Duggan

- The contents of this appeal reiterate all the issues raised in the appeal submitted by Michael & Anne O'Neill as detailed above.

(3) Anne & John McCarthy

- The contents of this appeal reiterate all the issues raised in the appeal submitted by Michael & Anne O'Neill as detailed above.

(4) Matt & Theresa Ryan

- The proposed land filling is to be located on lands which are part of the flood plain.
- To raise the side of the flood plain will cause flooding on one or both neighbouring farms. The size of the flood plain would be reduced if the development was carried out.
- They state that the field at the front of the site beside the entrance has been fully flooded in the past.
- They state that all the three adjoining farms have previously flooded in the winter time.
- Concern is expressed at the proximity of the proposed fill to the boundary with the appellant's property.
- For the reasons set out in the appeal it is submitted that the proposed development would be contrary to the proper planning and sustainable development of the area.

6.2. Applicant Response

An appeal response was submitted by Hutch O'Malley Consulting Engineers on behalf of the applicant Mr. Michael Bagnell. The issues raised are as follows;

- The subject lands are zoned agricultural under the provisions of the current Limerick Development Plan 2022-2028.
- The applicant states that they acknowledge that there are residences in the area. However, they submit that the proposal represents the raising of a

small portion of steep sloped farming land where the low lying portion is located in a small very localised valley which is waterlogged for most of the year.

- The applicant is an agricultural contractor and he purchased the lands within an overall holding of 22 acres. Approximately 10% of the lands are within the parameter of low-lying.
- The flood study clearly shows that the lands were subject to groundwater saturation/ponding for most of the year but no other type of flooding.
- The applicant's main objective is to raise the steep slope and improve the gradient of the lands to make them more suitable for agricultural use.
- The applicant has previously filled a portion of the low-lying lands under a licence from Limerick Co. Council. It was filled under the terms of the licence.
- The issues of dust and noise generated by the proposed development were raised in the appeals. This was addressed with the attachment of condition no. 8 by the Planning Authority to the grant of permission which required that noise and dust are controlled and monitored.
- The application is for three years and subject to a waste licence to fill the area over this period to the level indicated on the drawings, which as indicated on the drawings is a volume of 27,000m³.
- The applicant intends to operate from 8am to 5pm Monday to Friday and only until 1pm on Saturdays when material is available.
- The applicant has designated that the preferred route to and from the site is via the 20/21 motorway from the city. This route is indicated on a map attached to the submission. They propose that waste subsoil and topsoil delivered to the site will have to be booked in advance of delivery along with all the necessary paperwork to ensure that no contaminated material is being advanced to the fill area.
- It is proposed to schedule deliveries as much as possible so that trucks bringing material to fill the area are staggered throughout the day.

- Fill quantities were estimated and detailed with the planning application Reg. Ref. 21/1092 to provide for the improvement of the land for farming purposes. Thus, the works would be considered land improvement works with no negative effects being considered to the receiving environment except the positives to provide improved storage of surface water within the fill creating a reduction in water to receiving stream/rivers.
- The proposed development is land reclamation which is a process that is common in agricultural areas.
- The applicant is seeking the opportunity to improve the land, where there are benefits not only in terms of substantially improved agricultural land but also greater storage of storm water within the increased depth of soils being proposed.

6.3. Planning Authority Response

- None received.

6.4. Observations

An observation to the appeals was received from Donie Collins. The issues raised are as follows;

- The proposed development is not considered suitable for the location due to the width of the local roads.
- Concern is raised in relation to pedestrian safety in the area due to the volume of lorry traffic which would be generated.
- Concern is expressed in relation to the potential for flooding as a result of the proposed development.

7.0 Assessment

I consider that the issues arising from the appeals and observation can be addressed under the following heading:

- Principle and policy

- Traffic impact
- Impact on amenity of surrounding area
- Other issues
- Appropriate Assessment

7.1. Principle and policy

- 7.1.1. The proposal entails the raising the level of land within a section of the site. The development will consist of the infilling of 0.96 hectares of land using inert soil and stone complying with European Waste Catalogue Code 17 05 04, and Construction and Demolition Waste complying with European Waste Catalogue Code 17 01 07. A waste licence is required for the development.
- 7.1.2. The type of infill material proposed to be imported and used in the raising of the land is inert soil and stone and construction and demolition waste. The appeal response from the first party confirms that it is proposed to import a total of 27,000m³. The type of material to be utilised in the infilling activity is subject to a waste licence which is a separate permitting process.
- 7.1.3. The site is located in a rural area which is designated as Agricultural Lowlands under the provisions of the Limerick Development Plan 2022 – 2028. The first party details in the appeal response that they propose to raise the steep slope and improve the gradient of the lands to make them more suitable for agricultural use. Accordingly, the proposal would entail the importation of fill material to allow the subject lands to be used more productively for agricultural purposes. Therefore, the proposed development would provide for the use of the subject lands for agricultural purposes which is in accordance with the development plan landscape designation and the existing surrounding land use.
- 7.1.4. County Limerick is part of the Southern Waste Region. The area is subject to the Southern Region Waste Management Plan 2015-2021. Section 16.4.4 of the Plan refers to Recovery – Backfilling. It is set out that backfilling activities (of inert waste), which meet the recovery definition and are in compliance with Articles 4 and 13 of the WFD, sit on the other recovery tier of the waste hierarchy. It is stated that Local authorities in the region are responsible for the authorisation of such activities

through the award of WFPs and CoRs. Accordingly, it is responsibility of the Local Authorities to ensure that the backfilling/infilling of inert waste is carried out in accordance with the provisions of the Southern Region Waste Management Plan. I would consider that the subject scheme is in accordance with the provisions of the Southern Region Waste Management Plan 2015 – 2021 which seeks to facilitate waste treatment facilities, and the report ‘Construction and Demolition Waste – Soil and Stone Recovery/Disposal Capacity’ prepared for the three waste regions and published in December, 2016.

7.2. Traffic impact

- 7.2.1. The grounds of appeal raised the matter of traffic impact in relation to traffic and pedestrian safety. The proposed development involves the importation of circa 27,000m³ of material to the site in heavy goods vehicles over a period of three years. The appeal site lies approximately 3.5km to the south of the junction of the M20/N20 and the N21. The subject lands are served by an existing gated vehicular entrance.
- 7.2.2. The first party confirm that the proposed haul route is via the 20/21 motorway from Limerick city. I note that having regard to the close proximity of the site to the junction of the M20 and N21 circa 3.5km away that vehicles making deliveries would be primarily using motorway and national primary routes to access the site and then travelling on the L8002 for approximately 2.7km.
- 7.2.3. The site is served by an existing entrance which features an agricultural gate. It is not proposed to widen or alter the existing vehicular entrance. I note that this entrance has previously been used for truck movements associated with the filling of a portion of the low lying lands at this location which was subject to a previous licence issued by Limerick County Council.
- 7.2.4. In relation to the level of traffic generated the cover letter with the application states that there would be an average of 5 truck movements to the site and 5 truck movements from the site per day. The Planning Authority’s Operations and Maintenance Services report had no objection to the proposal. I note that the surrounding local road network has relatively low traffic volumes having regard to the rural nature of the area.

7.2.5. I consider that the road network is suitable to accommodate the traffic which would be generated. Having regard to these factors and the purpose of the application to restore the lands for agricultural purposes, to the limited nature of the proposed development, I would conclude that the proposed development will not endanger public safety by reason of traffic hazard.

7.3. Impact on amenities of surrounding area

- 7.3.1. The site lies within the Agricultural lowlands landscape character area. It is described as having a topography which is generally rather flat with some prominent hills and ridges. In relation to the matter of landscape or visual sensitivities in the area, I note that there are no protected views or prospects in the vicinity of the site.
- 7.3.2. In relation to the proposed fill area as indicated on the Site Layout it is to the north-eastern side of the northern section of the site. The submitted drawings and sections indicate that the proposed infilling the area of the site to be filled rises from 35.3OD in the south-east corner to 44.31m OD to the north-west. The lands to be filled are above the 35.5m OD contour.
- 7.3.3. The proposed infilling of the lands and the grading, capping and seeding of soil on the lands to provide for the agricultural use of the lands is in keeping with the site context and surrounding land use.
- 7.3.4. The proposed development involving the importation and filling of soil and stone to a maximum depth of 4m above the existing ground level would not significantly impact views of the wider landscape. Accordingly, I consider once the development is carried out and completed that it would not result in any undue adverse visual or landscape impacts.
- 7.3.5. In relation to impact upon residential amenity the southern section of the site is immediately adjacent to a dwelling to the east. This is located over 500m away from the proposed fill area which is proposed to the northern section of the site. There is a row of detached dwellings to the east of the site. To the west of the site there is a residential property on the adjacent farm landing. This property is situated 280m circa from the proposed fill area. This is considered a reasonable separation distance from the subject proposed fill area.

- 7.3.6. The grounds of appeal refer to potential impacts arising from dust and noise which would be generated by the proposed development. In response to the matter the first party noted that those matters were addressed by the planning authority with the attachment of condition no. 8 to the grant of permission which referred to the requirement of the applicant to receive a separate waste facility permit which is a separate permitting process. In relation to this matter, as detailed in the description of development it specifically refers to the fact that a waste licence is required for the development.
- 7.3.7. The movement of trucks to and from the site delivering fill material would be subject to the conditions of a waste licence. It is likely that this would vary depending on the time of year. Should the Board decide to grant permission, I would recommend the attachment of a condition requiring the installation of a wheelwash at the site entrance to provide mud and dust control. While the proposed development would involve some noise and disturbance to the neighbouring properties the proposed development would involve relatively low average daily traffic movements for a limited time period, having regard to the proposed nature and scale of the development and the beneficial reclamation of land for agricultural purposes should in my opinion be the overriding consideration.

7.4. Flooding

- 7.4.1. The grounds of appeal raised the matter of flooding. They referred to the occurrence of groundwater flooding on the site during the winter months. In response the first party have noted that the flood study clearly shows that the lands were subject to groundwater saturation/ponding for most of the year but no other type of flooding.
- 7.4.2. A Flood Risk Assessment was submitted as part of the unsolicited further information to the Planning Authority. It is set out in the screening assessment that following examination of the OPW flood maps website that the only historical event recorded in the vicinity relates to the nearby village and no issues were reported in direct vicinity of the site.
- 7.4.3. The assessment refers to the inadequate drainage of the roads in the area. It is highlighted that the OPW drainage and benefiting land maps show much of the surrounding area has benefited from the arterial drainage scheme and as such the

continued use of the lands in the area dependent on farmers creating and maintaining their field drains, levelling their fields and ensuring drainage to the OPW scheme. It is stated in the assessment that the site is located beside the area where groundwater appears to be forced to the surface by the adjacent Patrickswell groundwater body (GWB). It is noted that the OPW CFRAM modelling does not extend to the site. It is concluded in the assessment that the water logging in the adjacent field is clearly linked to the GWB and that the drainage of the area is controlled by maintaining the OPW channels and local authority culverts.

- 7.4.4. In relation to the proposed development, the area of the site to be filled rises from 35.3OD in the south-east corner to 44.31m OD to the north-west. The lands to be filled are above the 35.5m OD contour with the vast majority of the fill being place above the 36m OD. In relation to the topography of the area it is stated in the assessment that the lowlands in the area are regularly inundated and are not readily available for agriculture during the winter months. The level of inundation relative to the small upstream catchment area corresponds with the GSI indication of a regular ground water level above ground. It is highlighted that the lands to be re-levelled and raised are above these lands and therefore would have no influence on the water table.
- 7.4.5. It is set out in the assessment that the groundwater impact is expected to be marginal, and the pluvial impact would be immaterial to the GWB. It is submitted that the filling of the lands would enhance the agricultural use. Regarding the drainage of the site, it was highlighted in the assessment that the flow path would be via the lands to the east of the site and the associated back drains to the east.
- 7.4.6. It was highlighted that the filled lands will be flatter than the existing and would have more material above the water table. Therefore, the flow rates will be reduced and the time of concentration to groundwater will be slower. It is concluded in the report that there is no risk of the filling areas being defined as having more risk of flood. The areas proposed to be filled are above the 1:1000 year groundwater event by a reasonable amount. It is advised that the part of the proposed filling must be kept clear from the drain to the east and an offset of at least 1m from the top of the bank would be prudent with a slope of 33° this would provide a freeboard of 600m from the 1:1000 year flood event.

- 7.4.7. The flood risk assessment sets out that while the waterlogging of adjacent lands was identified it was attributed to the adjacent Patrickswell groundwater body. The assessment indicates that the proposed infilling of the lands would have no influence on the water table and would not result in increased runoff rates from the site.
- 7.4.8. Furthermore, in relation to the matter flooding I note that the Physical Development, Section of the Council (PEMP) have no objections to the proposed development on the grounds of flood risk.
- 7.4.9. Accordingly, having regard to the details provided in the flood risk assessment and the topography and hydrogeology of the area, I am satisfied that the proposed development would not result in displacement of floodwaters, would not result in an adverse impact to the hydrological regime of the area nor an increase in flood risk elsewhere. The proposed development would therefore be acceptable in terms of flood risk in the area.

7.5. Other issues

Archaeology

- 7.5.1. There is a recorded monument classified as a Barrow-bowl-barrow (Ref. LI022-093) located within the southern area of the appeal site. The monument is a circular-shaped flat-topped mound (diameter. 9.8m; Height 1m) enclosed by a broad, shallow, waterlogged fosse (overall Width 14.2m; base Width 11m; Depth 0.3m).
- 7.5.2. The report of the County Archaeologist dated 17/9/21 referred to an Archaeological Impact Assessment which was carried out on the site as part of a request for further information for a previous application on the site (Reg. Ref. 20/954). The assessment highlighted that a burnt mound was recorded in one of the trenches located in the northern section of the site and that the extent of the monument would appear to extend approximately 18-20m into the field from the field boundary. The report of the County Archaeologist advised that the development should avoid the monument and taper the fill once a suitable buffer has been established by the archaeologist on site and clearly fenced off. It was recommended that conditions regarding archaeological monitoring and recording be attached to a grant of permission.

- 7.5.3. Accordingly, in relation to this archaeological feature, having regard to the location of it within the area of the proposed filling, should the Board decide to grant permission, I would recommend the attachment of a condition in respect of archaeology requiring the recording and protection of archaeological materials or features which may exist within the site.

7.6. Appropriate Assessment

Stage 1 Screening

- 7.6.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The European site Lower River Shannon SAC (Site Code 002165) lies to the west of the appeal site at the closest point it is located circa 5.9km from the site.
- 7.6.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies to the north-west of the appeal site at the closest point it is located circa 6.9km from the site. Tory Hill SAC (Site Code 000439) lies 2.8km to the south of the appeal site.
- 7.6.3. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

Table 1.

Lower River Shannon SAC	River Shannon and River Fergus Estuaries SPA
Sandbanks which are slightly covered by sea water all the time [1110]	Cormorant (<i>Phalacrocorax carbo</i>) [A017]
Estuaries [1130]	Whooper Swan (<i>Cygnus cygnus</i>) [A038]
Mudflats and sandflats not covered by seawater at low tide [1140]	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]
Coastal lagoons [1150]	Shelduck (<i>Tadorna tadorna</i>) [A048]
Large shallow inlets and bays [1160]	Wigeon (<i>Anas penelope</i>) [A050]
Reefs [1170]	Teal (<i>Anas crecca</i>) [A052]
	Pintail (<i>Anas acuta</i>) [A054]

Perennial vegetation of stony banks [1220]	Shoveler (<i>Anas clypeata</i>) [A056]
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	Scaup (<i>Aythya marila</i>) [A062]
Salicornia and other annuals colonising mud and sand [1310]	Ringed Plover (<i>Charadrius hiaticula</i>) [A137]
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]	Golden Plover (<i>Pluvialis apricaria</i>) [A140]
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	Grey Plover (<i>Pluvialis squatarola</i>) [A141]
Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]	Lapwing (<i>Vanellus vanellus</i>) [A142]
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	Knot (<i>Calidris canutus</i>) [A143]
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	Dunlin (<i>Calidris alpina</i>) [A149]
<i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]	Black-tailed Godwit (<i>Limosa limosa</i>) [A156]
<i>Petromyzon marinus</i> (Sea Lamprey) [1095]	Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]
<i>Lampetra planeri</i> (Brook Lamprey) [1096]	Curlew (<i>Numenius arquata</i>) [A160]
<i>Lampetra fluviatilis</i> (River Lamprey) [1099]	Redshank (<i>Tringa totanus</i>) [A162]
<i>Salmo salar</i> (Salmon) [1106]	Greenshank (<i>Tringa nebularia</i>) [A164]
	Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]
	Wetland and Waterbirds [A999]

Tursiops truncatus (Common Bottlenose Dolphin) [1349]	
Lutra lutra (Otter) [1355]	

Table 2.

Tory Hill SAC
Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]
Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]
Alkaline fens [7230]

- 7.6.6. The Conservation Objectives for Lower River Shannon SAC (Site Code 002165) are to maintain/restore the favourable condition of the qualifying habitats and species. The Conservation Objectives for River Shannon and River Fergus Estuaries SPA (Site Code 004077) are to maintain the favourable condition of the qualifying species and habitat as defined by a list of attributes and targets.
- 7.6.7. The Conservation Objectives for Tory Hill SAC (Site Code 000439) are to maintain/restore the favourable condition of the qualifying habitats and species.
- 7.6.8. Consideration of likely significant impacts in terms of Stage 1 AA Screening, is based on the source-pathway-receptor risk assessment principle. In relation to Tory Hill SAC having regard to the lack of physical connection between the appeal site and the designated site and the absence of a hydrological connection there is no potential, therefore, for the subject development to have a significant effect on the Natura 2000 site.
- 7.6.9. In relation to River Shannon and River Fergus Estuaries SPA it is situated 6.9km from the appeal site. There is no hydrological connection and regard to the inland location of the appeal site it has no known connectivity with the estuarine European sites and it has no known habitat to support any of the Special Conservation Interests of the European site.

7.6.10. In relation to Lower River Shannon SAC (Site Code 002165) it is situated 6.2km to the east of the appeal site. The River Maigue a tributary of the River Shannon is situated circa 6.2m to the west of the site. The Barnakyle River is a tributary of the River Maigue its source is located approximately 1.2km to the west of the appeal site. Accordingly, a tributary of the River Maigue which is a tributary of the River Shannon is located 1.2km from the site. In relation to the matter of potential adverse effects due to the distance between the development and the European Site and the nature of the development, it is not considered that the construction phase and operational phase of the development would have any direct impacts on the priority habitats of the SAC.

7.6.11. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (002165), European Site No. (004077), and European Site No. (000439), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

9.0 Reasons and Considerations

9.1.1. Having regard to the provisions of the Limerick Development Plan 2022 – 2028 specifically the location of the site within is located in a rural area which is designated as Agricultural Lowlands, the provisions of the Southern Region Waste Management Plan 2015 – 2021, and the report 'Construction and Demolition Waste – Soil and Stone Recovery/Disposal Capacity' prepared for the three waste regions and published in December, 2016, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and

would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the further plans and particulars submitted on the 31st day of March 2022, the 22nd day of July 2022 and the 26th day of July 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall submit annually to the planning authority for the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

Reason: In order to facilitate monitoring and control of the development by the planning authority.

3. Operations shall occur between 0800 hours and 1800 hours, Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No activity shall take place outside these hours or on Sundays or Public Holidays.

Reason: In order to protect the residential amenities of property in the vicinity.

4. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) Notify the planning authority in writing at least at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) Employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) The nature and location of archaeological material on the site, and
- (ii) The impact of the proposed development of such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

5. A wheel-wash facility shall be provided adjacent to the site exit, the location and details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and convenience, and to protect the amenities of the area.

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

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

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.

Siobhan Carroll
Planning Inspector

25th March 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 314858-22
Proposed Development Summary	The development will consist of the infilling of 0.96 hectares of land using inert soil and stone complying with European Waste Catalogue Code 17 05 04, and Construction and Demolition Waste complying with European Waste Catalogue Code 17 01 07. A waste licence is required for the development.

Development Address		Ballinroche, Crecora, Co. Limerick.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes	✓
			No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		N/A	EIA Mandatory EIAR required	
No	✓	Class 11(b), Schedule 5 Part 2	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? 1.				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Class 11(b), Schedule 5 Part 2		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 314858-22	
Proposed Development Summary	The development will consist of the infilling of 0.96 hectares of land using inert soil and stone complying with European Waste Catalogue Code 17 05 04, and Construction and Demolition Waste complying with European Waste Catalogue Code 17 01 07. A waste licence is required for the development.	
Development Address	Ballinroche, Crecora, Co. Limerick.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	No, the proposed development entails the infill of inert soil & stone on an area of 0.96 hectares within a rural area where the predominant land use is agriculture. The proposed development will serve to increase the level of the land within the 0.96 hectares and lands can be used for agricultural purposes. No significant emissions resultant.	No
Size of the Development	No, the proposed development entails the infill of inert soil & stone on an area of 0.96 hectares within a rural area where the predominant land use	

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>is agriculture. The proposed development will serve to increase the level of the land within the 0.96 hectares and lands can be used for agricultural purposes.</p> <p>No significant emissions resultant of this project combined with any exiting or permitted.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>It is located over 2.8km to any ecologically sensitive sites. Having regard to the topography of the area it does not provide a direct pathway to the closest ecologically sensitive site.</p> <p>Having regard to the nature and scale of the proposal comprising the infill of inert soil & stone on an area of 0.96 hectares within a rural area where the predominant land use is agriculture, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p>Conclusion</p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable Screening Determination to be carried out</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIA not required</p>
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Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)