



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315486-23

#### Development

Import inert fill material onto lands, alterations to ground levels using the entrance together with all associated site works. Significant further information received in relation to a revised new entrance onto the LT41101 public roadway.

#### Location

Brackagh, Broomfield, Co. Monaghan.

#### Planning Authority

Monaghan County Council

#### Planning Authority Reg. Ref.

222

#### Applicant

Eugene Hanratty

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party v. Refusal

#### Appellant

Eugene Hanratty

#### Observer(s)

Celine Clarke and Mark Ronaghan

**Date of Site Inspection**

23<sup>rd</sup> September 2023

**Inspector**

Ronan O'Connor

## **1.0 Site Location and Description**

- 1.1.1. The site comprises several agricultural fields which together measure 4.21 Ha in size. The fields are undulating in nature. The land drops away to the south west, with the rear field at a substantially lower level than the rest of the site. Access to the site is via a private laneway which in turn accesses onto the LT41101. The surrounding area is characterised by one-off housing.

## **2.0 Proposed Development**

- 2.1.1. Import inert fill material onto lands, alterations to ground levels using the entrance together with all associated site works. Significant further information received in relation to a revised new entrance onto the LT41101 public roadway.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.2. The planning authority decided to Refuse permission for the following 2 no. reasons.:
1. Section 15.27 and Table 15.5 of the Monaghan County Development Plan 2019-2025 outlines the safety and convenience requirements for new access onto public roads. The proposed entrance access onto the local tertiary road LT41101 where visibility splays of 50 metres X 2.4 metres in both directions, at 1.05m above ground level, are required. Having regard to the information submitted, the Planning Authority is of the opinion that the applicant has failed to clearly demonstrate that a new entrance onto the LT41101 can be provided in accordance with Section 15.27 and Table 15.5 of the Monaghan County Development Plan 2019-2025. In addition, the applicant has failed to clearly demonstrate that all vehicles associated with the proposal can adequately enter and exit the proposed entrance point in either direction from or onto the adjoining local tertiary road. The proposal is therefore deemed to be unacceptable as it would endanger public safety by reason of traffic hazard, be contrary to the Monaghan County Development Plan 2019-2025 and be contrary to the proper planning and sustainable development of the area.

2. Section 15.27 of the Monaghan County Development Plan 2019-2025 notes that a well designed access is important for the safety and convenience of all road users, those proceeding on the public road as well as those using the access. In addition, policy NNRP 3 of the Monaghan County Development Plan 2019-2025 seeks to ensure that the traffic carry capacity and the strategic nature of the County's Road network is not adversely affected. Having regard to the information submitted to the Planning Authority on the 9<sup>th</sup> November 2022, the Planning Authority is of the opinion that the applicant has failed to demonstrate that the development proposed would not adversely affect the safety and convenience of all road users and that it would not have an unacceptable adverse impact on the local roads infrastructure in the vicinity of the development. In addition, the Planning Authority is of the opinion that the desire line i.e. the quickest, straightest route, to and from the site from the adjoining LT41101 is via the existing, established entrance point at which point the required site distances of 2.4m by 50m as required by Table 15.5 of the Monaghan County Development Plan 2019-2025 cannot be provided within the ownership of the applicant. Consequently, the development would, if permitted, endanger public safety by reason of traffic hazard, be contrary to the provisions of the Monaghan County Development Plan 2019-2025 and to the proper and sustainable development of the area.

### 3.3. Planning Authority Reports

#### Planning Reports

- 3.3.1. The following comments in the planner's report are relevant to this appeal:
- Notes the site falls within the rural area outside of any defined settlement or Development Plan zoning/designation
  - Permission is sought to alter the site's existing ground levels through cut and fill of on-site material and the importation of inert stone and soil material
  - Application site will continue to be used for agricultural purposes
  - Estimated that 29,262m<sup>3</sup> of fill will be imported onto the site
  - Noted that authorisation will be required for the importation of fill material

- Levels of infilling appear reasonable to afford for the improvement in the gradient for agricultural purposes
- Notes that an Ecological Survey and Impact Assessment carried out by EHP Services has been submitted/Notes conclusions of same
- Applicant has failed to submit any details with respect to vehicular movements associated with the development/not demonstrated the required sightlines of 50m can be achieved onto the adjoining public road
- Adjoining public road is extremely narrow with only room for one lane of traffic making it difficult to navigate when meeting oncoming traffic
- Site is located within the proposed N2 Ardee-Castleblayney Road Scheme/Notes no objection has been received from the Westmeath National Roads Office.
- Site falls outside any areas identified as being prone to flood risk (with reference to OPW mapping)
- Clarification required in relation to volume of fill (for the purposes of EIA Screening)
- Will not have significant effect on the qualifying features of the Natura 2000 network

3.3.2. Further Information was requested on 24/02/2022 in relation to the following issues:

1. Revised site layout plan indicating clear and unobstructed visibility splay of 50m at the proposed entrance point onto the LT41101 public road in both directions/Details of fill amounts/Daily operating hours/Expected period of works/Haul routes to and from the site/Proposals to manage traffic movement/Proposals to ensure to no deposition of fill materials
2. Clarification in relation to the types of material to be imported/volume of fill
3. Further demonstrate the suitability of the site for the importation of fill material/assessment of impact on groundwater, exposed bedrock and surface water/nearby drinking water supply sources and well/identify mitigation measures proposed/location of infrastructure associated with the development e.g. wheel wash/weighbridge etc/surface water details/revised site section/Water Protection Plan Checklist/soakage trench details

3.3.3. Significant Further Information was received on 9<sup>th</sup> November 2022.

3.3.4. Planner's Assessment of Further Information

- Applicant has submitted revised plans showing visibility splays at a revised entrance point onto the LT41101/noted that this entrance proposed to be used has the benefit of planning permission (14/261)/this entrance is a hardstand area which is not in use
- This access point is not included within the redline boundary/legal agreement has been signed by the owner of the entrance to allow for a 50m sight distance/Roads Engineers has concerns in relation to sightlines
- Sets out volumes of fill to be imported and working hours as per the applicant's documentation
- The chief haul route shall be the N2m with minimal use of the proposed road network
- Sets out traffic management strategy
- Notes that Environment Section has no further objections to the proposed development
- Notes that sightlines cannot be provided at the existing entrance where the private laneway meets the adjoining local tertiary road
- New entrance point is proposed
- Cannot provide for the permanent closure of the existing entrance point as the applicant only has a right of way over the existing laneway
- Concerns in relation to the enforceability of the proposed traffic management strategy
- Planning Authority is concerned that the road network is not suitable for the development proposed/relies on issues outside planning i.e. a site operator to maintain contact with a driver
- Note objection received in relation to traffic issues
- Would not have an adverse impact on residential amenity having regard to noise pollution, light pollution, air pollution of loss of privacy.

- Proposal is not likely to have significant effects on the environment and an Environmental Impact Assessment is not considered necessary
- An EIAR is not required
- Stage 2 AA not required
- Recommendation was to **Refuse** permission, as per the reasons for refusal above.

### Other Technical Reports

#### Environment Section

No objection, subject to conditions [report dated 17/11/2022]

Request additional information is provided in relation to (i) confirmation on waste types to be imported (b) assessment in relation to impact on groundwater, exposed bedrock and surface water, mitigation measures to protect groundwater, surface water and drainage systems (c) proposed location of infrastructure associated with this development (e.g. wheel wash etc)/buffer zones/clarification of proposed open drain detail (d) revised site section map (e) Water Protection Plan checklist (f)

Soakage Trench Design Details

Project Liaison Officer (N2 Ardee to Castleballyneey/N2 Clontibret to Border Road Schemes) (email dated 18/11/2022)– Advise that there is no objection from the N2 Project Team

#### Engineer [23/11/2022]

- Recommends refusal – Applicant has failed to show how a clear and obstructed visibility splay of 50m can be achieved at the proposed entrance onto the LT-41101 public road/also failed to show how a clear and unobstructed forward and rear visibility of 50m can be achieved
- Failed to provide a swept path analysis
- Failed to provide details on the location of the proposed entrance point/construction details, gradients, longitudinal and cross sections/failed to provide details on how the previous proposed entrance will not be used by delivery vehicles

- Failed to provide clear details on how the transportation of materials can be achieved on the LT-41101/proposed movements not reasonable or enforceable/traffic management strategy fails to provide details on movements with delivery vehicles and existing road users
- Failed to provide any details regarding the impact of the proposed development on the local road infrastructure in the vicinity of the development

#### Water Services Section

- No objection subject to conditions

### 3.4. **Prescribed Bodies**

- 3.4.1. Irish Water – No objection/no impacts on Irish Water Assets/notes that Donaghmoyne Group Water Scheme supplies this area

### 3.5. **Third Party Observations**

- 3.5.1. One received after the submission of significant additional information. The issues raised can be summarised as follows:
- Up to 40 journeys by lorries per day/infrastructure is inadequate to facilitate the nature and scale of the proposed facility
  - Road is used by for access, recreation (walking, jogging, cycling) as well as livestock farming
  - Road does not allow for two vehicles to pass
  - Development would make this unsafe for residents to walk, cycle or drive
  - Noise and air pollution
  - Capacity of the LT41101 would be adversely affected
  - Does not provide the information as required by NRP 4
  - There is no area to pull in to allow vehicles to pass each other
  - No control measures to ensure that vehicles do not approach from the south side of the LT41101



- Would have significant adverse effects on public safety , privacy and access
- Observers house directly overlooks the site/is adjacent to the south-west boundary of the site
- Negative impact on visual amenity as a result of the operations/erection of a post and wire fence/change in the character of the landscape
- Proposed lighting will impact on amenity
- Insufficient information to allow environmental impacts to be assessed

## 4.0 Planning History

### Subject Site

4.1.1. There is no relevant planning history for the subject site.

### Other Relevant Applications:

Development Address: Lisaquill, Broomfield, Castleblayney, Monaghan

PA Ref 14261

Development: Retention of existing hard surface area and completion of construction of an agricultural machinery storage shed together with all associated site works.

Significant Additional Information: 1) Revisions to site boundary 2) Formation of new entrance onto public road (LT41101) to serve the development.

Decision: Grant Permission [Decision Date 16/02/2015]

## 5.0 Policy Context and Legislation

### **Monaghan County Development Plan**

Section 15.27 'Road Access Standards' including 15.27.1 'Minimum Visibility Standards for a new access or intensification of an existing Access onto Non-Urban Roads'

Policy RCP3 'Policy for Rural Access' - To require that access to new developments in the countryside are positioned to minimise loss of hedgerow/tree, where possible follow alongside existing boundaries/hedgerows, follow the natural contours of the site and use existing lanes where practical.

RAS 1 'Access Details Policy' - To apply the visibility standards as set out in Section 15.27 and Appendix 12 - Access Details of the Monaghan County Development Plan 2019-2025'

## 5.1. Natural Heritage Designations

- 5.1.1. The nearest nationally designated site is Muckno Lake pNHA, located 3km to the north-east. The nearest European Sites are Dundalk Bay SPA (004026) located 20.1km to the south-east and Dundalk Bay SAC (000455) located 21.5km to the south-east.

## 5.2. EIA Screening

- 5.2.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The appeal is a **1<sup>st</sup> Party Appeal V Refusal** of Planning Permission Reg. Ref. 222 [decision date 05/12/2022]. The main points of the grounds of appeal are as follows:
- Both reasons related to the proposed access arrangements to/from the site and the LT41101
  - Original proposal was to utilise existing entrance off the LT41101 (Entrance No. 1)/would be necessary to enter into a legal agreement with landowner to the east to removal/set-back part of the existing roadside hedgerow/landowner was willing to lower the hedgerow but did not wish to enter into legal agreement
  - A new entrance is proposed off the LT41101 (Entrance No. 2)/agreement to setback roadside boundary to achieve visibility and construction of a short length of new laneway/Shown on Drg. No. PP-02

- Drawing clearly demonstrates required visibility was achieved
- Legal agreement with the landowner also submitted as part of the FI response
- Proposal was to utilise and upgrade an existing entrance previously granted retention permission under Planning Ref 14261
- No consideration was given to this previous decision

#### Response to Reason for Refusal No. 1

- Proposed entrance offers a much superior configuration than the existing established entrance with respect to intersection angle width and entry/exit radii
- The ability to enter and exit the entrance was not raised in the Additional Information request

#### Response to Reason for Refusal No. 2

- Site is located just off the N2, with a total travel distance of only 880m between the N2 and the site entrance via the L4110, LT41101 and the private lane
- Exact origin of material is not known/given the N2 is the main arterial route through Co. Monaghan, delivery vehicles shall approach the site via the N2 before turning onto the L4110 and/or LT41101
- Would be a modest generator of traffic with the average input of 40 tonne/day equating to 3 no. in/out trips per day
- Peak input of 200 tonne per day equating to 15 in/out per day or 2 in/or trips per hour
- Peak input of 2 lorries per hour allows for a 30 min gap between delivery vehicles/will be sufficient to allow the lead lorry to deposit its load and exit the site before the next vehicle arrives
- L4110 serves a number of commercial properties/common occurrence for two lorries to pass each other on this route without undue difficulty
- Probably of two lorries passing each other on the LT41101 is low
- Can put in place policy to prevent lorries from passing each other
- Development has a finite life (5 years)

- Lorries are legally bound to comply with weight restrictions on the road
- A bond condition would ensure that any damage to roads/pavement could be repaired
- Reasonable to assume that drivers will inherently select the safer entrance route/all drivers will be instructed to use the new entrance
- Not possible to close up the existing entrance
- Proposal complies with relevant waste management objectives in the Monaghan County Development Plan
- Has been assessed by the Environment Section of MCC/deemed to be acceptable
- Notable absence of waste recovery facilities in Co. Monaghan
- Shall be subject to compliance with Waste Management Act
- Applicant has previously obtained permission for similar development on lands at Gragarnagh, Co. Monaghan (Ref 19495)/All planning and waste management conditions were complied with/infill was successfully completed/therefore applicant has a proven track record in operating a soil and stone recovery facility

Encl: Appendix 1

## 6.2. **Planning Authority Response**

6.2.1. No response received.

## 6.3. **Observations**

6.3.1. One no. observation submitted on behalf of Celine Clarke and Mark Ronaghan, Cornagall, Broomfield, Co. Monaghan. The issues raised are as follows:

- This observation adopts the original observation made at planning application stage (as per Section 3.5 above)
- Road is unsuitable for large vehicles including trucks
- Existing sightlines are very poor for the existing entrance

- It is suitable for agricultural vehicles at very low levels of traffic/would not be suitable for any more than this
- The Further Information submission accepted that the originally submitted entrance was deficient in its sightlines
- The area of the new proposed entrance was cleared and gravel laid down during 2022 while MCC was assessing the application
- The FI submission did not amend the redline boundary to include this entrance onto the local road/legal agreement was submitted
- Do not consider that 50m sightlines can be achieved
- Traffic Management Strategy is not a sustainable one
- Proposal does not consider routine traffic on the road
- MCC planning and roads assessment was thorough and it is clear that there was no alternative but to refuse planning permission
- The first party appeal submissions does not set out how the required 50m sightlines can be achieved
- No new details are provided at appeal stage to address the traffic hazard concerns raised by MCC road engineer
- The 2014 retention permission has lapsed/not clear what relevance a lapsed permission has
- Unauthorised works are alleged
- Exiting entrance would still be used
- Would be very difficult for a planning authority to accept the alternative entrance and related road proposals/they are deficient in their practicality and their detail
- There is no supporting details and drawings submitted with the appeal
- Appellant has failed to prove – technically – that the proposals would be safe/would not be a traffic hazard
- Traffic management proposals cannot be conditioned or enforced
- No road engineering report submitted

- The temporary nature of the development is irrelevant
- All waste management facilities must be capable of being accessed by road/this proposal cannot be safely accessed

## **7.0 Assessment**

7.1.1. Having examined the application details and all other documentation on file, including the grounds of appeal and the observation on the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Traffic and Transport
- Environmental Impacts

## **7.2. Traffic and Transport**

7.2.1. The site comprises several agricultural fields which together measure 4.21 Ha in size. The proposal is to import inert fill material onto lands and alterations to ground levels and associated site works. With reference to the Further Information received by the Planning Authority on the 9<sup>th</sup> November 2022, the proposed development will entail the importation of 10,400 tonnes of inert material per annum over a period not exceeding five years (with a maximum volume of 52,000 tonnes over the five year period). On completion the lands are to be used for agricultural purposes.

7.2.2. The applicant had originally proposed to access the site via the existing access point off the LT41101, which leads onto a private laneway of approximately 250m in length before reaching the access point to the farmlands. The Further Information submission (received 9<sup>th</sup> November 2022) proposed a new entrance point approximately 25m south of the existing point.

7.2.3. The Planning Authority's two no. reasons for refusal relate to sightlines (as related to both the originally proposed entrance and the revised entrance), the usability of the revised entrance, and the impact of the proposed development on the wider road network in terms of carrying capacity and road safety.

- 7.2.4. The First Party Appellant is of the view that adequate site lines can be achieved from the proposed new entrance point onto the LT41101, and that traffic impacts would be moderate and can be controlled by way of a traffic management plan.
- 7.2.5. The observer submission on the appeal contends that no new details have been provided in the appeal submission in order to overcome the Planning Authority's reasons for refusal.
- 7.2.6. In terms of access points and sightlines, the requirements for same are set out in Table 15.5 'Minimum visibility standards for new or intensification of an existing Access onto Non-Urban Roads'. For an access onto the LT41101 (Local Class 3 road) the sightline requirements are 50m in both directions, with a setback distance of 2.4m at eye height/object height of 1.05m.
- 7.2.7. In relation to the existing access, Development Plan policy refers to intensification of the use of existing access points (which occurs when a proposed development would increase traffic flow using an access by 5% or more). The increase in traffic flow has not been set out in the application documentation. Notwithstanding, all parties would appear to be in agreement that adequate sightlines cannot be achieved from this existing access point, in order to facilitate the development as proposed, due to the nature of the access point, with visibility practically non-existent towards the north.
- 7.2.8. In terms of the proposed new access point, there is disagreement between the applicant and the planning authority as to whether the sufficient sightlines can be achieved at this access point. From an analysis of Dwg. No. PP-002 Rev A (as submitted at Further Information Stage), it would appear that the required sightlines have been achieved at this entrance point, and the Further Information submission also includes a Legal Agreement signed by the relevant landowner to allow these sightlines to be maintained. However, I would share the Planning Authorities concerns in relation to the usability of this entrance, concerns which are set out in the detail in the Road Engineer's Report dated 23/11/2022 , and there is a lack of detail supplied with the application in relation to required turning manoeuvres (swept path analysis) and in relation to the gradient of the portion of road leading from the private laneway to the LT41101, and the impact of this gradient on the operation of the access point. My observations on site were that this gradient appears relatively

steep (in comparison with the gradient of the laneway leading to the existing entrance point on the LT41101). It is not clear as to whether vehicles can actually navigate this gradient in a safe manner, or enter and access this entrance in safe manner, given the relatively narrowness of the LT41101. I note the applicant has stated an entrance was previously granted at this location (Planning Ref 14261). In relation to same I note this has now expired, and in any case would not appear to be an entrance that was facilitating the type of vehicle movements that are proposed under this application. I would also share the Planning Authority's view that there is a likelihood that vehicles would use the existing access on the LT41101, in particular if there are potential limitations on the usability of the proposed new entrance, and furthermore it would appear there are no enforceable mechanisms to prevent this existing entrance being utilised. This proposed development then would lead to the creation of a traffic hazard, in my view.

- 7.2.9. In terms of the impact on the wider road network, I would agree with the view of the Planning Authority, and of the observer on the appeal, that the LT41101 road does not appear to be suitable to accommodate the type or volume of vehicle movements proposed under this application, given the narrow nature of same and the lack of suitable passing places on this road between the proposed entrance to the private laneway, and the L4110 road (a distance of approximately 160m). While the origin of the fill material is currently unknown, the applicant has set out that the proposed haul route is will be via the N2, the L4110, LT41101 and the private laneway. The applicant has stated that the likelihood of two vehicles associated with the proposed development passing each other on this stretch of road is low. However, I am of the view that there is insufficient information in terms of potential traffic volumes generated by the development submitted to come to a reasoned conclusion on this point. The applicant has stated that the average input of 40 tonne/day would equate to 3 no. in/out trips per day, and a peak input of 200 tonne per day would equate to 15 in/out trips per day or 2 in/or trips per hour. However, there is no indication of the duration the 'peak input' period. In addition, there is also a lack of detail in relation to the existing traffic volumes on this road.
- 7.2.10. The observers on the appeal have adopted and included their original submission on the application which raises the issue of noise impacts from the traffic generated and



air quality impacts from same. I am of not of the view that noise or air quality impacts would be significant, given the nature of the development proposed.

- 7.2.11. To conclude, it is considered that, on the basis of the information on file, the applicant has not demonstrated that vehicles associated with the proposed development can exit onto the LT41101 Road from the proposed development site in a safe manner and that, furthermore, the proposed development would generate vehicle movements along a local road that is of deficient width with no adequately designed passing bays. In this regard, the impact on users of the road infrastructure is considered unacceptable. The proposed development, therefore, would give rise to a traffic hazard and would compromise road safety. I therefore recommend that permission should be refused on this basis

### **7.3. Environmental Impacts**

- 7.3.1. Following initial concerns raised by the Environment Section, as related to impacts on groundwater and other details, and following the receipt of Further Information related to same, the Planning Authority did not raise any fundamental concerns in relation to the impact on ecology.
- 7.3.2. As noted above, the observers on the appeal have adopted and included their original submission on the application which also raises the issue of environmental impacts, stating that the application lacked the necessary data to allow the full impacts to be assessed.
- 7.3.3. In relation to same, I note the application was accompanied by an Ecological Survey and Impact Assessment, which has been prepared by EHP Services. This based on desktop survey and a field survey carried out on 8<sup>th</sup> October 2021. It is noted within the survey that the landform drops away to the south-west with the rear of the field at a substantially lower elevation than the remainder of the site. Habitats on sites were recorded as comprising of 'Improved Agricultural Grassland – GA1', 'Wet Grassland – GS4' in the main, with 'Hedgerow – WL1' on the boundaries of the site, with 'Drainage Ditch – FW4' running along the western and northern boundaries of the site. There is a small area of 'Recolonising Bare Ground – ED3' to the north-east of the site. It is concluded that the site in its current condition does not have any intrinsic or special conservation value. It is stated that there are no wetland habitats

on the site. As such, the provisions of Policy WLP 2 – Wetland Areas of the Development Plan would not apply which does not allow for the infilling of such areas.

- 7.3.4. In terms of impacts, the report states that the proposed development will result in the alteration of the topography of the site, with the site's existing topography being evened out in certain areas, but not universally across the entire site. It is noted that the application proposes to set back and slope the imported materials away from existing field boundaries in order to preserve existing trees and hedgerows and to protect drainage ditches. Overall it is concluded that the proposed development would only result in the temporary loss of Improved Agricultural Grassland while construction is ongoing which will be restored after the field has been reseeded.
- 7.3.5. Further information on ecological impacts (impacts on groundwater and impacts on surface water) is provided by way of a Engineers Report/Cover letter, dated 22/08/2022, and submitted as part of the Further Information submission. In relation to groundwater, it is noted that while the groundwater vulnerability is classed as 'extreme' at the site, the site overlays an aquifer category which is defined as 'Poor' and is generally unproductive except for local zones. It is also noted that there is no relevant 'Response Matrix' for the importation of stone and fill. Reference is made to guidance published by the EPA 'Guidance on Waste Acceptance Criteria at Authorised Soil Recovery Facilities' and it is noted that compliance with same is generally included as a condition of any Waste Permit. It is also stated the proposed development will increase the depth of fill on the site, and subsequently reduce groundwater vulnerability, and that contaminated material will not be introduced onto the site. Further groundwater protection measures include measures to control run-off from quarantined material, discharge of wastewater and spillage of hydrocarbons.
- 7.3.6. In terms of impact on surface water, it is noted that a shallow open watercourse runs along the western and northern boundaries of the site (which is described as a drainage ditch in the Ecological Report). This is described as flowing in a generally northerly direction before flowing into a larger watercourse that runs eastwards along, crossing the N2 and flowing into Knockreagh Lough, approximately 1.5km east of the site. Mitigation measures to prevent impacts on surface water include compliance with the EPA guidance as noted above (no contaminated soil accepted

onsite, and a minimum buffer zone of 10m alongside any watercourse, with a post and wire fence delineating the appropriate buffer zones).

- 7.3.7. Having regard to the above, and to the nature of the development, I am satisfied that no significant impact on habitats, groundwater or surface water would result from the proposed development, subject to compliance with the mitigation measures as described in the application documents.

## **8.0 Appropriate Assessment:**

- 8.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3)

This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same.

### The Project and its Characteristics

- 8.1.3. The proposal is to import inert fill material onto lands, alterations to ground levels together with all associated site works. The baseline ecological environment is set out in Section 7.3 of this report and I refer the Board to same.

### Inspector's AA Screening

- 8.1.4. I note that no Appropriate Assessment Screening Report was submitted with the application. In carrying out this AA Screening Report, I had regard to other information on file, including, but not limited to the Ecological Survey and Impact Assessment submitted with the application as well as publicly available information on the EPA, NPWS and GSI websites, where relevant.
- 8.1.5. I note there is no watercourse that runs through the site although there is a drainage ditch, to the western and northern boundaries of the site. This is described within the application documentation as flowing in a generally northerly direction before flowing into a larger watercourse that runs eastwards along, crossing the N2 and flowing into Knockreagh Lough, approximately 1.5km east of the site.

Identification of relevant Natura 2000 sites (Zone of Impact)

- 8.1.6. With reference to the EPA Appropriate Assessment Tool<sup>1</sup>, and there are 4 no. European Sites within a 30km radius of the site as follows:

<b>Site (Code)</b>	<b>Distance from Site</b>	<b>Qualifying Interests</b>	<b>Conservation Objectives<sup>2</sup></b>
Dundalk Bay SAC (000455)	21.49km	Habitats 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1220 Perennial vegetation of stony banks 1310 Salicornia and other annuals colonising mud and sand	To maintain/restore the favourable conservation condition of the habitats and species listed as qualifying interests for this SAC.

<sup>1</sup> <https://gis.epa.ie/EPAMaps/AAGeoTool>

<sup>2</sup> With reference to <https://www.npws.ie/protected-sites>

		<p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p>	
Dundalk Bay SPA (004026)	20.1km	<p>Birds</p> <p>A005 Great Crested Grebe (Podiceps cristatus)</p> <p>A043 Greylag Goose (Anser anser)</p> <p>A046 Light-bellied Brent Goose (Branta bernicla hrota)</p> <p>A048 Shelduck (Tadorna tadorna)</p> <p>A052 Teal (Anas crecca)</p> <p>A053 Mallard (Anas platyrhynchos)</p> <p>A054 Pintail (Anas acuta)</p> <p>A065 Common Scoter (Melanitta nigra)</p> <p>A069 Red-breasted Merganser (Mergus serrator)</p>	<p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p> <p>To maintain the favourable conservation condition of the wetland habitat in Dundalk Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.</p>

		<p>A130 Oystercatcher (Haematopus ostralegus)</p> <p>A137 Ringed Plover (Charadrius hiaticula)</p> <p>A140 Golden Plover (Pluvialis apricaria)</p> <p>A141 Grey Plover (Pluvialis squatarola)</p> <p>A142 Lapwing (Vanellus vanellus)</p> <p>A143 Knot (Calidris canutus)</p> <p>A149 Dunlin (Calidris alpina)</p> <p>A156 Black-tailed Godwit (Limosa limosa)</p> <p>A157 Bar-tailed Godwit (Limosa lapponica)</p> <p>A160 Curlew (Numenius arquata)</p> <p>A162 Redshank (Tringa totanus)</p> <p>A179 Black-headed Gull (Chroicocephalus ridibundus)</p>	
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		A182 Common Gull (Larus canus)  A184 Herring Gull (Larus argentatus)  Habitats  Wetlands	
Carlingford Shore SAC (002306)	27.8km	Habitats  1210 Annual vegetation of drift lines  1220 Perennial vegetation of stony banks	To maintain the favourable conservation condition of the habitats listed as qualifying interests for this SAC.
Stabannan- Braganstown SPA (004091)	24.9km	Birds  A043 Greylag Goose (Anser anser)	To restore the favourable conservation condition of greylag goose at Stabannan- Braganstown SPA.

8.1.46. There is no obvious surface water hydrological connection to any of the sites above, nor to any other European Sites. With reference to GSI Mapping<sup>3</sup> the site is underlain by the ‘Louth Groundwater Body’, and this extends as far south-east as Dundalk Bay. As such there is a potential groundwater connection to those sites in Dundalk Bay (Dundalk Bay SPA and Dundalk Bay SAC). The groundwater vulnerability at the site is classed as ‘Extreme’. The aquifer classification is classed as ‘Poor’ – Bedrock which is generally unproductive except in local zones.

8.1.47. With reference to the likelihood of significant impacts on the Dundalk Bay Sites, I note that these sites are at least 21km from this site and, as such, the ecological connection is somewhat weak, in my view. I note the proposal is to import inert material (which is not contaminated). I would further note that mitigation measures to

<sup>3</sup> <https://dcenr.maps.arcgis.com/apps/MapSeries/index.html?appid=a30af518e87a4c0ab2fbde2aac3c228>

protect groundwater are proposed, and given the context of the site and the distance from the nearest Natura 2000 site, I am not of the view that these would constitute mitigation measures for the purposes of AA, and would be required for any development of this type (and would appear to be required under the separate Waste Licencing Regime). As such the likelihood of significant impacts on groundwater quality is low, in my view, and as such the likelihood of significant direct impacts on the any groundwater dependant habitats, or indirect impacts on any qualifying habitats or species in the Dundalk Bay sites, is also low.

- 8.1.48. While no dedicated bird survey was carried out, I note the site is some 21km from the nearest SPA, and as such I am of the view that any *ex-situ impacts* on same can be excluded.

#### In-Combination Impacts

- 8.1.49. In relation to in-combination impacts, I note that other projects within the Monaghan area which can influence conditions in the surface water network or in the underlying groundwater body are also subject to AA Screening (Stage 1) or Stage 2 Appropriate Assessment, and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality in the county and beyond.
- 8.1.50. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

#### AA Screening Conclusion

- 8.1.51. It is reasonable to conclude that, on the basis of the information on the file, and on the basis of publicly available information on the EPA, NPWS and GSI websites, which I consider to be 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 Dundalk Bay SAC (000455) or Dundalk Bay SPA (004026), or on any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.



## 9.0 Recommendation

- 9.1.1. Further to the above assessment, it is recommended that permission is **Refused** for the reasons and considerations set out below:

## 10.0 Reasons and Considerations

1. The applicant has not demonstrated that vehicles associated with the proposed development can exit onto the LT41101 Road from the proposed development site in a safe manner and that, furthermore, the proposed development would generate vehicle movements along a local road that is of deficient width with no adequately designed passing bays. In this regard, the impact on users of the road infrastructure is considered unacceptable. The proposed development, therefore, would give rise to a traffic hazard and would compromise road safety.

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Rónán O'Connor  
Senior Planning Inspector

12<sup>th</sup> December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	315486-23			
<b>Proposed Development Summary</b>	Import inert fill material onto lands, alterations to ground levels using the entrance together with all associated site works			
<b>Development Address</b>	Brackagh, Broomfield, Co. Monaghan			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	Y		
	<b>No</b>			
<b>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?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	No		Proceed to Q.3	
<b>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]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		11(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001 'Other Developments' Installations for the disposal of waste with an	The proposed development will entail the importation of 10,400 tonnes of	Proceed to Q.4

		annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.	inert material per annum over a period not exceeding five years (with a maximum volume of 52,000 tonnes over the five year period).	
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<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	No	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_